



EB-2009-0118

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
Universal Energy Corporation.

**NOTICE OF INTENTION TO MAKE AN ORDER FOR AN ADMINISTRATIVE
PENALTY UNDER s. 112.5 of the *Ontario Energy Board Act*, 1998**

The Ontario Energy Board (the "Board"), on its own motion, intends to make an Order under subsection 112.5 of the *Ontario Energy Board Act*, 1998 (the "Act") requiring Universal Energy Corporation ("Universal") to pay an administrative penalty in the amount of \$60,000 for contravening certain enforceable provisions of the Act, the Electricity Retailer Code of Conduct and the Code of Conduct for Gas Marketers.

PARTICULARS

The particulars of non-compliance are as follows:

1. On March 20, 2009 the Canadian Broadcasting Corporation aired its Marketplace program which highlighted the conduct of door-to-door sales agents of electricity retailers and gas marketers. Universal door-to-door agents are shown on video making false, misleading or deceptive statements to consumers. Universal has therefore contravened section

88.4(3) of the Act, in that it has engaged in an unfair practice as defined in section 2 of Ontario Regulation 200/02. Universal has also contravened section 2.1 of the Electricity Retailer Code of Conduct. More specifically the Marketplace program features:

- a. a Universal sales agent with the initials C.C., employed by Universal from October 24, 2008 to November 4, 2008 making statements such as:
 - “I pretty much can guarantee that you will not get today's rate 5 years from now. You may start a little bit higher than what you're paying right now, but in 5 years time these protection plans have always proven to save at least a thousand dollars over the 5-year period. “and,
 - “Most of the neighbours already have protection set up with them, okay?”
 - b. a Universal sales agent with the initials M.C., employed by Universal from October 27, 2008 to November 16, 2008 is shown making statements such as:
 - “If the prices goes down, then this one, at anytime, you could call them and you could tell them you want it for the lower the rate and for five years.”;
 - “If you're not protected your prices are going to go up every six months”; and,
 - “Okay, that's fine, but you have to face the consequences of the price increase from November 1st. I'll write that down.”
2. Also shown on the Marketplace program was an interview with a consumer, A.M. and her experience with Universal. A Universal sales agent with the initials M.P., employed by Universal from March 8, 2007 to mid May 2007, allegedly forged A.M.'s dead husband's signature on a contract with Universal signed on May 11, 2007. Universal submitted a

request to the distributor for a change of gas supply for a consumer to Universal without the permission of the consumer in writing thereby contravening Section 2.3 of the Code of Conduct for Gas Marketers. Universal became aware of the forgery complaint during an attempted reaffirmation call made May 24, 2007.

THEREFORE TAKE NOTICE that Universal 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 that Universal pay an administrative penalty in the amount of \$60,000 pursuant to s. 112.5 of the Act.

FURTHER TAKE NOTICE that if a hearing is requested, the Board is not bound by the above noted penalty and has discretion, upon finding a contravention(s) of the Act, to make any order it deems appropriate under s. 112.3, 112.4 or 112.5 of the Act, which includes making an Order for an administrative penalty, a compliance Order or an Order for suspension or revocation of Universal's licence. Universal is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Universal fail to attend, the hearing may be conducted in its absence and Universal will not be entitled to any further notice in the proceeding.

In order to respond to this Notice and request a hearing, Universal must file 6 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@oeb.gov.on.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, April 23, 2009

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary