



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

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## **DECISION AND ORDER**

**EB-2018-0145**

## **ERTH BUSINESS TECHNOLOGIES INC.**

**Application for an Agent Only Electricity Retailer Licence**

**BY DELEGATION,**

**BEFORE: Brian Hewson**  
Vice President, Consumer Protection & Industry Performance

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**June 14, 2018**

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## DECISION AND ORDER

ERTH Business Technologies Inc. (ERTH) filed an electricity retailer (agent only) licence renewal application under section 60 of the *Ontario Energy Board Act, 1998* (OEB Act) on April 4, 2018.

ERTH operates a data clearinghouse, known as the “Hub”, for electronic business transactions between electricity retailers and distributors in the Ontario retail market, connecting distributors and retailers to facilitate retail settlements.

According to the application, ERTH has used and would continue to use its status as an agent only retailer to facilitate the requests and retrieval of historical usage information through the EBT system initiated and requested in writing by its clients. This historical usage information is used to measure and verify energy conservation efforts. ERTH does not intend to sell any electricity products to its clients, it merely requires an agent only retailer licence in order to access data in accordance with both the Retail Settlement Code and authorization duly provided by the clients involved.

In addition to its “Hub” business activities, ERTH intends to provide calculations of customers’ electricity charges for licensed electricity distributors that have been selected to participate in the OEB approved Regulated Price Plan (RPP) pricing pilots.

This Decision and Order is being issued by Delegated Authority without a hearing, pursuant to Section 6 of the OEB Act.

After considering the application and assessing the conduct, technical capability and financial viability of the applicant, the OEB finds that it is in the public interest to grant the application and issue an agent only electricity retailer licence to ERTH Business Technologies Inc.

ERTH is intending to provide billing calculations to licensed electricity distributors as part of the OEB’s approved RPP pricing pilots and will be using individual consumer’s information for that purpose. ERTH’s existing licence requires that it must obtain an individual consumer’s consent before it may use the consumer’s information for any purpose unless the consumer has given their authorization under the Retail Settlement

Code. To enable ERTH to provide the service in relation to the RPP pilots, the following condition will be included in ERTH's licence:

- 3.4 Notwithstanding Section 3.3, the Licensee is permitted to use customer usage information without obtaining the customer's authorization if it is for the sole purpose of calculating the customer's electricity charge for a licensed electricity distributor undertaking an OEB approved Regulated Price Plan (RPP) pricing pilot and if, prior to doing so, the Licensee obtained written confirmation from the licensed electricity distributor that it has the authorization of the consumer to collect the information.

**IT IS ORDERED THAT:**

1. The application for an agent only electricity retailer licence is granted, on such conditions as are contained in the attached licence.

**DATED** at Toronto, June 14, 2018

**ONTARIO ENERGY BOARD**

*Original Signed By*

Brian Hewson  
Vice President, Consumer Protection & Industry Performance



# Electricity Retailer Licence

## Agent Only

**ER-2018-0145**

**ERTH Business Technologies Inc.**

Valid Until

June 13, 2023

*Original Signed By*

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**Brian Hewson**  
**Vice President, Consumer Protection & Industry Performance**  
**Ontario Energy Board**  
**Date of Issuance: June 14, 2018**

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## 1 Definitions

In this Licence:

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

“**consumer**” means a person who uses, for the person’s own consumption, electricity that the person did not generate;

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

“**Licensee**” means ERTH Business Technologies Inc.;

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

“**regulation**” means a regulation made under the Act or the Electricity Act; and

“**residential or small business consumer**” means a consumer who annually uses less than 150,000 kWh of electricity;

For the purpose of this Licence, the terms “retailer” and “retailing” do not apply to a Licensed Distribution Company fulfilling its obligations under section 29 of the Electricity Act.

## 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 this 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. 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 and subject to the terms and conditions set out in this Licence:
- a) to act as the agent or broker for a retailer with respect to the sale or offering for sale of electricity; and
  - b) to act or offer to act as the agent or broker for a consumer with respect to the sale or offering for sale of electricity.
- 3.2 The Licensee is authorized to conduct business in the name under which this Licence is issued, or any trade name(s) listed in Schedule 1.

- 3.3 The Licensee shall obtain the authorization of a customer in accordance with the Retail Settlement Code prior to any collection or use of historical usage information. In carrying out its Agent-only retailer activity under this Licence, the Licensee is prohibited from any use of customer data gathered through the Electronic Business Transaction System unless each customer whose information is used has provided authorization in accordance with the Retail Settlement Code.
- 3.4 Notwithstanding Section 3.3, the Licensee is permitted to use customer usage information without obtaining the customer's authorization if it is for the sole purpose of calculating the customer's electricity charge for a licensed electricity distributor undertaking an OEB approved Regulated Price Plan (RPP) pricing pilot and if, prior to doing so, the Licensee obtained written confirmation from the licensed electricity distributor that it has the authorization of the consumer to collect the information.

#### **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 regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation.
- 4.2 The Licensee shall comply with all applicable Market Rules.

#### **5 Obligation to Comply with Codes**

- 5.1 The Licensee shall at all times comply with the following Codes (collectively the "Codes") approved by the Board, except where the Licensee has been specifically exempted from such compliance by the Board:
- a) the Electricity Retailer Code of Conduct;
  - b) the Retail Settlement Code; and
  - c) the Retail Metering Code.
- 5.2 The Licensee shall:
- a) make a copy of the Codes available for inspection by members of the public at its head office and regional offices during normal business hours; and
  - b) provide a copy of the Codes to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

#### **6 Agent for Service**

- 6.1 If the Licensee does not have an office or other place of business in Ontario, the Licensee shall ensure the continuing appointment at all times of an individual who is a resident of Ontario and is at least 18 years old, or a corporation that has its head office or registered office in Ontario, as the Licensee's agent for service in Ontario on whom service of process, notices or other documentation may be made.

## **7 Market Power Mitigation Rebates**

- 7.1 The Licensee shall comply with the pass through of Ontario Power Generation rebate conditions set out in Appendix A of this Licence.

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

- 8.1 The Licensee shall maintain records of and 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 notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

## **9 Customer Complaint and Dispute Resolution**

- 9.1 This section is not applicable to the Licensee.

## **10 Term of Licence**

- 10.1 This Licence shall take effect on June 14, 2018 and expire on June 13, 2023. The term of this Licence may be extended by the Board.

## **11 Fees and Assessments**

- 11.1 The Licensee shall pay all fees charged and amounts assessed 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; or
  - c) when received by facsimile 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 its head office and regional offices during normal business hours; and
- b) provide a copy of this Licence to any person who requests it. The Licensee may impose a fair and reasonable charge for the cost of providing copies.

**SCHEDULE 1 AUTHORIZED TRADE NAMES**

1. None

## APPENDIX A

### MARKET POWER MITIGATION REBATES

“OPGI” means Ontario Power Generation Inc.

A retailer shall promptly pass through a portion of the rebate received from a distributor to those consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following from on or with each bill or cheque.

“ONTARIO POWER GENERATION INC. rebate”

A retailer shall promptly return to a distributor any portion of the rebate received from the distributor which relates to low-volume or designated consumers receiving the fixed commodity price for electricity under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998*, who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer or another party.

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.

### ONTARIO POWER GENERATION INC. REBATES

For the payments that relate to the period from May 1, 2006 to April 30, 2009, the rules set out below shall apply:

“OPGI” means Ontario Power Generation Inc.

A retailer shall promptly pass through a portion of the rebate received from a distributor to those consumers who are not receiving the fixed price under sections 79.4 and 79.5 of the *Ontario Energy Board Act, 1998* and who are served by the retailer but who have not assigned the benefit of the rebate payment to the retailer.

If requested in writing by OPGI, the retailer shall ensure that all rebates paid to consumers are identified as coming from OPGI in the following from on or with each bill or cheque.

“ONTARIO POWER GENERATION INC. rebate”

The amounts paid out to consumers or returned to the distributor shall be based on energy consumed and calculated in accordance with the rules set out in the Retail Settlement Code.

Amounts payable by the retailer may be made by way of set off at the discretion of the retailer.