June 10, 2013

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

Dear Ms. Walli:

Re: 2014 Rate Application
EB-2013-0125
Request for Annual IR – Response to SEC Letter

This letter is further to EnWin Utilities Ltd.'s ("EnWin") letter of April 26, 2013 and the letter of counsel for School Energy Coalition ("SEC") dated June 3, 2013 (the "SEC Letter").

On December 11, 2012, the Board issued a letter to all electricity distributors requesting certain information and setting out timelines and a process in respect of the distributors' applications for 2014 distribution rates ("Board Letter"). Of particular importance to EnWin and other distributors on the Board's 2014 Rebasing List was the following instruction:

> "A distributor that is on the 2014 Rebasing List and that intends to continue with rates effective May 1 is expected to file its 2014 rate application on a cost of service basis no later than **October 1, 2013**, <u>unless the distributor intends to select to have its rates set using either the Custom IR or the Annual Incentive Rate-setting Index method.</u>" (emphasis added)[1]

For distributors interested in the Annual Incentive Rate-setting Index ("Annual IR") option, the Board added further instruction:

> **"Removal from the List Based on Selection of Custom IR or Annual Incentive Rate-setting Index Methods**
>
> A distributor that has been included on the 2014 Rebasing List and that intends to select either the Custom IR or the Annual Incentive Rate-setting Index method for 2014 rates must so notify the Board in writing as soon as possible and in any event no later than **April 26, 2013**."[2]

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[1] Letter from the Ontario Energy Board (December 11, 2012) at 2.
[2] *Ibid.* at 3.

On January 30, 2013, EnWin filed a letter with the Board to provide the Board with early notice that EnWin was contemplating filing for 2014 rates using the Annual IR approach ("January Letter").[3]

On April 26, 2013, in keeping with the timeline and process set out in the Board Letter, EnWin formally notified the Board of its selection of the Board's Annual IR methodology rather than the COS methodology for setting 2014 rates ("April Letter").

In the April Letter, EnWin provided the Board with an update on the additional factors EnWin considered in evaluating its rate-setting options. Firstly, the EnWin portion of the bill for a 1,000kWh Residential ratepayer in 2013 had been set at approximately $33. This compared to approximately $32 in 2006 on an apples-to-apples comparison of all distribution line items and SSS Administration Charge. Secondly, EnWin's 2012 Audited Financial Statements demonstrated continued strong financial performance for the company. Thirdly, EnWin's 2012 Service Quality Requirements revealed achievement of the Board's performance targets for distributors. EnWin also demonstrated that it had regard for its return on equity and credit rating agency reports in making its choice of rate-setting methodology.

The Board Letter and EnWin's notice in the April Letter are consistent with the Board's Renewed Regulatory Framework for Electricity Distributors Report issued on October 18, 2012 ("RRFE Report"). The RRFE Report clearly states: "Distributors may file for rates under the Annual IR Index at any time."[4] The Board also clearly stated in the RRFE Report that the policies in relation to the Board's conclusions would be implemented for the 2014 rate year. Pursuant to the RRFE Report and the Board Letter, EnWin is permitted to select its choice of rate setting methodology. The Board's only requirement for selecting Annual IR is that the distributor must have had a cost of service hearing in 2008 or later, [5] a requirement that EnWin has satisfied.[6]

As a matter of regulatory policy, the Board has provided the flexibility to each distributor to choose "the rate-setting method that best meets its needs and circumstances."[7] Through the April Letter, EnWin went a step beyond the RRFE Report requirements and Board Letter instructions and provided documentation to validate its choice. In the interest of regulatory relationships, EnWin sought to do something more than was strictly necessary. EnWin chose to illustrate that it is continuing to achieve the outcomes demanded by the ratepayers, regulator and shareholder. EnWin is fiscally fit, holding the line on rates, attaining prescribed service levels, and reinvesting in the local grid. The Board's policy

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[3] The January Letter noted that EnWin was examining whether a 2014 COS would be prudent from a Windsor ratepayer and utility perspective. EnWin provided an outline of the considerations EnWin was taking into account, including:

- the on-going economic hardship facing Windsor,
- the high costs to prepare a COS rate application,
- EnWin's success in finding efficiencies leading to stability of distribution rates, and
- the options available to distributors pursuant to the Board's RRFE Report.

[4] Report of the Board on the Renewed Regulatory Framework for Electricity Distributors: A Performance-Based Approach at 69.

[5] *Ibid* at 21.

[6] EnWin had rates set according to COS for 2009 (EB-2008-0227).

[7] *Supra* note 4 at 9.

provides that "a distributor whose rates have been set under [Annual IR] may apply to have its rates rebased and set under a different method at any time."[8] EnWin will only move away from Annual IR when circumstances warrant the considerable activities associated with COS.

As the Board put it, "Distributors with relatively steady state investment needs (i.e. primarily sustainment), may prefer the Annual Incentive Rate-setting Index ("Annual IR Index")."[9] Given the rather static state of the economy in Windsor at present and given the prudent historic reinvestment decisions at EnWin, Annual IR is an appropriate fit. In 2014 Annual IR, EnWin expects to file a Distribution System Plan in accordance with the Board's policy, which will provide the Board with the necessary insight to ensure that the local grid is being properly supported on a sustainable basis.

The SEC Letter speculated about certain costs and rates at EnWin without much, if any, justification. The SEC Letter seemed to anticipate some sort of regulatory review of EnWin's selection of Annual IR, though ultimately SEC took no position on EnWin moving to 2014 Annual IR.

The parameters were clear in the RRFE Report, "a regulatory review may be initiated if the distributor performs outside of the ±300 basis points earning dead band or if its performance erodes to unacceptable levels."[10] EnWin's financial performance and operational performance, which are demonstrated in its filings, are at acceptable levels.

It would defeat the Board's objective of streamlining the regulatory process and would increase regulatory uncertainty for the Board to deviate from the RRFE Report by establishing an incremental test or review process associated with Annual IR.

As such, EnWin reiterates its selection of Annual IR for 2014 rates and submits that the Board can and should proceed with permitting EnWin to move forward on that basis in a manner consistent with the RRFE Report and the Board Letter.

Yours very truly,

***ENWIN* Utilities Ltd.**

Per: Andrew J. Sasso
Director, Regulatory Affairs

cc: Jay Shepherd, Counsel for SEC

[8] *Ibid.* at 21.
[9] *Ibid.* at 14.
[10] *Ibid.* at 21.