



**BY EMAIL and RESS**

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July 27, 2017  
Our File: EB20170150

**Attn: Kirsten Walli, Board Secretary**

Dear Ms. Walli:

**Re: EB-2017-0150 – IESO 2017 Fees Application – SEC Issues List Comments**

We are counsel to the School Energy Coalition (“SEC”). Pursuant to Procedural Order No.2, these are SEC’s comments regarding certain jurisdictional questions raised by parties’ initial submissions on the Draft Issues List.

***1. Wholesale Market Service Charge***

SEC has reviewed the submissions of the Association of Power Producers of Ontario (“APPRO”), dated June 30<sup>th</sup> 2017, and agrees that the Board has the authority to review the Wholesale Market Services Charge (“WMSC”). They are properly considered fees under the *Electricity Act*, which the Board is required to approve.<sup>1</sup> The only exception to that authority to review IESO fees and charges is with respect to those related to the recovery of procurement contracts, which are deemed approved by the Board.<sup>2</sup> The WMSC, and the underlying individual charges, are not related to recovery of procurement contracts as defined under the *Electricity Act*.

The IESO does not appear to take issue with the general premise that the Board has jurisdiction<sup>3</sup>; only that the oversight is done through other means, and that parties who take issue with any of the specific charges that make up the WMSC can avail themselves to those forums and procedures.<sup>4</sup> The IESO’s view is that this fees application proceeding is not the proper forum to review the WMSC since it is about fees to recover its proposed expenditures and revenue requirements only.

SEC does agree that the WMSC fees are for IESO services and programs that are of a very different type than those currently being recovered by the usage and registration fees that are currently the subject of the relief sought in this application. The WMSC recovers costs for services and programs related to obtaining various wholesale market services, for example, ancillary, operating reserve,

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<sup>1</sup> *Electricity Act*, 25(6)

<sup>2</sup> *Electricity Act*, 25.1(1)

<sup>3</sup> IESO Issues List Reply Submission (July 10, 2017), p.2-3

<sup>4</sup> *Ibid*, p.2

congestion management, and market costs, whereas the usage and registration fees recover the IESO's administrative costs (both capital and operating).

It is not sufficient for the IESO to point to processes outside of the Board's, such as its Stakeholder Advisory Committee, or Technical Panel as the proper means of oversight. It is the Board's responsibility to approve the WMSC which requires the approval of the underlying costs in each individual account. It is also not appropriate that the only review is by initiating a review of an amendment of Market Rules that may be brought to the Board.<sup>5</sup> The onus is on the IESO to justify the appropriateness of the individual charges that make up the WMSC which it is seeking to charge ratepayers.

There has been less than ideal transparency about these costs which are ultimately recovered from ratepayers. It may be correct, as the IESO points out, that it has filed "updated cost information for [the OEB's] review at least annually, including information on any WMSCs."<sup>6</sup> The concern is that SEC is unaware of any public review of those filings. Complicating matters is that many of the costs that make up the specific charges in the WMSC are part of programs whose costs are an output of specific market activities that are authorized and defined by relevant sections of the Market Rules. To review the costs, one has to review the underlying certain elements of the Market Rules.

SEC submits it may be appropriate for the Board to defer consideration of the WMSC issue, and deal with it on a separate timeline, as it is distinct from the review of the IESO's expenditures that are collected by its usage and registration fee. By proceeding this way, it would allow the IESO to file evidence on the WMSC, which would allow for a more informed review while not dealing with the remainder of the application, since the two categories of costs and fees are distinct and can be adjudicated separately.

## **2. Market Renewal**

Energy Probe Research Foundation ("Energy Probe") has proposed expanding of the scope of issue 1.6 to include the "appropriateness of the cost consequences, scope and timing of the Market Renewal Program". The IESO objects to the change since the issue would become "broader than practical at this time", primarily on the basis that this is an application for 2017 expenditures only.<sup>7</sup> SEC submits that regardless of the wording of the issue, it is clearly within the scope for intervenors, and the Board, to consider not just the 2017 costs, but the entire program's costs, and the expected benefits. The 2017 operating costs are being undertaken in the context of this large multi-year program. The appropriateness of the 2017 costs can only properly be reviewed if parties understand the total program costs, its timing, and what the expected benefits are. This is no different than how the Board reviews electricity Distribution System Plans. Even though, in a cost of service application, it is only approving rates and their underlying costs for a single year, it seeks to understand it within the context of a five-year DSP.

The Vulnerable Energy Consumers Coalition ("VECC") has proposed an additional issue, asking if the Market Renewal Program is within the mandate of the IESO. SEC submits the additional issue is unnecessary. If VECC wants to argue, that since the IESO in its view requires legislative or

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<sup>5</sup> *Electricity Act*, 33(4)

<sup>6</sup> IESO Issues List Reply Submission (July 10, 2017), p.3

<sup>7</sup> *Ibid*, p.6-7



regulatory changes to implement the program, it is unreasonable for it to undertake it in the first place (a view which SEC does not share), then it is free to do so without any change to the issue. It is always available for a party to argue that a cost is unreasonable and imprudent because it does not have the legislative mandate to implement the underlying activity.

Yours very truly,  
**Shepherd Rubenstein P.C.**

*Original signed by*

Mark Rubenstein

cc: Wayne McNally, SEC (by email)  
Applicant & Interested parties (by email)