



EB-2013-0318

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

AND IN THE MATTER OF a Notice of Intention to Make an
Order for Revocation of a Licence against Energhx Green
Energy Corporation ("Energhx"), Licence Numbers ER-
2010-0236 and GM-2010-0237.

**NOTICE OF INTENTION TO MAKE AN ORDER FOR REVOCATION OF A
LICENCE under section 112.4 of the *ONTARIO ENERGY BOARD ACT, 1998***

The Ontario Energy Board (the "Board"), on its own motion under section 112.2 of the *Ontario Energy Board Act, 1998* (the "Act"), intends to make an Order under section 112.4 of the Act for revocation of Energhx's electricity retailer and gas marketer licences, specifically ER-2010-0236 and GM-2010-0237.

ALLEGATIONS OF NON-COMPLIANCE

1. Energhx has failed to comply with a provision of an Order of the Board and a condition of its electricity retailer and gas marketer licence, specifically the requirement to pay an administrative penalty and the condition to file certain information with the Board. Failure to comply with a provision of an Order of the Board and a condition of a licence is a breach of an enforceable provision as set out in section 3 of the *Ontario Energy Board Act, 1998*.

The particulars in support of the allegations set out in this Notice are set out below.

PARTICULARS

Breach of provision of a Board Order

In its Decision and Order issued on March 26, 2012 (EB-2011-0311), the Board found that Energhx had contravened various enforceable provisions of the *Ontario Energy Board Act, 1998*, (the “Act”) and the regulations, codes and rules passed pursuant to the Act, various provisions of the *Energy Consumer Protection Act, 2010* (the “ECPA”) and Ontario Regulation 389/10 made under the ECPA. The Board ordered, among other things, that Energhx pay an administrative penalty of \$10,000 by no later than December 31, 2012.

On December 20, 2012, Energhx requested an extension of time to pay the penalty until December 31, 2013. The Board granted Energhx a six month extension for payment of the administrative penalty, to June 28, 2013. On July 2, 2013, Energhx wrote to the Board and requested a further extension to pay the administrative penalty to December 31, 2013. On July 18, 2013, the Board issued a Decision and Order granting Energhx a brief further extension of time for payment of the \$10,000 administrative penalty until August 29, 2013.

Energhx failed to pay the administrative penalty by August 29, 2013.

On August 30, 2013, Energhx wrote to the Board and requested a further extension of time to pay the penalty. On that same date, Compliance Counsel responded indicating that Compliance Staff opposed the request for extension.

Breach of Licence Condition

On April 30, 2012, the Board issued a Decision and Order that granted renewal of Energhx’s electricity retailer licence and gas marketer licence for a period of two years. The Decision and Order required Energhx, as a condition of its licences, to file with the Board no later than June 28, 2013, certain information including, among other things, audited financial statements and a description of Energhx’s compliance monitoring and quality assurance program. Energhx did not file the information required by the licences by June 28, 2013.

THEREFORE TAKE NOTICE that Energhx may request, within fifteen days after receiving this Notice, that the Board hold a hearing on these matters. If no request for hearing is made within this time period, the Board may proceed to make an Order for revocation of Energhx's electricity retailer (ER-2010-0236) and gas marketer (GM-2010-0237) licences.

FURTHER TAKE NOTICE that if a hearing is requested, the Board is not bound by the above and has discretion, upon finding a contravention(s) of the Act, to make any order it deems appropriate under sections 112.3, 112.4 and/or 112.5 of the Act. Energhx is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Energhx fail to attend, the hearing may be conducted in its absence and Energhx will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Energhx must file 3 copies of this request with the office of the Board Secretary at the following address:

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Attention: Board Secretary
Email: Boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273
Fax: 416-440-7656

If a hearing is requested it will proceed before a Panel of the Board, at the offices of the Ontario Energy Board, 2300 Yonge Street, Toronto, Ontario, on a date to be set by the Board.

DATED at Toronto, September 4, 2013

ONTARIO ENERGY BOARD

Original signed by

Rosemarie T. Leclair
Chair and CEO