

THESL INTERROGATORY #1

INTERROGATORY

Ref: Page 1

The submission filed on December 15, 2009 is entitled “Pre-Filed Evidence of the Smart Sub-Metering Working Group.” It is not clear what individual(s) authored this submission.

- (a) Please confirm whether Mr. Hanser prepared this submission and whether he will adopt this evidence as his own at the oral hearing. If not Mr. Hanser, who prepared the submission and who will adopt it at the hearing?

RESPONSE

- (a) Mr. Hanser will confirm that the Pre-filed Evidence of the SSMWG was prepared by him and/or under his direction. He will adopt it at the hearing.

THESL INTERROGATORY #2

INTERROGATORY

Ref: Para 1

- (a) Please provide your list of ‘generally accepted regulatory principles’.

RESPONSE

- (a) Paragraph 1 states “it appears that THESL’s provision of smart suite metering service is being cross-subsidized by rate payers that do not receive such service. As such, THESL’s rate design is not in keeping with generally accepted regulatory principles.” As already noted in the submitted report, a fundamental principle of cost of service ratemaking is that rates should be tied to the costs incurred in providing a service. As THESL does not charge for the service and there are costs clearly incurred in excess of providing suite service, then other ratepayers must be making up the deficiency.

THESL INTERROGATORY #3

INTERROGATORY

Ref: Para 1, Para 10

The ultimate conclusion being rendered is that of “a cross-subsidization from THESL’s regulated business to a competitively offered service...”

- (a) What specific “competitively offered service” is being referred to? What, precisely, is the market that is competitive?
- (b) What range of specific costs does the author assume exists for providers of this “competitively offered service”?
- (c) Are you aware that it is established industry practice for sub-meterers to offer payments to condominium developers in the order of \$100 or more per unit for the right to install their sub-metering systems? Did the author of the submission take into account any cash payments that may be paid by “competitive service providers” to property developers/land owners/landlords in connection with the installation of suite meters? What impact would such cash payments have on the operation of the competitive suite meter market assumed by the author of the submission? Do you consider such a practice to be consistent with offering services on an equal footing with non-regulated competitive entities as stated at paragraph 10?
- (d) Please identify the general principles that guide cost allocation and rate design in the context of essentially purchasing end-customers through cash payments to land developers/land owners/landlords as reference in part c) above.

RESPONSE

- (a) Mr. Hanser has been referred to the Decisions of the Ontario Energy Board (“OEB”) that confirmed on several occasions that the provision of smart sub-metering services is a competitive activity, including in its January 8, 2008 Notice¹ to amend the Distribution System Code and adopt the Smart Submetering Code. In June 2008, it reconfirmed this finding, stating:

¹ Notice of Proposal to Amend a Code and Notice of Proposal to Issue a New Code (EB-2007-0772), January 8, 2008, p. 3

“Smart sub-metering providers offer their products and services in a competitive market. There are multiple service offerings from multiple providers from which developers and boards of directors of condominiums can compare and choose.”²

The Board again confirmed that the smart sub-metering market is competitive in its Majority and Minority Decisions in the PowerStream 2009 rates application (EB-2008-0244)³.

- (b) The issue in this proceeding is the reasonableness of THESL’s costs in respect of its suite metering program and the existence of a cross-subsidy. THESL has stated that it has not undertaken a fully allocated cost study in respect of its suite metering program. The appropriate question to ask is what are the specific costs which should be considered as part of the fully allocated cost study? These include the following: 1) capital cost of the meters, 2) installation costs, 3) operations and maintenance costs; 4) administrative and general; and 5) any associated overheads. The costs that individual members of the SSMWG incur in respect of their competitive service offerings are not relevant for the purposes of this proceeding.
- (c) The questions asked are not relevant to the issues in this proceeding. The issue in this proceeding is whether THESL’s proposed rates are just and reasonable; that is, are they consistent with appropriate regulatory rate-making principles. Despite this, and without waiving the right to continue to take the position that questions of this nature are irrelevant, Mr. Hanser is unaware that there is an “established industry practice” as alleged in THESL’s question.
- (d) The question asked is again not relevant to the issues in this proceeding. The implication in THESL’s question that members of the SSMWG are, in effect, unlawfully buying customers, is completely inappropriate.

² Notice of Revised Proposal to Amend a Code and Notice of Revised Proposal to Issue a New Code (EB-2007-0772), June 10, 2008, p. 4

³ Majority Decision, EB-2008-0244, July 27, 2009, p.5, and Minority Decision, pps. 12 - 17

THESL INTERROGATORY #4

INTERROGATORY

Ref. Para 2

The author makes the statement: “Some cross-subsidization within a rate class is inevitable.”

- (a) How should electricity regulators manage the implications of this conclusion in connection with the application of general principles that guide cost allocation and rate design?
- (b) Is the elimination of cross-subsidization within a rate class practically feasible?

RESPONSE

- (a) What was being referred to is the situation in which a particular billing component, usually energy, is based on average usage. In that situation, cross-subsidization occurs between customers whose use is below to those whose use is above average. Such cross-subsidization can be minimized through rates which are more closely designed to capture the costs the utility incurs in serving customers, for example, the use of dynamic rates such as real time pricing.
- (b) Yes, see above.

Even if total cross-subsidization is not practical, regulatory policies should aim at minimizing cross-subsidies.

THESL INTERROGATORY #5

INTERROGATORY

Ref: Para 2

On July 27, 2009 the OEB issued a decision concerning the rate application made by a neighbouring utility and specifically the issue of suite metering of condominium by utilities. In that Decision, the Board stated as follows:

“Condominium suite metering, as offered by PowerStream, involves installing a separate meter for each condominium unit, and billing each unit owner as a residential customer; the condominium corporation is billed for the common areas. There is no bulk master meter required and there is no sub-metering taking place. The rates are regulated. As is common for residential customers, PowerStream does not charge for the cost of the meters; these are included in the costs allocated to the residential class as a whole. The cost of the condominium meter (Quadlogic) is considerably more expensive (about \$680) than the standard meter for an individual single home (about \$250). On the revenue side, PowerStream replaces one commercial customer with a larger number of residential customers, generating higher revenue because of the rate classification under which it bills for the same load previously billed for the bulk meter.

Smart sub-metering, as offered by members of the SSMWG, happens “behind” the bulk meter. Members of the SSMWG install the smart meters for the condominium units. The condominium corporation continues to be a commercial customer of PowerStream. Smart sub-metering allows for the allocation of the condominium corporation’s bill among the various unit owners, presumably in relation to their consumption of electricity. The rates are not regulated.

Because no contribution is required by PowerStream for the higher cost of the meter for condominium customers, the SSMWG alleges that there is a cost subsidy for these customers by the rest of PowerStream’s ratepayers and that this harms the competitive market and harms the SSMWG members.

The relief sought by the SSMWG is that the condominium activity should be performed by an affiliate of PowerStream. In the alternative, if in the utility, the condominium activity should be treated as a stand-alone program, on a fully-costed basis. Under the stand-alone categorization, revenues and costs of the condominium suite program would be segregated from the rest of the distribution business. In the event the program is less profitable than the distribution business on a fully-costed basis, revenue would be imputed thereby reducing the revenue requirement and rates for the rest of the ratepayers.

Should the Program be offered through an Affiliate?

The SSMWG accepted that under the existing legislative and regulatory framework, utilities are required, when asked, to install smart meters in condominiums but argued that it is open to the Board to require that the condominium activity should be undertaken through an affiliate.

PowerStream, Board staff and the intervenors argued that the legislative and regulatory framework clearly suggest that a utility such as PowerStream not only has the ability to carry out these

activities directly through the utility as opposed to a separate subsidiary, but in fact it is required to do so. PowerStream argued that if the activity was carried out through a separate subsidiary, which is not by definition a distributor, a utility would not be meeting its requirements under the *Electricity Act*, the Regulations and the Distribution System Code.

Section 71 (1) of the *Ontario Energy Board Act, 1998* (the “Act”) states that distributors cannot carry on any business activity other than the distributing of electricity, except through an affiliate. However, section 71 (2) of the Act provides an exception to the general rule. Section 71 (2) states that a distributor may provide services in accordance with section 29.1 of the *Electricity Act, 1998* that would assist the government of Ontario in meeting its objectives in relation to electricity conservation.

Ontario Regulation 442/07, promulgated on August 1, 2007, allows licensed distributors to install smart meters in existing condominiums when the board of directors of the condominium corporation approves the installation of smart meters.

The Board’s Distribution System Code was recently amended by adding section 5.1.9 which reads as follows:

When requested by either:

- (a) the board of directors of a condominium corporation; or
- (b) the developer of a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the Condominium Act, 1998,

a distributor shall install smart metering that meets the functional specification of Ontario Regulation 425/06 – *Criteria and Requirements for Meters and Metering Equipment, Systems and Technology* (made under the Electricity Act). (Emphasis added).

On the basis of the existing legislative and regulatory framework, the Board accepts that it is appropriate for PowerStream to continue to carry out its condominium activities as it has and proposes to continue.” (emphasis added)

- (a) What differences between PowerStream and THESL support your conclusion that THESL should be required to conduct suite metering through an affiliate when the Board has very recently confirmed that it is appropriate for PowerStream to do so directly through the utility?

RESPONSE:

- (a) Mr. Hanser is not familiar with the record placed before the OEB in respect of the PowerStream Decision. Therefore, he is unable to undertake any comparative analysis. However, the SSMWG notes that the Majority Decision states, at page 5:

“The fact that PowerStream is allowed to carry this activity as part of its distribution business does not take away from the fact that the metering of condominium units is a contestable market. To the extent that there is a cost subsidy as the SSMWG alleges, and if material, the SSMWG may be legitimately concerned.”

In the Minority Decision, Vice Chair Kaiser went further stating that rate approval should be conditional upon PowerStream filing within four months a cost allocation methodology for its suite metering service in a manner that will allow the Board and the Parties to determine whether revenues are recovering costs (page 15). As indicated in the submission (Paragraph 11), Mr. Hanser recommends that a separate unregulated affiliate be established to offer suite-metering services.

THESL INTERROGATORY #6

INTERROGATORY

Ref: Para 7

- (a) Does the SSMWG assert that THESL is practising predatory pricing? If so, provide the evidentiary basis for the assertion.

RESPONSE

- (a) The determination of whether THESL is practising predatory pricing under Canadian law is a matter for Canadian lawyers and regulators. Mr. Hanser was asked to examine THESL's suite meter program from the perspective of recognized rate making principles. As noted in the pre-filed evidence, I have found that THESL is using revenues through regulated activities to subsidize the cost associated with a competitive service.

THESL INTERROGATORY #7

INTERROGATORY

Ref: Para 10

The author states, “THESL suggests that it would provide superior service at lower costs because it is regulated. This rationale suggests that THESL is subsidizing the suite meter costs through the charges that it collects from its other customers.”

- (a) Please explain the logic that the SSMWG used to equate THESL’s provision of superior service at lower costs because it is regulated, with the conclusion, “THESL is subsidizing the suite meter costs through the charges it collects from its other customers.”
- (b) Does the SSMWG not agree that among the purposes of public regulation are to ensure that customer service quality is maintained and that costs are kept as low as possible?

RESPONSE

- (a) As Mr. Hanser noted in his report, there were not sufficient incremental revenues to fully offset the costs of suite meters. In THESL’s advertising for suite metering, it suggests that because it is regulated, it will provide superior service. However, if the playing field is truly level, then it should make no such claim in its provision of suite meter service. If it is offering the service on a competitive basis, then it is grossly inappropriate to use as means of attracting customers reference to the fact that it is a regulated entity.
- (b) The purpose of THESL’s regulated service should be to provide the best service at the lowest cost possible. However, THESL does not seem to be doing so because some of the costs associated with suite meters are paid for through revenues from THESL’s regulated services.

THESL INTERROGATORY #8

INTERROGATORY

Ref: Attachment: Case 1A – Attachment: Case 4B

- (a) In Response to Please provide the rationale for adding the “incremental Operating Expenses” to the OM&A cost per customer in deriving the total OM&A figure?
- (b) Please explain how these are incremental to the costs of \$210/customer?

RESPONSE

- (a) THESL was asked, in SSMWG’s Interrogatory #5(a), for the total amount of OM&A forecast for 2010 that relates to individual suite metering. Its response was that the 2010 OM&A forecast that relates to individual suite metering is \$0.3 million. Mr. Hanser interprets this to mean this amount is attributable to the Suite Metering Program.
- (b) According to THESL Rate Case Exhibit D1, Tab 8, Schedule 3-2, Page 3, the average of O&M cost for Residential Customers in the 2010 test year is \$190. Further, Exhibit D1, Tab 8, Schedule 3-2, Page 2 shows that the average administration cost is 10.57% of O&M cost. Therefore, Mr. Hanser has calculated the average OM&A cost as average O&M cost plus 10.57%, which is \$210.

THESL INTERROGATORY #9

INTERROGATORY

Ref: Attachment: Case 1A – Attachment Case 4B

- (a) Please explain why the rate class used for the “Foregone Commercial Revenues” is the GS<50 kW class, when the conversions would be from the GS 50-999 kW class?

RESPONSE

- (a) It is acknowledged that the majority of buildings that are converted would be in the GS 50-999 kW class. If the only change to the analysis involved using GS 50-999 kW demand rates in place of the GS < 50 kW volumetric rates, then the revenue deficiencies noted would tend to increase.

THESL INTERROGATORY #10

INTERROGATORY

Ref: Attachment: Case 1A – Attachment: Case 4B

- (a) Please re-run all eight cases, removing the “Incremental Operating Expenses”, and in the case of conversions, using the proposed GS 50-999 kW rates and assuming 1420 kVA displaced load in Cases 2A and 2B, and 3014 KVA displaced load in Cases 4A and 4B.

Please include a calculation of Revenue to Cost ratio for each case.

RESPONSE

- (a) In THESL’s response to SSMWG Interrogatory #5, it states that its 2010 OM&A forecast that relates to individual suite metering is \$0.3 million. Therefore it would be in appropriate to remove this line item. Mr. Hanser, however, did reevaluate his analysis using 1,419 and 3,010 displaced load (1 kVA per bulk-converted meter). As the following tables demonstrate, the conclusions remain the same:

**Cumulative 2007-2010 Revenue Deficiencies By Case
(1419 kVA Displaced Load)**

		Suite Meter Unit Cost	
		High	Low
Residential Revenue Derived From		[A]	[B]
[1]	New	(309,810)	(215,130)
[2]	Bulk	(402,639)	(341,039)

**Cumulative 2007-2010 Revenue Deficiencies By Case
(3010 kVA Displaced Load)**

		Suite Meter Unit Cost	
		High	Low
Residential Revenue Derived From		[A]	[B]
[3]	New	(689,240)	(468,077)
[4]	Bulk	(914,471)	(791,073)

It was not clear from the question what revenues and costs should be used for the purposes of developing a revenue to cost ratio. It was also not clear whether the question is asking for a ratio in respect of residential or commercial customers.