

INTRODUCTION AND SUMMARY

The Independent Electricity System Operator (IESO) applied to the Ontario Energy Board (OEB) on September 30, 2016 under section 60 of the *Ontario Energy Board Act, 1998* (OEB Act) for an order renewing the Smart Metering Entity (SME) licence (ES-2007-0750)¹ and extending the agreement between the SME and local distribution companies (the SME/LDC Agreement) (EB-2016-0284).

The SME licence was renewed by OEB order dated January 26, 2016, in proceeding EB-2015-0297 (the Order). The SME licence and the SME/LDC Agreement are set to expire on December 31, 2016. The applicant seeks a renewal of both the SME licence and the SME/LDC Agreement, based on a 20-year term, to December 31, 2036.

With the application, the SME also filed an implementation plan relating to third party access to certain enhanced data that the SME will begin collecting from LDCs prior to January 1, 2017, as required by the Order.

The OEB has considered the application without holding a hearing pursuant to section 6(4) of the OEB Act. The OEB will renew the SME licence for a term of 5 years. The OEB is overall satisfied with the SME's implementation plan. The OEB finds, however, that its approval of the SME/LDC Agreement is no longer necessary.

BACKGROUND

The SME licence was first issued in 2011 (EB-2007-0750), based on a five-year term. It was then renewed in 2016 for a period of one year. The "form" of the SME/LDC Agreement was first approved by the OEB on January 17, 2013, with a termination date of January 26, 2016 (consistent with the term of the SME licence).

In November 2015, the SME applied to renew its licence and the SME/LDC Agreement for a further five-year term. Through the Order, the OEB granted the application for a renewal, but only for a one-year term. As well, the Order contained certain items to be complied with, or addressed by, the SME by January 1, 2017. Specifically, the Order provided, in part, as follows:

The OEB therefore:

...

2. Requires that the Smart Metering Entity shall, effective January 1, 2017, collect the following information associated with each meter (modified where necessary to sufficiently render it non-personal information):

¹ The Independent Electricity System Operator was designated as the Smart Metering Entity by Ontario Regulation 393/07 made under the *Electricity Act, 1998*.

- a. The postal code.
- b. The distributor rate class.
- c. The commodity rate class.
- d. Occupant change data.

3. Requires the Smart Metering Entity to prepare an implementation plan to be included with its next application for a licence renewal.

...

The OEB also expects that the next licence application will address the SME's implementation plan with respect to third party access to this enhanced SME data, including an assessment of the cost implications.

On September 30, 2016, the SME filed the current application. The application seeks a renewal of the SME licence and an extension of the SME/LDC Agreement based on a 20-year term. Through the application, the SME has also provided its response to parts 2 and 3 of the Order, as well as its implementation plan.

Following the filing of the application, additional correspondence was exchanged between the SME and OEB staff and, as well, the OEB received additional correspondence from the Coalition of Large Distributors (CLD) and the Electricity Distributors Association (EDA). After considering this information, a decision and order was drafted and provided to the SME on November 21, 2016. The SME was given the opportunity to provide its comments on the draft for consideration prior to finalizing this Decision and Order.

FINDINGS

Renewal and Term of Licence

The SME is seeking a 20-year licence. In support of its request, the SME notes that since the OEB issues a 20-year licence to LDCs, transmitters, generators and, recently for the first time, the IESO, a similar term of licence would be appropriate for the SME.

The OEB finds it to be in the public interest that the SME carries on as the operator of the provincial Meter Data Management and Repository (MDM/R). However, the term of the SME licence shall be renewed only for a five-year period. This is consistent with the term of the SME licence when it was first issued.

Relative to traditional utilities and the IESO, for example, the multi-faceted functions of the SME are nascent and quickly evolving. A 5-year licence term will encourage the SME to continue to work towards demonstrating that it can achieve the value inherent in a province-wide MDM/R. To this end, the OEB maintains the views that were stated in the Order:

While the SME is functioning, it has yet to achieve the value inherent in a single provincial repository of electricity consumption data from over 4 million smart meters...The SME, through its provision of reliable provincial energy consumption data from over 4 million meters, was in part established to provide an opportunity for provincial electricity agencies, individual local distribution companies, and third parties seeking to create new value to benefit consumers. Ontario's head start on smart meters is an opportunity that could be leveraged to enhance innovation. The opportunity must be pursued in a more timely way. The OEB is of the view that closer regulatory scrutiny is required to ensure that the SME move with increased speed to enhance the value of the MDM/R data.

The SME/LDC Agreement

The applicant seeks an extension of the SME/LDC Agreement so that its expiry is aligned with the requested expiration of the SME licence. In its view, the OEB's approval of a standard form of the agreement is essential to attaining the SME's objectives, and to defining the respective roles and responsibilities of the SME and the distributors in fulfilling the objectives of the smart metering initiative. The SME has expressed concern that, in the absence of an OEB-approved agreement, the SME could face demands to negotiate unique arrangements for different distributors. The SME also stated that it requires the cooperation of distributors to fulfill its statutory objectives.

The OEB disagrees. While it is true that the DSC requires the OEB's approval as to the "form" of an agreement between the SME (or the IESO) and LDCs, this requirement is, in the OEB's view, outdated. Specifically, section 5.4.1 of the DSC states:

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.

When the DSC was amended to include this provision in 2007, the SME and LDC relationship was in its infancy. In fact the SME already has clear statutory authority for, among other things, collecting and managing information and data, and storing the information and data related to the metering of consumers' consumption or use of electricity in Ontario, including data collected from LDCs.² Specifically, the *Electricity Act, 1998* authorizes the SME to directly or

² *Electricity Act, 1998 Part IV.2 The Smart Metering Entity*, section 53.8

indirectly collect consumer information and manage and aggregate the data.³ Moreover, this same legislation mandates LDCs to provide information to the SME.⁴

By the terms of their licences, it is abundantly clear that each LDC “shall comply with all applicable provisions of the [OEB] Act and the Electricity Act and regulations under these Acts, except where the Licensee has been exempted from such compliance by regulation”.

In the OEB’s view, a belt-and-suspenders approach to the OEB’s oversight of the SME and LDC relationship is no longer necessary. Not only does the SME (and, for that matter, the IESO) hold sufficient statutory authority to collect information from LDCs, it now has a significant body of experience in doing so over the past decade. LDCs have also demonstrated an acute awareness of their statutory responsibility to provide to the SME the information that the SME requires. It is no longer necessary that the OEB be involved in overseeing the routine exchange of information between the SME and LDCs.

Implementation Plan for the Collection of the Enhanced Data

The Order required that, effective January 1, 2017, the SME must begin collecting from LDCs certain enhanced data; namely, the postal code, the distributor rate class, the commodity rate class, and the occupant change data associated with each meter (modified where necessary to sufficiently render it non-personal information). The Order also required the SME to prepare an implementation plan to address third party access to the enhanced data, including an assessment of the cost implications.

In order to meet the OEB’s required timelines, very early on in 2016, the SME established a working group which included a broad selection of LDCs across the province and representatives from the Ministry of Energy, EDA, the IESO and the OEB. To address the privacy concerns, and at the advice of the Office of the Information and Privacy Commissioner (IPC), the SME retained a reputable privacy consultant to perform a conceptual re-identification risk assessment for the data set that will exist in the MDM/R.

With the application, the SME provided a document entitled Third Party Access Implementation Plan (the Implementation Plan). A number of high-level timelines and activities are described in the Implementation Plan. Foremost, the Implementation Plan indicates that the SME will complete the implementation of the Order in five phases by the end of 2018. As well, the Implementation Plan specifies that a detailed costing analysis associated with the project will be filed with the next SME fee application in 2017. Finally, the Implementation Plan confirms that, based on the privacy consultant’s recommendations, the IPC’s review and input, and its privacy law-related discussions with the working group, the SME will start collecting the

³ Ibid, section 53.14

⁴ Ibid, section 53.15(1)

following information associated from each meter from all LDCs, except Toronto Hydro-Electric System Limited, effective January 1, 2017 (the Enhanced Data):

- The full (6 character) postal code;
- The distributor rate class;
- The commodity rate class;
- The occupancy change date generalized to a single year.

The OEB acknowledges the joint effort and commitment made by the IESO, the SME, the LDCs, and all of the other participants of the working group, towards the successful implementation of the Order within such tight timelines. In the light of the foregoing, I am pleased to reaffirm that, effective January 1, 2017, each LDC shall submit its Enhanced Data to the SME (modified where necessary to sufficiently render it non-personal information).

Notwithstanding the progress of the SME and the working group, the OEB finds it surprising that there remains one LDC - Toronto Hydro-Electric System Limited – that has yet to join the MDM/R. In its last cost of service proceeding (EB-2014-0116), Toronto Hydro specifically requested OEB approval to spend upwards of over eight million dollars to work towards meeting its regulatory obligations in integrating with the provincial MDM/R over the 2015-17 period.⁵ There has been no satisfactory explanation given by Toronto Hydro as to why this integration has yet to take place. The OEB expects the SME and Toronto Hydro to move forward expeditiously to resolve this problem so that Toronto Hydro will start providing the Enhanced Data to the SME as required by the Order.

The OEB therefore:

1. Renews the licence of the Smart Metering Entity until December 31, 2021.
2. Requires that the Smart Metering Entity shall, effective January 1, 2017, collect from LDCs the following information associated with each meter (modified where necessary to sufficiently render it non-personal information):
 - a. The full (six character) postal code.
 - b. The distributor rate class.
 - c. The commodity rate class.
 - d. The occupancy change date generalized to a single year.
3. Amends section 3.2 of the Smart Metering Entity Licence by deleting the current wording of that section:

⁵ Toronto Hydro-Electric System Limited, EB-2014-0116, Exhibit 2B, Section E5.1, pg. 30 of 34.

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.

And, replacing it with the following wording:

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 Licensee shall require licensed Distributors to provide information associated with each meter (modified where necessary to sufficiently render it non-personal information) as required by the Licensee in order to ensure that the Licensee is able to effectively and reliably carry out its mandate.

4. In accordance with Section 8, of its licence, the Licensee shall provide a report to the OEB summarizing each licenced Distributor's compliance with providing the information required by the Licensee during the previous calendar year.

Finally, the OEB finds that it is not necessary to approve the form of the SME/LDC Agreement. To this end, in the near future, the OEB will be issuing notice advising stakeholders of the OEB's intention to amend section 5.4.1 of the DSC, as follows:

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.

IT IS ORDERED THAT:

1. The application to renew the Smart Metering Entity licence is granted, on such conditions as are contained in this Decision and Order and the attached licence.

DATED at Toronto on November XX, 2016

ONTARIO ENERGY BOARD

Peter Fraser
Vice President