



# **Ontario Energy Board Commission de l'énergie de l'Ontario**

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## **DECISION AND ORDER EB-2016-0284**

### **SMART METERING ENTITY**

**Application for renewal of the Smart Metering Entity Licence**

**BY DELEGATION BEFORE: Peter Fraser**  
Vice President

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**November 24, 2016**

## INTRODUCTION AND SUMMARY

The Independent Electricity System Operator (IESO) applied to the Ontario Energy Board (OEB) on September 30, 2016 under section 60 of the *Ontario Energy Board Act, 1998* (OEB Act) for an order renewing the Smart Metering Entity (SME) licence (ES-2007-0750)<sup>1</sup> and extending the agreement between the SME and local distribution companies (the SME/LDC Agreement).

The SME licence was renewed by OEB order dated January 26, 2016, in proceeding EB-2015-0297 (the Order). The SME licence and the SME/LDC Agreement are set to expire on December 31, 2016. The applicant seeks a renewal of both the SME licence and the SME/LDC Agreement, based on a 20-year term, to December 31, 2036.

With the application, the SME also filed an implementation plan relating to third party access to certain enhanced data that the SME will begin collecting from LDCs prior to January 1, 2017, as required by the Order.

The OEB has considered the application without holding a hearing pursuant to section 6(4) of the OEB Act. The OEB will renew the SME licence for a term of 5 years. The OEB is overall satisfied with the SME's implementation plan. The OEB finds, however, that its approval of the SME/LDC Agreement is no longer necessary.

## BACKGROUND

The SME licence was first issued in 2011 (EB-2007-0750), based on a five-year term. It was then renewed in 2016 for a period of one year. The "form" of the SME/LDC Agreement was first approved by the OEB on January 17, 2013, with a termination date of January 26, 2016 (consistent with the term of the SME licence).

In November 2015, the SME applied to renew its licence and the SME/LDC Agreement for a further five-year term. Through the Order, the OEB granted the application for a renewal, but only for a one-year term. As well, the Order contained certain items to be

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<sup>1</sup> The Independent Electricity System Operator was designated as the Smart Metering Entity by Ontario Regulation 393/07 made under the *Electricity Act, 1998*.

complied with, or addressed by, the SME by January 1, 2017. Specifically, the Order provided, in part, as follows:

The OEB therefore:

...

2. Requires that the Smart Metering Entity shall, effective January 1, 2017, collect the following information associated with each meter (modified where necessary to sufficiently render it non-personal information):
  - a. The postal code.
  - b. The distributor rate class.
  - c. The commodity rate class.
  - d. Occupant change data.
3. Requires the Smart Metering Entity to prepare an implementation plan to be included with its next application for a licence renewal.

...

The OEB also expects that the next licence application will address the SME's implementation plan with respect to third party access to this enhanced SME data, including an assessment of the cost implications.

On September 30, 2016, the SME filed the current application. The application seeks a renewal of the SME licence and an extension of the SME/LDC Agreement based on a 20-year term. Through the application, the SME has also provided its response to parts 2 and 3 of the Order, as well as its implementation plan.

Following the filing of the application, additional correspondence was exchanged between the SME and OEB staff and, as well, the OEB received additional correspondence from the Coalition of Large Distributors (CLD) and the Electricity Distributors Association (EDA). After considering this information, a decision and order was drafted and provided to the SME on November 21, 2016. The SME was given the opportunity to provide its comments on the draft for consideration prior to finalizing this Decision and Order.

## FINDINGS

### ***Renewal and Term of Licence***

The SME is seeking a 20-year licence. In support of its request, the SME notes that since the OEB issues a 20-year licence to LDCs, transmitters, generators and, recently for the first time, the IESO, a similar term of licence would be appropriate for the SME.

The OEB finds it to be in the public interest that the SME carries on as the operator of the provincial Meter Data Management and Repository (MDM/R). However, the term of the SME licence shall be renewed only for a five-year period. This is consistent with the term of the SME licence when it was first issued.

Relative to traditional utilities and the IESO, for example, the multi-faceted functions of the SME are nascent and quickly evolving. A 5-year licence term will encourage the SME to continue to work towards demonstrating that it can achieve the value inherent in a province-wide MDM/R. To this end, the OEB maintains the views that were stated in the Order:

While the SME is functioning, it has yet to achieve the value inherent in a single provincial repository of electricity consumption data from over 4 million smart meters...The SME, through its provision of reliable provincial energy consumption data from over 4 million meters, was in part established to provide an opportunity for provincial electricity agencies, individual local distribution companies, and third parties seeking to create new value to benefit consumers. Ontario's head start on smart meters is an opportunity that could be leveraged to enhance innovation. The opportunity must be pursued in a more timely way. The OEB is of the view that closer regulatory scrutiny is required to ensure that the SME move with increased speed to enhance the value of the MDM/R data.

### ***The SME/LDC Agreement***

The applicant seeks an extension of the SME/LDC Agreement so that its expiry is aligned with the requested expiration of the SME licence. In its view, the OEB's approval of a standard form of the agreement is essential to attaining the SME's objectives, and to defining the respective roles and responsibilities of the SME and the distributors in fulfilling the objectives of the smart metering initiative. The SME has

expressed concern that, in the absence of an OEB-approved agreement, the SME could face demands to negotiate unique arrangements for different distributors. The SME also stated that it requires the cooperation of distributors to fulfill its statutory objectives.

The OEB disagrees. While it is true that the DSC requires the OEB's approval as to the "form" of an agreement between the SME (or the IESO) and LDCs, this requirement is, in the OEB's view, outdated. Specifically, section 5.4.1 of the DSC states:

A distributor shall, upon being requested to do so, enter into an agreement with the Smart Metering Entity or the IESO, in a form approved by the Board, which sets out the respective roles and responsibilities of the distributor and the Smart Metering Entity or the IESO in relation to metering and the information required to be exchanged to allow for the conduct of these respective roles and responsibilities.

When the DSC was amended to include this provision in 2007, the SME and LDC relationship was in its infancy. In fact the SME already has clear statutory authority for, among other things, collecting and managing information and data, and storing the information and data related to the metering of consumers' consumption or use of electricity in Ontario, including data collected from LDCs.<sup>2</sup> Specifically, the *Electricity Act, 1998* authorizes the SME to directly or indirectly collect consumer information and manage and aggregate the data.<sup>3</sup> Moreover, this same legislation mandates LDCs to provide information to the SME.<sup>4</sup>

By the terms of their licences, it is abundantly clear that each LDC "shall comply with all applicable provisions of the [OEB] Act and the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation".

In the OEB's view, a belt-and-suspenders approach to the OEB's oversight of the SME and LDC relationship is no longer necessary. Not only does the SME (and, for that matter, the IESO) hold sufficient statutory authority to collect information from LDCs, it

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<sup>2</sup> *Electricity Act, 1998 Part IV.2 The Smart Metering Entity*, section 53.8

<sup>3</sup> *Ibid*, section 53.14

<sup>4</sup> *Ibid*, section 53.15(1)

now has a significant body of experience in doing so over the past decade. LDCs have also demonstrated an acute awareness of their statutory responsibility to provide to the SME the information that the SME requires. It is no longer necessary that the OEB be involved in overseeing the routine exchange of information between the SME and LDCs.

### ***Implementation Plan for the Collection of the Enhanced Data***

The Order required that, effective January 1, 2017, the SME must begin collecting from LDCs certain enhanced data; namely, the postal code, the distributor rate class, the commodity rate class, and the occupant change data associated with each meter (modified where necessary to sufficiently render it non-personal information). The Order also required the SME to prepare an implementation plan to address third party access to the enhanced data, including an assessment of the cost implications.

In order to meet the OEB's required timelines, very early on in 2016, the SME established a working group which included a broad selection of LDCs across the province and representatives from the Ministry of Energy, EDA, the IESO and the OEB. To address the privacy concerns, and at the advice of the Office of the Information and Privacy Commissioner (IPC), the SME retained a reputable privacy consultant to perform a conceptual re-identification risk assessment for the data set that will exist in the MDM/R.

With the application, the SME provided a document entitled Third Party Access Implementation Plan (the Implementation Plan). A number of high-level timelines and activities are described in the Implementation Plan. Foremost, the Implementation Plan indicates that the SME will complete the implementation of the Order in five phases by the end of 2018. As well, the Implementation Plan specifies that a detailed costing analysis associated with the project will be filed with the next SME fee application in 2017. Finally, the Implementation Plan confirms that, based on the privacy consultant's recommendations, the IPC's review and input, and its privacy law-related discussions with the working group, the SME will start collecting the following information associated from each meter from all LDCs, except Toronto Hydro-Electric System Limited, effective January 1, 2017 (the Enhanced Data):

- The full (6 character) postal code;
- The distributor rate class;

- The commodity rate class;
- The occupancy change date generalized to a single year.

The OEB acknowledges the joint effort and commitment made by the IESO, the SME, the LDCs, and all of the other participants of the working group, towards the successful implementation of the Order within such tight timelines. In the light of the foregoing, the OEB is pleased to reaffirm that, effective January 1, 2017, each LDC shall submit its Enhanced Data to the SME (modified where necessary to sufficiently render it non-personal information).

Notwithstanding the progress of the SME and the working group, the OEB finds it surprising that there remains one LDC - Toronto Hydro-Electric System Limited – that has yet to join the MDM/R. In its last cost of service proceeding (EB-2014-0116), Toronto Hydro specifically requested OEB approval to spend upwards of over eight million dollars to work towards meeting its regulatory obligations in integrating with the provincial MDM/R over the 2015-17 period.<sup>5</sup> There has been no satisfactory explanation given as to why this integration has yet to take place. The OEB expects the SME and Toronto Hydro to move forward expeditiously to resolve this problem so that Toronto Hydro will start providing the Enhanced Data to the SME as required by the Order.

The OEB therefore:

1. Renews the licence of the Smart Metering Entity until December 31, 2021.
2. Requires that the Smart Metering Entity shall, effective January 1, 2017, collect from LDCs the following information associated with each meter (modified where necessary to sufficiently render it non-personal information):
  - a. The full (six character) postal code.
  - b. The distributor rate class.
  - c. The commodity rate class.
  - d. The occupancy change date generalized to a single year.

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<sup>5</sup> Toronto Hydro-Electric System Limited, EB-2014-0116, Exhibit 2B, Section E5.1, pg. 30 of 34.

3. Amends section 3.2 of the Smart Metering Entity Licence by deleting the current wording of that section and replacing it with the following wording:

The Licensee shall require licensed Distributors to provide information associated with each meter (modified where necessary to sufficiently render it non-personal information) as required by the Licensee in order to ensure that the Licensee is able to effectively and reliably carry out its mandate.

4. Requires that the Smart Metering Entity, in accordance with Section 8 of its licence, shall provide a report to the OEB summarizing each licensed distributor's compliance with providing the information required by the SME during the previous calendar year.

The OEB will issue for Notice and Comment proposed changes to the Distribution System Code to remove the licensed distributors' requirement to enter into agreements with the SME while ensuring that licensed distributors are clear in their obligation to provide the SME with the information it needs to carry out its functions.

**IT IS ORDERED THAT:**

1. The application to renew the Smart Metering Entity licence is granted, on such conditions as are contained in this Decision and Order and the attached licence.

**DATED** at Toronto on November 24, 2016

**ONTARIO ENERGY BOARD**

*Original Signed By*

Peter Fraser  
Vice President



# Smart Metering Entity Licence

## ES-2016-0284

Valid Until  
December 31, 2021

*Original Signed By*

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**Peter Fraser**  
**Vice President**  
**Ontario Energy Board**  
**Date of Issuance: November 24, 2016**

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## 1 Definitions

### 1.1 In this Licence:

"**Act**" means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

"**Board**" means the Ontario Energy Board;

"**Distributor**" means a person who owns or operates a distribution system;

"**Electricity Act**" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"**IESO**" means the Independent Electricity System Operator;

"**IESO-controlled grid**" means the transmission systems with respect to which, pursuant to agreements, the IESO has the authority to direct operations;

"**Licensee**" means the Smart Metering Entity;

"**Market Rules**" means the rules made under section 32 of the Electricity Act;

"**Rate Order**" means an order or orders of the Board establishing rates the Licensee is permitted to charge;

"**Regulations**" means regulations made under the Act or the Electricity Act;

"**Retailer**" means a person who retails electricity; and

"**Smart Metering Entity**" means the smart metering entity established under Part IV.2 of the Electricity Act, or more specifically, the IESO which is designated as the Smart Metering Entity by Ontario Regulation 393/07.

## 2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

## 3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act, to exercise its powers and perform its duties under the Act or under the Electricity Act subject to the terms and conditions set out in this Licence.
- 3.2 The Licensee shall require licensed Distributors to provide information associated with each meter (modified where necessary to sufficiently render it non-personal information) as required by

the Licensee in order to ensure that the Licensee is able to effectively and reliably carry out its mandate.

#### **4 Obligation to Comply with Legislation, Regulations and Market Rules**

- 4.1 The Licensee shall comply with all applicable provisions of the Act, the Electricity Act, and the Regulations.
- 4.2 The Licensee shall comply with all applicable Market Rules.

#### **5 Rates**

- 5.1 The Licensee shall not charge for meeting its obligations under the Act or under the Electricity Act except in accordance with a Rate Order of the Board, or as permitted by law.

#### **6 Non-Discriminatory Access**

- 6.1 The Licensee shall provide and promote non-discriminatory access by Distributors, Retailers, the IESO, and other persons to the Licensee's:
  - (a) information and data related to the metering of consumers' consumption or use of electricity in Ontario, including data collected from Distributors; and
  - (b) telecommunication system that permits the Licensee to transfer data about the consumption or use of electricity to and from its databases, including access to its telecommunication equipment, systems and technology and associated equipment, systems and technologies, in accordance with the terms of this licence.

#### **7 Separation of Business Activities and Accounting**

- 7.1 The Licensee shall keep its financial records associated with the smart metering initiative separate from the IESO's financial records associated with other IESO activities, unless otherwise required or authorized by the Board.
- 7.2 The Licensee shall maintain proper books of account and adhere to generally accepted accounting practices, and shall maintain such financial records or accounts as the Board may require. The Licensee shall notify the Board of any material change to its accounting procedures.

#### **8 Provision of Information to the Board**

- 8.1 The Licensee shall provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 8.2 Without limiting the generality of paragraph 8.1, the Licensee shall:
  - (a) provide such information as the Board may require from time to time to enable the Board to monitor the Licensee's compliance with the conditions of this Licence and any other legislative or regulatory requirements set out in this Licence;
  - (b) notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the Licensee's ability to comply with this Licence, its financial integrity, or its ability to carry out its responsibilities under the Act or the Electricity Act, as soon as practicable after the occurrence of any such change, but in any

event within fifteen days of the date upon which such change becomes known to the Licensee; and

(c) provide the Board with a description of any processes established by the Licensee under section 53.14 of the Electricity Act and any changes to such processes.

## **9 Restrictions on Provision of Information**

- 9.1 The Licensee shall not use information regarding a Distributor, consumer, Retailer, or any other person obtained for one purpose for any other purpose without the written consent of the consumer, Retailer, or other person.
- 9.2 The Licensee shall not disclose information regarding a Distributor, consumer, Retailer, or any other person to any other party without the written consent of the Distributor, consumer, Retailer, or other person, except where such information is required to be disclosed:
- (a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;
  - (b) for purposes related to billing, settlement, market operations, and other statutory objects of the IESO; or
  - (c) for law enforcement purposes.
- 9.3 The Licensee may disclose information regarding Distributors, consumers, Retailers, or any other person where the information has been sufficiently de-identified such that the Distributors', consumers', Retailers', or other person's particular information cannot reasonably be identified.
- 9.4 The Licensee shall inform Distributors, consumers, Retailers, and any other person of the conditions under which their information may be released to a third party without their consent.
- 9.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information provided will not be used for any other purpose except the purpose for which it was disclosed.

## **10 Term of Licence**

- 10.1 This Licence shall take effect on November 24, 2016 and terminate on December 31, 2021. The Board may extend the term of this Licence.

## **11 Fees and Assessments**

- 11.1 The Licensee shall pay all fees charged to it by the Board and all amounts assessed to it by the Board.

## **12 Communication**

- 12.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.
- 12.2 All official communication relating to this Licence shall be in writing.

- 12.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
- (a) when delivered in person to the addressee by hand, by registered mail or by courier;
  - (b) ten (10) business days after the date of posting if the communication is sent by regular mail; and
  - (c) when received by facsimile or electronic transmission by the addressee, according to the sender's transmission report.

### **13 Copies of the Licence**

- 13.1 The Licensee shall:
- (a) make a copy of this Licence available for inspection by members of the public at the Licensee's head office during normal business hours; and
  - (b) provide a copy of this Licence to any person who requests it.
- 13.2 The Licensee may impose a fair and reasonable charge for the cost of providing the copies referred to in section 13.1(b).

### **14 Dispute Resolution**

- 14.1 The Licensee shall:
- (a) have a process for resolving disputes with Distributors, consumers, Retailers, and any other person that deals with disputes in a fair, reasonable and timely manner;
  - (b) publish information which will make Distributors, consumers, Retailers, and any other person aware of, and help them to use, the dispute resolution process;
  - (c) make a copy of the dispute resolution process available for inspection at the Licensee's head office during normal business hours; and
  - (d) give or send, free of charge, a copy of the process to any person who reasonably requests it.