



EB-2007-0926

IN THE MATTER OF the *Ontario Energy Board Act*,
1998, S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF an application by David
Ferracuti Investments Limited o/a Dynergy Energy
Management Solutions for a smart sub-metering
licence.

By delegation, before: Jennifer Lea

DECISION AND ORDER

David Ferracuti Investments Limited o/a Dynergy Energy Management Solutions filed an application dated November 29, 2007 with the Ontario Energy Board under section 60 of the *Ontario Energy Board Act, 1998* (the "Act") for a smart sub-metering licence.

The Board's Notice of Application and Written Hearing for a smart sub-metering licence was published on December 20, 2007.

The Coalition of Large Distributors ("CLD") responded to the Notice of Application and Written Hearing on January 7, 2008. The CLD expressed concern about regulation and monitoring of third party sub-metering companies. However, many of the CLD's comments were directed at smart sub-metering regulation in general and not towards the actual application described in the Notice of Application and Written Hearing. Furthermore, many of the comments were dealt with by the Board in the notice and comment process for the Smart Sub-Metering Code and by posting a sample smart sub-metering licence on the Board's website.

The Smart Sub-Metering Working Group ("SSMWG") responded to the CLD's comments on January 17, 2008. The applicant is not a member of the SSMWG. The

SSMWG noted that a number of the issues identified by the CLD were discussed in documents posted by the Board on January 8, 2008 (namely the Notice of Proposal to Amend a Code and Issue a New Code). The SSMWG also made comments regarding some of the issues raised by the CLD.

The issues and comments of the CLD and SSMWG are not material in the determination of the licence application.

The applicant is engaged in smart sub-metering activities, as prescribed by Ontario Regulation 443/07—*Licensing Sub-Metering Activities* (made under the Act). This regulation came into force on December 31, 2007.

Pending the final disposition of the matter, the Board issued two interim orders on December 28, 2007 and April 25, 2008 under sections 21(7) and 6(4) of the Act granting a short-term smart sub-metering licence to the applicant. .

After considering the application, it has been found to be in the public interest to issue a smart sub-metering licence to the applicant under Part V of the Act.

IT IS THEREFORE ORDERED THAT:

The application for a smart sub-metering licence is granted, on such conditions as are contained in the attached licence.

DATED at Toronto, August 22, 2008.

ONTARIO ENERGY BOARD

Original signed by

Jennifer Lea
Counsel, Special Projects



Smart Sub-Metering Licence

ES-2007-0926

**David Ferracuti Investments Limited o/a
Dynergy Energy Management Solutions**

Valid Until

August 21, 2013

Original signed by

Jennifer Lea
Counsel, Special Projects
Ontario Energy Board
Date of Issuance: August 22, 2008

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1 Definitions

In this Licence:

"Act" means the *Ontario Energy Board Act, 1998*, S.O. 1998, c. 15, Schedule B;

"Board" means the Ontario Energy Board;

"Code" means the Smart Sub-Metering Code issued by the Board;

"consumer" means a person who uses, for the person's own consumption, electricity that the person did not generate;

"distributor" means a person who owns or operates a distribution system;

"Electricity Act" means the *Electricity Act, 1998*, S.O. 1998, c. 15, Schedule A;

"Licensee" means David Ferracuti Investments Limited o/a Dynergy Energy Management Solutions

"Market Rules" means the rules made under section 32 of the Electricity Act;

"prescribed class of property" means a building on land for which a declaration and description have been registered pursuant to section 2 of the *Condominium Act, 1998*; a building on land for which a declaration and description have been registered creating a condominium corporation that was continued pursuant to section 178 of the *Condominium Act, 1998*; or a building, in any stage of construction, on land for which a declaration and description is proposed or intended to be registered pursuant to section 2 of the *Condominium Act, 1998*;

"Regulation" means regulations made under the Act or the Electricity Act; and

"retailer" means a person who retails electricity.

2 Interpretation

- 2.1 In this Licence, words and phrases shall have the meaning ascribed to them in the Act or the Electricity Act. Words or phrases importing the singular shall include the plural and vice versa. Headings are for convenience only and shall not affect the interpretation of the Licence. Any reference to a document or a provision of a document includes an amendment or supplement to, or a replacement of, that document or that provision of that document. In the computation of time under this Licence, where there is a reference to a number of days between two events, they shall be counted by excluding the day on which the first event happens and including the day on which the second event happens and where the time for doing an act expires on a holiday, the act may be done on the next day that is not a holiday.

3 Authorization

- 3.1 The Licensee is authorized, under Part V of the Act and subject to the terms and conditions set out in this Licence, to engage in the commercial offering or the commercial provision of smart sub-metering systems, equipment and technology and any associated equipment, systems and technologies and any associated services for the prescribed class of property.

- 3.2 The Licensee is authorized to conduct business in the name under which this Licence is issued, or any trade name(s) listed in Schedule 1.

4 Obligation to Comply with Legislation, Regulations and Market Rules

- 4.1 The Licensee shall comply with all applicable provisions of the Act, the Electricity Act, and the Regulations.
- 4.2 The Licensee shall comply with all applicable Market Rules.

5 Obligation to Comply with Codes

- 5.1 The Licensee shall at all times comply with the Code issued by the Board.
- 5.2 The Licensee shall:
- a) make a copy of the Code available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of the Code to any person who requests it.
- 5.3 The Licensee may impose a fair and reasonable charge for the cost of providing the copies referred to in section 5.2(b).

6 Provision of Information to the Board

- 6.1 The Licensee shall maintain and provide, in the manner and form determined by the Board, such information as the Board may require from time to time.
- 6.2 Without limiting the generality of paragraph 6.1, the Licensee shall notify the Board of any material change in circumstances that adversely affects or is likely to adversely affect the business, operations or assets of the Licensee as soon as practicable, but in any event no more than twenty (20) days past the date upon which such change occurs.

7 Restrictions on Provision of Information

- 7.1 The Licensee shall not use information regarding a consumer, retailer or distributor obtained for one purpose for any other purpose without the written consent of the consumer, retailer or distributor.
- 7.2 The Licensee shall not disclose information regarding a consumer, retailer or distributor to any other party without the written consent of the consumer, retailer or distributor, except where such information is required to be disclosed:
- a) to comply with any legislative or regulatory requirements, including the conditions of this Licence;
 - b) for billing or settlement purposes;
 - c) for law enforcement purposes; or
 - d) to a debt collection agency for the processing of past due accounts of the consumer, retailer or distributor.

- 7.3 The Licensee may disclose information regarding consumers, retailers or distributors where the information has been sufficiently aggregated such that their particular information cannot reasonably be identified.
- 7.4 The Licensee shall inform consumers, retailers and distributors of the conditions under which their information may be released to a third party without their consent.
- 7.5 If the Licensee discloses information under this section, the Licensee shall ensure that the information provided will not be used for any other purpose except the purpose for which it was disclosed.

8 Term of Licence

- 8.1 This Licence shall take effect on August 22, 2008 and expire on August 21, 2013. The term of this Licence may be extended by the Board.

9 Fees and Assessments

- 9.1 The Licensee shall pay all fees charged to it by the Board and all amounts assessed to it by the Board.

10 Communication

- 10.1 The Licensee shall designate a person that will act as a primary contact with the Board on matters related to this Licence. The Licensee shall notify the Board promptly should the contact details change.
- 10.2 All official communication relating to this Licence shall be in writing.
- 10.3 All written communication is to be regarded as having been given by the sender and received by the addressee:
- a) when delivered in person to the addressee by hand, by registered mail or by courier;
 - b) ten (10) business days after the date of posting if the communication is sent by regular mail; and
 - c) when received by facsimile transmission by the addressee, according to the sender's transmission report.

11 Copies of the Licence

- 11.1 The Licensee shall:
- a) make a copy of this Licence available for inspection by members of the public at its head office and regional offices during normal business hours; and
 - b) provide a copy of this Licence to any person who requests it.
- 11.2 The Licensee may impose a fair and reasonable charge for the cost of providing the copies referred to in section 11.1(b).

Schedule 1

Authorized Trade Names

None