



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
- ERTH 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.

ADDRESS

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

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

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

Rep. and Address for Service

**Independent Electricity System
Operator SME** **Brian Rivard**

Manager
Independent Electricity System Operator SME
655 Bay Street
Suite 410
Toronto, ON M2G 2K4

Tel: 905-855-6135
Fax: 905-855-6129
brian.rivard@ieso.ca

**Independent Electricity
System Operator SME**

Rep. and Address for Service

Paula Lukan

Regulatory Analyst
Independent Electricity System Operator
655 Bay Street, Suite 410
Toronto ON M5G 2K4
Tel: 416-506-2831
Fax: 416-506-2847
paula.lukan@ieso.ca

APPLICANT COUNSEL

Patrick Duffy
Stikeman Elliott LLP
5300 Commerce Court W.
199 Bay Street
Toronto ON M5L 1B9
Tel: 416-869-5257
Fax: 416-947-0866
pduffy@stikeman.com

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

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June 22, 2012

Richard King
Norton Rose Canada LLP
Suite 3800, P.O. Box 84
Royal Bank Plaza, South Tower
200 Bay St.
Toronto ON M5J 2Z4
Tel: 416-216-2311
Fax: 416-216-3930
richard.king@nortonrose.com

**INTERVENORS
AMPCO**

Rep. and Address for Service

Shelley Grice
Consultant
Econalysis Consulting Services
372 Bay Street
Suite 1702
Toronto ON M5C 2X8
Tel: 647-990-9942
Fax: 416-260-0442
shelley.grice@rogers.com

Adam White
President
Association of Major Power Consumers in Ontario
(AMPCO)
372 Bay Street
Suite 1702
Toronto ON M5H 2W9
Tel: 416-260-0225
Fax: 416-260-0442
awhite@ampco.org

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

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June 22, 2012

**Building Owners and
Managers Association
Toronto**

Tom Brett

Fogler, Rubinoff LLP
95 Wellington St. W.
Suite 1200
Toronto-Dominion Centre
Toronto ON M5J 2Z9
Tel: 416-941-8861
Fax: 416-941-8852
tbrett@foglers.com

Marion Fraser

President
Fraser & Company
33 Harbour Square
Suite 502
Toronto ON M5J 2G2
Tel: 416-941-9729
Fax: 416-941-8852
Marion.Fraser@rogers.com

**Canadian Manufacturers &
Exporters**

Peter Thompson, Q.C.

Borden Ladner Gervais LLP
100 Queen St.
Suite 1100
Ottawa ON K1P 1J9
Tel: 613-787-3528
Fax: 613-230-8842
pthompson@blg.com

**Independent Electricity System Operator SME
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**Canadian Manufacturers &
Exporters**

Vincent DeRose

Borden Ladner Gervais LLP
100 Queen St.
Suite 1100
Ottawa ON K1P 1J9
Tel: 613-787-3589
Fax: 613-230-8842
vderose@blg.com

Paul Clipsham

Director of Policy, Ontario Division
Canadian Manufacturers & Exporters
6725 Airport Rd.
Suite 200
Mississauga ON L4V 1V2
Tel: 289-566-9538
Fax: 905-672-1764
paul.clipsham@cme-mec.ca

Consumers Council of Canada Robert B. Warren

Counsel
WeirFoulds LLP
The Exchange Tower
Suite 1600, P.O. Box 480
130 King Street West
Toronto ON M5X 1J5
Tel: 416-947-5075
Fax: 416-365-1876
rwarren@weirfoulds.com

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Consumers Council of Canada Julie Girvan

Consultant
Consumers Council of Canada
62 Hillside Ave. East
Toronto ON M4S 1T5
Tel: 416-322-7936
Fax: 416-322-9703
jgirvan@uniserve.com

**Electricity Distributors
Association**

Teresa Sarkesian

Vice President, Policy and Government Affairs
Electricity Distributors Association
3700 Steeles Ave. W.
Suite 1100
Vaughan ON L4L 8K8
Tel: 905-265-5313
Fax: 905-265-5301
tsarkesian@eda-on.ca

Justin Rangooni

Director of Conservation and Energy Policy
Electricity Distributors Association
3700 Steeles Ave. West
Suite 1100
Markham ON L4L 8K8
Tel: 613-234-8716 Ext: 235
Fax: 613-234-5642
jrangeoni@eda-on.ca

**Independent Electricity System Operator SME
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**Electricity Distributors
Association**

Richard King

Norton Rose Canada LLP
Suite 3800, P.O. Box 84
Royal Bank Plaza, South Tower
200 Bay St.
Toronto ON M5J 2Z4
Tel: 416-216-2311
Fax: 416-216-3930
richard.king@nortonrose.com

**Energy Probe Research
Foundation**

David MacIntosh

Case Manager
Energy Probe Research Foundation
225 Brunswick Avenue
Toronto ON M5S 2M6
Tel: 416-964-9223 Ext: 235
Fax: 416-964-8239
DavidMacIntosh@nextcity.com

Lawrence Schwartz

Consulting Economist
82 Ridge Hill Drive
Toronto ON M6C 2J8
Tel: 416-785-4985
Fax: Not Provided
lschwartz5205@rogers.com

ERTH Corporation

Tyler Moore

Corporate Secretary
ERTH Corporation
200-295 Wolfe Street
London ON N6B 2C4
Tel: 519-518-6117 Ext: 297
Fax: 519-518-6120
tmoore@erthcorp.com

**Independent Electricity System Operator SME
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ERTH Corporation

Gary Michor
President & COO
ERTH Business Technologies Inc.
214 King Street West, Suite 500
Toronto ON M5H 3S6
Tel: 416-408-1395 Ext: 401
Fax: 416-408-1396
gmichor@ebterthcorp.com

Just Energy Ontario L.P.

Nola Ruzycki
Vice President, Regulatory Affairs Canada
Just Energy Ontario L.P.
6345 Dixie Rd. Suite 200
Mississauga ON L5T 2E6
Tel: 403-462-4299
Fax: 905-564-6069
nruzycki@justenergy.com

Brandon Ott

Manager, Regulatory Affairs and Government Relations

Universal Energy Corporation
6345 Dixie Road
Suite 200
Mississauga ON L5T 2E6
Tel: 905-670-4440 Ext: 71479
Fax: 905-564-6069
bott@justenergy.com

School Energy Coalition

Mark Rubenstein
Jay Shepherd Professional Corporation
2300 Yonge Street
Suite 806
Toronto ON M4P 1E4
Tel: 416-483-3300
Fax: 416-483-3305
mark.rubenstein@canadianenergylawyers.com

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

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June 22, 2012

School Energy Coalition

Jay Shepherd

Jay Shepherd Professional Corporation
2300 Yonge St.
Suite 806
Toronto ON M4P 1E4
Tel: 416-483-3300
Fax: 416-483-3305
jay.shepherd@canadianenergylawyers.com

**Shell Energy North America
(Canada) Inc.**

Paul Kerr

General Manager, Market Affairs
Shell Energy North America (Canada) Inc.
90 Sheppard Ave E.
Suite 600
Toronto ON M2N 6Y2
Tel: 416-227-7312
Fax: 877-397-0413
paul.kerr@shell.com

**Vulnerable Energy Consumers
Coalition**

Michael Janigan

Counsel for VECC
Public Interest Advocacy Centre
ONE Nicholas Street
Suite 1204
Ottawa ON K1N 7B7
Tel: 613-562-4002 Ext: 26
Fax: 613-562-0007
mjanigan@piac.ca

**Independent Electricity System Operator SME
EB-2012-0100 / EB-2012-0211**

APPLICANT & LIST OF INTERVENORS

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Vulnerable Energy Consumers Coalition Bill Harper

Econalysis Consulting Services
34 King Street East
Suite 1102
Toronto On M5C 2X8
Tel: 416-348 0193
Fax: 416-348-0641
bharper@econalysis.ca

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.