

1 **IESO'S RESPONSES TO AMPCO INTERROGATORIES**

2 **AMPCO INTERROGATORY 1**

3 **INTERROGATORY**

4 Reference:

5 Affidavit of David Short Sworn October 25, 2019, Exhibit B, Capacity Update Stakeholder

6 Advisory Committee August 14, 2019.

7 Question:

8 Please confirm that the referenced document reflects the IESO's most current capacity outlook
9 information for the next decade, including any potential capacity shortfalls.

10 **RESPONSE**

11 Confirmed.

AMPCO INTERROGATORY 2

INTERROGATORY

Reference:

IESO Transitional Capacity Auction: Phase I Design Document (April 11, 2019).

Question:

Section 1.1 of the referenced document sets out the design principles that will be applied in the creation of the TCA. The second principle listed in that section is:

Competition: Provide open, fair, non-discriminatory competitive opportunities for participants to help meet evolving system needs by evolving the DRA to enable additional resources.

Please explain how the design of the TCA satisfies the cited principle in light of the fact that generators will be able to factor energy payments into their TCA bids to provide capacity whereas DR Resources will not.

RESPONSE

See response to OEB Staff 3.

AMPCO INTERROGATORY 3

INTERROGATORY

Reference:

Affidavit of David Short Sworn October 25, 2019, Exhibit I; Demand Response Working Group
19-12-2017, Utilization Payments – Discussion Paper prepared by Navigant.

Question:

Please file the Terms of Reference for engagement by the IESO of Navigant Consulting for
preparation of the referenced discussion paper.

RESPONSE

The Terms of Reference, which were introduced through a communication on January 21, 2016
and discussed at the March 29, 2016 DRWG meeting, are attached.

IESO Stakeholder Engagement

From: IESO Stakeholder Engagement
Sent: January 21, 2016 1:17 PM
To: IESO Stakeholder Engagement
Subject: Demand Response Working Group: Update

The IESO is re-launching the **Demand Response Working Group** (DRWG) and is seeking the feedback and participation of stakeholders. The IESO established the DRWG in 2014 to assist in the evolution of DR from a contracted resource into the energy market.

With the completion of the first [Demand Response Auction](#), the DRWG will become an open membership forum with an enduring advisory role to assist in the evolution of DR in the IESO-administered markets.

A draft revised [Draft Revised Terms of Reference](#) has been posted on the working group [webpage](#). Stakeholders interested in participating as a DRWG member are asked to submit an email to stakeholder.engagement@ieso.ca along with any feedback on the Terms of Reference by **February 5, 2016**. The IESO will communicate next steps after reviewing this feedback.

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This is being sent to all DR Auction stakeholders and all Demand Response Working Group stakeholders

DEMAND RESPONSE WORKING GROUP

Overview
Meeting#1

March 29, 2016

Agenda

- Overview and Context
- Terms of Reference
- Response to Feedback

Overview and Context

- The IESO established DRWG in 2014 to:
 - assist in the evolution of DR from a contracted resource into the energy market, and
 - inform the development of pilots and the DR Auction SE
- Refocus the DRWG to an open membership forum with an **enduring advisory role**
- The DRWG will assist the IESO in the evolution of DR in the IESO-administered markets

Terms of Reference

Objectives

- Advise and consult on issues which may impact demand-side participation in the IESO-administered markets
- Advise on the expansion of demand side participation in the DR Auction, including new technologies and sectors
- Ensure that learning and experience of demand resources can be applied to an improved design and features for future auctions and the eventual integration of DR into an incremental capacity auction

Terms of Reference

Composition

- Open membership
- Strive for balance from demand-side participants for participation and feedback (may vary by topic area)
 - May utilize open stakeholder sessions as needed
- May establish sub-committees for specific matters

Terms of Reference

Communications

- DRWG Webpage will be primary vehicle for communications and meeting materials
- IESO will strive to get materials at least one week in advance and minutes posted shortly following meetings
- Feedback and communications via engagement@ieso.ca

Response to Feedback -Governance

Feedback

- Appoint Co-Chair/Vice Chair from membership
- Inclusion of voting/forcing function

IESO Response

- DRWG is meant to serve an advisory role to help inform and shape DR evolution and priorities rather than a voting and/or decision-making body.
 - Governance structure for market rules already includes voting function via technical panel which is not present in conservation-related working groups
- IESO will maintain current ToR governance structure and will strive to adhere to principles of transparency, collaboration and openness.

Feedback –Areas of Study

Feedback

- Explore DR programs in other jurisdictions and look at best practices
- Identify barriers to participation and tools needed to expand DR Participation including LDC role

IESO Response

- Reducing barriers and expanding ability to participate in the auction is a key priority
- IESO will look for stakeholder input in and outside of province to understand challenges and best practices for DR

Feedback –Areas of Study

Feedback

- Develop sub-committee for CBDR issues

IESO Response

- IESO proposes to continue to treat issues related to CBDR direct with MPs on a case-by-case basis
- CBDR issues may be brought forward to DRWG where issues for consideration by a broader stakeholder are warranted

AMPCO INTERROGATORY 4

INTERROGATORY

Reference:

List of *Capacity Auction Market Rule Amendment* – materials to be filed if there is an appeal as per S.6.3 of the IESO's licence, PDF page 6, item v. materials tabled before the Board of Directors in relation to the amendment or the subject matter of the amendment; 28-08-2019 sub-heading, bullet 4:

Memorandum from Michael Lyle, Vice President, Legal Resources and Corporate Governance Chair, IESO Technical Panel RE: Recommendation from the Technical Panel on Market Rule Amendment Proposal

Question:

In the referenced document the following statement appears:

The IESO has taken the position that the proposed Phase I market rules do not unjustly discriminate against DR resources.

(a) Please detail the basis for the position taken by the IESO as reflected in this statement.

(b) Please explain whether the IESO considered; i) Transitional Capacity Auction: Phase I Design Document, April 11, 2019; and/or ii) FERC Order 745 in arriving at this position, and if so please detail those considerations.

RESPONSE

(a) See response to OEB Staff 3.

(b) See response to OEB Staff 5.

AMPCO INTERROGATORY 5

INTERROGATORY

Reference:

Affidavit of David Short Sworn October 25, 2019, Exhibit D, page 5 (also included in List of Capacity Auction Market Rule Amendment – materials to be filed if there is an appeal as per S.6.3 of the IESO’s licence; PDF page 6, Section v.); Reasons of the IESO Board in respect of an amendment to the market rules.

At page 5 (in Part 6 – Reasons) in the referenced document the following statement appears:

Lastly, relating to a technical panel process matter, the IESO Board noted that the AEMA/AMPCO joint brief was provided to the technical panel shortly before its August 13, 2019 meeting and the issue was raised as to whether the technical panel had sufficient time to consider the brief. The technical panel was provided an opportunity to delay the vote if members required more time to consider the joint brief, but the technical panel decided not to delay the matter. The IESO Board reviewed all the technical panel Materials and concluded that the technical panel exercised its discretion on an informed and reasonable basis.

Questions:

(a) Please indicate how the IESO Board determines whether the technical panel exercised its discretion on an informed and reasonable basis, including the criteria applied.

(b) Has the IESO Board made such determinations in the past?

(c) If the response to part b. of this interrogatory is yes, please provide other examples from Board of Director Reasons documents that indicate that the IESO Board has considered the veracity of the Technical Panel’s exercise of its discretion.

RESPONSE

(a) This question goes to the procedural process utilized by the IESO Board to adopt the TCA amendments. The IESO notes that matters of procedural fairness are not within the purview of the Board’s jurisdiction under section 33 of the Electricity Act, 1998 and therefore the question is out of scope.

Notwithstanding the IESO’s objection to the scope of the question, the exercise of discretion referenced in the IESO’s Board Reasons related to whether the Technical Panel had sufficient

1 time before its August 13, 2019 vote to consider the joint legal brief submitted by
2 AEMA/AMPCO. As stated in the Reasons, the Board reviewed all of the Technical Panel
3 materials and was satisfied that the Technical Panel had an opportunity to delay the vote if its
4 members required more time to consider the brief, but the Technical Panel decided not to delay
5 its vote.

6 (b) The Board's determination was made in response to a specific concern about the Technical
7 Panel's review of the AEMA/AMPCO joint legal brief (see T. Young email included in the
8 IESO's Licence Filings). It was a unique determination made in the particular circumstances of
9 the IESO Board's consideration of the proposed amendments.

10 (c) N/A

From: Terry Young
Sent: August 16, 2019 9:07 AM
To: Colin Anderson; Rachel Ingram
Cc: Michael Lyle
Subject: RE: AEMA / AMPCO Legal Brief Regarding Transitional Capacity Auction

Colin and Rachel:

Two further points for you following our discussion Wednesday at SAC on the timing of the posting of the legal brief.

First of all, as you may know the Technical Panel at its June 25 meeting requested that the draft Transitional Capacity Auction rules be posted for stakeholder comments. The deadline for submitting comments was July 9 and I would note that both AEMA and AMPCO provided comments prior to the deadline. The legal brief was subsequently submitted to us on July 19.

My second point is related to the email below and in particular the second last paragraph (highlighted) where the intent for posting was requested but no date was sought, nor was any reference made to the need for this posting prior to the Technical panel meeting being held. Rather, the request was to discuss, at our convenience, the timing of the posting. At no point did you make the request that TP be provided with the Legal Brief and in fact it was IESO staff that reached out to you to ask whether it should be provided to TP members.

We reached out to you about sharing the brief with TP on August 9 and we did schedule a meeting for August 12 and subsequently posted the material after the meeting. As I mentioned at the SAC meeting, the TP Chair also offered to delay the vote if the TP needed more time to review the letter but the TP declined that offer.

Terry

From: Colin Anderson <canderson@ampco.org>
Sent: July 19, 2019 10:30 AM
To: Peter Gregg <Peter.Gregg@ieso.ca>; Leonard Kula <leonard.kula@ieso.ca>; Terry Young <terry.young@ieso.ca>
Cc: Griffiths, Sarah (Enel X) <sarah.griffiths@enel.com>; Rachel Ingram <rachel.ingram@rodanenergy.com>; katherine@38northsolutions.com
Subject: AEMA / AMPCO Legal Brief Regarding Transitional Capacity Auction

CAUTION: This email originated from outside of the organization. Exercise caution when clicking on links or opening attachments even if you recognize the sender.

Hi Peter, Leonard and Terry,

Please find attached a legal brief written by Gowling WLG and jointly sponsored by the Advanced Energy Management Alliance (AEMA) and the Association of Major Power Consumers in Ontario (AMPCO), pursuant to each organization's involvement on the Demand Response Working Group (DRWG) and in the design of the Transitional Capacity Auction (TCA). It deals with the issue of unjust discrimination that will result from the implementation of the TCA as currently planned.

The brief clearly sets out the discrimination issue from a legal perspective, and provides a simple recommendation to remedy the problem. Given the IESO's announcement this week that it is suspending work on the Incremental Capacity Auction (ICA) as a result of an updated forecast which sees no resource constraints for the foreseeable future, there is no justification for rushing to TCA implementation prior to resolution of the recognized concerns regarding just and reasonable energy market compensation for Demand Response (DR) resources. AEMA and AMPCO are urging the IESO to defer TCA implementation to enable resolution of the DR energy market compensation issue and thus focus on getting the TCA right from its initiation, rather than undermining the historical successes of the DR Auction.

We are providing you with an advance copy of this brief so that you can review its content prior to any further action. Ultimately, we would like to post this in the public domain, but we are happy to discuss the timing of that with you, at your convenience.

AEMA and AMPCO are pleased to provide this brief to the IESO and we hope that it is found to be instructive and helpful. AEMA and AMPCO look forward to continuing to work with the IESO going forward.

Regards,
AEMA and AMPCO

AMPCO INTERROGATORY 6

INTERROGATORY

Reference:

Reference:

Affidavit of David Short dated October 25, 2019, paragraph 22 refers to the Ontario electricity market structure put in place in 2002, noting that loads do not receive energy payments under this structure.

Question:

(a) Have energy payments of any description (including, but not limited to, utilization payments) been paid to, or contemplated for, demand response resources pursuant to any of the Ontario demand response programs, contracts or other market mechanisms which preceded the IESO's Demand Response Auction?

(b) If so, please provide a full list of such programs, contracts or market mechanisms and detail the form that such energy payments or contemplated energy payments took.

RESPONSE

The Demand Response 3 program and the Capacity Based Demand Response program provided utilization payments set at fixed rate of \$200/MWh.

Demand-side resources have never received energy payments for load reduction in the IESO administered markets.

Prior to the IESO DRA, the OPA held yearly procurement processes in which qualified participants bid for contracts to curtail their electricity consumption from the Ontario electricity grid during periods of high system demand. These programs paid participants a monthly availability payment in return for the commitment to reduce facility load when called upon to do so. The final OPA contracts entered into through this procurement process, called the Demand Response 3 (DR3) contracts, included utilization payments for activations. These payments were not an energy payment, but were a component of the contractual compensation arrangement, set at a fixed rate of \$200/mwh.

After the merger of the OPA with the predecessor Independent Electricity System Operator on January 1, 2015, the IESO developed a transitional demand response program, governed by the

1 IESO's Market Rules, called the Capacity Based Demand Response ("CBDR") Program. The
2 CBDR program bridged the period from the DR3 contract expiration to the delivery date of the
3 first DRA. For that period, CBDR continued some parameters of the OPA DR Programs, while
4 integrating them with the IESO Market Rules. The fixed rate \$200/mwh utilization payment
5 was included in the CBDR program. These utilization payments were eliminated upon the
6 expiration of DR3 contracts.

7 The IESO has also proposed the introduction of out-of-market activation payments to HDR
8 resources in the TCA. These are not energy payments, but are designed to compensate HDR
9 resources for out-of-market emergency or planned test activation costs. All capacity auction
10 participants are subject to emergency operating condition activations and out-of-market testing.
11 Dispatchable load and generation resources already have access to "make whole payments" for
12 out-of-market activations, but HDR resources do not. The proposed out-of-market activation
13 payments for HDR resources will provide them with "make whole payments" for out-of-market
14 activations comparable to payments already available to other DR resources and generation
15 resources.

16

AMPCO INTERROGATORY 7

INTERROGATORY

Reference:

Numerous of the disclosure materials filed by the IESO refer to FERC Order 745, including the “net benefits test” required by the FERC to ensure that energy payments to demand response resources are in the overall public interest in any particular jurisdiction.

The Affidavit of David Short dated October 25, 2019 (also refers to FERC Order 745, and includes the following statement at paragraph 18:

In its Reasons [for adopting the Amendment] the IESO Board specifically addressed the position of AMPCO that the Amendment unjustly discriminates against demand response resources. The Board noted that AMPCO’s position “relies heavily” on Order 745 from the [FERC] which requires energy payments to demand response resources when they are dispatched subject to the condition that they meet a “net benefit requirement”. The IESO Board observed that FERC Order 745 is not determinative because:

...

b. it is unclear whether the net benefit requirement applies in Ontario, given the differences in Ontario's market design;

Question:

(a) Was the Board of Directors provided with a copy of FERC Order 745 in the course of its deliberations?

(b) Was the Board of Directors provided with any further background on, or context for, FERC Order 745 in the course of its deliberations?

(c) Please explain what specific differences in Ontario’s market design would render the net benefit requirement inapplicable?

(d) Please confirm that implementation of a net benefits test would protect the interests of Ontario’s electricity consumers, including AMPCO’s members, from any detrimental impact from extension of energy payments to demand response resources in appropriate circumstances. (If not confirmed, please provide reasons.)

1 **RESPONSE**

2 (a) The IESO Board was not provided with a copy of FERC Order 745.

3
4 (b) The IESO Board was provided with the AEMA/AMPCO Legal Brief related to FERC
5 Order 745.

6
7 (c) See the response to OEB Staff 10.

8
9 (d) See the response to OEB Staff 5.

AMPCO INTERROGATORY 8

INTERROGATORY

Reference:

Affidavit of David Short dated October 25, 2019, paragraph 18.d):

...the energy payment issue is not material because economic activations in the DRA have historically occurred in very limited circumstances and are not expected to be a material consideration for the December 2019 auction....

Questions:

(a) Please explain the process by which successful Demand Response Auction resources are activated in the energy market.

(b) Do electricity generators incur costs when dispatched in the energy market? Would energy payments compensate generators for such costs?

(c) Do demand response resources incur costs when activated in the energy market? Please confirm that there is no compensation, beyond capacity availability payments for successful Demand Response Auction resources, for such activations.

(d) Could the availability of energy payments for demand response resources affect economic activations of those resources?

(e) Has the IESO investigated the linkage between the existence of energy payments and capacity offer strategies? If so, please summarize the IESO's conclusions from such investigations.

RESPONSE

(a) See the response to OEB Staff 8(c).

(b) As the purpose of a generation facility is to generate electricity, the IESO presumes that a generator incurs costs when dispatched in the RTEM and is compensated for some or all of these costs through an energy payment.

(c) See the response to OEB Staff 2(a).

(d) See the response to OEB Staff 8(d).

- 1
- 2 (e) The IESO has not investigated the linkage between the existence of energy payments and
- 3 capacity offer strategies. The IESO is open to receiving such information as part of the Energy
- 4 Payments for Economic Activation of Demand Response Resources stakeholder engagement.

AMPCO INTERROGATORY 9

INTERROGATORY

Reference:

Affidavit of David Short dated October 25, 2019 (Short Affidavit), paragraph 27:

The IESO expects to present its draft decision and rationale on the issue [of energy payments for economic activation of demand response resources] for stakeholder review in May 2020 and render a final decision and rationale in June 2020. The IESO would then commence the market rule amendment process for any changes that are needed to implement the decision.

Exhibit K, page 8 of the Short Affidavit provides a timeline for the referenced stakeholder review.

QUESTION:

If the Ontario Energy Board determined that the market rule amendments creating the Transitional Capacity Auction (TCA) should be revoked on the basis that the IESO must resolve the issue of energy payments for demand response resources prior implementation of such amendments;

(a) What adjustments could be made to the current timeline to expedite the IESO's "Final Decision and rationale" on the issue?

(b) Please extend the timeline as potentially adjusted (pursuant to part a. of this question) to illustrate when the appropriate market rule amendments could be put in place to;

i. implement the final IESO decision and rationale, assuming that energy payments are found to be appropriate; and

ii. re-implement the revoked market rule amendments to facilitate the TCA.

(c) Please indicate the TCA schedule that could be implemented taking into consideration the timeline provided in response to part b. and of this question, and leading up to a capacity commitment period commencing June 1, 2023.

RESPONSE

(a) The current timeline is designed to allow sufficient time for stakeholder input into the study of the energy payment issue, and sufficient time for the consultant to carry out the study.

- 1
- 2 (b) The IESO does not have an estimated timeline to illustrate when potential market rule
- 3 amendments could be put in place to implement the final decision and rationale, should energy
- 4 payments be found to be warranted. This timeline would depend on the scope of such
- 5 implementation, and the findings of the study on the energy payment issue which is ongoing.
- 6
- 7 (c) See response to paragraph (b).
- 8