

R. J. Potomski

October 4, 2011

Secretary,
for the Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Toronto, Ontario, Canada
M4P 1E4
Fax: 416-440-7656

**Re: Preliminary jurisdictional objection
OEB # 2011-0291**

Dear Board Members,

I have read the material that Enwin Utilities has filed with the Ontario Energy Board and as such would like to make a preliminary objection.

It is my position that the Ontario Energy Board does not have jurisdiction under the Ontario Energy Board Act to make any exemption, decision and/or order that would grant the relief requested by Enwin Utilities.

The Ontario Energy Board Act does not give the Ontario Energy Board any jurisdiction in matters of billings etc. for water and/or waste water.

I ask that the Ontario Energy Board decline jurisdiction on the request of Enwin Utilities.

BACKGROUND

1. The Ontario Energy Board Act gives the Ontario Energy Board jurisdiction to award licenses to and to regulate gas and electrical distributors
2. Enwin Utilities is an Electrical Distributor licensed by the Ontario Energy Board to distribute electricity within the City of Windsor.
3. Enwin Utilities bills its own customers for electricity usage on a periodic basis.
4. The Ontario Energy Board Act does authorize the regulation water, waste water or the collection of money for third parties.
5. Enwin entered into a an agreement to collect on behalf of the Windsor Utilities Commission (WUC) to collect monies owed to WUC for water usage.

6. The money collected for water usage is or should be collected in trust for the WUC until it is payable to the WUC on a monthly basis.(see Schedule “C”, paragraph 2 of the Managed Services Agreement, submitted by Enwin)
7. Enwin Utilities collects on behalf of the City of Windsor fees for waste water.
8. The relationship/contract between Enwin Utilities and the City of Windsor is not detailed in the material submitted to the OEB in the application.
9. In the submissions made by Enwin Utilities in the application it has made it very that it collects money owed to the Windsor Utilities(water) and the City of Windsor (waste water)

SUMMARY

1. Enwin Utilities “obtains or arranges for payment of money owing to another” and as such is acting as a “collection agency” as defined under the Collection Agencies Act, R.S.O 1990, CHAPTER C.14, which reads as follows:

1. (1) In this Act,

“collection agency” means a person other than a collector who obtains or arranges for payment of money owing to another person, or who holds out to the public as providing such a service or any person who sells or offers to sell forms or letters represented to be a collection system or scheme; (“agence de recouvrement”)

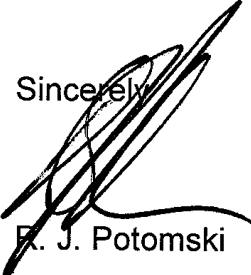
2. Neither the Ontario Energy Board Act nor the Collection Agencies Act gives Enwin Utilities an exemption that would allow it to collect money owed to a third party.
3. Enwin Utilities, in its submissions, has not shown it has statutory/regulatory authority to collect money owed to a third party.
4. Enwin Utilities only has authority to collect its own electricity bills and as such the Ontario Energy Board does not have jurisdiction to give Enwin authority to collect money for a third party under the Ontario Energy Board Act.
5. By giving Enwin Utilities an exemption without it being licensed under the Collection Agencies Act, the Ontario Energy Board would be condoning an illegal act.

Since the matter that I have submitted is a jurisdictional issue, I ask that any furtherance to the application filed under #EB-2011-0291 be stopped, forthwith. Furtherance would include but not limited to the request for responses to the main application and removal of any deadlines on the main application. I ask that an interim order be issued, forthwith, that all matters within the main application be held in abeyance until the jurisdiction issue is decided upon.

I ask that I be allowed to rebut any response Enwin Utilities may give to this letter.

Any submissions on the merits of the main application will be submitted under a different cover.

I will await a response to this letter and a decision on my request for an interim order.

Sincerely,

R. J. Potomski

cc Minister of Energy