

C A N A D A

RÉGIE DE L'ÉNERGIE

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PROVINCE OF QUÉBEC  
District of Montréal

No. R-4008-2017

ÉNERGIR, L.P., a duly constituted corporation  
headquartered at 1717 rue du Havre, District  
of Montréal, Province of Québec, H2K 2X3

(hereinafter "Énergir")

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**ARGUMENTS**

**ISSUE 1**

**HEARING ON SEPTEMBER 4 AND 6, 2018**

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**ÉNERGIR RESPECTFULLY SUBMITS THE FOLLOWING:**

1. In its decision D-2018-109 and its letter dated August 20, 2018 (A-0012, "Letter"), the Régie convened a hearing to be held on September 4 and 6, 2018 in order to examine the following two issues ("Issues"):
  - a. in the absence of a new regulatory framework, determine whether it is appropriate to examine the method (FIT) by which Énergir wishes to purchase RNG ("Issue 1"),
  - b. determine whether customers who are interested in a potential RNG tariff offered by Énergir can be considered a "class of consumers" within the meaning of section 52 of the *Act respecting the Régie de l'énergie* (the "Act") ("Issue 2);
2. As required by the Régie in this decision and as announced in today's letter, Énergir has submitted its arguments below in response to Issue 1 and will soon provide a separate set of arguments for Issue 2. Énergir reserves the right to make further representations at future hearings.

**I. STATUS OF PROCEEDINGS**

3. Énergir would like to point out that, as required under section 10 of the *Rules of Procedure of the Régie de l'énergie*, it has produced an affidavit by Mr. Mathieu Johnson dated July 7, 2017 (B-0003) attesting to the truth of the facts set out in the documentary evidence;
4. Énergir therefore respectfully submits that at this stage of the proceedings, the facts set out in the documentary evidence must be considered as proof;

## II. ISSUE 1: Appropriateness of examining the method (FIT) by which Énergir wishes to purchase RNG

5. In the fifth paragraph of the Letter, the Régie states the following:

[Translation]

“This determination of the appropriateness of establishing an FIT is even more critical in a context in which the regulation requiring a quantity of RNG in the supply plan of a natural gas distributor has not yet been adopted.”

6. Énergir understands that the “regulation” it refers to in this excerpt corresponds to the regulation adopted by the government under subparagraph 4 of the first paragraph of section 112 of the Act, which states the following:

“The Government may make regulations determining

(...)

(4) the quantity of renewable natural gas to be delivered by a natural gas distributor and the terms and conditions according to which it is to be delivered.

(...)”

[our underlining]

7. The *Gazette officielle du Québec* published on the same day contained a draft regulation called the *Regulation respecting the quantity of renewable natural gas to be delivered by a distributor*, which was adopted under section 112 of the Act;

➤ *Gazette officielle du Québec*, Part 2, August 22, 2018, No. 34, p. 4437

8. Based on this draft regulation, it is expected that natural gas distributors must deliver annually a quantity of renewable natural gas equal to or greater than the result of a formula reproduced in the draft regulation, which, by 2020, could correspond to a volume equivalent to 1% of the total volume of natural gas distributed, and increase to 2% by 2023 and 5% by 2025;

9. Although the draft regulation was not yet in force at the time these arguments were drafted, it will likely be in effect in the short term;

➤ *Regulation respecting the quantity of renewable natural gas to be delivered by a distributor*, section 2

10. Énergir therefore respectfully submits that, for the purposes of determining the issues to be examined, the Régie must consider that this new regulatory framework will be in effect in the short term;

11. In the presence of such a draft regulation and its impending coming into force, Énergir understands from the fifth paragraph of the Letter that this may then lean towards recognizing the appropriateness of examining the FIT;

12. Even in the absence of such a draft regulation, Énergir further wishes to clarify that the application before the Régie was drafted in accordance with section 72 of the Act, which sets out the following:

“72. With the exception of private electric power systems, a holder of exclusive electric power or natural gas distribution rights shall prepare and submit to the Régie for approval, according to the form, tenor and intervals fixed by regulation of the Régie, a supply plan describing the characteristics of the contracts the holder intends to enter into in order to meet the needs of Québec markets following the implementation of the energy efficiency measures. The supply plan shall be prepared having regard to

(...)

(3) as concerns natural gas supply, (...)

(b) the quantity of renewable natural gas determined by regulation of the Government under subparagraph 4 of the first paragraph of section 112.”

[our underlining]

13. It appears from the evidence that the FIT has enabled Énergir to establish the prices that it plans to offer subsidized RNG producers, which prices have been reproduced in table 3 of Exhibit B-0021;
14. The FIT will therefore have a key impact on one of the characteristics of future RNG supply contracts;
15. Furthermore, in its decision D-2015-107 regarding the project to inject RNG produced by the City of Saint-Hyacinthe (R-3909-2014), the Régie came to the following conclusions:

*[Translation]*

**APPROVE** the formula for establishing the purchase price of renewable natural gas produced by the City of Saint-Hyacinthe;

**APPROVE** the characteristics of the agreement in principle with the City of Saint-Hyacinthe regarding the purchase of renewable natural gas set out in paragraph 70 of this decision;

16. Énergir submits that, as it appears from the evidence in the file, the FIT (and table 3 of Exhibit B-0021) will replace the *[translation]* “formula for establishing the purchase price of renewable natural gas produced by the City of Saint-Hyacinthe” (“Formula”);
17. Therefore, the first and third conclusions stated in Énergir’s application (B-0033) correspond to those expressed by the Régie in its decision D-2015-107 and reproduced in paragraph 14 of these arguments;
18. In light of the foregoing, and subject to further representations that may be made during the hearing on September 4 and 6, Énergir invites the Régie to conclude that it is *[translation]* “appropriate to examine the method (FIT) by which Énergir wishes to purchase RNG.”

RESPECTFULLY SUBMITTED

Montréal, August 22, 2018

*(s) Hugo Sigouin-Plasse*

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