



February 21, 2014

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 Smart Meter Cost Recovery Application
EB-2013-0348
Reply Submissions**

Enclosed please find EnWin's written reply submissions in the above noted proceeding.

The response is being submitted through the Board's web portal (PDF) with two paper copies following by mail. EnWin will provide VECC a copy by email.

Yours very truly,

ENWIN Utilities Ltd.

A handwritten signature in blue ink, appearing to read "Andrew J. Sasso".

Per: Andrew J. Sasso
Director, Regulatory Affairs & Corporate Secretary

EnWin Utilities Ltd. (“EnWin”)
2014 Smart Meter Cost Recovery Application
EB-2013-0348
Reply Submissions
February 21, 2014

Procedural

Written submissions were filed in this proceeding on February 7, 2014 by Ontario Energy Board Staff (“Board Staff”) and on February 10, 2014 by the Vulnerable Energy Consumers Coalition (“VECC”). Notwithstanding the fact the VECC filed its submission after the date provided for in Procedural Order No. 1, EnWin does not oppose the Board considering VECC’s submission.

Subject to the minor corrections to the application made by EnWin in the interrogatory responses and as amended herein, EnWin adopts and reasserts the arguments made in its application and affirms its request of the Board for disposition and recovery of specified costs related to the Province of Ontario’s smart meter initiative.

Savings for Ratepayers

It is worth emphasizing that EnWin’s implementation of this mandatory provincial initiative was performed extremely efficiently. Board Staff noted in its submission that “EnWin’s total cost per meter of \$120.91 is below the provincial average of \$226.92.”¹ VECC submitted that the costs for which EnWin seeks recovery are reasonable.²

The difference of over \$100 per meter will benefit EnWin’s ratepayers directly and exclusively. EnWin does not share in these savings. In fact, EnWin will earn less of a return on smart meters than distributors that implemented the provincial initiative at a higher cost per meter.

As the Board is aware, EnWin is working hard to “hold the line on rates”. Keeping down the cost of capital projects and the cost of complying with mandatory provincial initiatives are important ways to advance that objective. EnWin is pleased to have had success in achieving this objective in relation to the provincial smart meter initiative.

¹ Board Staff Submission at 2.

² VECC Submission at 4.

Prudence Review

Performance Outcomes

The Province established a narrow range of prescribed capabilities for smart meters.³ As a result, the performance outcomes were largely predetermined. So long as a distributor used the provincial specifications for smart meters in defining its selection of smart meters and appropriately procured the smart meters, the prudence of the performance outcomes of the smart meters is established. That is, a distributor prudently met the performance outcomes for customers if it followed the provincial specifications and good procurement practice.

Board Staff and VECC have supported or not taken an adverse position to EnWin's use of the provincial specifications for smart meters and good procurement practice in obtaining them.

Cost Outcomes

In the past, the prudence of the cost outcomes for customers has been assessed by the Board having regard to the total cost per meter. In their respective submissions, Board Staff and VECC appear to have endorsed this approach in relation to EnWin's application.

Board Staff and VECC have submitted that EnWin's ratepayers will enjoy cost outcomes that are more favourable than the average provincial ratepayer. Board Staff and VECC considered EnWin's explanation for why it perceives that its implementation of the provincial initiative was notably cost effective. Neither of those bodies working on behalf of the consumer's interest took issue with EnWin's explanation.

Public Interest

The public interest is satisfied where performance outcomes and cost outcomes are sufficiently satisfied. EnWin submits that it has achieved this result. On that high level basis and based on the detailed reasons and evidence set out in EnWin's application and throughout this proceeding, EnWin submits that it has met the criteria of the Board's prudence review. As such, the Board should grant the cost recovery sought by EnWin.

Stranded Meters

The Board Staff submission makes a number of arguments in relation to the treatment of stranded meter costs. EnWin has four principal concerns with those submissions. The first three relate to stranded meter costs embedded in rate base: the regulatory framework, cherry-

³ The so-called "minimum functionality" requirements of the Province of Ontario also established "maximum functionality", thus resulting in a range of prescribed functionality.

picking, and prematurity. The fourth relates to stranded meter costs in the deferral account: timing of disposition.

Rate Base: The Regulatory Framework

The Board's regulatory framework for the treatment of smart meter cost recovery and stranded meters is set out in *Guideline G-2011-0001: Smart Meter Funding and Cost Recovery – Final Disposition* (the "Guideline"). The Guideline is a successor document to an earlier guideline. It was an update based on the Board's experience of dealing with smart meter cost recovery and stranded meters for more than four 4 years.⁴ The Guideline provides two alternative approaches for distributors to apply for cost recovery: through a cost of service application or a stand-alone application.⁵ EnWin's application was filed on a stand-alone basis and it is therefore that approach that is the focus here.

The Guideline establishes the following regulatory framework for the stand-alone approach:

When rates are adjusted in a stand-alone application, there is no re-evaluation of rate base or of the revenue requirement for the purpose of setting distribution rates. Where the Board approves smart meter capital and operating costs outside of a cost of service proceeding, a SMDR is still required. In addition, a smart meter incremental revenue requirement rate rider ("SMIRR") is established to recover the prospective annualized incremental revenue requirement for the approved smart meters, until the distributor's next cost of service application. The SMIRR continues until the effective date of the distributor's next cost of service rate order, at which time assets and costs are incorporated into the rate base and revenue requirement and recovered on a going-forward basis through base rates."
[Emphasis added]

Importantly, through the Guideline, the Board establishes the stand-alone application as a sufficient cost recovery mechanism for metering assets impacted by the provincial smart meter initiative (i.e. smart meter infrastructure, stranded meters) until the distributor files its next cost of service application. The Guideline specifically envisions there being no revisiting of rate base or revenue requirement until the cost of service application.

The Guideline repeatedly asserts that the appropriate time to consider the rate base aspect of the stranded meter costs is in a cost of service application.⁶ Cost of service applications are the appropriate settings to re-open rate bases and revenue requirements. In the context of the smart meter initiative this would include re-evaluating a wide range of distributor costs impacted by the smart meters. Some costs will likely decrease (e.g. manual meter reading, conventional meters); others will likely increase (e.g. automated meter reading, smart meters, billing systems), and others will shift (e.g. cost allocation).

⁴ Guideline at 3.

⁵ Guideline at 13-14.

⁶ Guideline at 9, 20-24, 26.

In respect of attending to stranded meter costs, the Guideline directly and explicitly states:

“While it would be preferable, conceptually, to also deal with stranded meter costs in a non-cost of service (i.e. stand-alone) application, the Board recognizes the practical difficulties that arise since there is no restatement of rate base and base rates. The Board therefore expects that stranded meter costs will be left in rate base until the distributor’s next cost of service application.”

Board Staff submits that it is “the Board’s preference to address the recovery of stranded meters as soon as possible following the completion of the installation of the smart meters.”⁷ In explicitly considering this preference and practical factors, the Board established a policy of addressing stranded meters at the time of the next rebasing.

EnWin submits that, as a general rule, the Board should not depart from the regulatory framework. The Board should only depart where there is a compelling reason to do so. As discussed in the next two subsections, there is no compelling reason to depart from the regulatory framework in this situation. As discussed in the final section, deferral account treatment is a discrete issue that may be addressed outside of a rebasing application.

Rate Base: Cherry-Picking

Board Staff’s submission is that because EnWin is on Annual IR and not on one of the other two options available in 4th Generation IR (“4GIR”), the Board should consider ordering a special proceeding to address stranded meters.⁸ Board Staff asks the Board to consider whether Annual IR, which was not foreseen at the time the Guideline was adopted, is essentially incompatible with the Guideline. Board Staff points to the return on assets associated with stranded meters and suggests that distributors on Annual IR could benefit from that return for a longer period than is appropriate.⁹

EnWin submits that it would be inappropriate and inconsistent with past practice for the Board to initiate a proceeding to single out one cost driver and remove it from rate base. The Board’s policy in this regard dates back long before 4GIR, the Guideline and the 3rd Generation IR regime which was in place at the time the Guideline was adopted. Under this policy, the LDC is susceptible to the risks and rewards of the distribution business and the events that occur between rebasing. It would be contrary to this policy to cherry-pick individual non-Z-Factor “ups” or “downs” and use them to modify rate base.

As the Board is aware, for any utility there are any number of utility costs that are not currently being incurred, but are in rate base. By the same logic, there are any number of utility costs that are being incurred, but are not in rate base. The policy basis for rate

⁷ Board Staff Submission at 6.

⁸ Board Staff Submission at 6.

⁹ Board Staff Submission at 7.

base is not to provide recovery for each of these costs or even to have perfect symmetry between the quantum of costs that are in and out of rate base. Instead, rate base is meant to establish an appropriate estimate of reasonable annual costs that should be recovered through rates, based on the Board's determination on the evidence for a given test year. There will certainly be outdated costs built into EnWin's rates until its next rebasing, including the depreciation on stranded meters. There will just as certainly be incremental costs not built into EnWin's rates as long as EnWin continues on Annual IR.

Rate Base: Prematurity

In establishing the Annual IR option in 4GIR, the Board made it possible for LDCs to defer the regulatory costs of rebasing applications and made it clear that LDCs would need to continue to manage the consequences of not rebasing. The Board and stakeholders recognized that there can be benefits to both LDCs and ratepayers when an LDC selects Annual IR. The Board has clearly established thresholds to prevent LDCs and ratepayers from experiencing undue benefit or harm while the LDC is on Annual IR. None of those thresholds has been exceeded. Therefore, it is premature for the Board to direct EnWin into a proceeding to re-examine its rate base in whole or in part.

Deferral Account: Timing of Disposition

The Board Staff submission appears to blur the issues of the stranded meter amounts in the deferral account with the return on those assets. These are two discrete issues with two discrete solutions. As discussed above, the return issue is a rate base issue and should not be entertained by the Board for the reasons stated above. The focus of this section is on the treatment of amounts in the deferral account.

EnWin has taken a very careful approach to deferral accounts and their associated rate riders and rate impacts in this application.

For years the Board, EnWin, ratepayers, and other stakeholders have been grappling with the tide of rising and falling of distribution rates. In some cases, the changes are associated with stepped rate increases at the time of rebasing. However, in a great many cases, it is the introduction and removal of Board-approved distribution rate riders (i.e. temporary charges outside of rate base) that cause the significant rises and falls. A focal point at the outset of the Renewed Regulatory Framework for Electricity initiative was to moderate the rises and falls through rate mitigation and rate smoothing.¹⁰ This is an important ongoing focus for the sector because it directly affects customer bills.

As members of the Board and Board Staff are aware, EnWin very carefully constructed its 2014 Annual IR and Smart Meter Cost Recovery Application. EnWin's goal is to smooth the change in distribution rates caused by the various line items that feed into that point of aggregation. The result was very favourable from a ratepayer perspective: a proposal to decrease the aggregate distribution rate by approximately 3%.

¹⁰ EB-2010-378.

EnWin's application also proposed specific disposition periods for specific rate riders. The reason is that both introducing and removing rate riders have bill impacts. This is somewhat complicated by the fact that there are both positive and negative rate riders. From a customer perspective, removing a negative rate rider can be just as jarring as introducing a positive rate rider. Thus, EnWin's proposal has regard for the year-over-year impacts of changes in the various rate riders while also having regard for yearly Annual IR adjustments.

EnWin's 2014 application was particularly conservative in attempting to achieve that smoothness because the Board had not finalized 4GIR when the application was prepared. As it turned out, the current projected result of a decrease of approximately 3% would have provided a buffer for introducing a stranded meter cost recovery charge. Regardless, a future year will likely provide a similar opportunity to offset the increase with other decreases. Given the long-term certainty that the Board provided through 4GIR, EnWin can be less conservative in aligning changes in rates and rate riders.

Whereas Board Staff's interest appears to be closing out the smart meter deferral accounts as soon as possible, EnWin's interest is smoothing distribution rate changes for its customers. Both are reasonable objectives.

To achieve the objective advocated by EnWin, EnWin suggests that the Board make an order allowing EnWin to file for disposition of stranded meter costs in deferral account 1555 concurrent with a future rate application (be it Annual IR or otherwise). To achieve this in a timely fashion as requested by Board Staff, EnWin suggests that the Board's order require that the filing for disposition occur no later than EnWin's filing for 2016 distribution rates.

EnWin is optimistic that introducing a stranded meter rate rider along-side 2015 rates may be achievable because the timing aligns with the elimination of the Deferred PILs rate rider. However, an order that leaves open the possibility of delaying until the 2016 provides a measure of flexibility in case Group 1 deferral accounts or other uncontrollable factors press 2015 rates above forecasted levels. In the event that neither of those years allows for introduction of that rate rider while sustaining smooth rates, EnWin would retain the right to make an application for the Board to vary the order.

Until the stranded meter deferral account amount can be disposed of in a smooth manner, appropriate interest charges will be applied pursuant to the Board's policy such that all parties remain whole.

EnWin is mindful of the intergenerational equity issue associated with this rate strategy. EnWin submits that there is a policy choice: intergenerational equity vs. smooth rates. Based on EnWin's knowledge of its customer base, locally the preference is in favour of holding rates at a stable level. This same sentiment is the subject of very public advocacy and support in relation to municipal taxation. The timing of this local policy preference aligns closely with the onset of the recent recession, which hit Windsor particularly hard.

Returning the Benefit of Unspent Funds

VECC submitted that credit for the Smart Meter Funding Adder (“SMFA”) be shifted away from residential and other low volume ratepayers (including those for whom VECC advocates) in favour of industrial and other high volume ratepayers. VECC made this proposal “as a matter of principle.”¹¹

EnWin is generally neutral on issues of cost allocation among customer classes. There are a few points that warrant consideration as the Board weighs EnWin’s application and VECC’s proposal.

First, it is important to note that if EnWin had procured and installed the smart meters at the average provincial cost, there would be no refund at all. The refund is possible because EnWin implemented the Ontario Government’s initiative for \$8 million less than expected.

Second, the intention behind the provincial smart meter initiative is to benefit the provincial electricity grid as a whole by shifting demand patterns. In theory, all customer classes are expected to benefit, not just those customers that had a smart meter installed. In fact, some customers with smart meter-enabled Time-of-Use commodity rates (“TOU”) will experience adverse effects that outweigh their share of the system-wide benefits. Therefore, the Board was prudent in determining that all metered customers should contribute to the SMFA.

Third, the SMFA was \$1 per metered customer, irrespective of the size of the customer. For example, typical residential households with EnWin Charges of \$31 paid an additional \$1, which represented a charge of approximately 3% to fund the provincial smart meter initiative. By contrast, large customers will monthly EnWin Charges in the range of \$100,000 also paid \$1, which represented a charge of approximately 0.001%. Thus, residential and other low volume ratepayers contributed disproportionately large amounts to fund the provincial smart meter initiative.

Fourth, there is not necessarily any commensurate future benefit to offset the disproportionately significant cost paid by low volume customers. In many cases, there is almost certainly a net negative to smart meter-enabled TOU billing. Logic suggests that this disadvantaged group includes seniors, shift-workers, “stay-at-home” parents, small businesses that operate “9 to 5”, and small elementary schools among others.

Fifth, a credit of \$0.42 to a residential customer has a beneficial impact of greater than 1% on the distribution line. A credit of the same amount has a benefit of less than one one thousandth of a percent for a large customer. It would seem that where there is a

¹¹ VECC Submission at 6.

choice between providing a tangible benefit or a negligible benefit, there are strong policy reasons in favour of going with the former.

In summary, each customer that was billed the SMFA was properly assigned those costs because smart meters are intended to benefit customers across all rate classes. The cost disproportionately affected residential and low-volume customers even though those customers are not assured of disproportionate benefits and, in fact, in many cases will experience a net negative result. As a result of EnWin implementing the provincial smart meter initiative at a very low cost, there are unspent funds to be returned to customers. Returning it where it will have a tangible benefit is preferable to returning it where it will have a negligible benefit. Thus, there is a compelling policy rationale for favouring EnWin's application over VECC's proposal.

It is noteworthy that Board Staff, which is responsible for raising public interest issues, did not disagree with EnWin's proposal.

Smart Meter Budget

In its submission, VECC made some offhanded comments regarding EnWin's position that EnWin's budget for implementing the Province's smart meter initiative was not a material or relevant factor in determining the prudence of the expenditure. Notwithstanding VECC's acceptance of the prudence of EnWin's costs, VECC comment that EnWin should have provided this information because "many other distributors have provided this information" and "this information would have been helpful in providing further context."¹²

EnWin is reluctant to respond to an offhanded comment that clearly did not even sway the position of its author. Unfortunately, in making the comment, VECC put the issue before the Board and EnWin is compelled to address it so that silence is not taken as agreement.

EnWin submits that if VECC's opinion was that the budget was truly important to the Board's determination of the application, VECC would have filed a letter or a motion following EnWin's interrogatory responses. VECC did not do this. Concerns with the sufficiency of applicant's responses to interrogatories ought to first be addressed during the evidentiary stage, not during submissions.

Further, the information other LDCs provided in their applications or interrogatory responses is irrelevant to EnWin's disclosure obligations or the Board's information requirements.

Finally, the material and relevant context that surrounds this particular application is the broader provincial experience, how EnWin's performance compares to that provincial experience, and the reasonableness of the deviation from the provincial experience.

¹² VECC Submission at 4.

There is no obvious connection between a future-focused budget and an after-the-fact prudence review, especially where the actual experience was substantially favourable to the provincial experience. VECC provided no basis for the connection it drew. This suggests that there was no connection.

VECC Cost Recovery

VECC is an organization that aligns its advocacy with the interests of vulnerable consumers, especially seniors and low-income ratepayers. EnWin appreciated the involvement of VECC in this proceeding. It was important to EnWin and its stakeholders that VECC provide independent expert scrutiny. VECC reviewed the evidence, interrogated EnWin on that evidence, and came to a reasoned conclusion. EnWin agrees that VECC's reasonably incurred fees and disbursements should be recoverable.