



EB-2015-0275

Independent Electricity System Operator

Application for approval of 2016 revenue requirement, expenditures and fees

DECISION ON ISSUES LIST AND PROCEDURAL ORDER NO. 3

June 17, 2016

The Independent Electricity System Operator (IESO) filed an application with the Ontario Energy Board (OEB) on January 20, 2016 under section 25(1) of the *Electricity Act, 1998*, seeking approval for the IESO's 2016 expenditures, revenue requirement and fees.

A Notice of Hearing was issued on February 17, 2016.

On March 31, 2016, the IESO updated its application and filed the actual 2015 financial statements that it had undertaken to provide. On April 11, 2016, the IESO filed a letter informing the OEB that it wished to update its evidence again and requested that the OEB delay issuance of Procedural Order No. 1 until after it had filed its update.

On April 18, 2016, the OEB issued Procedural Order No. 1, in which the OEB granted intervenor status to all parties that requested such status and placed the application in abeyance until the IESO filed its update. On May 13, 2016, the IESO filed its update and proposed a case schedule for the OEB's consideration.

Submissions on Issues List

On May 18, 2016, the OEB issued Procedural Order No. 2, which among other things, included the IESO's Proposed Issues List. The OEB provided an opportunity for intervenors and OEB staff to file submissions on the Proposed Issues List. The OEB received submissions from the Association of Major Power Consumers of Ontario (AMPCO), Building Owners and Managers Association (BOMA), Canadian Manufacturers & Exporters (CME), Energy Probe Research Foundation (Energy Probe), OEB staff, as well as a joint submission by Association of Power Producers of Ontario (APPrO) and HQ Energy Marketing Inc. (HQEM).

Decision on Issues List

In the OEB's view the revisions proposed by OEB staff effectively cover the key issues in the case and the OEB has relied on it as the starting-point for the development of the final Issues List. The OEB has considered the revisions proposed by intervenors and where appropriate has incorporated their proposals. The approved Issues List is attached as Schedule A to this Order.

AMPCO proposed the addition of a single issue relating to whether the IESO has appropriately addressed the impact of the Ontario Government's cap-and-trade program. The IESO submitted that the OEB should reject AMPCO's proposed issue because the details around the implementation of the cap-and-trade program and the role of the IESO in regards to it are presently not known. The IESO also submitted that the current proceeding is not the appropriate forum to discuss the implications of government policy that has not yet been finalized. The OEB agrees that the details regarding the implementation of the cap-and-trade program and the IESO's role are yet to be determined and therefore the impact of the program on the IESO's proposed budget is not known at this time. Accordingly, the OEB has decided not to include AMPCO's proposed issue.

APPrO and HQEM proposed two new issues: 1) *Appropriateness of retroactive application of the usage fee*, and 2) *The reasons for the IESO's delay in submitting its current application*. The IESO submitted that the issues proposed by APPrO and HQEM should not be included as they are captured by OEB staff Issue 2.3. In the OEB's view, the issues proposed by APPrO and HQEM are valid as they pertain to the

implementation of the proposed single usage fee. Accordingly, the OEB has included Issue 2.5 to deal with the appropriateness of the effective date of the 2016 usage fee(s).

BOMA proposed two new issues: *BOMA Issue 4.1) Are the IESO's corporate performance measures for 2016 appropriate and reasonable, and do they contain metrics so as to allow parties and the OEB to assess the extent to which they will have been realized, and BOMA Issue 5.1) Has the IESO responded appropriately to previous IESO and OPA Settlement Agreements and Decisions.* The IESO submitted that OEB staff Issue 6.1, as revised by the IESO, captures the additions proposed by BOMA. With respect to BOMA Issue 4.1, the IESO further submitted that the issue as drafted does not accurately reflect the OEB's Decision in EB-2013-0326 and that if the OEB were to include the issue it should rely on wording that is consistent with the decision.

The OEB accepts the revisions proposed by the IESO in relation to Staff Issue 6.1 and is of the view that the issue as revised captures BOMA's second proposed issue. In regard to BOMA's first proposed issue, the OEB notes that the development of adequate performance and efficiency metrics and milestones specifically with respect to the work of the (former) Ontario Power Authority (OPA), which has now merged into the IESO, has been a recurring concern for the OEB. As the OEB noted in its most recent decision on the OPA's fees (EB-2013-0326):

The Board echoes the views of previous decisions that the performance and efficiency metrics and milestones filed in conjunction with this application were of limited assistance to the Board in its determination of whether the applied-for net revenue requirement, is appropriate, and whether the OPA is achieving a reasonable standard of effectiveness and efficiency in performing the functions it is mandated to undertake. However, the metrics are not so flawed as to affect the revenue and expenses which the Board is asked to approve.

The Board expects that the merged entity's first fee submission will show an improvement in the setting and achievement of performance targets and metrics.

While the OEB acknowledges that the IESO has agreed to address BOMA's issues under OEB staff Issue 6.1 (as revised by the IESO), given the recurring concerns that the OEB has had on this matter, the OEB has decided to include the issue as a stand-alone issue as Issue 6.2 in the final Issues List.

Energy Probe proposed 12 issues. Many of the proposed issues were similar to those proposed by OEB staff, with two notable exceptions: *Energy Probe Issue 2.2) Are the IESO's projected compensation costs and staffing levels appropriate and reasonable?* and, *Energy Probe Issue 5.1) Is the proposed cost allocation appropriate?* The IESO submitted that Energy Probe's issues were captured by the issues proposed by OEB staff. The OEB however has decided to include both issues proposed by Energy Probe, while recognizing that the OEB is precluded under section 25(5) of the *Electricity Act, 1998* from considering "the remuneration and benefits of the chair and other members of the board of directors of the IESO". Further, with respect to Energy Probe's second issue, the OEB is of the view that the appropriateness of cost allocation study is an important matter and has included the issue. Energy Probe's proposed issues are included as Issue 1.3 and 2.3 in the final Issues List

OEB staff proposed three issues under *Section 5.0 Merger Costs and Savings* that deal with costs of the merger between the IESO and the OPA. OEB staff Issue 5.1 deals with the appropriateness of the amount of the merger costs, while Issues 5.2 and 5.3 deal with the appropriateness of the IESO's proposal as to how the merger costs will be funded. While the IESO did not object to the inclusion of OEB staff Issues 5.2 and 5.3, it submitted that OEB staff Issue 5.1 should not be included. The IESO stated:

Issue 5.1 suggested by Board Staff, which is whether the merger costs are "appropriate", does not add to the determination to be made under Issues 5.2 and 5.3, namely, whether the costs already incurred by the IESO and the OPA should be funded in the manner that has been proposed. **The issue for this proceeding is not the amount or appropriateness of the costs, but rather the disposition and treatment of the merger costs.** [Emphasis Added]

The OEB disagrees with the IESO's position that the scope of this proceeding is limited to determining how the merger costs will be disposed and/or treated and does not include a determination on the appropriateness of the merger costs. In the OEB's view the OEB has the jurisdiction to assess whether the merger costs that are being sought for recovery are appropriate and will therefore include the issue. The OEB also notes that in EB-2013-0326, where the matter of the merger costs first arose, the OPA had submitted that the merger costs would be tracked and reviewed in the next fees proceeding.¹

¹ EB-2013-0326, Oral Hearing Transcript Vol. 2, p. 9 &10, p. 121, lines 5-15 and p. 132, lines 1-14.

Proceeding

The OEB has set new dates for the next steps in this proceeding, which are set out below and which supersede the schedule established in Procedural Order No. 2.

At this time, the OEB considers it necessary to make provisions for the following procedural matters. The OEB may issue further Procedural Orders from time to time.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The Issues List attached as Schedule A is approved.
2. If OEB staff or intervenors wish to submit evidence, they shall notify the OEB of their intention by **June 24, 2016**.
3. OEB staff and intervenors shall request any relevant information and documentation from the IESO that is in addition to the evidence already filed, by written interrogatories filed with the OEB and served on all parties by **June 30, 2016**.
4. The IESO shall file with the OEB complete written responses to all interrogatories and serve them on all intervenors and OEB staff by **July 22, 2016**.
5. A Settlement Conference among the parties and OEB staff will be convened on **August 17, 2016** starting at 9:30 a.m., at 2300 Yonge Street, 25th floor, Toronto. If necessary, the Settlement Conference will continue on **August 18, 2016**.
6. Any settlement proposal arising from the Settlement Conference shall be filed with the OEB on or before **August 29, 2016**. In addition to outlining the terms of any settlement, the settlement proposal should contain a list of any unsettled issues, indicating with reasons whether the parties believe those issues should be dealt with by way of oral or written hearing.
7. Any submission from OEB staff on a settlement proposal shall be filed with the OEB and served on all parties within 7 days from when a settlement proposal is filed.

8. If there is no settlement proposal arising from the Settlement Conference, the IESO shall file a statement to that effect with the OEB by **August 23, 2016**. In that event, parties shall file and serve on the other parties by **August 29, 2016** any submissions on which issues should be heard in writing, and for which issues the OEB should hold an oral hearing.

All filings to the OEB must quote the file number, EB-2015-0275, be made in searchable / unrestricted PDF format electronically through the OEB's web portal at <https://www.pes.ontarioenergyboard.ca/eservice/>. Two paper copies must also be filed at the OEB's address provided below. Filings must clearly state the sender's name, postal address and telephone number, fax number and e-mail address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <http://www.ontarioenergyboard.ca/OEB/Industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have internet access are required to submit all filings on a CD in PDF format, along with two paper copies. Those who do not have computer access are required to file 7 paper copies.

All communications should be directed to the attention of the Board Secretary at the address below, and be received no later than 4:45 p.m. on the required date.

With respect to distribution lists for all electronic correspondence and materials related to this proceeding, parties must include the Case Manager, Rudra Mukherji at Rudra.Mukherji@ontarioenergyboard.ca.

ADDRESS

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

E-mail: boardsec@ontarioenergyboard.ca
Tel: 1-888-632-6273 (Toll free)
Fax: 416-440-7656

DATED at Toronto, **June 17, 2016**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

EB-2015-0275

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

**Decision on Issues List and
Procedural Order No. 3**

Schedule A – OEB Approved Issues List

Dated June 17, 2016

**OEB Approved Issues List
EB-2015-0275**

1.0 Revenue Requirement, Operating Costs and Capital Spending

- 1.1 Is the IESO's Fiscal Year 2016 net revenue requirement of \$181.1 million appropriate?
- 1.2 Is the IESO's Operating Costs budget of \$182.1 million for Fiscal Year 2016 appropriate?
- 1.3 Are the IESO's projected compensation costs and staffing levels appropriate and reasonable?
- 1.4 Is the IESO's Registration Fees revenue forecast of \$1.0 million for Fiscal Year 2016 appropriate?
- 1.5 Is the IESO's capital expenditure budget for Fiscal Year 2016 appropriate?

2.0 Usage Fee

- 2.1 Is the IESO's proposal to eliminate the OPA Usage Fee and to charge the proposed single IESO Usage Fee to all market participants (domestic and exporter customers) appropriate?
- 2.2 Is the methodology used to derive the proposed IESO Usage Fee of 1.13/MWh appropriate?
- 2.3 Is the proposed cost allocation study in support of the proposed IESO Usage Fee appropriate?
- 2.4 Is the IESO's proposal to charge the proposed single IESO Usage Fee from January 1, 2016 and to refund (or charge) market participants the difference between the 2016 single Usage Fee and the interim usage fees they paid, if any, based on their proportionate quantity of energy withdrawn, which may include scheduled exports and embedded generation, in 2016, appropriate?
- 2.5 What would be an appropriate effective date for the Usage Fee(s) approved in this proceeding?

3.0 Registration and Application Fees

- 3.1 Are the registration fees of up to \$10,000 per proposal for electricity supply and capacity procurements, including conservation and load management procurements appropriate?

3.2 Are the non-refundable application fees for standard offer programs, such as the Feed-in-Tariff (“FIT”) program of \$0.50/kW of proposed Contract Capacity, having a minimum of \$500 and a maximum of \$5,000, appropriate?

3.3 Is the Large Renewable Procurement qualification submission fee from RFQ applicants appropriate? Which is the sum of:

- a) The greater of: (a) \$2,000 for the first (or only, if only one renewable fuel is proposed) proposed renewable fuel submitted; or (b) \$1.00 per kW of estimated contract capacity for all large renewable projects to a maximum amount of \$30,000; plus
- b) \$2,000 for each additional renewable fuel proposed.

3.4 Is the \$1,000 application fee for market participation appropriate?

4.0 Deferral and Variance Accounts

4.1 Is the IESO’s proposal with respect to the Government Procurement Costs Deferral Account appropriate?

4.2 Is the IESO’s proposal with respect to the Registration Fees Deferral Account appropriate?

4.3 Is the IESO’s proposal to continue the Forecast Variance Deferral Account to track variances between actual and OEB-approved revenues and costs appropriate?

4.4 Is the IESO’s proposal to retain an Operating Reserve of \$10 million in the Forecast Variance Deferral Account appropriate?

4.5 Is the IESO’s proposal to clear 2015 Year-End balances in the Forecast Variance Deferral Account that are in excess of the \$10 million operating reserve appropriate?

5.0 Merger Costs and Savings

5.1 Are the merger costs of \$5.6 million incurred by the OPA and \$5.3 million incurred by the IESO appropriate?

5.2 Is the IESO’s proposal to use the 2014 balances in the Registration Fees Deferral Account and the Forecast Variance Deferral Account (which includes the OPA’s Operating Reserve) to cover the OPA’s merger costs of \$5.6 million appropriate?

5.3 Is the IESO’s proposal to fund its share of the merger costs of \$5.3 million using the 2014 year-end Operating Reserve of \$8.3 million appropriate?

5.4 Has the IESO appropriately reflected in its 2016 Fiscal Year revenue requirement the synergies and cost savings arising from the merger of the IESO and the OPA?

6.0 Commitments from Previous OEB Decisions

6.1 Has the IESO responded appropriately to OEB decisions in EB-2013-0326 and EB-2013-0381?

6.2 Are the IESO's corporate performance measures for 2016 appropriate and reasonable, and do they contain metrics so as to allow parties and the OEB to assess the extent to which they will have been realized?