



EB-2010-0336

IN THE MATTER OF the *Ontario Energy Board Act, 1998*, S.O.1998, c.15, Schedule B;

AND IN THE MATTER OF an application by morEnergy Savings Corp. to renew its Gas Marketer licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

The Application

MorEnergy Savings Corp. (“morEnergy”) filed an application dated November 8, 2010 with the Ontario Energy Board under section 50 of the *Ontario Energy Board Act, 1998* to renew its gas marketer licence. MorEnergy filed supplementary information to complete the application on January 25, 2011.

The Board issued a Notice of Application and Written Hearing for the application on February 25, 2011. No parties responded to the Notice.

Before the application was determined, on August 25, 2011, the Board issued a Notice of Intention to make an order for compliance and impose an administrative penalty on morEnergy for contraventions of various provisions of consumer protection legislation and codes of the Board. MorEnergy provided a written Assurance of Voluntary Compliance, which was accepted by the Board on September 12, 2011, and paid an administrative penalty.

Board staff asked the Board to make provision for interrogatories and submissions with respect to the application on September 9, 2011. MorEnergy responded to the interrogatories of Board staff on November 2, 2011. Board staff filed submissions on the application. During the time that the record was being completed and the application considered, the Board issued a series of decisions extending the term of morEnergy's gas marketer licence.

Board Findings

The Board's review of a gas marketer licence application includes consideration of the technical capability, financial position and the conduct of the applicant. In this application, no issues were raised regarding the applicant's technical capability. The concerns raised by Board Staff in its interrogatories with respect to financial matters have been addressed by the applicant. However, the record discloses a source of concern regarding the conduct of the applicant.

As stated above, morEnergy was the subject of a compliance proceeding before the Board. Some of the contraventions, admitted to by morEnergy in its Assurance of Voluntary Compliance, were serious, as they involved providing incomplete information to consumers, or information that could mislead consumers. However, with respect to all deficiencies identified in the compliance proceeding (except in two cases where the allegations were withdrawn), the Assurance indicates that Board staff were satisfied that the deficiencies had been remedied. I will therefore grant the application for a gas marketer licence, with the standard term of five years.

I note that according to the Assurance, morEnergy admitted that at the time of the inspection that led to the compliance proceeding, no compliance monitoring and quality assurance program existed that satisfied the requirements of sections 7.4 and 7.5 of the Board's Code of Conduct for Gas Marketers. However, in the Assurance, morEnergy committed itself to ensuring that "effective as of the date of this Assurance [September 12, 2011] the compliance monitoring and quality assurance program to monitor compliance meets the requirements set out in section 7.4 and 7.5 of the Codes". In the Assurance it was noted that Board staff agreed that the deficiency had been remedied.

I find that it would be helpful to the Board in monitoring morEnergy's compliance with its licence and legislative and regulatory requirements to receive information regarding the results of morEnergy's compliance monitoring and quality assurance program.

Maintaining consumer confidence in the gas market, and protecting consumers in that market, is an important part of the Board's mandate. The imposition of licence conditions on gas marketers, where appropriate, can facilitate this mandate.

MorEnergy will be required to file with the Board, no later than December 31, 2012, the following information:

- A description of morEnergy's compliance monitoring and quality assurance program, including a description of the specific protocols for testing the performance of all salespersons and verification representatives in relation to compliance with applicable statutes, regulations and regulatory requirements;
- A summary of the results of the program, indicating trends in compliance and quality assurance over the period September 12, 2011 to December 1, 2012; and
- A description of morEnergy's strategy for continuous improvement in legislative and regulatory compliance, demonstrating the link between the results of the program to date and measures to be implemented in the future.

IT IS THEREFORE ORDERED THAT:

1. The gas marketer licence is granted for a period of five years.
2. In addition to the terms and conditions of the standard gas marketer licence, the licensee shall abide by the special conditions contained in Schedule 2 to the licence.

The application for a Gas Marketer licence is granted, on such conditions as are contained in the attached licence.

DATED at Toronto, March 30, 2012

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects