



**NOTICE OF INTENTION TO MAKE AN ORDER FOR AN ADMINISTRATIVE
PENALTY UNDER s. 112.5
SUMMITT ENERGY MANAGEMENT
CO 2007 - 0093**

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 Summitt Energy Management (“Summitt”) to pay an administrative penalty in the amount of \$100,000 for contravening certain enforceable provisions of the Act.

The Board intends to make this Order based on evidence obtained through both: a formal review of selected Summitt recorded reaffirmation calls made in the Spring of 2008 as well as a further review of recorded calls made in June 2008 as part of the Board’s Retail Compliance Review. The particulars of non-compliance are as follows:

1. As part of a formal review initiated in the Spring of 2008 and the Board’s Retail Compliance Review the Board has determined that Summitt has contravened Section 2.3 of the Electricity Retailer Code of Conduct and the Gas Marketer Code of Conduct (the “Codes”) by supplying seven (7) consumers without a valid reaffirmation. A list of the identified non-compliant recorded calls is attached as Appendix A to this Notice.
2. Further, as part of the Retail Compliance Plan review of Summitt’s reaffirmation practices, the Board has identified three transactions where Summitt contravened Section 88.4 of the Act by engaging in an unfair practice as defined in section 2 of Ontario Regulation 200/02, by making false, misleading or deceptive statements to consumers as follows:
 - a. Summitt representatives state that the electricity market had been deregulated about a year ago, which is not accurate because the market deregulated in May 2002 (Contract D160508). The representative further states that the government is making people pay for the true cost of

electricity, which during blackouts can be as high as .50 cents / kWh. Consumers on the Regulated Price Plan ("RPP") would not be subject to these fluctuating charges and therefore this statement would be misleading in the context of this discussion.

- b. Summitt representatives state that rates are artificially low and the government has been subsidizing the rates (Contract C507469) and that the government will now charge the true cost of electricity.
- c. Summitt representatives make reference to the RPP being subsidized by the government (C507461).

Summitt may request the Board hold a hearing on these matters within 15 days after receiving the Notice.

If no hearing is requested within the time permitted the Board may make an order that Summitt shall pay an administrative penalty in the amount of \$100,000 pursuant to s. 112.5 of the Act.

If a hearing is requested, the Board is not bound by the above noted penalty and has discretion to award, upon finding a contravention of the Act, to make any order it deems appropriate under s. 112.3, 112.4 or 112.5 of the Act.

In order to respond to this Notice and request a hearing, Summitt must file 6 copies of this request with the office of the Board Secretary.

If a hearing is requested, Summitt is entitled to be present at the hearing with or without counsel and to adduce evidence and make submissions. Should Summitt fail to attend, the hearing may be conducted in its absence and Summitt will not be entitled to any further notice in the proceeding.

The hearing 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, December 22, 2008

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

APPENDIX A

Summitt Energy Management Low-Volume Electricity Consumers Supplied without Valid Reaffirmation

Ontario Energy Board Complaint Number

1. 2008-0001386
2. 2008-0002085
3. 2008-0002520
4. 2008-0002553
5. 2008-0003246

Contract Numbers

6. D149676
7. C477957