

January 31, 2018

VIA Email, Courier and RESS



Independent Electricity System Operator

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Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
27th Floor 2300 Yonge Street
Toronto, ON M4P 1E4

Dear Ms. Walli:

**Re: Independent Electricity System Operator – Application
Smart Metering Entity / Smart Metering Charge 2018-2022
Ontario Energy Board File No.: EB-2017-0290**

On January 9, 2018, Niagara-on-the-Lake Hydro Inc. (“NOTL”) submitted additional evidence in the Smart Metering Entity’s (“SME”) 2018-2022 fee application as allowed by Procedural Order #2.

NOTL concluded their evidence requesting that the Ontario Energy Board (“OEB”), as part of their decision on the SME’s fee application, require the following:

1. *The IESO to commission an independent survey of LDCs to assess if, given the choice, LDCs would continue to use the SME, would use an alternative service provider or would manage these services on their own. The survey should also examine whether LDCs believe they need the services currently provided by the SME or would drop them altogether if they could.*
2. *The IESO to commission an independent analysis of the costs and benefits of opening the services the SME provides to a competitive market.*
3. *The publication of the full results of both of these reports.¹*

No additional procedural steps were taken on this evidence.

As outlined in Procedural Order #1, a Settlement Conference commenced on January 16 and continued on January 17, 2018. As part of the settlement that was reached, all parties agreed that the SME would submit a letter, separate from the Settlement Proposal, explaining the SME’s position that it is not appropriate for the SME, on its own initiative, to undertake the survey and analysis proposed by NOTL.

In the SME’s view, the intention and purpose of the survey and analysis proposed in NOTL’s evidence is inconsistent with the SME’s statutory objects under section 53.8 of the *Electricity Act, 1998* (the “Electricity Act”) and Ontario Regulation 393/07 to act as the exclusive authority to collect, manage and store smart meter data. In its evidence, NOTL notes that “a review of this

¹ NOTL evidence, January 9, 2018, page 2

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nature is beyond the legal scope of the OEB and that the OEB must operate within the regulations of the Government of Ontario"². The SME, as a statutory actor, must also operate within the confines of the Electricity Act and Ontario Regulation 393/07. The legislative and regulatory structure does not provide the SME with the authority to open the services of the SME to a competitive market or to permit an LDC to utilize an alternative service provider or to decline the SME's services. The SME cannot, on its own initiative, undertake a survey and analysis of activities that would be contrary to its statutory objects.

In addition, the OEB has recognized through its recent decisions that there are benefits to having a single repository for all smart meter data in the province. In its November 2016 decision renewing the SME's licence, the OEB noted that, at that time, there was one LDC that had yet to join the MDM/R and ordered that both the SME and that LDC "move forward expeditiously to resolve this problem"³. In that same decision, the OEB found 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)"⁴.

The OEB's decision to have the SME collect certain data from all smart meters and to make this available to third parties⁵ also recognized these benefits as it leverages the benefits available from a single repository for smart meter data. Additionally, the SME operating as the single repository allows for a single and consistent approach to collecting the data, allowing access to the data and managing this access in a manner that meets privacy requirements.

The SME believes it would be inconsistent with the intention of the legislation, regulations and recent OEB direction for the SME to undertake, on its own initiative, the survey and analysis proposed by NOTL.

Yours truly,



Tam Wagner
Senior Manager, Regulatory Affairs

Att.

cc: Mr. Patrick Duffy, Stikeman Elliott (email)
Michael Bell, Case Manager, OEB (email)
Intervenors to EB-2017-0290 (email)

² Ibid

³ EB-2016-0284, November 24, 2016, page 6

⁴ Ibid, page 3

⁵ EB-2015-0297