



Reference: *The Commissioner of Competition v Direct Energy Marketing Limited*, 2013 Comp. Trib. 14

File No.: CT-2012-003

Registry Document No.: 0021

IN THE MATTER of the *Competition Act*, R.S.C. 1985, c. C-34, as amended;

AND IN THE MATTER of an application by the Commissioner of Competition pursuant to section 79 of the *Competition Act*;

AND IN THE MATTER of certain policies and procedures of Direct Energy Marketing Limited.

B E T W E E N:

The Commissioner of Competition
(applicant)

and

Direct Energy Marketing Limited
(respondent)

and

National Energy Corporation
(applicant for leave to intervene)

Date of conference call: 20130911

Before Judicial Member: Rennie J. (Chairperson)

Date of Order: September 13, 2013

Order signed by: Justice Donald J. Rennie



**ORDER RELATING TO MATTERS CONSIDERED AT THE CONFERENCE CALL OF
SEPTEMBER 11, 2013**

[1] FURTHER TO the notice of application filed by the Commissioner of Competition (the “Commissioner”) pursuant to section 79 of the *Competition Act*, R.S.C. 1985, c. C-34, alleging that the Respondent Direct Energy Marketing Limited (“Direct Energy”) has abused and continues to abuse its dominant position in the supply of natural gas water heaters and related services to residential consumers in certain local markets in Ontario.

[2] AND FURTHER TO the request for leave to intervene filed by National Energy Corporation (“National”), a company that supplies natural gas and electric water heaters for rental and related services to homeowners in Ontario and Quebec;

[3] AND FURTHER TO the discussion held with counsel for the parties and National during the teleconference of September 11, 2013;

[4] AND FURTHER TO the agreement of counsel to proceed with the cross-examination on the affidavit of Mr. Gord Potter filed in support of National’s request, on a date to be agreed upon;

THE TRIBUNAL ORDERS THAT:

[5] The request for leave to intervene by National will be heard on October 17, 2013, at 9:30 a.m. at 180 Queen Street West in Toronto. The Registry will provide the parties with the precise location of the hearing room once it has been assigned.

[6] Direct Energy shall serve and file any supplemental materials by the close of the Registry on Wednesday, October 9, 2013.

[7] National shall serve and file any reply materials by the close of the Registry on Tuesday, October 15, 2013.

DATED at Ottawa, this 13th day of September 2013.

SIGNED on behalf of the Tribunal by the Chairperson.

(s) Donald J. Rennie

APPEARANCES:

For the applicant:

The Commissioner of Competition

Parul Shah

For the respondent:

Direct Energy Marketing Limited

Donald B. Houston

For the applicant for leave to intervene:

National Energy Corporation

Adam Fanaki