



Independent Electricity System Operator
Application for Approval of 2019 Expenditures, Revenue
Requirement, and Fees

DECISION ON MOTION AND PROCEDURAL
ORDER NO. 4

May 31, 2019

Background

The Independent Electricity System Operator (IESO) filed an application with the Ontario Energy Board (OEB) on January 28, 2019 under subsection 25(1) of the *Electricity Act, 1998*, seeking approval for its 2019 expenditures, revenue requirement, and fees.

Pursuant to Procedural Order No. 1, the IESO filed written responses to interrogatories from the intervenors and OEB staff on April 30, 2019.

On May 6, 2019, the School Energy Coalition (SEC) filed a Notice of Motion pursuant to Rule 27.03 of the OEB's *Rules of Practice and Procedure* seeking an order requiring the IESO to provide "full and adequate" responses to SEC interrogatories SEC-11 and SEC-21, both of which relate to the IESO's capital spending plans.

On May 7, 2019, the Association of Major Power Consumers in Ontario (AMPCO) filed a letter supporting SEC's motion.

The OEB issued Procedural Order No. 2 on May 8, 2019, which made provision for the IESO to make written submissions on the motion and for SEC to reply, and suspended procedural steps 6 to 9 set out in Procedural Order No. 1, pending the outcome of the motion.

On May 10, 2019, the Association of Power Producers of Ontario (APPrO) filed a letter supporting SEC's motion, and requesting that, as part of the same motion, the OEB

direct the IESO to provide answers to the following APPrO interrogatories: APPrO-6, APPrO6(e), APPrO-7(i), and APPrO-11(d).

The OEB issued Procedural Order No. 3 on May 13, 2019 which explained that the OEB would hear APPrO's request together with SEC's request and set out a timetable for written submissions.

Position of the Parties

SEC argued that the IESO has filed insufficient information for the OEB to determine whether the capital expenditures for material capital projects should be approved. SEC argued that the materiality threshold for capital projects should be \$1 million for the IESO, and asked for a copy of the business plan, project plan, or similar document for each material 2019 core operating capital project/initiative. SEC also asked for similar information for each component of the MRP. SEC submitted that the IESO's responses to SEC-11 and SEC-21, which requested this information, were inadequate.

APPrO supported the motion by SEC, and sought further information about the potential impact to operational and capital budgets of risks identified for the MRP, how the IESO has addressed the risks, and information about the IESO's risk assessment framework. APPrO also sought more information about whether the IESO had conducted a review of responsibilities for inefficiencies in the electricity market, and the resources that have been committed to the MRP. APPrO argued that the IESO failed to answer APPrO's interrogatories on these topics, or to explain (as required by Rule 27.02 of the *Rules of Practice and Procedure*) why the information is irrelevant or otherwise should not be provided.

The IESO took issue with SEC's request for a business case, project plan or similar documents for the material MRP and non-MRP capital projects or project components. The IESO argued that while such documents may be provided to the OEB in rates cases for other regulated entities, "the IESO is an entity with a distinctly different role and business model than rate regulated entities in the energy market, and a unique approval process with the Minister of Energy, Northern Development and Mines, and the OEB." For similar reasons, the IESO also objected to SEC's application of a materiality threshold to the IESO based on the threshold the OEB uses for electricity distributors.

In respect of the non-MRP capital projects, the IESO pointed to information on the record that it said "provides sufficient information to understand what the projects are, why they are being undertaken and if costs are reasonable." The IESO contended that no further detail is necessary, particularly in light of its assertion that in this proceeding the OEB must approve a "total capital expenditure envelope, and not smaller individual

capital project expenditures.” In respect of the MRP capital projects, the IESO pointed to the MRP Cost Report which had been filed on the record, which is “similar in nature to a project plan”. The IESO did, however, provide an updated response to SEC-21 along with its submission, with MRP costs broken down into three categories: Energy, Capacity, and General.

The IESO denied that its responses to the APPrO interrogatories were unresponsive. In particular, the IESO maintained that:

- its response to APPrO-6 adequately addressed APPrO’s concern about how the MRP may be “adversely affected by system dependencies”
- in response to APPrO-6(e), it was sufficient to provide the key KPMG recommendation and the response of IESO management, and that “examination of the inner workings of a process resulting from the work done with KPMG ... is out of scope”
- its response to APPrO-7(i) was answered “to the best of its ability”, but that “assigning blame with regard to specific inefficiencies in the market is not helpful to this proceeding”
- it interpreted APPrO-11(d) to refer to staff time committed to the MRP, which was provided, and in any case there is evidence on the record about total MRP spending to date

In its reply submission, SEC disagreed with the IESO’s suggestion that because it is different than other regulated entities it is subject to lower disclosure standards. SEC argued that the OEB must ensure that it has the evidence it needs to thoroughly review the prudence of the IESO’s spending proposals, and that the evidence provided so far is not sufficient for that purpose. SEC also disagreed with the IESO’s suggestion that the OEB should examine its capital spending on an “envelope” basis, and not look at individual projects other than the MRP. With respect to SEC-21, SEC argued that “Even with the minimal additional detail provided in the revised answer, the Board is not in a position to assess whether the [MRP] spending is prudent.” SEC emphasized that the IESO is asking the OEB to approve the MRP spending before the business case has been completed, and without any evidence that the IESO ever did an analysis of the need for the MRP or any alternatives.

In APPrO’s reply, it made similar arguments to SEC’s. APPrO also reiterated that its own contested interrogatories sought information that is relevant to this proceeding but that the IESO’s answers were unresponsive.

Findings

The OEB grants the motion in part.

The OEB agrees that it needs more information on which to assess capital expenditures. The OEB does not have filing requirements for the IESO. No materiality threshold has been established for the review of expenditures, and the OEB is not establishing one as part of this motion. The OEB has reviewed the projects and expenditures included in the IESO's response to AMPCO-18 and concludes that more information is required for two capital projects – the CRS Replacement & Migration and the MRP.

The IESO has stated that it is only seeking “the OEB's approval of a capital envelope” and it has provided “sufficient information to understand what the projects are, why they are being undertaken and if costs are reasonable”. Both SEC and APPrO disagreed that the OEB is only approving a capital envelope.

The *Electricity Act, 1998* states that the OEB “may approve the proposed expenditure and revenue requirements and the proposed fees or may refer them back to the IESO for further consideration with the Board's recommendations”. The OEB concludes that it is not necessary to make a determination on whether it is approving an expenditure envelope or expenditures for specific projects as part of this motion. In either case, the OEB requires details on the expenditures in order to make a determination that the expenditure level is reasonable.

Market Renewal Program

The MRP is a significant undertaking for the IESO, with \$49.7 million in operating and capital expenditures proposed for 2019, and a further \$55.5 million in 2020 and \$50.4 million in 2021. The IESO has stated that its business case for the MRP will not be completed until the third quarter of 2019. The lack of a business case on the record for the MRP means that information on which the OEB can base its assessment of the IESO's expenditures is limited. The OEB has concluded that it requires the IESO to provide the following further information for each of the four initiatives of the MRP (Single Schedule Market, Enhanced Real-time Unit Commitment, Day Ahead Market, and Incremental Capacity Auction):

- an assessment of the current inefficiencies or issues with the market that are being addressed
- the rationale to proceed with the project and the options considered including how the project improves on core outcomes such as efficiency, customer value, reliability and safety

- the rationale for decisions to build systems in-house versus acquiring existing systems (i.e. the make versus buy decision)
- a risk assessment and how risks are being mitigated
- the governance of the project, and the involvement of the IESO's Board of Directors in that governance, including a response to KPMG's recommendation for ongoing IESO Board involvement

The OEB recognizes that the Minister of Energy, Northern Development and Mines (the Minister) has approved the IESO's Business Plan, and in doing so stated that he is satisfied that the 2019 budget reflects the appropriate scope and resourcing to advance the Market Renewal Project. The Minister also stated that he expects future Market Renewal Project resourcing beyond 2019 will be further reassessed in future business plans and in the IESO's proposed expenditure and revenue requirements submitted to the OEB. The MRP is a multi-year project, and the OEB has concluded that in order to assess the significant expenditures for 2019, it needs to understand the scope and decision-making for the overall project. This assessment will also be of assistance when the OEB assesses expenditure proposals beyond 2019.

Other Operational Projects

The OEB also concludes that more information is required for the CRS Replacement & Migration project. The proposed expenditures for this project are \$1.5 million in 2019, \$3.0 million in 2020 and a further \$6.0 million in 2021. The IESO is expected to provide further information about the nature of the project, why it is required, options considered, interdependencies with other projects (such as the MRP), and risks. This is the minimum that the OEB would expect the IESO to file for a project of this magnitude, particularly given it is multi-year.

Specific Findings by Interrogatory

SEC-11

The IESO is required to file the further information discussed under the Other Operational Projects section above. The OEB has determined that there is sufficient information for the other capital projects for 2019.

SEC-21

The IESO is required to file the further information discussed under the Market Renewal Program section above.

APPrO-6

The IESO is required to file the further information discussed under the Market Renewal Program section including assessment and mitigation of risks.

For APPrO 6(e) the OEB requires the IESO to file the entire KPMG risk assessment report for the MRP. If there are aspects of this report that require confidential treatment, the IESO should seek such treatment with rationale for its confidentiality request.

APPrO 7(i)

The IESO is required to file the further information discussed under the Market Renewal Program section including an assessment of the current inefficiencies or issues with the market.

APPrO 11(d)

The information the OEB requires for the MRP was provided above under the Market Renewal Program section. The OEB will not require the IESO to respond further to this interrogatory.

Other Matters

To clarify matters for future proceedings, the OEB is interested in receiving submissions on whether it is appropriate to establish a materiality threshold for the IESO, and if so at what level. Parties may include this as part of their final submissions for this proceeding.

The OEB will provide further procedural directions after it has reviewed the IESO's revised responses to interrogatories.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The IESO shall file with the OEB and deliver to all parties revised responses to SEC-11, SEC-21, APPrO-6, and APPrO-7(i), in accordance with the OEB's findings above, by **June 14, 2019**.

All filings to the OEB must quote the file number, EB-2019-0002, 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.oeb.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 USB flash drive 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 Managers, Michael Lesychyn at michael.lesychyn@oeb.ca and Andrew Bishop at andrew.bishop@oeb.ca and OEB Counsel, Ian Richler at ian.richler@oeb.ca.

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DATED at Toronto, May 31, 2019

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary