



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

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**DECISION AND ORDER**

**EB-2017-0020 & EB-2017-0021**

**SUNWAVE GAS & POWER INC.**

**Applications for an Electricity Retailer Licence and a  
Gas Marketer Licence**

**BY DELEGATION,**

**BEFORE: Brian Hewson**  
Vice President, Consumer Protection & Industry Performance

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**June 8, 2017**

## INTRODUCTION AND SUMMARY

Sunwave Gas & Power Inc. applied for a renewal of its electricity retailer licence (ER-2011-0343) and gas marketer licence (GM-2011-0299), each of which are set to expire June 20, 2017. For the reasons set out below, the applications are approved.

## THE PROCESS

Sunwave Gas & Power Inc. (Sunwave) filed an electricity retailer licence application under section 60 of *Ontario Energy Board Act, 1998* (OEB Act) and a gas marketer licence application under section 50 of the OEB Act on January 30, 2017. The Ontario Energy Board (OEB) combined the applications into one proceeding, pursuant to section 21(5) of the OEB Act.

The OEB issued a combined Notice of Applications and Written Hearing (Notice) on February 16, 2017, inviting persons to intervene in the hearing or to comment on the applications. No one responded to the Notice. OEB staff participated in the hearing and filed written interrogatories on March 24, 2017. Sunwave responded to OEB staff's interrogatories on April 12, 2017. OEB staff filed a submission on the application on April 27, 2017. Sunwave responded to the submission on May 8, 2017.

This Decision and Order is being issued by Delegated Authority, pursuant to Section 6 of the OEB Act.

## FINDINGS

An applicant for the issuance or renewal of a licence that allows for the retailing of electricity (an electricity retailer licence) or the marketing of gas (a gas marketer licence) to residential or small business consumers must meet the minimum requirements set out in Ontario Regulation 90/99 "Licence Requirements – Electricity Retailers and Gas Marketers", made under the OEB Act:

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;
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 rules made under Part III of the Act;
  5. If the applicant is an individual, the applicant is at least 18 years old.

Ontario Regulation 90/99 also specifies that if any of the foregoing requirements are not met by the applicant, the licence shall not be issued or renewed.

In its submission on the applications, OEB staff stated that Sunwave meets the requirements for the renewal of its electricity retailer licence and gas marketer licence. In OEB staff's view, the applicant can reasonably be expected to be financially responsible in the conduct of its business and has adequate technical capabilities to operate in the Ontario market. With respect to the applicant's conduct, OEB staff noted that Sunwave was subject to sanctions by the OEB in 2014 for certain contraventions of the *Energy Consumer Protection Act, 2010* and the Codes of Conduct for Gas Marketers and Electricity Retailers. However, OEB staff concluded that based on Sunwave's current energy retailing activities that are limited to maintaining existing contracts with low volume consumers until their expiry (in December 2019), Sunwave's systems, policies, procedures and controls are appropriate to comply with its statutory and regulatory obligations.

Sunwave's applications for renewal of its gas marketer and electricity retailer licences are granted. When evaluating an application for an electricity retailer licence or a gas marketer licence, the OEB focuses its consideration on the requirements set out in Ontario Regulation 90/99; in particular, the applicant's financial position, technical capability to operate in the market, and conduct. The record in this case indicates that Sunwave meets these requirements. As Sunwave currently is neither acquiring new low volume consumers nor has plans to acquire low volume consumers in the future, the terms of the licences shall expire December 31, 2019.

**IT IS ORDERED THAT:**

1. The application for a gas marketer licence is granted, on such conditions as are contained in the attached licence.
2. The application for an electricity retailer licence is granted, on such conditions as are contained in the attached licence.

**DATED** at Toronto, June 8, 2017

**ONTARIO ENERGY BOARD**

*Original Signed By*

Brian Hewson  
Vice President, Consumer Protection & Industry Performance