

ONTARIO ENERGY BOARD

Independent Electricity System Operator

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.

**ARGUMENT OF
CANADIAN MANUFACTURERS & EXPORTERS (“CME”)**

October 25, 2019

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I. INTRODUCTION

1. These submissions are made on behalf of Canadian Manufacturers & Exporters (“**CME**”). CME represents over 400 Ontario based companies that operate energy intensive businesses. Their continued competitiveness is directly tied to energy costs including the fees charged by the Independent Electricity System Operator (“**IESO**”).
2. On January 28, 2019, the IESO filed its submission for the review of its proposed expenditure and revenue requirements, as well as its proposed fee for the fiscal year 2019.
3. On March 28, 2019, the IESO updated its evidence. In this update, the IESO reflected its decision to update its accounting policy in several respects. The net effect of this change was to cause the IESO to go from carrying a \$6 million operating reserve, to running an operating deficit as of December 31, 2018 of \$4.73 million.
4. On July 16, 2019, the IESO publicly announced that it would discontinue work on the incremental capacity auction (“**ICA**”) portion of the market renewal project (“**MRP**”).¹
5. Coincident with the IESO’s announcement, a settlement conference was held between the IESO and other parties on July 17 and 18, 2019. As a result, a partial settlement proposal was presented to the Board, which was accepted on August 9, 2019 through Decision on Settlement Proposal and Procedural Order #6.
6. The settlement achieved by the parties and accepted by the Board settled a number of issues, except for issues: 1.1, 1.3, 1.4, 2.1, 4.1, 4.2, 5.2, 6.1, 6.2 and 6.3.
7. CME’s primary remaining concerns with respect to the unsettled issues within the IESO’s application are as follows:
 - (a) The IESO’s continued spending on the MRP prior to the approval of a business case outlining the costs and benefits of the MRPs new scope;

¹ EB-2019-0002, Exhibit C, Tab 2, Schedule 2, p. 1.

- (b) The IESO's proposal to increase its operating reserve from \$6 million to \$10 million; and
- (c) The appropriate materiality threshold for the IESO.

II. THE IESO IS SPENDING ON THE MRP PRIOR TO THE CREATION OF A BUSINESS CASE

8. CME is concerned about the IESO's continued spending on the MRP in advance of the completion of the business case.
9. In 2017, the IESO commissioned The Brattle Group to prepare a benefits case for the MRP (the "**Benefits Case**"). The Benefits Case outlined that the MRP reforms could lead to 10-year net present benefits of \$2,200 million to \$5,200 million across the province of Ontario.²
10. The benefits would derive from three main areas of reform as follows:
 - (a) Capacity auction reforms, responsible for approximately 70% of the expected benefits;
 - (b) Energy market reforms, responsible for approximately 14% of the benefits; and
 - (c) Operability reforms, responsible for approximately 16% of the benefits.³
11. Based on the scale of the expected benefits, the IESO began work on the project despite the fact that an approved business case was not yet completed. In a presentation in May of 2019, the IESO reassured stakeholders that an approved business case was a "pre-requisite" to supporting the project in the detailed design phase and project implementation phase.⁴

² The Future of Ontario's Electricity Market: A Benefits Case Assessment of the Market Renewal Project, April 20, 2017, p. iii.

³ OEB Staff Interrogatory #30, Exhibit I, Tab 6.0, Schedule 1.30 OEB Staff 30, p. 1 of 3.

⁴ Market Renewal Program Update Meeting: MRP Business Case, May 16, 2019, slide 10. See also OEB Staff Interrogatory #30, Exhibit I, Tab 6.0, Schedule 1.30 OEB Staff 30.

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12. On July 16, 2019, the IESO concluded that it would not go ahead with the capacity auction reforms that had originally been part of the MRP scope. Accordingly, the benefits associated with those reforms, namely 70% of the total benefits of the MRP, would not be realized.
 13. The capacity auction was not the only scope change in the MRP's development. In total, only 14% of the total benefits, related to the energy market reforms, are still achievable.⁵
 14. The IESO announced in August of 2019 that all high-level design work was completed, and that all work going forward in the MRP would be on the detailed design of the project. Despite the IESO's statement in May that a business case was pre-requisite for such work, the IESO has continued with detailed design work in the absence of a business case, which is not anticipated until the fourth quarter of 2019.
 15. Given the drastic shifts in scope that the MRP has undergone since the benefits case was completed in early 2017, as well as the considerable size of the project, CME is concerned that the IESO may be prematurely committing funds to the MRP.
 16. Business cases are a central tool in the project planning process that entities use to analyze whether certain projects or initiatives are worth undertaking by examining whether the expenditure will be outweighed by the eventual benefits.
 17. Given that the benefits and costs of the newly scoped MRP have not yet been tested, and other aspects of the original MRP were discontinued, CME submits that the Board should ensure that the IESO does not make any binding commitments to spend any further unnecessary funds on the MRP prior to the approval of the business case.

III. THE IESO'S OPERATING RESERVE SHOULD NOT BE INCREASED

18. As part of its application, the IESO is requesting permission to increase its operating reserve from \$6 million to \$10 million dollars.

⁵ OEB Staff Interrogatory #30, Exhibit I, Tab 6.0, Schedule 1.30 OEB Staff 30.

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19. In its application, the IESO justifies this request by stating that the increase is in response to the “potential volatility in spending” driven by changes in the capital requirements and project complexities as well as the MRP.⁶
20. CME finds this reasoning to be unpersuasive. Regarding its normal operations and expenditures, the IESO was unable to point to any particularly volatile projects or capital requirements that it is currently undertaking that would justify nearly doubling its operating reserve.⁷
21. Furthermore, as the result of changes to the MRP, the total scope of the project has been reduced significantly. As a result, the IESO’s MRP-related risk and volatility has decreased compared to 2018.
22. Finally, CME notes that in any instance where the existing \$6 million operating reserve is insufficient to cover the costs incurred by the IESO, the FVDA account would track the difference for future collection from ratepayers.⁸ While CME commends the IESO’s commitment to operating within its yearly revenue requirement, it submits that under-collections of up to \$4 million, (the difference between the existing operating reserve and proposed operating reserve) would not cause sufficient future rate volatility to justify a permanent increase to the amount collected from ratepayers and withheld to form the operating reserve.

IV. THE IESO’S MATERIALITY THRESHOLD

23. As part of the Board’s Decision on Motion and Procedural Order No. 4, the Board asked parties to provide submissions on whether or not the IESO should have a materiality threshold, and if so, at what level.

⁶ EB-2019-0002, Exhibit I, Tab 0, Schedule 8.02, CME #2.

⁷ When asked in CME Interrogatory #2 about what risks have materially increased between 2018 and 2019, the IESO’s response was to point out increased capital requirements and project complexities. However, they did not provide any specific project or capital requirement apart from the MRP upon which they were relying.

⁸ EB-2019-0002, Exhibit I, Tab 0, Schedule 8.02, CME #2.

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24. The IESO, in their argument-in-chief, have outlined that they believe \$4 million is an appropriate materiality threshold for the IESO, and have articulated a number of reasons why they believe the IESO ought to be treated differently from distributors when determining an appropriate materiality threshold.⁹
25. While CME does not dispute that there are differences between the IESO and a distributors, CME submits that the fundamental nature of the IESO, and its relationship to both the Board and the ratepayers of Ontario is identical to that of a distributor. Accordingly, it should have a materiality factor in line with distributors of a similar revenue requirement.

The IESO Should Have a Materiality Factor

26. The IESO, like distributors, are allowed to charge amounts to the ratepayers of Ontario in order to fund its operations. While the nature of its operations are different from those of a distributor, the fact that funding comes from ratepayers is not.
27. In exchange for the ability to charge fees to ratepayers for the provision of an essential service, the IESO has a duty to be a responsible steward of the funds that it collects. What it allocates funds to, and how much funding various initiatives get are the central matters at issue when determining whether the IESO has discharge their duty of responsible stewardship.
28. The Board, and ratepayers, through representative intervenors, are empowered to review the IESO's proposed and actual expenditures through the yearly rate application process. The effectiveness of that review is dependant on the quality and quantity of the information presented.
29. The imposition of a materiality factor will ensure that the IESO is required to provide a sufficient amount of information regarding material expenditures. This will enable the

⁹ EB-2019-0002, Argument in Chief of the Independent Electricity System Operator, p. 18-19.

Board and the ratepayers of Ontario to ensure that the IESO is managing the funds that they collect properly.

The Appropriate Materiality Threshold is \$1 Million

30. The methodology employed by the Board to determine the materiality threshold for utilities is equally applicable to the IESO. In the *Filing Requirements for Electricity Distribution Rate Applications*, the Board set out that materiality thresholds are guided by the size of the revenue requirement of the entity in question.¹⁰
31. This approach incorporates a view towards proportionality – while its important for the Board and ratepayers to see how the regulated entity is using ratepayer money, it would be impractical to try and track and account for every initiative or project in a large organization. By tying the materiality threshold to the revenue requirement, the Board is able to focus its efforts on expenditures or proposals that have a meaningful cost requirement, while still providing a comprehensive overview of the organization's efforts.
32. This is no different for the IESO, the proper balance of oversight and proportionality should be determined by the size of the organization itself, as measured by the revenue requirement. In the case of the IESO itself, the net revenue requirement sought for 2019 is \$190.8 million.¹¹ Given how close the IESO's revenue requirement is to the \$200 million dollar revenue requirement threshold set out for distributors, CME submits that a similar materiality threshold, namely \$1 million, is appropriate for the IESO as well.

V. COSTS

33. CME requests that it be awarded 100% of its reasonably incurred costs in connection with this matter.

¹⁰ Ontario Energy Board, *Filing Requirements for Electricity Distribution Rate Applications – 2018 Edition for 2019 Rate Applications*, Chapter 2 – Cost of Service, July 12, 2018, s. 2.0.8.

¹¹ EB-2019-0002, Exhibit A, Tab 1, Schedule 1, p. 2 of 5.

ALL OF WHICH IS RESPECTFULLY SUBMITTED this 25th day of October, 2019.

A handwritten signature in blue ink, appearing to read "Scott Pollock".

Emma Blanchard
Scott Pollock
Counsel for CME