



EB-2009-0006

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 an Administrative Penalty against Summitt Energy Management

ORDER

Whereas, this Order supercedes and replaces in its entirety the Order dated January 21, 2009.

Whereas, pursuant to section 112.5 of the *Ontario Energy Board Act, 1998* (the "Act"), the Board issued a Notice of Intention to Make an Order for the payment of an Administrative Penalty against Summitt Energy Management ("Summitt") on January 5, 2009.

And whereas Summitt has provided the Board with an Assurance of Voluntary Compliance, a copy of which is attached as Appendix A (the "Assurance") and has voluntarily agreed to pay the amount of \$70,000.00 to the Board on or before February 20, 2009.

And whereas, the Board has determined that the Assurance and the terms set out therein along with the payment of \$70,000 settles this matter.

THEREFORE THE BOARD ORDERS THAT:

pursuant to s. 112.5 of the Act Summitt pay an administrative penalty in the amount of \$70,000 by cheque payable to the Ontario Energy Board on or before February 20, 2009.

Notwithstanding that the date of the herein Order is January 30, 2009 it has effect from January 21, 2009 and operates as if it was issued on such date.

DATED at Toronto, January 30, 2009.

Original signed by

Kirsten Walli
Board Secretary

**Assurance of Voluntary Compliance
Pursuant to s. 112.7 of the
Ontario Energy Board Act, 1998
Summitt Energy Management Inc.**

**EB-2009-0006
January 20, 2009**

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I. INTRODUCTION

By Notice of Intention to Make an Order under section 112.5 of the *Ontario Energy Board Act, 1998*, (the “Act”) for an administrative penalty, issued January 5, 2009 (the “Notice”) the Board announced that it intended to make an order against Summitt Energy Management (“Summitt”) to pay an administrative penalty in the amount of \$100,000. Pursuant to s. 112.2(4) Summitt was advised that it may, within 15 days after receiving the notice, give notice to the Board requiring the Board to hold a hearing. Summitt has elected not to request a hearing and in order to fully and finally resolve this matter Summitt is prepared to pay an administrative penalty in the amount of \$70,000 and enter into this Assurance of Voluntary Compliance.

II. ASSURANCE OF VOLUNTARY COMPLIANCE

While Summitt has addressed many of the issues identified in the Notice and does not necessarily agree with all of the allegations contained in the Notice, Summitt has agreed to pay a reduced amount of \$70,000 and the Board has accepted payment of this reduced amount on, inter alia, the following grounds:

1. If Summitt receives a complaint from a consumer and Summitt is satisfied that the record confirms that the consumer has been supplied energy as a result of a reaffirmation call completed during the period covered by the Formal Review (September 2007 to April 2008) and the Retail Compliance Review (March 28, 2008 to June 13, 2008), and the consumer was offered

- a 10 day rescission of the reaffirmation on that reaffirmation call, Summitt will agree with the consumer that the consumer's contract will be terminated, the consumer's supply will be returned to the applicable utility's regulated supply and the consumer reimbursed for 100% of the difference between the contract price and the applicable regulated energy price for the period that Summitt had supplied the consumer.
2. For a period of eighteen months, Summitt commits to conducting quality assurance audits of at least 20% of its reaffirmation calls commencing no later than February 1, 2009. For contracts entered into after that date, the reviews will be conducted in the manner described in the filings with the Board in response to the Information Request dated August 19, 2008 (Retail Compliance Review), except that Summitt will perform them on a weekly basis with respect to the previous week's calls. For a period of eighteen months, Summitt commits to file a quarterly report to the Compliance Office that identifies the volume of positive reaffirmations conducted in the quarter and the results of the quality assurance program, including remedial steps taken.
 3. Summitt commits to establishing a reaffirmation agent discipline program (similar to its existing door-to-door agent program), that sets out the discipline and remedial steps taken to correct the issue (i.e. retraining, suspension, termination etc) by no later than February 1, 2009.

4. For a period of eighteen months, Summitt commits to provide to the Board on a confidential basis a copy of its reaffirmation scripts and all prepared materials for reaffirmation agents (e.g. Q&As and rebuttal scripts), within three business days of such reaffirmation scripts and materials being implemented by Summitt.

Dated: January 20, 2009