Ontario Energy Board | Commission de l'énergie de l'Ontario

BY EMAIL

July 10, 2026

Mr. Ritchie Murray
Acting Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Registrar@oeb.ca

Dear Mr. Murray:

Re: Ontario Energy Board (OEB) Staff Submission
Chosen Energy Limited
Appeal of OEB Decision in EB-2026-0022
OEB File Number: EB-2026-0162

Please find attached OEB Staff's submission in the above referenced proceeding, pursuant to Procedural Order No. 1.

Yours truly,

Raveen Gunaratnarajah

Digitally signed by Raveen Gunaratnarajah
Date: 2026.07.10 15:59:02 -04'00'

Raveen Gunaratnarajah
Advisor, Licensing and Compliance Reviews

Encl.

cc: All parties in EB-2026-0162

Ontarlo

ONTARIO ENERGY BOARD

OEB
Staff Submission

Chosen Energy Limited

Appeal of OEB Decision in EB-2026-0022

EB-2026-0162

July 10, 2026

1. Overview

On May 8, 2026, Chosen Energy Limited (Chosen Energy) appealed the April 23, 2026 Decision and Order (2026 Decision), issued under Delegated Authority pursuant to section 6(1) of the *Ontario Energy Board Act, 1998* (OEB Act), denying its application for an electricity retailer licence. In its Appeal, Chosen Energy requests that the OEB: (i) reverse the 2026 Decision and grant an electricity retailer licence; (ii) alternatively, remit the application for reconsideration by a Delegated Authority with an opportunity to address the concerns identified in the 2026 Decision and consideration of a shorter licence term; or (iii) determine that Chosen Energy may re-apply for an electricity retailer licence.

OEB Staff does not support the Appeal or the relief sought to either reverse the 2026 Decision and grant an electricity retailer licence, or in the alternative, to remit the application for reconsideration by Delegated Authority. OEB Staff submits that the Delegated Authority made a reasonable and informed decision based on the complete evidentiary record submitted in the 2026 Electricity Retailer Licence Application, the requirements in the applicable legislations, regulations and OEB's Codes, and in the public interest, considering the OEB's consumer protection mandate.

OEB Staff further submits that Chosen Energy has not demonstrated any basis for reversing the 2026 Decision or to remit the application for reconsideration. The evidentiary record supported the Delegated Authority's conclusion that Chosen Energy had not demonstrated the financial responsibility, technical qualifications and experience, and regulatory experience necessary to be licensed as an electricity retailer. Further, the 2026 Decision provided adequate reasons for the conclusion, and the licensing process afforded Chosen Energy procedural fairness.

OEB Staff opposes Chosen Energy's request that the OEB consider the issuance of a shorter-term electricity retailer licence. Where an applicant has not met the licensing requirements, there is no statutory or regulatory basis requiring a Delegated Authority to consider or issue a licence for a reduced term.

OEB Staff submits that neither the 2026 Decision nor the applicable legislative and regulatory framework prevents Chosen Energy from filing an application in the future for an electricity retailer licence. While OEB Staff opposes the relief sought to reverse the 2026 Decision or remit the application for reconsideration, OEB Staff submits that it does not oppose Chosen Energy from submitting a future licence application.

Accordingly, OEB Staff submits that the Appeal should be dismissed, and the 2026 Decision should be upheld.

2. Regulatory Framework – OEB Statutory Objectives and Licensing Requirements

Section 1(1) of the OEB Act provides that the OEB, in carrying out its responsibilities under this or any other Act in relation to electricity, shall be guided by the following objectives:

1. To inform consumers and protect their interests with respect to prices and the adequacy, reliability and quality of electricity service.
2. To promote economic efficiency and cost effectiveness in the generation, transmission, distribution, sale and demand management of electricity and to facilitate the maintenance of a financially viable electricity industry.

2.1 To regulate the electricity sector in a manner that supports economic growth, consistent with the policies of the Government of Ontario.

3. To promote electricity conservation and demand management in a manner consistent with the policies of the Government of Ontario, including having regard to the consumer's economic circumstances.
4. To facilitate innovation in the electricity sector.[1]

Pursuant to section 57(d) of the OEB Act, an electricity retailer licence is required in order to retail electricity in Ontario.[2]

Section 60(1) of the OEB Act states that a person may apply to the OEB for the issuance or renewal of a licence authorizing one or more activities referred to in section 57 of the OEB Act, which includes the retailing of electricity pursuant to section 57(d).[3]

In an application for the issuance or renewal of a licence, the OEB generally assesses the financial position, technical capabilities, and past conduct of the applicant. In respect of an application for an electricity retailer licence, specifically, the OEB also must consider the requirements set out in Ontario Regulation 90/99: Licence Requirements – Electricity Retailers and Gas Marketers, made under the OEB Act (O. Reg. 90/99).[4]

Section 2(1) of O. Reg. 90/99 provides that a person seeking "the issuance or renewal of a licence that allows for the retailing of electricity or the marketing of gas to low-volume consumers must meet all of the following requirements:

> 1. Having regard to the financial position of the applicant, the applicant can reasonably be expected to be financially responsible in the conduct of business.

[1] Ontario Energy Board Act, 1998. Section 1(1).
[2] *ibid*. Section 57(d).
[3] *ibid*. Section 60(1).
[4] O. Reg. 90/99: LICENCE REQUIREMENTS - ELECTRICITY RETAILERS AND GAS MARKETERS

2. The past conduct of the applicant affords reasonable grounds for belief that the applicant will carry on business in accordance with law and with integrity and honesty.

3. If the applicant is a corporation, the past conduct of its officers and directors affords reasonable grounds for belief that its business will be carried on in accordance with law and with integrity and honesty.

4. The applicant is not carrying on activities that are, or will be, if the applicant is licensed, in contravention of the Act or the regulations or the codes, orders or rules issued or made by the Board.

5. If the applicant is an individual, the applicant is at least 18 years old." O. Reg. 90/99 further provides that if one of the above-listed requirements is not met, the issuance or renewal of a licence "shall be refused".[5]

Section 2(2) of O. Reg. 90/99 states that if a requirement prescribed by subsection (1) is not met, the issuance or renewal of the licence shall be refused.[6]

In addition to satisfying the licensing requirements under the OEB Act and O. Reg. 90/99, licensed electricity retailers are also required to comply with the requirements set out in the *Energy Consumer Protection Act, 2010* (ECPA), the OEB's Electricity Retailer Code of Conduct (ERCC)[7], and the Retail Settlement Code (RSC)[8].

3. Background

On January 20, 2026, Chosen Energy filed an application with the OEB under section 60 of the OEB Act for an electricity retailer licence (2026 Electricity Retailer Application)[9] and an application under section 50 of the OEB Act for a gas marketer licence (2026 Gas Marketer Application)[10] (collectively, the 2026 Applications). Chosen Energy sought authorization to sell or offer to sell electricity to both low- and large-volume consumers, and to sell or offer to sell gas to low-volume consumers, in Ontario.

On April 9, 2026, Chosen Energy withdrew the 2026 Gas Marketer Application. As a result, only the 2026 Electricity Retailer Application remained before the OEB's Delegated Authority for determination.

[5] *ibid*. Section 2(1).
[6] *ibid*. Section 2(2).
[7] OEB. Electricity Retailer Code of Conduct.
[8] OEB. Retail Settlement Code.
[9] EB-2026-0022. Chosen Energy Limited. Application for an Electricity Retailer Licence. January 20, 2026.
[10] EB-2026-0023. Chosen Energy Limited. Application for a Gas Marketer Licence. January 20, 2026.

On April 23, 2026, the Delegated Authority in the 2026 Decision denied the issuance of an electricity retailer licence to Chosen Energy.[11] The Delegated Authority found that:

> Chosen Energy has not met all requirements prescribed by section 2(1) of O. Reg. 90/99, and its application for a licence to retail electricity to low volume consumers is denied pursuant to section 2(2) of O. Reg. 90/99.[12]

The 2026 Decision also stated that:

> Chosen Energy's application for a licence to retail electricity to large volume consumers is likewise denied following consideration of the Applicant's financial position and its qualifications and experience as it pertains to conducting the licensable activities in accordance with all legal and regulatory obligations and managing the technical and financial matters related to the licensable activities."[13]

On May 8, 2026, Chosen Energy appealed the 2026 Decision under section 7 of the OEB Act (the Appeal)[14]. Chosen Energy requested that the Appeal be heard in writing. On June 12, 2026, the OEB issued a Notice of Hearing and Procedural Order No. 1 (PO#1) for the Appeal, establishing the list of parties and setting out the procedural steps for the proceeding. OEB Staff was added as a party.[15]

In response to a direction in PO#1, Chosen Energy's counsel advised the OEB by letter dated June 16, 2026 that "Chosen Energy's written submissions and legal position are set out in the Notice of Appeal already filed."[16]

4. The 2026 and 2025 Decisions

The 2026 Decision

The OEB denied the issuance of an electricity retailer licence to Chosen Energy pursuant to section 2(2) of the OEB Act following the review of its financial position. The decision also noted that "the OEB is not satisfied of the Applicant's technical capabilities and that it possesses the necessary qualifications and expertise to conduct the licensable activities in accordance with all legal and regulatory obligations."[17]

---

[11] EB-2026-0022. Decision and Order. April 23, 2026.
[12] *ibid*. P.5.
[13] *ibid*. P.5.
[14] EB-2026-0162. Chosen Energy Limited. Notice of Appeal. May 8, 2026.
[15] EB-2026-0162. OEB. Notice of Hearing and Procedural Order No. 1. June 12, 2026.
[16] EB-2026-0162. Chosen Energy Limited. Letter. June 16, 2026.
[17] EB-2026-0022. Decision and Order. April 23, 2026. P.3.

In denying the issuance of the retailer licence, the decision also noted that: **(a)** only one of the key individuals listed in the 2026 Electricity Retailer Application met the description of a “key individual”; **(b)** Chosen Energy did not describe its policies nor provide sufficient information regarding its processes and procedures that are in place or will be put in place to ensure compliance with its legal and regulatory obligations when serving the requested licensable activities; **(c)** the individuals listed in the application did not possess the necessary regulatory compliance, quality assurance and complaint handling expertise to operate as an electricity retailer and conduct the requested licensable activities in accordance with all legal and regulatory requirements; **(d)** the individuals listed in the application had limited pertinent experience and did not provide assurance that Chosen Energy had the technical capability to operate as a licensed electricity retailer; and **(e)** “Chosen Energy’s financial position does not support the hiring or contracting of individuals with such qualifications and experience to serve the projected volume of consumers.”[18]

The 2025 Decision

Previously, on August 18, 2025, Chosen Energy filed completed applications to the OEB for an electricity retailer licence[19] and a gas marketer licence[20] (collectively, the 2025 Applications) to provide the same licensable activities proposed in the 2026 Applications.

The OEB denied the issuance of an electricity retailer and gas marketer licence to Chosen Energy after reviewing Chosen Energy’s financial position and technical qualifications and experience. The decision also noted concerns with Chosen Energy’s ability to hire or contract individuals with such experience and qualifications based on its financial position.[21]

The OEB noted that Chosen Energy may apply for an electricity retailer and/or gas marketer licence in the future if its circumstances change. The Decision was issued without prejudice to the OEB considering a subsequent application by Chosen Energy.[22]

5. OEB Staff Response to the Appeal

OEB Staff does not support the Appeal and submits that the request to reverse the 2026 Decision should be denied. The Delegated Authority carefully considered the complete evidentiary record, including the information provided in the 2026 Electricity

[18] *ibid*. P.4.
[19] EB-2025-0198.
[20] EB-2025-0197.
[21] EB-2025-0197 and EB-2025-0198. Decision and Order. November 27, 2025. P.4 and 5.
[22] *ibid*. P.5.

Retailer Application, the applicable legislative and regulatory requirements, and the OEB's electricity retailer code requirements. Based on this assessment, the Delegated Authority reasonably concluded that Chosen Energy had not demonstrated that it will be financially responsible in the conduct of its business nor have the technical qualifications and experience to be licensed as an electricity retailer. The 2026 Decision is supported by evidence on the record and reflects a proper exercise of the Delegated Authority's discretion in a manner consistent with the OEB's consumer protection mandate and the public interest.

Financial Position

Chosen Energy is a startup company with no history of revenue-generating business activities. as confirmed by the CEO of Chosen Energy.[23] Chosen Energy did not provide supporting documentation to substantiate its projected financial position or demonstrate its ability to meet its financial obligations.

OEB Staff submits that Chosen Energy's lack of operating history and supporting financial evidence does not demonstrate that it can be financially responsible in the conduct of its business as an electricity retailer.

OEB Staff therefore agrees with the Delegated Authority's finding that it "reviewed the documents and information filed by the applicant in support of its financial position and finds that the information does not support a finding that the Applicant can reasonably be expected to be financially responsible in the conduct of its business."[24]

Technical Qualifications and Experience

The application requires at least three key individuals responsible for regulatory compliance and conduct, financial matters and technical matters. In section 8(b) of the 2026 Electricity Retailer Application, Chosen Energy identified three individuals as its key individuals, namely the CEO and Finance Manager, Sales and Customer Service Manager, and Regulatory Compliance and Training Manager. The 2025 Decision also noted that Chosen Energy had not identified the required three key individuals and emphasized the importance of this requirement.[25]

OEB Staff agrees with the Delegated Authority's finding in the 2026 Decision that "only one of the individuals listed meets the description of "key individual" provided in the application".[26]

[23] EB-2026-0022. Email from CEO of Chosen Energy Limited to OEB Staff. February 13, 2026.
[24] EB-2026-0022. Decision and Order. P.3.
[25] EB-2025-0197 and EB-2025-0198. Decision and Order. November 27, 2025. P.4 and 5.
[26] EB-2026-0022. Decision and Order. April 23, 2026. P.4.

In assessing the technical qualification and experience of key individuals, the OEB considers experience directly relevant to electricity retailing activities and regulatory compliance, as these are key competencies that are essential to meeting legislative and regulatory obligations and protecting consumers. Key individuals are expected to be accountable for the retailer's licensable activities, particularly those involving low-volume consumers. Having reviewed the experience of the individuals identified as responsible for regulatory compliance and technical matters, OEB Staff submits that the Delegated Authority reasonably concluded that they have limited pertinent experience and do not provide assurance that the Applicant has the technical capability necessary to operate as a licensed retailer"[27].

Section 7 Appeal under the OEB Act

The Decision and Order that is the subject of this appeal was issued under Delegated Authority pursuant to section 6(1) of the OEB Act. Section 7(1) of the OEB Act provides that a person directly affected by an order made by an employee of the Board pursuant to section 6 may appeal the order to the Board. Section 7(4) provides that the Board may confirm, vary or cancel the order.[28]

OEB Staff submits that the issues raised by Chosen Energy do not turn purely on a question of law. The issues raised by Chosen Energy concern the application of statutory and regulatory licensing requirements to the particular facts of its application, including financial responsibility, technical qualifications, relevant industry experience, and the ability to comply with applicable legal and regulatory obligations. These issues involve questions of mixed fact and law that require consideration as to whether the evidence demonstrates that Chosen Energy satisfied the requirements for issuance of an electricity retailer licence.

The question in this appeal is whether the evidentiary record supported the Delegated Authority's conclusion that Chosen Energy had failed to demonstrate that it met the applicable licensing requirements under the OEB Act and O. Reg. 90/99. OEB Staff submits that the evidentiary record supported the Delegated Authority's conclusion. In assessing this question, the OEB may consider whether the conclusions reached by the Delegated Authority were supported by the evidence before it, as the evidentiary record and the general factual matrix constitutes a key factual constraint on administrative decision-making.[29] The evidence before the Delegated Authority supported the findings that Chosen Energy had not demonstrated the financial responsibility, technical qualifications, experience, and regulatory capability necessary to be licensed as a retailer in Ontario.

[27] *ibid.* P.4.
[28] *Ontario Energy Board Act, 1998.* Section 7(1) and (4).
[29] *Canada (Minister of Citizenship and Immigration) v. Vavilov*, 2019 SCC 65, paras 125-126.

Short Term Licence

In its Appeal, Chosen Energy argued that there were “five other instances where the OEB has opted to approve a licence for two years or less, rather than five years” and submitted that “nowhere in the Decision is it shown that the Delegated Authority considered this shorter term approval option. No explanation is provided as to why this option is not appropriate for Chosen Energy.”[30] In essence, Chosen Energy submits that the Delegated Authority ought to have considered granting a shorter-term licence.

OEB Staff respectfully disagrees. OEB Staff submits that the OEB is not bound by its previous licensing decisions, and each application is evaluated on its own evidentiary record and merits. The fact that shorter-term licenses have been issued in other circumstances does not create an obligation on the Delegated Authority to adopt the same approach here. Rather, the Delegated Authority was required to determine whether Chosen Energy satisfied the applicable statutory and regulatory requirements.

Neither the OEB Act nor O. Reg. 90/99 requires the Delegated Authority to consider, or provide reasons for not granting a shorter-term licence. If an applicant does not satisfy the requirements of section 2(1) and section 2(2) of O. Reg. 90/99 provides that a licence shall be refused. OEB Staff submits that the Delegated Authority appropriately applied O. Reg 90/99 in this case.

OEB Staff submits, that a shorter-term license would not have addressed the deficiencies identified in Chosen Energy’s application. The concerns underlying the 2026 Decision were related to Chosen Energy’s financial responsibility, technical qualifications, experience, and regulatory capability. Those concerns go directly to the question of whether Chosen Energy is qualified to be licensed in the first place. OEB Staff submits that reducing the term of a licence would not remedy the deficiencies identified or provide any assurance that Chosen Energy would be capable of carrying out the proposed licensable activities in accordance with the legal and regulatory obligations.

Accordingly, the OEB Staff submits that the Delegated Authority was not required to consider a shorter-term licence and appropriately determined that Chosen Energy had not demonstrated that it had met the requirements for the issuance of an electricity retailer licence.

[30] Chosen Energy Limited. Notice of Appeal. May 8, 2026. P.6.

Adequate Reasons

OEB Staff disagrees with Chosen Energy's submissions that the reasons provided in the 2026 Decision were inadequate. The 2026 Decision clearly identified the deficiencies in Chosen Energy's application and explained why those deficiencies prevented the OEB from being satisfied that the applicant met the requirements for an electricity retailer licence. OEB Staff submits that the reasons were grounded in the evidentiary record and reflected the applicable legislative and regulatory requirements, and also addressed the key issues before the Delegated Authority.

OEB Staff acknowledges that reasons must allow the affected individual or party and the reviewing panel to understand why the decision was made. However, decision-makers are not required to address every submission, argument, or piece of evidence in their reasons. As stated by the Supreme Court of Canada in *Vavilov,* reasons must be considered in light of the record and the issues before the decision-maker, and do not require a response to every argument advanced by the parties. Rather, reasons must explain the basis for the decision and permit meaningful review of the outcome.[31]

Chosen Energy submits the denial resulted in it not being able to "launch its business," and argued that the Delegated Authority was obliged to provide "complete reasons that grapple with the evidence" that would explain "the specific reasons why the OEB is not prepared to grant the electricity retailer licence to Chosen Energy."[32] OEB Staff submits that the deficiencies identified in the 2026 Decision were consistent with those identified in the 2025 Decision, identifying the same fundamental concerns that had previously been communicated, namely that Chosen Energy had not demonstrated the financial and technical requirements to perform the intended retailer activities. The Delegated Authority also relied on information contained in both the public and confidential portions of the application in reaching its conclusion.

OEB Staff submits that the reasons were directly connected to the statutory and regulatory requirements governing the electricity retailer licensing. The 2026 Decision explained why the evidence filed by Chosen Energy did not demonstrate compliance with those requirements and why the application could not be approved.

For example, OEB Staff disagrees with Chosen Energy's assertion that the OEB provided "no guidance or standards" regarding the qualifications of key individuals.[33] The licence application clearly identifies the key individual roles and responsibilities related to regulatory, financial and technical matters, and specifies that a minimum of three key individuals be identified to be accountable for these requirements. Similar

[31] *Canada (Minister of Citizenship and Immigration) v. Vavilov.* Paras 91 and 128.
[32] Chosen Energy Limited. Notice of Appeal. May 8, 2026. P.7 and 8.
[33] Chosen Energy Limited. Notice of Appeal. May 8, 2026. P.8.

concerns regarding the qualifications and experience of key individuals were also identified in the 2025 Decision.

Chosen Energy's CEO acknowledged to OEB Staff that they had "reviewed the concerns and gaps identified in [the] application" and would "work to close those gaps and re-apply."[34] This acknowledgement demonstrates that Chosen Energy understood the issues identified by the OEB. Despite having been alerted to those deficiencies, Chosen Energy did not provide sufficient evidence to demonstrate that it had key individuals possessing the requisite experience and expertise to support the proposed operations. Therefore, the Delegated Authority was justified in denying the licence request. These requirements apply equally to all applicants and are fundamental for consumer protection and market integrity.

OEB Staff also disagrees with Chosen Energy's submission that "the Delegated Authority's finding that Chosen Energy has not adequately described its policies and procedures is devoid of detail".[35] Chosen Energy stated that "the OEB's own application form provides no guidance as to what should be included on this item".[36] However, section 16 of the electricity retailer licence application clearly states that "a licensed electricity retailer must have policies, processes and procedures in place to ensure compliance with its legal and regulatory obligations in Ontario."[37] Chosen Energy, like all applicants, had the opportunity to seek additional assistance about questions related to the licence application through the OEB's Industry Relation Enquiries tool. This information is identified in the FAQ section of the licence portal and all applicants have access to this section.

The 2026 Decision clearly explained that Chosen Energy did not provide sufficient information regarding its compliance framework. Rather than identifying the policies, processes and procedures that were in place or would be implemented to ensure regulatory compliance, the application contained insufficient detail to demonstrate how Chosen Energy would meet its obligations as a licenced retailer. The 2026 Decision was clear and transparent in linking the evidentiary deficiencies in the application to the conclusion reached by the Delegated Authority.

The 2026 Decision enabled Chosen Electricity to understand why its application was denied and what deficiencies remained outstanding. The fact that Chosen Energy disagrees with the 2026 Decision does not mean that the reasons provided were inadequate. Under *Vavilov,* reasons do not need to address every submission or

[34] EB-2025-0197 and EB-2025-0198. Email from CEO of Chosen Energy Limited to OEB Staff. November 27, 2025.
[35] Chosen Energy Limited. Notice of Appeal. May 8, 2026. P.8.
[36] *ibid.*
[37] EB-2026-0022. Chosen Energy Limited. 2026 Electricity Retailer Application. P.9. Question 16(b).

provide an exhaustive analysis of every piece of evidence. Rather, they must allow the affected party and a reviewing body to understand why the decision was made.[38]

Accordingly, OEB Staff submits that the 2026 Decision provided sufficient reasons to explain why Chosen Energy did not satisfy the applicable licensing requirements.

Procedural Fairness

Chosen Energy submits that the OEB owed it a duty of procedural fairness when considering its licence application, arguing that the decision affects its “rights, privileges or interests” and that the duty is heightened because the consequences of a denial are “devastating” to its business.[39] OEB Staff does not dispute that a duty of procedural fairness applies to the licensing process. However, the scope of that duty is flexible and depends on the context, including the nature of the decision and the statutory scheme within which it is made, and the nature of the proceeding.

As the Supreme Court of Canada explained in *Baker v. Canada (Minister of Citizenship and Immigration)*[40] quoting *Knight v. Indian Head School Division No. 19 (1990 CanLii 138 (SCC)* 1 S.C.R. 653, at p. 682), the content of the duty of procedural fairness is variable and its content is to be decided in the specific context of each case. The content of the duty depends on factors including the nature of the decision, the statutory scheme, the importance of the decision to the affected party, any legitimate expectations, and the procedural choices of the decision-maker. The duty is one of fairness, not one of perfection.[41]

OEB Staff submits that the process afforded to Chosen Energy satisfied the requirements of procedural fairness. Where an administrative decision affects a person’s rights, privileges, or interests, fairness requires that they have an opportunity to be heard by an impartial decision-maker.[42] OEB Staff submits that Chosen Energy was afforded that opportunity throughout both the 2025 and 2026 licensing processes.

The 2025 Decision identified specific deficiencies in Chosen Energy’s application, including concerns pertaining to the financial position, technical qualifications, industry experience, and regulatory knowledge. The Decision did not deny Chosen Energy the opportunity from filing a future electricity retailer licence application. Chosen Energy subsequently filed an application on January 20, 2026, with full knowledge of the

[38] *Minister of Citizenship and Immigration v. Vavilov,* 2019 SCC 65. Para 128.
[39] Chosen Energy Limited. Notice of Appeal. May 8, 2026. P.8.
[40] *Baker v. Canada (Minister of Citizenship and Immigration), 1999 CanLII 699 (SCC), [1999] 2 SCR 817* Paras 21-28. quoting *Knight v. Indian Head School Division No. 19 (1990 CanLii 138 (SCC)* 1 S.C.R. 653, at p. 682)
[41] *ibid*
[42] *Cardinal v. Director of Kent Institution [1985] 2 S.C.R. 643.* Page 653.

concerns previously identified in the 2025 Decision. The 2026 application therefore provided Chosen Energy with the opportunity to address those deficiencies.

OEB Staff submits that the onus rests on Chosen Energy to demonstrate that it met the licensing requirements, and that it presented sufficient information that would address deficiencies previously identified by the OEB, including those relating to key individuals and regulatory compliance. Filing a new application approximately 55 days after the 2025 Decision was issued did not relieve Chosen Energy of its responsibility to demonstrate that it had addressed the deficiencies previously identified by the OEB.

OEB Staff also disagree with Chosen Energy's assertion that it "was not afforded procedural fairness in terms of being able to understand and address any concerns that the OEB held in relation to the licence application."[43] OEB Staff sought clarifications regarding the application, communicated with Chosen Energy during the application process, and considered the information provided before a decision was issued. Chosen Energy had notice of the issues under consideration and a meaningful opportunity to respond and provide information in support of its application.

As previously stated, there is a duty of procedural fairness where an administrative decision affects the rights, privileges, or interests of an individual. In addition to this, fairness requires an opportunity for those affected by a decision to put forward their position and evidence fully and respond to the concerns under consideration.[44]

The evidentiary record demonstrates that Chosen Energy knew the concerns being considered by the OEB, including concerns previously identified in the 2025 Decision and had an opportunity to address these concerns in the 2026 Electricity Retailer Application and subsequent communications with OEB Staff. OEB Staff submits that the requirements of procedural fairness were satisfied because Chosen Energy had notice of the deficiencies and concerns, and had a fair opportunity to respond.

OEB Staff submits that Chosen Energy's complaint, in essence, is a disagreement with the outcome of the licensing assessment rather than the denial of procedural fairness. The evidentiary record demonstrates that Chosen Energy had notice and was given multiple opportunities to provide information and submissions. The fact that Chosen Energy's application did not satisfy the licensing requirements does not mean that procedural fairness was not afforded.

In fulfilling its consumer protection mandate under section 1(1) of the OEB Act, the OEB was entitled to deny the application where the evidence did not support the issuance of a licence. OEB Staff submits that the licensing process was procedurally fair.

[43] Chosen Energy Limited. Notice of Appeal. May 8, 2026. P.8.
[44] *Baker v. Canada (Minister of Citizenship and Immigration).* Paragraph 22.

6. Relief Sought

For the reasons set out above, OEB Staff submits that Chosen Energy has not demonstrated any error in the Decision that would warrant the granting of this appeal. The evidence before the OEB supports the finding that Chosen Energy failed to satisfy the applicable licensing requirements, including those established under the OEB Act, the ECPA, O. Reg. 90/99, the ERCC and the RSC.

OEB Staff submits that the licensing process was procedurally fair. Chosen Energy was given notice of the OEB's concerns and had multiple opportunities to address them. The responsibility remained with Chosen Energy to provide complete, accurate and sufficient evidence demonstrating its eligibility for a licence and compliance with all applicable legislative and regulatory requirements.

OEB Staff does not support an order reversing the 2026 Decision and granting Chosen Energy a licence, whether on a full or limited-term conditional basis. If Chosen Energy wishes to pursue an electricity retailer licence in the future, nothing prevents Chosen Energy from filing a new application that adequately takes into consideration the deficiencies identified in both 2025 and 2026 Decisions.

Accordingly, OEB Staff submits that the evidence supports the Delegated Authority's conclusion that Chosen Energy did not satisfy the applicable licensing requirements, and therefore the appeal should be dismissed.

~All of which is respectfully submitted~