



Fogler, Rubinoff LLP  
Lawyers

77 King Street West  
Suite 3000, PO Box 95  
TD Centre North Tower  
Toronto, ON M5K 1G8  
t: 416.864.9700 | f: 416.941.8852  
foglers.com

November 10, 2017

Reply To: Thomas Brett  
Direct Dial: 416.941.8861  
E-mail: tbrett@foglers.com  
Our File No. 173011

**VIA EMAIL, RESS AND COURIER**

Ontario Energy Board  
2300 Yonge Street  
27th Floor  
Toronto, ON  
M4P 1E4

Attention: Kristen Walli, Board Secretary

Dear Ms. Walli:

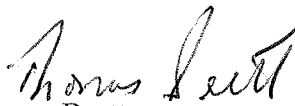
**Re: EB-2017-0150: IESO, 2017 Expenditure and Revenue Requirement Application -  
BOMA's Written Submissions**

---

Pursuant to the Board's Decision and Procedural Order No. 5 dated October 31, 2017, please find enclosed herewith BOMA's Written Submissions in respect of the unsettled issues.

Yours truly,

**FOGLER, RUBINOFF LLP**

  
Thomas Brett  
TB/dd  
Encls.  
cc: All Parties (*via email*)

**ONTARIO ENERGY BOARD**

**Independent Electricity System Operator**

**Application for approval of 2017 revenue requirement,  
expenditures and fees**

---

**Written Submissions of**

**Building Owners and Managers Association, Greater Toronto  
("BOMA")**

---

November 10, 2017

**Tom Brett**  
Fogler, Rubinoff LLP  
77 King Street West, Suite 3000  
P.O. Box 95, TD Centre North Tower  
Toronto, Ontario M5K 1G8

Counsel for BOMA

## Written Submissions

---

### I. Scorecard

#### Introduction and Principles

In the Board-approved Settlement Proposal in EB-2015-0275 on December 1, 2016, the Board stated:

*"The IESO agrees to consult with intervenors to develop a scorecard for filing in its next Revenue Requirement Submission filed with the Board. It is intended that this scorecard will be a tool for the Board and intervenors to use in evaluating the IESO's proposed expenditure and revenue requirement. The IESO will engage an expert to assist with this work".*

The IESO's proposed Regulatory Scorecard (Illustrative) (the "Scorecard") is found at p3 of the Executive Summary to the Elenchus Report. In addition, the IESO's Regulatory Scorecard – Draft Straw Model at Appendix D of the Elenchus Report (Exhibit C1, Tab 1, Attachment 1) Annotated, provides explanatory material for the proposed Scorecard.

In assessing the desirable contents of the proposed IESO Scorecard, two guiding principles stand out. First, regard must be had to the scope of the Board's review of the IESO revenue requirements submission and the issues which it may examine in such proceedings. The scope is broader than many parties think. The Board addressed this issue in some detail in EB-2010-0279:

*"For the purposes of considering the fiscal 2011 proposed expenditure and revenue requirement and fees application by the OPA, the Board expanded the scope of the issues that had traditionally been considered, the purpose of which was to recognize, as set out above, that the OPA's administrative and non-administrative activities that are funded by fees and charges, respectively, are unavoidably linked. While the Board's mandate in*

*this case is limited to approval of the OPA's administrative fees, which comprise approximately 3% of the OPA's total annual spending, an assessment of the performance of the OPA's charge-funded activities is a necessary, legitimate and reasonable tool for determining the effectiveness of the OPA's utilization of its Board approved fees" (our emphasis).*

The second principle is that, in general, with few exceptions, a performance measurement target set by the IESO, on its internal scorecard (its Corporate Performance Measures, set out in Exhibit A, Tab 2, Schedule 2, Appendix A, p18) should also be included in the Board's regulatory scorecard. The reason for their inclusion is that as the finding in EB-2010-0279 makes clear, if the IESO is meeting its own performance goals, it will be performing at a superior level and continuously improving, in all aspects, of its work. These are, in the main, the same outcomes the Board is seeking to achieve under the Renewed Regulatory Framework and its Scorecard for transmitters and distributors. The Board should use the IESO's performance indicators, as they will assist the Board in determining whether ratepayers and other stakeholders are receiving "value for money" from the IESO. Moreover, performance measures the IESO sets for itself are measures over which the IESO has control.

BOMA's understanding is that the IESO was to seek approval for a Scorecard in this case. BOMA is of the view that the IESO, like transmitters and distributors, requires a Board-approved Scorecard, and that the Board should approve the proposed Scorecard, provided that it is amended to include, inter alia, the amendments proposed in BOMA's submission. The Scorecard is a good beginning, but should not, as written, be approved.

BOMA has the following suggestion for additions/modifications to the Scorecard.

1. As a general rule, BOMA believes each measure in the Scorecard should have an annual target, as well as a medium term target, which, in this case, might well be December 31,

2020, given the three year "term" and the fact that the current Conservation First Framework expires at that time. With annual targets, progress and compliance, or otherwise, can be more easily assessed, and corrective measures can be quickly implemented. If the IESO's performance of an activity is as high as is reasonably possible, then the target should be to maintain that performance level.

2. **Stakeholder Engagement**

The baseline (2016) customer satisfaction number at 65% is too low. The Scorecard currently has no annual or medium targets to improve it. The only way to assure the medium target will be met is to have annual targets. Annual targets should be set to improve the customer satisfaction number over the next several years by at least 3% per year. In its 2018 revenue requirement submission, the IESO should provide more detail on the two surveys it now does, including how the results of the surveys are amalgamated to get the combined score [Elenchus, p55]. The submission should identify the parties that are being surveyed/consulted in each survey and examine which, if any, other groups should be surveyed. While the IESO does a great deal of stakeholding, many of the stakeholders are not the people that pay the bills in their rates. The Board suggested in the Hydro One Transmission (EB-2016-0160) case that Hydro One "look through" the LDCs and also obtain feedback from the LDC's customers. BOMA suggests the IESO do the same thing.

Whether under the Stakeholder Engagement, or the Operational Effectiveness headings, the IESO should include an employee engagement measure on the Scorecard. Existing employee engagement, as reported by the IESO, is 71% (baseline) [Exhibit A, Tab 2,

Schedule 2, Appendix 1] ("CPM Appendix") but it is not clear how this number was calculated. Moreover, the 2016 Mercer survey of employee engagement, filed at BOMA 7 [Exhibit I, Tab 1.6, Schedule 2.07] is not encouraging. The "percentage favourables" for career growth, leadership and direction, and performance management, are very low, all under 50%, at 49%, 44%, and 34%, respectively, and well below Canada norms (p9). Those are all findings that speak to weaknesses in the IESO senior management, and those failings harm the long-term performance of the organization (p8).

In its response to BOMA 7, the IESO states that it has developed comprehensive management engagement plans, both organization wide and for the business units, so it should not object to having an employee engagement metric as part of the Scorecard. The IESO has set a target of 2% improvement a year, as a CPM measure (Exhibit A, Tab 2, Schedule 2, p21), which BOMA would accept as an initial step. Since the employee engagement commitment is a vital contributor to the overall performance of business units and the organization as a whole, it should be on the Scorecard. It is necessary for the Board to be aware of this important matter.

As noted above, CPM #9 calls for a 2% increase, presumably annually from the baseline of 71%. BOMA believes that the target is modest, but a sufficient starting point, that can be reviewed in the 2018/2019 filing. The survey should be annual, at least until the poorer parts of engagement levels can be brought up to more reasonable levels. The IESO should report on the progress of the initiative in its 2018 revenue requirement submission.

Improvements in at least the poorer parts of the engagement levels should be monitored on a disaggregated basis.

3. **Public Policy Responsiveness/Conservation Programs**

There should be annual targets, both for each of the IESO/LDC programs and the Industrial Accelerator Program, and the other programs that the IESO administers directly. These annual targets will measure progress towards meeting the 2020 Conservation First Framework targets of 7 Twh for collaboration with LDCs, and 1.7 Twh from the Industrial Accelerator Program [Elenchus, Appendix D, p6].

Both elements of the Conservation First Framework are behind schedule, and annual targets are needed to closely monitor the progress of the LDC programs and the "rebooting" of the Industrial Accelerator Program. The Environmental Commissioner of Ontario, in her August 2017 report, entitled "Every Joule Counts, Ontario's Energy Use and Conservation Year in Review", states that:

*"The Industrial Accelerator Program has seen dismal results to date (only 3% of the 2020 target of 1.7 Twh savings) and has had several changes made to it to increase participation through to 2020" (p9).*

The program has not been successful. The IESO needs to find a solution quickly.

There should be annual targets for the years 2018, 2019, 2020, and further targets should be set after the midterm review. Targets that are too far in the future are not helpful for guiding short to medium term actions and decisions, the need for which may become urgent. Long term targets are aspirational, with little or no controlling impact on what the agencies actually do. The metric used in the energy conservation and demand

response programs should be savings realized, not projects contracted, as the 2017 CPM for the industrial accelerator is expressed. This is especially important for the Industrial Accelerator Program. The IESO should report in its 2018 and 2019 submission, and in the midterm review, on how it will increase the performance of the program.

Second, the midterm review findings should be included in the Scorecard, including shifts in objectives and programs that it recommends.

The levelized energy cost (4 cents kwh) test is outdated and should be replaced by the Total Resource Cost ("TRC") test. TRC is the current industry standard and must be used to gain a clear understanding of the real world costs of the IESO's CDM and demand response programs, and to ensure that costs and benefits of programs, existing and new, are being assessed on a comparable basis. BOMA understands that this is not currently the case, and that many IESO programs are not currently cost-effective, based on the TRC test. The IESO should be more engaged in this area and should ensure they have the right personnel in place to improve CDM results.

In any event, the metric for cost-effectiveness of conservation programs should be the TRC, and the Scorecard measure should be expressed as ensuring that 100% of all CDM programs pass the TRC test. BOMA has repeatedly made these points at the stakeholder consultation on the draft Scorecard, but they were not accepted.

4. **Operational Effectiveness**

The 100% compliance with NERC high violation risk factor should be extended to medium and low risk factors. The evidence suggested IESO had medium/low violation



risk events over the last few years. The existing measure is not sufficiently challenging. It is also a standard that, if not met, could result in Ontario being severed from the North American electricity market. The existing measure is effectively a legislative requirement.

### Planning

Each of the two measures on the Scorecard should be broken down into components in an attachment to the Scorecard. Each IRPP recommendation should be listed separately with a target completion date and status reports which show, inter alia, percentage completion to remaining budget. The same should be done for key LTEP milestones, including tasks that the 2017 LTEP explicitly assigns to the IESO, for example, the implementation of pilot projects, on competitive transmission procurement [2017 LTEP, p85].

The overall progress for each of IRPP and LTEP tasks/milestones should be stated for each year, with an explanation as to how the aggregate performance was derived.

Finally, there should be a third line in the planning section of the Scorecard to track key transmission initiatives, with each milestone reported on separately, and with status reports in an attachment. This measure is part of CPM #3 and should be in the Scorecard, especially given the IESO's apparently greater role in transmission implementation.

The point of the suggestions in the two paragraphs above, and it applies to many parts of the Scorecard, is that the activity description should be sufficiently detailed to allow the reader to gain an understanding of how the IESO is performing its various tasks. Given

the IESO's central role in the Ontario energy system, and its ability to influence the nature of energy supply and demand, reporting at this level of detail is a reasonable request.

5. **Operational Efficiencies and Cost Control**

- (a) The variance between forecast revenue requirement and actual revenue requirement should be identified each year, for the previous year, if necessary, in a supplement to test year's revenue requirement filing to accommodate the timing issue, that is 2017 actual results not being available until sometime early in the new year.
- (b) Total expenses per kwh should be reported on an annual basis, as well as on a three-year rolling average basis.
- (c) The IESO has included an SME goal for 2017 as part of CPM #7, as follows:

*"The SME will enhance the value of electricity data by expanding the type of access to smart meter data, received by the IESO's system."*

This goal should be clarified to explain access by whom, the nature of the access IESO now has, target dates for making the changes happen, and should be included as a Scorecard measure, since the IESO is accountable for its performance.

- (d) Once the 2018 process for contract management is developed by the IESO, a measure should be put in the Scorecard for contract management efficiency. The

annual targets and performance should be added to the Scorecard via the 2018 submission.

- (e) There should be a Scorecard measure which targets productivity improvements (with annual targets). Continuous improvement should be as much a part of the IESO's goals as continuous improvement goals are for distributors and transmitters. The Board spoke of the need for Hydro One Transmission to develop such measures for its Scorecard in EB-2016-0160. At p39, the Board stated:

*"The OEB directs Hydro One to establish firm short-term and long-term targets for productivity improvements and associated reduction in revenue requirements, as a means to drive continuous improvement".*

The IESO should have a similar measure in its Scorecard, although BOMA would broaden the intended purpose to include freeing up funds to allocate to new priorities. This would include the priority change initiatives and operation readiness initiatives which are the subject of the CPMs [CPM Appendix, pp21-22]. These activities should be integrated into the productivity/efficiency measure, where appropriate.

- (f) The MRP project activity should have a more detailed definition in the Scorecard than the "Market Renewal initiative is proceeding according to the schedule and budget" is too general. At least the following information should be in the Scorecard:

- the annual accuracy of each of operating and capital budgets (forecast vs. actual);

- whether the IESO is meeting or not meeting the milestones in the detailed project plan, which was to have been available in Q3 2017, with each milestone set out separately. The project plan should be included in the IESO's 2018 revenue requirement submission;
- any revision to the overall project plan and budgets going forward, including cost to completion;
- at a project level budgeted vs. actual funds spent to date, and funds remaining should be developed and updated annually;
- any addition of new tasks beyond those identified in the initial project plans.

BOMA understands that the IESO proposes to report annually on the MRP but key elements also need to be included in the Scorecard. The current formulation of the activity is too general to be of any real use to either the Board to stakeholders/intervenors.

- (g) An additional operational effective Scorecard measure should be the number of major LDCs that the IESO is deeply engaged with. This measure would mirror CPM #3, and is a necessary condition to the IESO's effective operations, especially with respect to distributed generation, conservation programs, its ability to assist the Ontario Government's "green energy corporation", and ensure all the relevant programs are coordinated. Engagement should also be defined a little more clearly.

6. **Transmission Losses**

BOMA notes the Board's reaffirmation in Procedural Order No. 5 (p3) that, as it decided in EB-2016-0160 (p33), the IESO should work with Hydro One to report on initiatives for economically reducing transmission line losses, and that once that "joint work" with Hydro One is completed, the IESO should propose measures, if any, that should be taken. The measure on transmission losses would then be added to the Scorecard. The Board considered the issue of transmission losses at some length in EB-2016-0160. There was substantial interest by some parties in the topic and considerable cross-examination of Hydro One witnesses. The Board, subsequently, found that:

*"Given the magnitude of the line losses (on which all parties agreed), Hydro One should work jointly with the IESO (it was generally agreed that each of the IESO and Hydro One controlled certain activities that impacted line losses) to explore cost-effective opportunities for line loss reduction. Hydro One should also explore, as part of its investment decision process, opportunities for economically reducing line losses. The OEB requires Hydro One to report on those initiatives as part of its next rate application" (p32).*

BOMA suggests that it would be helpful if the Board were to also set a deadline for the IESO (to encourage both the IESO and Hydro One to prioritize the project) to also report, in its 2019 revenue requirement submission, at the latest, on the Hydro One/IESO initiative. The joint initiative should have Board oversight, given the vehement opposition that each of Hydro One Transmission and the IESO expressed to the proposal that opportunities to reduce transmission losses should be examined. They each suggested the other party was responsible for the issue. However, the Board found they both made decisions that impacted on the level and direction of loss.

7. **General Comments**

Metrics

As is evident from its comments in this submission, BOMA is of the view that scorecards must evolve over time as the IESO accrues additional responsibilities, for example, as an additional role in procurement and contracting for transmission lines in 2016 amendments to the *Ontario Energy Board Act* and the *Electricity Act*. It is likely there will be other amendments to the Scorecard in some years. Scorecards also require metrics and targets to be useful. Any delay in inclusion of metrics should not be sanctioned by the Board, for obvious reasons.

8. **Timetable for the Revenue Requirement Submission**

As the Board is well aware, there is a serious issue of the timing around the IESO revenue requirement submission to the Board. The Board's decision on the 2016 revenue requirement was made on December 1, 2016, and the decision on the IESO 2017 revenue requirement will not likely be made before December 1, 2017, and possibly not until January 2018. While not the fault of the Board, the result makes no sense, and makes a mockery of the Board's approval process and the terms of the legislation. The issue needs to be addressed. Section 25(1) of the *Electricity Act* provides that:

*"The IESO shall, at least 60 days before the beginning of each fiscal year, submit its proposed expenditure and revenue requirements for the fiscal year and the fees it proposes to charge during the fiscal year to the Board for review, but shall not do so until after the Minister approves the IESO's proposed business plan for the fiscal year under section 24".*

In other words, the legislation requires that the IESO must obtain ministerial approval for its Business Plan before it submits its revenue requirement for Board approval. The deadline for the IESO to submit its Business Plan to the Minister is September 1<sup>st</sup> of the year prior to the test year. The IESO can meet the deadline. (BOMA is not certain how often it has met the September 1<sup>st</sup> deadline). In any event, the Business Plan submission typically languishes in the Minister's office for several months with the result that the revenue requirement is not submitted to the Board until March or April of the test year, three or four months after its statutory deadline<sup>1</sup>, and well after the beginning of the test year. An April filing (the IESO filed its 2017 Revenue Requirement with the Board on April 21, 2017) means that a decision will not be issued by the Board until mid to late fall 2017. This is unacceptable and hardly in keeping with the legislation or good public policy. BOMA proposes that the Board direct the IESO to file a draft version of its revenue requirement submission with the Board by September 1 of each year, on the understanding that it is subject to amendment after the Business Plan has been approved. The Board could then begin its analysis in September, and begin the preliminary proceedings, such as producing an issues list and interrogatories on the submission save for the Business Plan, with the appropriate legal caveats. The Board should also communicate with the Minister and request that he/she approve the plan no later than November 1<sup>st</sup> of that year, to enable the Board's decision to take into account the Business Plan, and to be made before the test year begins. Historically, the Minister's comments on the Business Plan have been de minimus. But even if they were

---

<sup>1</sup> Section 25(3) allows the IESO to submit its revenue requirement to the Board during the test year, due to a delay in the Minister's approval.

substantial, if these steps were taken, the Board would have the opportunity to make a decision prior to the beginning of the test year.

The fact that IESO's Business Plan is for three years should facilitate the proposed regime.

## **II. Market Renewal Program Deferral Account**

BOMA is of the view that the Board should establish a separate Market Renewal Program Deferral (Variance) Account. The Account would:

1. Track separately from the IESO FVDA Account, the variance between forecast and actual OM&A and capital expenditures in the MRP from inception until project completion.
2. Balances in the Account would be cleared at the Board's discretion, either annually or less frequently, depending on circumstances, including the multiyear nature of some of the components of the program. The Account could include a multiyear tracking feature.

First, the Market Renewal Program ("MRP") is an eight to nine year project, and by far the largest project in the IESO's history. The IESO has estimated the total OM&A and capital costs of the MRP to be \$195.6 million [Exhibit I, Tab 1.6, Schedule 2.45, BOMA 45, p4] over the period 2017 to 2024. It is also a very visible and politically sensitive initiative, which the Ontario Government has repeatedly highlighted and endorsed in its 2017 Long-Term Energy Plan, issued on October 26, 2017. It is separate from the normal day to day business of the



IESO, as reflected in the statement in the IESO's Business Plan [Exhibit A, Tab 2, Schedule 2, p5]:

*"The IESO's Business Plan provides an overview of the organization's near-term activities and associated resourcing requirements needed in two areas: to maintain the high level of performance required to deliver its core electricity system responsibilities; and in parallel to execute the Market Renewal project" (our emphasis).*

So the MRP is clearly very large, separate from the IESO's other activities. For that reason, a separate deferral account should be used.

Second, the MRP is not only very large and important, but it is temporary. At its inception, resources will be transferred to the project from other parts of the IESO, and new personnel will be hired, and at the end of the project, eight to nine years from now, it is not expected to be a significant impact on the current level of staffing and resources of the underlying business. The IESO has indicated that "much" of the OM&A resources for the project will be capitalized. They have not specified how much.

A separate deferral variance account would be very helpful to track these changes, in OM&A and capital resources over the nine year period.

Both the importance of the program to the IESO and the Government, and its temporary nature, is illustrated by the following excerpt from the transmittal letter from the IESO's former CEO, Bruce Campbell, conveying the 2017 Business Plan to the Minister of Energy on February 1, 2017:

*"To prepare for the electricity sector of tomorrow, the IESO is working with stakeholders to pursue fundamental and enduring changes to Ontario's electricity market that will address known inefficiencies and put downward pressure on electricity costs. These foundational changes will provide opportunities for all participants in Ontario's electricity market, with increased competition, flexibility and transparency resulting in material efficiency gains for the entire electricity sector, including both customers and suppliers.*

*Working with stakeholders, this project will include evolving the wholesale energy market and introducing incremental capacity auctions to competitively and efficiently procure resources, while continuing to meet emerging operability challenges. The additional work associated with Market Renewal will require a temporary increase in resources for the duration of the project. However, at the conclusion of the project, Market Renewal is not expected to have a significant impact on the current staffing level of the underlying business" (our emphasis).*

The strategic importance of the MRP is further explained at pp 1-3 of the IESO's 2017-2019 Business Plan.

For a program of this magnitude, an MRP Deferral and Variance Account, separate from the existing Forecast Variance Deferral Account ("FVDA") will permit the Board, the IESO, and parties to focus properly on implementation, management, and cost control of this very important, large program.

It will provide transparency and visibility to the Board and parties of the annual performance of the program, make viewing actual/budget costs easier, and help to avoid "mandate creep".

Moreover, BOMA believes that using the existing FVDA to record and track MRP program development against budget could run the risk of intermingling the MDV expenditures with the IESO's ongoing operating and capital expenditures. It would reduce the Board's ability to focus on the progress performance, and cost control of the MDV, if actual variance from forecast could

be recorded in the separate account. If these variances from forecast were included as part of the existing FVDA account, variance from other business units could offset MRP variance. A separate account would offer greater transparency.

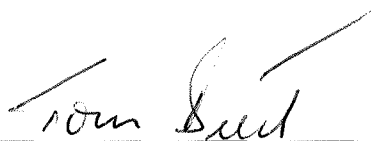
A separate account would also help to focus attention on relatively large capital expenditure variances. Much of the capital expenditure for the MRP consists of the purchase of significant IT assets. These assets are notoriously difficult to budget and implement properly. There are often substantial variances which need to be tracked. There is considerable uncertainty as to what type of assets will ultimately be required.

Having a separate account would make it easier for the Board, if it wished, to take a multiyear approach to certain MRP expenditures via a tracking feature to the account. It is likely that for an initiative like the MRP, capital and expenditures will vary in either direction from budget by larger amounts relative to the IESO's other variances. BOMA notes that IESO reduced 2017 forecast OM&A expenditures from \$12 million to \$8 million. The Settlement Agreement provides that the \$4 million underspend will be returned to ratepayers in this proceeding.

Finally, it would be easier for the Board to conduct prudence reviews of the MRP actual expenditures if the funds were placed in a separate account. The separate account would be cleared on a regular basis, which would give the parties and the Board opportunities to assess the prudence of the expenditures to date. In the event some expenditures are found to be imprudent, the Board would not permit their inclusion in rates (fees). The IESO would then have to obtain those funds from the Government, either through an increase in draws on their existing loan agreements, or if the amount were large, a new or amended loan agreement. Either prospect

would install sufficient discipline and accountability in the organization to ensure senior management's thorough oversight of the program.

All of which is respectfully submitted, this 10<sup>th</sup> day of November, 2017.

A handwritten signature in black ink, appearing to read "Tom Brett", written over a horizontal line.

Tom Brett,  
Counsel for BOMA