



EB-2008-0303

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 Planet
Energy (Ontario) Corp. for a Gas Marketer licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

Planet Energy (Ontario) Corp. ("Planet") filed an application dated September 10, 2008 with the Ontario Energy Board under section 48 of the *Ontario Energy Board Act, 1998* for a Gas Marketer licence.

The Board's Notice of Application and Written Hearing for a Gas Marketer licence was published on October 10, 2008.

On October 27, 2008, Ontario Energy Savings LP ("OESLP") objected to Planet's application stating that certain principals of Planet are contractually bound not to compete with OESLP and its affiliates in the Ontario retail market, and that to grant Planet the licence requested would be materially prejudicial to OESLP and possibly cause them significant harm.

On October 28, 2008, Planet responded stating that the matters raised by OESLP are contractual in nature and do not fall within the jurisdiction of the Ontario Energy Board. Planet stated, "If OESLP believes that Planet is in breach of any contractual obligations than the proper forum for adjudication is not the licence application process, but rather the courts".

I have considered whether the allegation made by OESLP regarding a possible lack of compliance with a non-competition contract is sufficient to raise doubts as to the good conduct of Planet or Planet's officers and directors. I am not persuaded that it is. Furthermore, I agree with the submission of Planet, included in its response of October 28, 2008, that the denial of a gas marketer licence is not the proper remedy for any future breach of contract that may result from Planet's activity under its licence. It is not part of the Board's licensing function to review and enforce non-competition agreements.

After considering the application, I find it to be in the public interest to issue the Gas Marketer licence under Part IV of the Act.

IT IS THEREFORE ORDERED THAT:

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

DATED at Toronto, January 26, 2009.

ONTARIO ENERGY BOARD

Original signed

Jennifer Lea
Counsel, Special Projects