



ONTARIO ENERGY BOARD

BOARD STAFF SUBMISSION

Application for Exemption from Mandated Time of Use Pricing Date for Regulated Price Plan Customers

EnWin Utilities Ltd.

EB-2010-0367

February 17, 2011

THE APPLICATION

EnWin Utilities Ltd. (“EnWin”) filed an application dated December 9, 2010 with the Ontario Energy Board under section 74 of the *Ontario Energy Board Act, 1998*, S.O. 1998, c.15 (Schedule B) for a licence amendment granting an exemption in relation to their mandated date for the implementation of Time-of-Use (“TOU”) pricing rates for Regulated Price Plan (“RPP”) customers.

EnWin is seeking an exemption from their June 2011 TOU date and requesting a new TOU date of December 2012 due to the time required in implementing a new customer information system (“CIS”) along with delays experienced due to implementation of International Financial Reporting Standards (“IFRS”) and the Green Energy & Green Economy Act.

The Board issued a Notice of Application and Hearing on December 31, 2010. Board staff filed interrogatories on January 18, 2011. EnWin responded to these interrogatories on January 27, 2011.

On August 4, 2010 the Board issued a determination under Section 1.2.1 of the Standard Supply Service Code to require the implementation of TOU pricing for RPP customers for each electricity distributor. The determination stated that the Board “acknowledges that distributors may encounter extraordinary and unanticipated circumstances during the implementation of TOU pricing. The Board requests that any distributor encountering such circumstances bring these matters to the Board’s attention without delay in order that the Board can assess the impact on the distributor’s mandatory TOU date and assess whether any adjustment in that date is warranted.”

EnWin first informed the Board that it would require a new TOU implementation date in its letter in response to an August 23, 2010 information request from Board staff. EnWin requested the Board set a mandatory TOU pricing date of December 2012 and has sought approval of this new mandatory TOU pricing date through this application. To assist with the implementation of TOU-related CIS upgrades EnWin hired the Deloitte consulting firm to provide it with a timeline for completion of these upgrades. While Deloitte recommended a timeline of 14 and a half months, EnWin felt this was optimistically condensed and chose a conservative implementation date of December 2012. EnWin began implementation of TOU-related CIS upgrades in April 2010. In its interrogatory responses EnWin states deployment of smart meters began in early

August 2010 and it installed approximately 8,000 meters for the period to January 21, 2011. EnWin has a customer base of approximately 84,000 customers.

This submission is being provided by Board staff following a review of the application and evidence filed in this proceeding.

STAFF SUBMISSION

Having reviewed the application and evidence, Board staff has concerns with EnWin's request for an exemption.

Board staff submits that EnWin has established that it will not be able to meet its mandatory TOU implementation date of June 2011. However, Board staff cannot identify any extraordinary and unanticipated circumstances during the deployment of smart meters or the implementation of TOU-related CIS upgrades encountered by EnWin in its application or evidence. Board staff submits that EnWin's inability to meet its mandatory TOU date is the result of business planning decisions made by EnWin to not pursue smart meter deployment and TOU pricing implementation in a proactive manner.

In its responses to interrogatories, EnWin states regulatory compliance with IFRS was a consideration in its decision to delay smart meter deployment and TOU implementation. EnWin notes that it decided "to put mandatory IFRS ahead of optional Smart Metering and TOU"¹ and "triage the SAP Finance and Asset Management components ahead of the Smart Meter installation and the SAP CIS."² EnWin asserts the decision to prioritize IFRS ahead of smart metering and TOU "was based on the situation facing *ENWIN*, its ratepayers and its shareholder, and the best information available at the time,"³ but does not provide further information explaining why such a decision was necessary. Further, Enwin never raised IFRS as an issue that may delay TOU implementation with the Board prior to the filing of this application. Board staff notes that IFRS compliance is an issue faced by all electricity distributors in Ontario and not unique to EnWin and there is no evidence that any other electricity distributor suspended or delayed smart meter deployment and TOU implementation for IFRS-related reasons. Therefore, Board staff does not view IFRS compliance as an extraordinary or unanticipated circumstance to delay smart meter deployment and TOU pricing implementation.

¹ EnWin Utilities, Responses to Board Staff Interrogatories, p. 12.

² Ibid.

³ Ibid.

EnWin states it postponed installing smart meters in its service territory because of the *Green Energy and Green Economy Act, 2009* (“GEA”). EnWin states that it “thought it prudent to hold off on committing to over \$10,000,000 in Smart Meter expenditures until the GEA and its regulations came into clearer focus”⁴. EnWin believed there was a “possibility that the Government might still choose to make Smart Meters “smarter” through incremental functionality opportunities or requirements.”⁵ EnWin did not present any evidence indicating that other electricity distributors made similar decisions. Further, Enwin did not provide evidence of any statement or direction by the Government of Ontario or the Board that would lend support to the belief about the need to delay or postpone smart meter deployment and TOU implementation as a result of the GEA. Board staff notes the GEA was an issue faced by all electricity distributors in Ontario and is not unique to EnWin. Staff is not aware of any other electricity distributor that suspended or delayed smart meter deployment and TOU implementation for GEA-related reasons. Board staff notes there were over 2 million smart meters installed in the province at the time of the introduction of the GEA and that by the end of 2009 there were 3,053,931 smart meters installed in Ontario. Therefore, Board staff does not view the GEA as an extraordinary or unanticipated circumstance to delay the deployment of smart meters and implementation of TOU pricing.

Board staff notes the Board has been publishing electricity distributors’ smart meter deployment and TOU pricing status reports on the Board’s website since November 2009. Therefore, EnWin should have been aware that other electricity distributors were proceeding with smart meter deployment and TOU implementation during the period within which EnWin made decisions to delay implementation. EnWin presented no evidence that it had taken any steps to confirm whether other distributors had similar IFRS- and GEA-related concerns. As of June 30, 2010, EnWin was the only licensed electricity distributor in Ontario with zero smart meters installed in its service territory⁶. EnWin did not start installing meters until the first week of August 2010. Additionally, EnWin did not begin implementing CIS upgrades necessary for TOU pricing until January 2011.

EnWin did not provide any dates for the commencement or completion of smart meter deployment and TOU implementation in any status report filed prior to the Board’s

⁴ EnWin Utilities, Application for Exemption from Mandated TOU Pricing, p. 9.

⁵ Ibid.

⁶ See Smart Meter Deployment and the Application of Time-of-Use Pricing: Quarterly Reports: http://www.oeb.gov.on.ca/html/touimplementation/toufilings_read.cfm

August 4, 2010 determination letter. However, in its September 9, 2010 status report EnWin provided a December 2012 TOU implementation date. In its interrogatory response EnWin gives a number of reasons for not having filed dates in its previous reports, including:

First, to do so in the public filing could have adversely impacted *ENWIN's* negotiations with Sensus by committing *ENWIN* to a particular start date. Second, it would have been total speculation in the absence of an arrangement with a Smart Meter vendor. Third, and most importantly, it would have suggested to the Board that dates had been planned despite it being *ENWIN's* intention to very candidly communicate to the Board that the implementation was in a very early stage and in a holding pattern.⁷

Board staff does not consider these reasons compelling. In EnWin's 2009 Cost of Service application (EB-2008-0227), *ENWIN* applied for an increase in their smart meter adder from \$0.27 to \$1.00 based on EnWin's estimate that it would install approximately 40,000 Smart Meters in the 2009 test year (Ex. 5, T. 2, Sch. 2). However, EnWin states in its interrogatory responses in this application that "At the time *ENWIN* filed its 2009 Cost of Service Application, *ENWIN* did not have any arrangements in place with a Smart Meter vendor."⁸ Therefore, it does not appear that EnWin was concerned with adversely impacting vendor negotiations or speculating about timing in the absence of a vendor arrangement in its Cost of Service application. Further, EnWin would have had to communicate some of its planned implementation dates (e.g. installation dates) to Sensus in the course of negotiating for the delivery of its smart meters. As for EnWin's third reason for not filing dates in its pre-determination reports, Board staff observes nothing in the evidence indicating a material change in EnWin's circumstances that enabled it to provide TOU implementation dates in its September 9, 2010 filing, but not in its July 6, 2010 filing.

In light of the evidence discussed above, Board staff submits that EnWin's inability to meet its mandatory June 2011 TOU date is not due to extraordinary or unanticipated circumstances but is a direct result of EnWin's business planning decision not to take material steps towards smart meter deployment or the implementation of TOU pricing. The evidence in this proceeding does not effectively provide any unique circumstance specific to EnWin that would cause it to delay smart meter deployment or TOU pricing implementation. The other 77 electricity distributors in Ontario, though not required by the Board to deploy smart meters or implement steps towards TOU pricing until the

⁷ EnWin Utilities, Responses to Board Staff Interrogatories, p. 14.

⁸ Ibid., p. 9

August 4 determination letter, took material steps towards this initiative to meet their mandatory implementation date within a reasonable amount of time.

In closing, Board staff submits that EnWin has failed to establish it has encountered circumstances which meet the criteria necessary to receive an exemption from their June 2011 TOU date. Accordingly, Board staff recommends that EnWin's application be denied. However, as noted above, Board staff believes that EnWin will not be able to comply with its June 2011 date and, in the absence of a new mandatory date, will not be able to maintain regulatory compliance. The Board may wish to consider measures to compel EnWin to meet a new mandatory date. However, Board staff believes that, if a new mandatory date is to be set by the Board, further information is required and therefore Board staff recommends that EnWin be required to file with the Board:

- (1) Details of its Phase 2 SAP implementation schedule, including supporting documentation from its SAP CIS implementer (Deloitte); and
- (2) A plan regarding EnWin's TOU implementation schedule, detailing all key activities and milestones, timelines, and costs.

Additionally, Board staff recommends that EnWin be required to file an updated detailed implementation plan every month in addition to its regulated monthly TOU implementation status reporting requirements. Such information will assist the Board in monitoring EnWin's circumstances with TOU implementation and give the Board greater clarity on how these circumstances will affect a new mandatory TOU pricing date.

All of which is respectfully submitted.