



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. 6
December 5, 2012

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 IESO, in its capacity as the SME, has applied to the Ontario Energy Board (the "Board") for approval of a Smart Meter Charge ("SMC") of \$0.806 per Residential and General Service <50kW customer per month which the IESO proposes to collect from

all licensed electricity distributors (“Distributors”) for the period July 1, 2012 to December 31, 2017.

The SME has also asked for an annual automatic adjustment mechanism to update the billing determinant with the annual changes in the number of Residential and General Service <50kW Customers listed in the OEB Electricity Distributor Handbook; a variance account to deal with changes in the SME costs, or any revenue surplus; and approval of the Smart Metering Agreement for Distributors for use by the SME and Distributors. 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 (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 deemed the Electricity Distributors Association (“EDA”) and distributors to be intervenors in the Combined Proceeding.

A Technical Conference was held on November 6, 2012. At the Technical Conference, the SME gave nine undertakings. Of these, three of the undertakings, JTC1.6, JTC1.8 and JTC1.9, were the subject of a letter dated November 27, 2012, wherein the SME set-out the reasons why it considers it necessary that the Board treat these documents as confidential for the purpose of the public record and compel parties to the proceeding that require full access to the documents to sign and adhere to the Board’s form of Declaration and Undertaking.

In the November 27, 2012 letter, the SME also indicated that Parts B and C of Schedules 11.1.1 and 11.2.1 of the MDM/R Agreement (part of undertaking JTC 1.6) will not be filed, even in the confidential version. The SME stated that the information contained in these schedules sets out security protocols and practices for the MDM/R

which could compromise the MDM/R's security apparatus if released and that if the security of the MDM/R was compromised, it could result in the failure of the MDM/R to operate properly or in the unauthorized release of data.

The SME also stated in its November 27, 2012 letter that it will submit a partial version of the MDM/R Request for Proposal ("RFP") to the Board (undertaking JTC 1.9). The SME stated the RFP process is currently ongoing and, even if declared confidential by the Board, the risk of compromising the RFP process is too great to release certain portions of the MDM/R RFP. The SME also indicated that it will not be including certain appendices to the RFP for the same security reasons as those set out in respect of certain exclusions in respect of the filing of the MDM/R Agreement.

On November 29, 2012, the SME filed the following material with the Board pursuant to the Board's *Practice Direction on Confidential Filings* (the "Practice Direction"):

- Meter Data Management and Repository, Hosting and Support Agreement between the SME and IBM Canada Limited dated December 5 (JTC 1.6);
- Memorandum of Understanding between the IESO and the Ministry of Energy relating to the program to implement Ontario's Smart Metering Initiative, dated June 9, 2006 (JTC 1.8); and
- Meter Data Management and Repository Operational Service Provider Request for Proposal released July 30, 2012 (JTC 1.9).

As set out in the Practice Direction, it is the Board's policy that all evidence should be on the public record unless reasons warrant otherwise. This reflects the Board's view that proceedings should be open, transparent and accessible. The Practice Direction seeks to balance these objectives with the need to protect information properly designated as confidential.

The Board will provide a process for submissions to be made in respect of the SME's request for confidential treatment of the documents filed on November 29, 2012.

With respect to the SME's exclusion of certain evidence from the documents filed in accordance with undertakings JTC 1.6 and JTC 1.9, for the reasons set out in its letter of November 27, 2012, the Board is of the view that allowing the information to be

excluded, per the SME's request is appropriate under the circumstances. The Board's understanding of the type of information contained in the excluded information leads it to the conclusion that the probative value of the information does not outweigh the potential prejudice associated with its disclosure. In other words, the Board views this information to be of questionable relevance for the purposes of the current proceeding and is persuaded by the SME's arguments related to the risks associated with potential disclosure of the information.

The Board considers it necessary to make provision for the following matters related to this proceeding. Please be aware that this procedural order may be amended, and further procedural orders may be issued from time to time.

THE BOARD ORDERS THAT:

1. The SME shall provide a copy of the documents referenced as undertakings JTC1.6, JTC1.8 and JTC1.9 to any counsel or consultant acting on behalf of a registered intervenor in this proceeding provided that such counsel or consultant has executed and filed with the Board and provided a copy to the SME of the Board's form of Declaration and Undertaking provided in the Practice Direction.
2. Intervenors and Board staff who object to the SME's claim for confidential treatment of the material filed as undertakings JTC1.6, JTC1.8 and JTC1.9 shall file their submission with the Board and deliver it to all parties on or before **December 13, 2012.**
3. The SME shall file its response, if any, to the submissions of Board staff and the intervenors with the Board and deliver it to all parties by **December 20, 2012.**

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.

All filings to the Board must quote file number EB-2012-0100 / EB-2012-0211, be made through the Board's web portal at www.pes.ontarioenergyboard.ca/eservice, 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

www.ontarioenergyboard.ca. If the web portal is not available, parties may email their documents to the BoardSec@ontarioenergyboard.ca. 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 seven paper copies. If you have submitted through the Board's web portal an e-mail is not required. 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 and Board Counsel, Kristi Sebalj at kristi.sebalj@ontarioenergyboard.ca.

ADDRESS

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DATED at Toronto, December 5, 2012

ONTARIO ENERGY BOARD

Original Signed By

Kirsten Walli
Board Secretary