

## **Irina Kuznetsova**

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**From:** Viive Sawler  
**Sent:** August-25-16 1:16 PM  
**To:** Irina Kuznetsova  
**Subject:** FW: the smart metering entity & the SME/LDC agreement

FYI. I plan to speak got Peter about this at my meeting with him this afternoon.

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**From:** Adrian Pye [mailto:Adrian.Pye@ieso.ca]  
**Sent:** August-25-16 12:39 PM  
**To:** Viive Sawler; Richard Lanni  
**Cc:** Sorana Ionescu; pduffy@stikeman.com  
**Subject:** the smart metering entity & the SME/LDC agreement

Viive, and Richard,

As requested at our meeting on August 15, 2016, the IESO (in its capacity as the SME) has identified below the reasons why section 5.4.1 of the Distribution System Code should remain in place. Section 5.4.1 reads 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.

Pursuant to section 5.4.1, the SME received approval from the Board of a standard form agreement with distributors on February 13, 2013 in EB-2012-0100/EB-2012-0211 (the “SME/LDC Agreement”). Since approval by the Board, the SME has entered into 72 agreements with distributors in the form of the SME/LDC Agreement. With subsequent LDC mergers that have taken place the current total is 67 agreements. Section 11.1 of the SME/LDC Agreement as approved by the Board provides that the agreement would expire on January 26, 2016, which coincided with the expiry of the SME’s licence. In its decision dated January 26, 2016 in EB-2015-0297, the Board extended the term of the SME’s licence and the SME/LDC Agreement to December 31, 2016. The SME intends to apply for a further extension of SME/LDC Agreement as part of its upcoming SME licence application.

The SME understands that the Board is seeking input as whether Board-approval of the SME/LDC Agreement under section 5.4.1 remains relevant now that the Meter Data Management/Repository (the “MDM/R”) is past its initial start-up stages. As detailed below, the SME believes that Board-approval of the SME/LDC Agreement continues to be essential to the functioning of the SME and that removal of section 5.4.1 from the Distribution System Code would be an unnecessary distraction at this time.

The purpose of the SME/LDC Agreement is to define the respective roles and responsibilities of the SME and the distributor in fulfilling the objectives of the smart metering initiative. Subsection 53.15(1) of the *Electricity Act*, 1998 requires distributors to provide the SME with such information as the SME requires to fulfill its objectives; however, the provision is silent on the parameters of that obligation and how it is to be fulfilled. Further, there is no supporting regulation or Board code that better defines the obligation (unlike, for example, a distributor’s obligation to connect and serve under sections 28 and 29 of the *Electricity Act*, 1998 which is thoroughly detailed in the Distribution System Code). While the SME has published Terms of Service for the MDM/R, the Terms of Service are largely technical in orientation. The SME/LDC Agreement serves as a critical intermediate document that connects the statutory obligation and the Terms of Service by addressing issues such as governance, interactions with customers, access to data and privacy, intellectual property rights, liability and indemnification, and dispute resolution. During the drafting of the SME/LDC Agreement, distributor representatives were adamant that such important issues not be left to the Terms of Service.

The SME believes that Board approval of a standard form SME/LDC Agreement remains essential to attaining the SME’s objectives. Section 5.4.1 provides the SME with the authority to require that a distributor enter into the SME/LDC Agreement; in the absence of such authority, the SME could face demands to negotiate unique arrangements for different distributors. The SME is concerned that it would not have sufficient leverage to insist that all distributors accept a standard form SME/LDC Agreement. The SME requires the cooperation of distributors to fulfill its statutory objects as distributors are capable of processing and managing meter data without the use of the MDM/R. In this respect, the MDM/R is unlike the IESO-administered markets which a market participant must join in order to earn revenue or access electrical supply. The SME could bring applications to the Board on a case-by-case basis to enforce subsection 53.15 where a distributor demands changes to the SME/LDC Agreement; however, this would be a less efficient use the regulatory

process than the current single approval provided for in section 5.4.1. The advantage of section 5.4.1 is that it creates a single negotiation process between the SME and distributors backed by Board adjudication in the event of any disputes. This ensures fairness for both the SME and distributors.

Further, the SME believes that section 5.4.1 is preferable to the other alternatives that could be utilized to require distributors to enter into a standard form SME/LDC Agreement. For example, the obligation to enter the SME/LDC Agreement could be added to the Electricity Distributor Licence by way of a mass amendment to more than [60] licences. Another alternative would be to incorporate the obligations of the SME/LDC Agreement directly into the Distribution System Code by a code amendment. The SME does not see any obvious benefit to either of these alternatives and the regulatory process involved would almost certainly be more cumbersome than an application to extend the term of the SME/LDC Agreement. The SME is concerned that the design and implementation of an alternate mechanism would be an unnecessary distraction from the work currently being undertaken by the SME to implement the directions in the Board's decision of January 26, 2016. The SME is very reluctant to have the regulatory structure around its relationship with distributors in flux while it is undertaking the current initiatives identified by the Board.

The SME thanks Board staff for the opportunity to address this issue and would be pleased to meet again to further discuss this issue if that is necessary.

Adrian

**Adrian Pye** | Senior Regulatory Analyst, IESO | 120 Adelaide St W, Suite 1600, Toronto M5H 1T1  
P: 416.506.2858 C: 905.601.2858

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