



EB-2007-0750

IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application by the
Independent Electricity System Operator for the
Smart Metering Entity licence.

PROCEDURAL ORDER NO. 2

Background

The Independent Electricity System Operator (the “IESO” or the “Applicant”) was designated as the Smart Metering Entity (“SME”) by Ontario Regulation 393/07 made under the *Electricity Act, 1998*. Section 57 of the *Ontario Energy Board Act, 1998* (the “Act”) requires the SME to be licensed to exercise its powers or perform its duties under the *Electricity Act, 1998*.

The IESO filed an application on September 4, 2007 with the Ontario Energy Board (the “Board”) under section 60 of the Act for the SME licence. The Applicant requested that the SME licence be issued on or before September 14, 2007 as this was the date it intended to begin the initial cutover to production operations.

Section 5.4.1 of the Distribution System Code requires electricity distributors to enter into an agreement with the SME (the “Agreement”) upon being requested to do so, in a form approved by the Board.

In its September 4, 2007 application for the SME licence, the Applicant stated that the Agreement was under development and was likely to be submitted to the Board by the end of September 2007.

On September 14, 2007, the Board issued its Notice of Application and an interim order granting the IESO a temporary SME licence. The temporary SME licence was set to

terminate on January 31, 2008 or the date of the Board's final decision in the SME licence application, whichever was earlier.

The following parties requested and were granted intervenor status in this proceeding: Ontario Energy Savings L.P. (now, Just Energy Ontario L.P.), Hydro One Networks Inc., Coalition of Large Distributors, Electricity Distributors Association ("EDA") and Direct Energy Marketing Limited.

In order to have a more efficient review of the licence application, the Board had decided not to proceed with the licence application until the SME filed the Agreement with the Board. To that end, the Board has been extending the term of the temporary SME licence to allow the IESO to spend time on the development of the Agreement and address governance issues.

On September 24, 2010, the IESO requested a further extension to the term of the temporary licence until the earlier of December 31, 2011 or the Board's final decision on the SME licence application. This request provided limited details on why a further extension was required.

On September 29, 2010, by way of an interim decision and order, the Board granted an extension to the term of the temporary SME licence until March 31, 2011 or the date of the Board's final decision in the SME licence application, whichever was earlier. In that interim decision and order, the Board stated that it did not believe that the Applicant had demonstrated the need for the requested term of the extension. The Board further stated that it would set next steps in the proceeding by procedural order.

On November 15, 2010, the Board issued Procedural Order No. 1 in which it ordered the IESO to file with the Board the Agreement and any other additional evidence pertaining to the SME licence or, if the IESO was unable to file the requested information, to file a written submission providing a detailed rationale for its inability to file such information.

The IESO's Submission

On November 30, 2010, the IESO filed a written submission with the Board in accordance with Procedural Order No. 1. In its submission, the IESO stated that in September 2010, it signed a Memorandum of Understanding with the EDA around SME governance. According to the IESO, “the MOU incorporates a transition plan that provides for LDC representation in MDM/R governance during the SMIP and a structure to transition the SME role to LDC control once the SMIP is complete.” The IESO further stated that “the transition of the SME function to LDC control is subject to government concurrence and cannot occur until the provincial government issues a regulation naming the new entity as SME.”

The IESO submitted that it would be inefficient to proceed with the application for a permanent SME licence at this time given the fundamental changes in the structure of the SME that are anticipated to occur.

Next Steps

The Board understands that changes in the structure of the SME may occur in the future. The Board also understands that the IESO may not be in a position to file the Agreement with the Board for approval at this time. However, it is clear that at the present time, the IESO is the only entity designated by regulation to be the SME and it requires a licence to exercise its powers or perform its duties.

As indicated above, the Board initially decided not to proceed with the licence application until the SME filed the Agreement with the Board. However, in the interest of efficiency in terms of the licence itself, the Board finds it appropriate to proceed with the licence application and to limit the scope of the licence application proceeding solely to issues relating to the SME licence application, including what an appropriate term for the licence may be. Specifically, the Board will not consider any issues relating to the SME governance structure or the Agreement in this proceeding. Those issues can be dealt with in a separate process or processes and in response to the solidifying of those issues when they actually occur. In this way, the Board will avoid future periodic considerations of the interim licence renewal which in the past have been triggered by expiration dates which have proven to be of no consequence.

The Board will decide the SME licence application by way of written hearing.

The Board considers it necessary to make provisions for the following matters related to the licence proceeding. The Board may issue further procedural orders from time to time.

IT IS THEREFORE ORDERED THAT:

1. Intervenors or Board Staff wishing to file a written submission on the SME licence application shall file their submission with the Board and serve it on the IESO and all other intervenors on or before **January 7, 2011**.
2. If the IESO wishes to file a written reply submission, it shall file its reply submission with the Board and serve it on all intervenors on or before **January 21, 2011**.
3. Any filings to the Board must quote file number EB-2007-0750, be made through the Board's web portal at www.errr.oeb.gov.on.ca, and consist of two paper copies and one electronic copy in searchable / unrestricted PDF format. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Please use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at www.oeb.gov.on.ca. If the web portal is not available you may email your document to the address below. Those who do not have internet access are required to submit all filings on a CD or diskette in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.
4. All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

ADDRESS OF THE BOARD

Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, ON M4P 1E4
Attention: Board Secretary

Tel: 1-877-632-2727 (toll free)
Fax: 416-440-7656
E-mail: Boardsec@oeb.gov.on.ca

ISSUED at Toronto, December 10, 2010

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary