EB-2019-0002

ONTARIO ENERGY BOARD

IN THE MATTER OF subsection 25(1) of the *Electricity Act, 1998*;

AND IN THE MATTER OF a Submission by the Independent Electricity System Operator to the Ontario Energy Board for the review of its proposed expenditure and revenue requirements for the fiscal year 2019 and the fees it proposes to charge during the fiscal year 2019.

IESO 2019 Fees

Energy Probe Research Foundation

Final Submission

October 25, 2019

EB-2019-0002
IESO 2019 Fees Submission and Revenue Requirement

1. Background.

The Independent Electricity System Operator (IESO) filed its Submission for Review (Submission) of its proposed 2019 expenditure and revenue requirements and fees with the Ontario Energy Board on January 28, 2019.

On March 28, 2019, the IESO filed an update to its evidence (“March Update") that reflected its 2018 audited financial results.[1]

Interrogatories and responses were filed in May 2019.
Following a motion by Counsel for Schools Energy Coalition the Board issued a Decision on the Motion and Procedural Order No. 4 dated May 31, 2019 (Decision and PO#4) in which it indicated that more information was required for two of the IESO’s capital projects, the Market Renewal Program (MRP) and the CRS Replacement & Migration project (CRS Project). Decision and PO#4 specified information required in respect of each of these two projects and the IESO filed information on June 14, 2019 (June Update/Filing).

A settlement conference was held on July 17 and 18, 2019. The Partial Settlement Proposal resulting from the settlement conference was accepted by the Board in its Decision on Settlement Proposal and Procedural Order No. 6 dated August 9, 2019 (PO#6).

Procedural Order directed the IESO to provide detailed information regarding changes to the MRP and it provided for the filing of this updated evidence, together with a process of written interrogatories on the updated evidence. The IESO filed the updated evidence (August Update) and a Revised Submission for Review on August 26, 2019 and responses to interrogatories on the August Update were filed on September 25, 2019.

Procedural Order #7 directed the IESO to file Argument in Chief by October 11, 2019, OEB Staff and intervenors to file submissions, if any, by October 25, 2019 and the IESO to file reply argument by November 6, 2019.

This is the Argument of Energy Probe Foundation

Partial Settlement Agreement.[2]

Energy Probe was a participant in the Settlement Conference .

The Partial Settlement Agreement (“Agreement”) was filed on August 2, 2019 and is attached to the Board’s Procedural Order #2

We have no added comments due to the confidentiality provisions for Settlement Conferences

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[1] Exhibit A-3-1; Exhibit B-3-1 and attachments 2, 3, and 4
[2] EB-2019-0002, Exhibit S-1-1,

2. Operating and Capital Expenditure and Revenue Requirements

(This issue was not Settled)

2.1 Operating Expense/Revenue Requirement

The 2019 total revenue requirement of $190.8 million is the same as approved by the Board in 2017 and 2018.[3]
Operating expenses for core operations are $179.1 million and for the MRP $11.7 million.
The 2019 budget average FTEs are 717 for core operations and 97 for the MRP[4]

The proposed Compensation component of the 2019 Operating Expense is not appropriate and should not be approved due to continuing above-market Total Compensation for the non-union employees, based on the Mercer Report Benchmark. This is addressed in Section 5 below.

2.2 Capital Expenditure/Revenue Requirement

Energy Probe suggests that the Board should reject the as filed 2019 Capital Expenditures and associated capital component 2019 Revenue Requirement.

Simply put, under the Regulatory Compact, if a regulated utility amends its capital program during the review of its Test Year Revenue Requirement, then not only will an update be filed, but the Test Year revenue requirement and rates (IESO fees) be updated.

The IESO is not a utility, but the same principles that apply to the Regulated utilities must apply here.

How can the Board approve 2019 Fees based on an outdated/superseded revenue requirement?

The IESO should not have created this situation. It should have responsibly updated its 2019 revenue requirement Application and fees to reflect the material change to its MRP and then sought approval of the Minister.

This could have occurred as early as July when IESO knew the impact of the changes to the MRP

3. Usage Fees (This issue was not settled)

Parties accept that the methodology used to derive the proposed IESO Usage Fees is appropriate. The methodology is consistent with the approved methodology used to derive IESO Usage Fees in the IESO's 2018 Revenue Requirement Submission (EB-2018-0143).

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[3] Exhibit B-1-1, page 1
[4] Business Plan 2019-2021 September 4, 2018 (Business Plan), Exhibit A-2-2, page 16

This issue is directly connected to the changes to the 2019 Revenue Requirement as a result of the curtailment of the MRP Capacity Work Program

We have made it clear that it is inappropriate that the IESO has not revised the 2019 Revenue Requirement and Fees, as a result of the changes in the MRP Capacity Auction Work Program.

From a practical perspective, it is too late in the year to advocate that the IESO 2019 Revenue Requirement and Fees be reduced.

Alternative approaches are needed. We address these under the Issue of Deferral Accounts and the 2019 FDVA Reserve.

4. Deferral and Variance Account

(This issue was not Settled)

4.1 Forecast Variance Deferral Account (FVDA).

There are two issues:

- IESO's proposal to retain an operating reserve of $10 million in the Forecast Variance Deferral Account (FVDA).
- IESO's proposal to not clear any 2018 year-end balance of the FVDA that is in excess of the $10 million operating reserve.

In the 2017 and 2018 Settlement Agreements the Operating Reserve was set at $6million.

IESO now wishes to return to $10 million that is based on 5% of its annual Revenue Requirement.

IESO cites its usual contingency arguments -- the need to fund operations in the event of revenue shortfalls or unanticipated expenditures, given the scope and complexity of the IESO's mandate.[5]

We accept that IESO had a Year End 2018 operating deficit of $4.8 million due to restatement of the SERP and OPEB expenses, rather than as a result of Operations. Accordingly no rebate is appropriate

We submit that the Board should reject the IESO argument for raising the Reserve. With the cancellation of the majority of the 2019 MRP Capacity Auction Work Program, there could be an estimated $3.2 million reduction in the 2019 revenue requirement, due to unspent capital. IESO does not need the extra reserve.

The Board should indicate to the IESO that any future request for increasing the Reserve, will need to be supported by evidence on Program/Financial risks,

5. Commitments from Previous OEB Decisions

(This issue was not settled)

[5] AIC Para 31

5.1 Compensation Benchmarking

The IESO engaged Mercer (Canada) Limited (Mercer) to conduct the study in accordance with the 2017 Settlement Proposal.48[6] Mercer's final report dated September 27, 2018 provided an independent market-based assessment of the IESO's non-executive total remuneration and was filed by the IESO in this proceeding.
40. The filing of the Mercer report in this proceeding meets commitments made by the IESO in the 2017 Settlement Proposal regarding a Total Compensation study.

The IESO states in AIC, that by filing the Mercer Report, the IESO has fully and appropriately complied with its commitments in the 2017 Settlement Proposal regarding a non-executive total compensation study[7]

We disagree. The Mercer Report Benchmark indicated that IESO non-executive Total Compensation was significantly higher than the peer group. IESO was requested in an Energy Probe Interrogatory[8] to indicate what action it would take.
The response was inadequate. There was no commitment or plan to bring its compensation practices for the non-union group of management employees in line with industry norms.

Since no sanction is available for 2019, we request that the Board should indicate in its Decision that IESO should amend its Total Compensation practices for the non-union group of employees, including incentive pay and benefits, in order to approach the Median of its peer group. The Board should also direct that another Benchmark study should be provided in the 2021 Fees filing, including a comparison the prior benchmark.

7. Market Renewal Program Revision Impact on 2019 Revenue Requirement

(This Issue was not Settled).

Operating expenses to support the Capacity Work Stream in 2019 were budgeted at $4.8 million and the IESO submits the current 2019 forecast is in line with the budget.[9]
It claims there is no effect on Capacity Work Stream expenses with the Revised Approach.

IESO States that capital costs for the Capacity Work Stream costs for the remainder of 2019 were predominantly budgeted and as a result of the Revised Approach for the Capacity Work Stream, capital costs are reduced from the budget amount of $12 million to zero.
The $12 million reduction in capital costs for the Capacity Work Stream brings the revised 2019 capital costs for the MRP to $26 million compared to the original budget of $38 million.[10]

This is a major and material change to both the Capital Budget and Associated 2019 Revenue Requirement.

[6] EB-2017-0150 Settlement Proposal, Issue 5.4,
[7] EB-2019-0002 Exhibit C-4-1,
[8] Exhibit I-Tab 1.3-Schedule 4.07 and 4.08 Energy Probe
[9] Response to OEB Staff Interrogatory 42, Exhibit I, Tab 6.0, Schedule 1.42 OEB Staff 42.
[10] AIC para 52

As discussed under the Section on Capital Expense, the time to make a reduction to the Revenue Requirement and 2019 Fees is past. We suggest that there are two practical alternatives: to accept the projected increased 2019 surplus, or to transfer the forecast amount to the FVDA

We suggest that there is no point having a Reserve fund that only works one way. Deficits and surpluses should be symmetrically recorded in the FVDA. Accordingly, The Board should direct that the surplus revenue requirement from the change to the MRP be transferred to the FVDA now, not at year end. This is consistent with how Regulatory accounts work and will send the appropriate signal to IESO Management-cost consequences of changes in Approved Work Plan and Budget, go to the FDVA.

Respectfully Submitted 25th of October 2019

On Behalf of Energy Probe Research Foundation

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