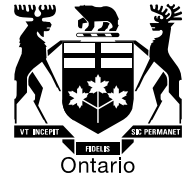


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**BY EMAIL**

December 20, 2016

Ontario Energy Board  
P.O. Box 2319  
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Toronto ON M4P 1E4

Attention: Ms. Kirsten Walli, Board Secretary

Dear Ms. Walli:

**Re: OEB STAFF SUBMISSION ON REVISED PROPOSAL  
INDEPENDENT ELECTRICITY SYSTEM OPERATOR (IESO)  
2016 REVENUE REQUIREMENT AND FEES APPLICATION  
EB-2015-0275**

In accordance with Procedural Order No. 5, please find enclosed the submissions of OEB staff in relation to the revised usage rate proposal filed by the IESO on December 14, 2016.

Yours truly,

*Original Signed By*

Stephen Vetsis  
Advisor, Supply and Infrastructure

cc: All Parties in EB-2015-0275



# **ONTARIO ENERGY BOARD**

## **STAFF COMMENTS ON IESO REVISED PROPOSAL**

**INDEPENDENT ELECTRICITY SYSTEM OPERATOR  
2016 REVENUE REQUIREMENT AND FEES APPLICATION  
EB-2015-0275**

**December 20, 2016**

## Introduction

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.

On September 7, 2016, the IESO filed a settlement proposal for the OEB's approval reflecting an agreement on all issues on the Issues List except Issue 2, which concerns the IESO's proposal for a single usage fee. A written hearing was then held on the unsettled issue.

On December 1, 2016, the OEB issued a Decision and Order approving the settlement proposal but not approving the IESO's proposal for a single usage fee. Pursuant to section 25(4) of the Electricity Act, 1998, the OEB referred the matter of the usage fee back to the IESO for further consideration, and recommended that the IESO submit a revised proposal to the OEB to recover its approved revenue requirement through two separate usage fees, one for domestic customers and one for export customers, with each fee representing a revenue-to-cost ratio of 100%.

The IESO submitted a revised proposal on December 14, 2016.

These are the submissions of OEB staff on the IESO's revised proposal.

### A. The IESO's proposal for two separate usage fees

In response to the OEB's recommendations, the IESO now proposes two separate fees, one for domestic customers (\$1.1707/MWh) and one for export customers (\$0.9603/MWh). These fees represent the revenue-to-cost ratio scenario of 100%, as shown in the Elenchus study.<sup>1</sup> Table 1 from the Elenchus study is reproduced below.

**Table 1: Usage Fees and Revenue-to-Cost Ratios for Domestic, Export and Combined Customer Classes, with Different and Common Usage Fees**

	Allocated Costs	MWh	Class-Specific Usage Fees			Common Usage Fee	
			100% RCR	80% RCR	120% RCR	Rate	R/C Ratio
Domestic	\$164,124,456	140,190,875	\$ 1.1707	\$ 0.9366	\$ 1.4049	\$1.1459	97.88%
Export	\$18,007,515	18,751,536	\$ 0.9603	\$ 0.7683	\$ 1.1524	\$1.1459	119.32%
Combined	\$182,131,970	158,942,411	\$ 1.1459			\$1.1459	100.00%

<sup>1</sup> *Cost Allocation and Rate Design for the 2016 IESO Usage Fee (Updated with 2016 Financial Details)*, prepared by Elenchus Research Associates, Inc., May 10, 2016.

In making its revised proposal the IESO has followed the OEB's recommendation that "Each usage fee should represent a revenue-to-cost ratio of 100%, based on the Elenchus cost allocation evidence." As stated in the decision, no party asked to cross-examine Elenchus or file other evidence. OEB staff notes that the class-specific usage fees, derived in the Elenchus study and currently proposed by the IESO, would recover the IESO's full revenue requirement of \$182.1M. The Elenchus study did not take into consideration other revenue from registration fees of approximately \$1M.<sup>2</sup> This matter was not raised during the proceeding.

OEB staff notes that there is a variance account to record the difference between amounts collected from the usage fees and registration fees and the IESO's actual costs. Therefore if the OEB approves the usage fees as proposed, any amount over-collected would ultimately be returned to customers. However, it may be possible for the IESO, in its reply submission, to re-calculate its proposed usage fees such that they recover \$181.1M (the full revenue requirement of \$182.1M less \$1M in registration fees) for consideration by the panel.

OEB staff has no concerns about the IESO's request for approval to rebate or charge to market participants the difference between the 2016 usage fees approved by the OEB and the interim usage fee they paid, if any. Nor does OEB staff have any concerns about the IESO's request for approval to discontinue the OPA usage fee as of the effective date of the two new usage fees.

### **B. The effective date for the usage fees**

In its application, the IESO asked for an effective date for its proposed single usage fee (for both import and export customers) of January 1, 2016. In its October 21, 2016 reply submission, the IESO wrote, "given that it is now close to the end of October and this proceeding has not yet concluded, the IESO agrees that, in this particular case, it is appropriate that a new usage fee approved by the Board take effect as of the date of the decision regarding the fee." The IESO now says, in its December 14, 2016 revised proposal, that it is "neutral" as to the effective date for the fees, although for administrative purposes the effective date should be the first day of whatever month is approved.

OEB staff reiterates its position in its October 14, 2016 submission that January 1, 2016 would be the appropriate effective date. Energy Probe and the School Energy Coalition also urged the OEB to adopt January 1, 2016 as the effective date.

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<sup>2</sup> As noted on p. 1 of the OEB's December 1, 2016 Decision and Order, the revenue requirement net of the \$1M in forecast registration fee revenue is \$181.1M.

OEB staff notes that the Association of Power Producers of Ontario (APPrO) and HQ Energy Marketing Inc. (HQEM), in their joint submission dated October 14, 2016 (and corrected October 19, 2016), argued that subsections 25(9) and (10) of the *Electricity Act, 1998* preclude the OEB in this case from approving an effective date that is earlier than the date on which the OEB issues its final decision on the IESO's fee(s).<sup>3</sup> OEB staff does not agree with that interpretation. In OEB staff's view, subsections 25(9) and (10), which apply only to the first fees case after the IESO-OPA merger (i.e., this one), were meant only to ensure that the IESO could continue to charge the two separate pre-merger fees until the OEB approved fees for the post-merger entity. Without those transitional provisions, the legal status of the OEB's pre-merger decisions – and therefore the IESO's authority to charge any fees – might have been in doubt. The provisions were not meant to restrict the OEB's ability to establish the first post-merger fees on an interim basis, and then to finalize those fees as of the date they were made interim. Had that been the intention, the statute would have said so expressly.

If the OEB made the 2016 fees effective January 1, 2016, export customers would be charged the difference between the 2016 usage fees approved by the OEB and the (lower) interim usage fee they paid, while domestic customers would receive a credit. Because 2016 is nearly over, there would be a year's worth of fees to reconcile. Although OEB staff sees some merit in the APPrO/HQEM argument that exporters will not be able to recover their reconciliation payment from their counterparties, OEB staff notes that exporters have at all material times known that the 2016 fees were interim and therefore subject to change. Moreover, as a result of the OEB's decision not to approve the IESO's initial proposal for a single usage fee for export and domestic customers, the final fee applicable to exporters – and therefore the reconciliation payment export customers will be required to pay – will be significantly lower than what the IESO first proposed.

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<sup>3</sup> The relevant provisions read:

**Transition, fees**

(9) Until the Board approves the proposed expenditure and revenue requirements for the IESO's first full or partial fiscal year that occurs after subsection 3 (1) of Schedule 7 to the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* comes into force and the fees the IESO proposes to charge during that full or partial fiscal year, the IESO shall continue to charge the fees that were approved by the Board and that applied to its predecessors immediately before subsection 3 (1) of Schedule 7 to the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* comes into force.

**Transition, orders**

(10) For greater certainty, the Board's orders relating to the predecessors' expenditure and revenue requirements and fees for their fiscal year that applied immediately before subsection 3 (1) of Schedule 7 to the *Building Opportunity and Securing Our Future Act (Budget Measures), 2014* comes into force continue to be in effect until the Board approves the first expenditure and revenue requirement and fees for the IESO.

### **C. Interim 2017 fees**

In its revised proposal, the IESO asks for “[a]pproval of the two proposed IESO usage fees on an interim basis from January 1, 2017 until the end of the month in which Board approval of the IESO’s 2017 Revenue Requirement Submission is received”.

OEB staff has confirmed that the panel, in this instance, has the authority to consider the matter of declaring the final usage fees approved in this application interim, as of January 1, 2017.<sup>4</sup> OEB staff has no concerns with the IESO’s proposal given that the 2016 calendar year is about to end and the IESO has not yet filed its 2017 revenue requirement submission with the OEB.

**All of which is respectfully submitted.**

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<sup>4</sup> This panel has been assigned by the OEB Chair to deal with the matter of IESO’s interim 2017 fees under subsection 4.3(1) of the Ontario Energy Board Act, 1998.