



**EB-2012-0100**  
**EB-2012-0211**

**IN THE MATTER OF** subsections 78(2.1), (3.0.1), (3.0.2) and (3.0.3) of the *Ontario Energy Board Act, 1998*;

**AND IN THE MATTER OF** subsection 53.8(8) of the *Electricity Act, 1998*;

**AND IN THE MATTER OF** Ontario Regulation 453/06 made under the *Ontario Energy Board Act, 1998*;

**AND IN THE MATTER OF** an Application by the Independent Electricity System Operator as Smart Metering Entity for an Order fixing a Smart Metering Charge for July 1, 2012 to December 31, 2017;

**AND IN THE MATTER OF** a proceeding on the Ontario Energy Board's own motion to review the options for and ultimately determine the appropriate allocation and recovery of the Smart Metering charge pursuant to section 19 of the *Ontario Energy Board Act, 1998*.

## **PROCEDURAL ORDER NO. 1**

### **DECISION ON COST ELIGIBILITY**

On March 28, 2007, the Independent Electricity System Operator ("IESO") was designated as the Smart Metering Entity (the "SME") by Ontario Regulation 393/07 made under the *Electricity Act, 1998*. In its role as the SME, the IESO is managing the development of the meter data management/repository ("MDM/R") to collect, manage, store and retrieve information related to the metering of customers' use of electricity in Ontario. The Board assigned File No. EB-2012-0100 to this application.

Pursuant to section 19 of the Act, the Board commenced a proceeding on its own

motion to review the options for and ultimately determine the appropriate allocation and recovery of the SMC. The Board assigned File No. EB-2012-0211 to this proceeding. Pursuant to its powers under section 21(5) of the Act, the Board combined the hearing of the SME application for the SMC with the Board's proceeding on its own motion to determine the appropriate allocation and recovery of the SMC (hereinafter the "Combined Proceeding").

The Board issued a Notice of Application May 18, 2012 with respect to this Combined Proceeding.

By way of letter issued on May 31, 2012 the Board declared the Electricity Distributors Association ("EDA") and distributors to be intervenors in the Combined Proceeding.

The Board received and hereby accepts requests for Observer status from Summitt Energy LP and Ms. Mary Glinka.

The Board received intervention requests from:

- Just Energy Ontario L.P;
- Shell Energy North America (Canada) Inc; and
- EARTH Corporation.

None of these parties requested eligibility for an award of costs. The Board approves the parties listed above as intervenors.

The following requests for intervenor status and cost eligibility were filed by:

- Association of Major Power Consumers in Ontario ("AMPCO");
- Building Owners and Managers Association Toronto;
- Canadian Manufacturers & Exporters;
- Consumers Council of Canada;
- Energy Probe Research Foundation;
- School Energy Coalition; and
- Vulnerable Energy Consumers Coalition.

The IESO filed a letter on June 11, 2012 requesting further information from AMPCO with respect to its interests in these proceedings and the rationale for its request for cost award eligibility. The IESO noted that AMPCO's constituents are not distribution connected customers and therefore would not be subject to the SMC. On June 12, 2012, AMPCO filed a response which indicated that some AMPCO members (greater than 1 MW) are indeed distribution connected customers. AMPCO also pointed out the Board's Notice of Application dated May 18, 2012 stated on page 2 that "The Board's decision in both EB-2012-0100 and EB-2012-0211 may have an effect on all ratepayers of the Province." As such, AMPCO indicated that it believes its interests are within the scope of these proceedings.

The Board has considered the letters of the IESO and AMPCO and will accept AMPCO as an intervenor and find it eligible for an award of costs. The Board also approves and grants cost award eligibility to each of the other parties listed above.

A full list of intervenors is provided in Appendix A. When making a filing in this Combined Proceeding, all parties are required to send an electronic copy of such filing to the Board, and to all parties identified in Appendix A. Additionally, two paper copies of any filings must be filed with the Board.

### **Preliminary Issue**

The Board notes that the IESO, in its capacity as SME, has applied for a number of orders, including the approval, under section 5.4.1 of the Distribution System Code ("DSC"), of the Smart Metering Agreement for Distributors (the "Agreement") for use by the SME and Distributors.

Such Board approval is referenced in section 5.4.1 of the DSC and in section 3.2 of the SME Licence (ES-2007-0750) which provides:

DSC – section 5.4.1

A distributor shall, upon being requested to do so, enter into an agreement with the Smart Metering Entity or the IESO, in a form approved by the Board, which sets out the respective roles and responsibilities of the distributor and the Smart Metering Entity or the IESO in relation to metering and the information required to be exchanged to allow for the conduct of these

respective roles and responsibilities.

### SME Licence – section 3.2

The Licensee is authorized to require licensed distributors to enter into an agreement with the Licensee. The agreement shall set out the respective roles and responsibilities of the distributor and the Licensee in relation to metering and the information required to be exchanged to allow for the conduct of these respective roles and responsibilities. The agreement must be approved by the Board before the Licensee can require licensed distributors to sign the agreement.

In the context of each of the above referenced provisions, the Board has determined that it will consider the scope of its approval of the filed Agreement in advance of hearing other matters in this case. In particular, the Board would like submissions on the following preliminary issue (“Preliminary Issue”):

Given section 5.4.1 of the DSC and section 3.2 of ES-2007-0750, what is the scope of the Board’s approval of an agreement between the SME and Distributors?

### THE BOARD ORDERS THAT:

1. Board staff shall file with the Board and forward to the IESO and all other intervenors any submissions on the Preliminary Issue **on or before June 29, 2012.**
2. Intervenors shall file with the Board and forward to the IESO and all other intervenors any submissions on the Preliminary Issue **on or before July 6, 2012.**
3. The IESO (in its capacity as the SME), may file a reply submission with the Board and forward to all other intervenors **on or before July 13, 2012.**

All filings to the Board must quote the file number, EB-2012-0100/EB-2012-0211, be made through the Board’s web portal at <https://www.errr.ontarioenergyboard.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. Parties must use the document naming

conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

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.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Michael Bell at [michael.bell@ontarioenergyboard.ca](mailto:michael.bell@ontarioenergyboard.ca).

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**ISSUED** at Toronto, June 22, 2012

### **ONTARIO ENERGY BOARD**

*Original signed by*

Kirsten Walli  
Board Secretary

**APPENDIX A**

**List of Intervenors**

**Smart Metering Charge**

**EB-2012-0100 / EB-2012-0211**

**Independent Electricity System Operator SME  
EB-2012-0100 / EB-2012-0211  
APPLICANT & LIST OF INTERVENORS**

June 22, 2012

**APPLICANT**

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Independent Electricity System Operator SME  
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**APPLICANT & LIST OF INTERVENORS**

June 22, 2012

**INTERVENORS**

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**APPLICANT & LIST OF INTERVENORS**

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Independent Electricity System Operator SME  
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**Independent Electricity System Operator SME  
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**APPLICANT & LIST OF INTERVENORS**

June 22, 2012

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**APPENDIX B**

**Board Direction on Cost Awards**

**EB-2012-0100 / EB-2012-0211**



The Board will make use of certain criteria noted below in assessing claims that may be made for eligible intervenor cost awards under the Board's *Practice Direction on Cost Awards* (the "Practice Direction") in this proceeding. These criteria are designed to ensure that costs are only awarded where the party provides assistance to the Board in examining relevant issues and that only reasonable costs are awarded.

Appendix A of the Practice Direction, the Cost Award Tariff (the "Appendix"), outlines hourly rates for legal and analyst/consultant fees. The Appendix notes that analyst/consultants are experts in aspects of business or science such as finance, economics, accounting, engineering or the natural sciences and that time spent providing expert evidence, expert professional advice to the Board, or acting as an expert witness will be compensated at the appropriate rate as set out in the tariff. The Appendix also notes that a copy of the expert's curriculum vitae must be attached to the cost claim.

The Appendix further notes that if a consultant provides case management services, these hours are to be listed separately and will be compensated at the case management rate. In this context, intervenors should ensure that, if time is to be claimed for case management services, the time spent on case management should be clearly separated from time spent on other activities and a full justification provided as to why the case management time was necessary and how it was differentiated from the time spent on other activities.

The Board also expects that where cost claims for oral hearing days are concerned, intervenors will generally only claim costs for one representative present in the hearing room, either counsel or an analyst/consultant, but not both. The Board would generally allow costs for more than one representative only to facilitate effective cross-examination of certain specialized evidence.

In considering all cost claims, parties should also be mindful of Section 5.01 of the Practice Direction, which outlines the criteria the Board may consider in determining the amount of a cost award to a party.

The Appendix also provides guidance as to acceptable claims for disbursements, noting that reasonable disbursements, such as postage, photocopying, transcript costs, travel and accommodation directly related to the party's participation in the process will be allowed. The Board is of the view that given the widespread availability and use of

electronic documents, it is no longer reasonable for intervenors to make claims for the recovery of costs of copying or printing case documents, other than materials that are filed for use during the hearing.