Ontario Energy Board | Commission de l'énergie de l'Ontario

DECISION AND ORDER

EB-2019-0002

INDEPENDENT ELECTRICITY SYSTEM OPERATOR

Application for Approval of 2019 Expenditures, Revenue Requirement, and Fees

BEFORE: Lynne Anderson
Presiding Member

Robert Dodds
Vice-Chair and Member

Susan Frank
Member

December 5, 2019

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1 INTRODUCTION AND SUMMARY

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

The IESO filed a settlement proposal for OEB approval on August 2, 2019. The settlement proposal represented a settlement between the IESO and participating intervenors on six of the 16 issues included on the approved issues list.[1] The OEB approved the settlement proposal, and in accordance with it, established a schedule for interrogatories on updated evidence pertaining to the Market Renewal Program (MRP).[2]

In this Decision and Order, the OEB addresses the ten unsettled issues identified in the settlement proposal. For the reasons that follow, the OEB approves the IESO's proposed revenue requirement of $190.8 million as well as usage fees of $1.227/MWh for domestic customers and $1.0125/MWh for export customers for 2019. The OEB approves an operating reserve of $10 million for the forecast variance and deferral account (FVDA) and the disposition of any 2018 year-end balance in the FVDA that is in excess of the $10 million operating reserve.

In addition, the OEB concludes that a materiality threshold of $4 million is appropriate for the IESO. For clarity, the materiality threshold applies to the total cost of multi-year projects, not just to the spending in the year for which the IESO is seeking expenditure approval.

[1] Decision on Issues List, March 28, 2019.
[2] Decision on Settlement Proposal and Procedural Order No. 6, August 9, 2019.

2 THE PROCESS

The following parties requested and were granted intervenor status:

- Association of Major Power Consumers in Ontario (AMPCO)
- Association of Power Producers of Ontario (APPrO)
- Building Owners and Managers Association (BOMA)
- Canadian Manufacturers & Exporters (CME)
- Electricity Distributors Association (EDA)
- Energy Probe Research Foundation (Energy Probe)
- HQ Energy Marketing Inc. (HQEM)
- Ontario Power Generation Inc. (OPG)
- Ontario Sustainable Energy Association (OSEA)
- Power Workers' Union (PWU)
- School Energy Coalition (SEC)
- Society of United Professionals (SUP)
- Vulnerable Energy Consumers Coalition (VECC)

Each of AMPCO, APPrO, BOMA, CME, Energy Probe, OSEA, SEC, and VECC applied for and were granted eligibility for cost awards.

After reviewing the submissions of intervenors on the draft issues list filed by the IESO as part of its application, the OEB approved a final issues list on March 28, 2019.

Following an interrogatory process, a settlement conference was held on July 17 and 18, 2019. The participating parties reached settlement on six of the 16 issues on the issues list. The following ten issues remained unsettled: 1.1, 1.3, 1.4, 2.1 (partial settlement), 4.1, 4.2, 5.2, 6.1, 6.2, and 6.3.[3]

In its covering letter accompanying the settlement proposal filed on August 2, 2019, the IESO requested that it be provided with two weeks in order to file updated evidence with respect to the unsettled issues and that the OEB allow for written interrogatories on the updated evidence.

[3] The intervenors that participated in the settlement conference were AMPCO, APPrO, BOMA, CME, EDA, Energy Probe, OSEA, PWU, SEC, SUP, VECC, and HQEM. The settlement proposal notes that not all of the participating intervenors took a position on all issues.

On August 7, 2019, OEB staff filed a submission on the settlement proposal. OEB staff submitted that the settlement proposal is in the public interest and that the rationale supporting the proposal is adequate.

On August 9, 2019, the OEB approved the settlement proposal and established a schedule for the IESO's filing of updated evidence as well as a subsequent interrogatory process.[4]

After the IESO responded to the interrogatories on the updated evidence, the OEB made provision for written submissions on the unsettled issues.[5]

On December 11, 2018, before the application was filed, the IESO requested that its approved 2018 usage fees be made interim from January 1, 2019 until the end of the month in which the IESO receives OEB approval of its 2019 usage fees. On December 18, 2018, the OEB granted that request.[6] The usage fees approved in this Decision and Order replace these interim usage fees.

[4] Decision on Settlement Proposal and Procedural Order No. 6.
[5] Procedural Order No. 7, September 30, 2019.
[6] Decision on Interim Fees, December 18, 2018.

3 UNSETTLED ISSUES

This Decision and Order addresses the ten issues that remained unsettled following the settlement process.

3.1 Revenue Requirement (Issue 1.1)

Issue 1.1: Is the IESO's Fiscal Year 2019 net revenue requirement of $190.8 million appropriate?

Background

The IESO proposed to maintain the same revenue requirement for 2019 as approved in 2017 and 2018 – $190.8 million.[7] The $190.8 million revenue requirement proposed for 2019 is composed of two elements: (i) core operations totaling $179.1 million and (ii) MRP totaling $11.7 million.

Intervenors primarily focused their submissions on the MRP component of the IESO's proposed revenue requirement. Specifically, several intervenors argued that spending on MRP activities should be limited to only essential requirements given that the scope of the MRP had been narrowed since the IESO's application was filed and a business plan for the MRP had not yet been approved by the IESO's board of directors. Party submissions in this regard are detailed in Section 3.7 of this Decision and Order.

OEB staff recommended that the OEB approve the $190.8 million revenue requirement on an interim basis, pending further and better evidence on the MRP and other core activities being filed in the IESO's application for 2020. OEB staff argued that, in view of the significant changes to the scope of the MRP, it was unclear to what extent the requested revenue requirement and staffing levels remained appropriate.

In its submission, VECC stated that "[g]iven the fact that 2019 will end in just more than 60 days we believe there is little value in arguing about minor changes to the revenue requirement of $190.8 million."[8]

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[7] Exhibit A/Tab 1/Schedule 1/p. 1.
[8] VECC Submission, p. 4.

Findings

The OEB approves a revenue requirement of $190.8 million for 2019. This is the same revenue requirement that was approved for 2018.

A number of intervenors questioned how the revenue requirement forecast remained the same, despite the significant changes to the IESO's plans for the MRP.

The IESO stated that the changes to the Capacity Work Stream for the MRP had different elements that were offsetting to each other with respect to the impact on the revenue requirement including:

- Underspending in operating expenses in the first half of 2019
- A $12 million reduction in capital expenditures
- Certain costs that were originally budgeted as capital expenditures now planned as operating expenses

The evidence did not show details of how these changes to capital and operating expenses flowed through to keep the revenue requirement unchanged. An appendix filed with the application showed the inclusion of $18.4 million in amortization and $5.9 million in interest with the operating, maintenance and administration (OM&A) costs, to total to the $190.8 million requested for revenue requirement.[9] This appendix was not updated as part of the updated evidence filed by the IESO on August 26, 2019 (the August Update). So it is understandable why OEB staff and intervenors questioned why the changing costs did not affect the revenue requirement. The OEB addresses information filing requirements for future applications under Section 3.8.

Despite the limited information on the calculation of the revenue requirement, the OEB accepts that there are offsetting elements to the updated budget, and the FVDA will ensure a true-up for any differences between the budgeted and actual revenue from the usage fees. Furthermore, 2019 has nearly concluded and the IESO's 2020 revenue requirement application is due to be filed as soon as the business plan is approved by the Minister of Energy, Northern Development and Mines (the Minister). The OEB concludes that the focus of future reviews should be on the 2020 expenditures, fees and revenue requirement (the 2020 Application).

[9] Exhibit B/Tab 3/Schedule 1/Attachment 3, Appendix 2-JC OM&A Programs.

In approving the revenue requirement for 2019, the OEB is not making a determination on the overall MRP. The OEB's expectations relating to the MRP are included in Section 3.7.

3.2 Staffing and Compensation (Issue 1.3)

Issue 1.3: Are the IESO's projected staffing levels and compensation (including salaries, benefits, pensions and other post-employment benefits) appropriate and reasonable?

Background

The IESO's proposed staffing levels for 2019 represent an increase of 111 full-time equivalents (FTEs) compared to 2018.[10] The IESO attributes the increase in staffing to the need for additional support required for the MRP. In its Argument-in-Chief, the IESO reiterated that the associated costs and staffing levels are needed for the IESO to deliver its business plan priority initiatives, which include:[11]

- Advancing market renewal to deliver a more competitive and efficient market to improve the way electricity is priced, scheduled and acquired
- Preparing for the future by conducting integrated planning while seeking innovative solutions that enhance reliability and help lower costs
- Investing in cybersecurity to protect the grid through leadership in cybersecurity best practices for the sector
- Broadening engagement and leveraging the IESO's role as a trusted information source to drive collaboration and inform decision-making
- Implementing conservation changes to better align the system and consumer needs and transition to the market of the future

In its submission, SUP stated that staffing levels put forward by the IESO are appropriate and justified, as is the compensation.[12] However, both SUP and VECC highlighted concerns with the total compensation study. VECC disagreed with the

[10] Exhibit I/Tab 1.3/Schedule 1.09 OEB Staff 9.
[11] IESO Argument-in-Chief, p. 4.
[12] SUP Submission, p. 1.

IESO's assertion that it is most comparable to the energy sector; VECC believes the public sector is the appropriate comparator group. SUP submitted that the peer group selected is flawed. SUP also submitted that in order to provide a reasonable market median of compensation for comparative purposes, the compensation study should be adjusted to take into account cost of living differences between peer groups, account for different provincial tax regimes as well as the value of, and impact of, increased contributions to pensions.[13]

Other parties expressed some concerns related to the staffing levels associated with the MRP given the reduction in its scope. This is illustrated by BOMA stating that in its 2020 Application, the IESO should justify, in detail, the retention of any FTEs dedicated to an expansion of the existing demand response auction, the renegotiation of non-utility generator contracts, or other specific initiatives.[14]

As further described in Section 3.6 of this Decision and Order, a total compensation study was undertaken by Mercer (Canada) Ltd. (Mercer) on behalf of the IESO, as agreed to in the approved settlement proposal in the 2017 fees case. The Mercer study found that the IESO was above the 50th percentile for its peer groups.

Energy Probe argued that there is no commitment or plan from the IESO to bring its compensation practices for the non-union group of management employees in line with industry norms. As a result, Energy Probe urged the OEB to require in its decision that the IESO 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. In addition, Energy Probe stated that the OEB should require the IESO to provide another compensation study in its 2021 application, including a comparison to the Mercer study.[15] In its reply submission, the IESO stated that it would be unnecessary to amend its total compensation practices, as submitted by Energy Probe, as the IESO's employee compensation aligns with peer group comparators.[16]

OEB staff did not object to any of the study findings, however, as the IESO is planning changes to its compensation practices to better align with peer group comparators in the energy sector, OEB staff suggested that the IESO provide a report on progress in its future revenue requirement applications. OEB staff submitted that this expectation should recognize the 2025 timeline for such efforts so that progress towards significant

[13] SUP Submission, pp. 2-4.
[14] BOMA Submission, p. 4.
[15] Energy Probe Submission, p. 5.
[16] IESO Reply Submission, p. 8.

plan changes can be appropriately monitored.[17] The IESO disagreed with OEB staff's submission to provide a report by stating it provides information about staffing costs in each revenue requirement application it files and that this can provide the means for monitoring trends in staffing costs.

Further details regarding staffing and compensation are provided in Section 3.6 of this Decision and Order.

Findings

The OEB finds that there is insufficient information to reach a conclusion on the appropriate staffing levels for the IESO. Nevertheless, the OEB concludes that it is reasonable to approve the continuation of the current revenue requirement without specifically approving the staffing levels.

The IESO has reduced its budgeted incremental staff for the Capacity Work Stream from 55 to 27, with further reductions expected in 2020.[18] The OEB agrees that it is appropriate to staff a major project through both regular and temporary employees, as planned by the IESO. However, there has been limited review of the revised plans for the MRP in this proceeding. The OEB expects to review the IESO's plans for the MRP in the proceeding for the 2020 Application.

The OEB is concerned that the IESO's total compensation is above the 50th percentile for its peer groups (11%, 22% and 18% above the 50th percentile for energy, public and private sector peer groups, respectively). The Mercer study indicates that this is primarily due to the value of pension plans. The IESO stated that it primarily competes for labour within the energy sector labour market, and that on a total cash basis, the IESO's employee compensation is aligned with the energy sector.

Regardless of why total compensation is above the 50th percentile, the OEB expects the IESO to work towards compensation that is at the market median. OEB staff submitted that the IESO should provide a report on progress in future revenue requirement applications. The IESO replied that it provides information about staffing costs in each of its applications and this provides the means for monitoring trends in staffing costs. The IESO also submitted that in its experience benchmarking studies only provide value every few years as trends become apparent. While the OEB agrees that another third party compensation benchmarking study is not required at this time, reporting on

[17] OEB Staff Submission, p. 25.
[18] Exhibit C/Tab 2/Schedule 4/p. 4.

actions taken towards reaching the 50th percentile for total compensation is expected in every IESO revenue requirement proceeding, including the results of those actions.

3.3 Capital Expenditure Budget (Issue 1.4)

Issue 1.4: Is the IESO's Capital Expenditure budget for Fiscal Year 2019 appropriate?

Background

The proposed 2019 IESO capital expenditure budget for core operations is $17.3 million while the budget for MRP, following the filing of updated evidence (August Update), is $26 million. The August Update reflected a reduction in the capital expenditure envelope from $55.3 million to $43.3 million. Parties explored the reduction in capital expenditure for the MRP following the August Update and details regarding the MRP are provided in Section 3.7 of this Decision and Order.

Energy Probe addressed the 2019 capital expenditure budget proposed by the IESO in its submission and suggested that the OEB reject it as filed. Energy Probe argued that, given the material changes occurring to the MRP, the IESO should have updated its 2019 revenue requirement application. Following this update, Energy Probe states that the IESO should have sought approval of its updated application from the Minister, which could have occurred as early as July when the impact of the changes to the MRP became known.[19]

Findings

The capital expenditures for 2019 are approved. The IESO reduced its capital expenditure budget by $12 million as part of its August Update as a result of the changing plans for the MRP.

The OEB's approval of the 2019 capital expenditure budget should not be taken as acceptance by the OEB of the revised plan for the MRP. In the Decision on Motion and Procedural Order No. 4, the OEB concluded it needed to understand the scope and decision-making for the overall MRP multi-year project in order to assess the expenditures in 2019. That overall assessment of the revised MRP has been limited, as significant changes happened to the plan well into the proceeding. However, as noted

[19] Energy Probe Submission, p. 3.

under Section 3.1, the OEB has concluded that further review of the MRP should be part of the 2020 Application. This is addressed in Section 3.7.

3.4 Usage Fees (Issue 2.1)

Issue 2.1 (partial settlement on the methodology only, but not the level of the fees): Is the methodology used to derive the proposed IESO Usage Fees and the resulting Usage Fees of $1.227/MWh for domestic customers and $1.0125/MWh for export customers appropriate?

Background

In its application, the IESO requested approval of a usage fee of $1.227/MWh for domestic customers and $1.0125/MWh for export customers. The fees approved for 2018 were $1.2402/MWh for domestic customers and $1.0115/MWh for export customers.[20] The IESO also sought approval to charge (or rebate) market participants the difference between the 2019 IESO usage fees approved by the OEB and the interim usage fees they paid, if any, based on their proportionate quantity of energy withdrawn until the end of the month in which OEB approval is received for the 2019 usage fees. Any such charges (or rebates) would be provided in the next billing cycle following the month in which OEB approval is received.

The methodology used to derive the usage fees was settled, however, the levels for each of the domestic and export usage fees were not settled. When questioned on the underlying drivers for the changes from 2018 to 2019, the IESO attributed the changes in usage fees to:

- Changing weather and economic conditions
- Higher TWh from embedded generation in 2019
- Higher forecast losses in 2019
- Decrease in withdrawals for domestic use[21]

OEB staff argued that the IESO's proposed usage fees be approved on an interim basis pending further and better evidence on the MRP and other core activities being filed as

[20] Decision on Interim Fees, EB-2018-0143, December 18, 2018.
[21] Exhibit I/Tab 2.1/Schedule 4.11 Energy Probe 11.

part of the IESO's 2020 revenue requirement application. The only other party to make a submission on usage fees was VECC, who argued that the OEB should approve the new usage fees as applied for in 2019.[22]

Findings

The usage fees of $1.227/MWh for domestic customers and $1.0125/MWh for export customers are approved. This is a small reduction to the fee for domestic customers and a small increase for export customers. The IESO used the same approach for calculating the usage fees as was approved by the OEB for the 2018 usage fees. The parties accepted this methodology as part of the settlement proposal. The usage fees are the result of applying this methodology to the revenue requirement approved under Section 3.1. The IESO shall rebate or charge customers the difference between the interim fees they paid in 2019, if any, and the final 2019 fees approved in this Decision and Order, in the manner proposed by the IESO.

3.5 Disposition of Forecast Variance Deferral Account (Issues 4.1 and 4.2)

Issue 4.1: Is the IESO's proposal to retain an Operating Reserve of $10 million in the FVDA appropriate?

Issues 4.2: Is the IESO's proposal to clear the 2018 Year-End balance in the FVDA that is in excess of the $10 million operating reserve appropriate?

Background

The IESO proposed an operating reserve of $10 million in 2019 to fund operations in the event of revenue shortfalls or unanticipated expenditures. The proposed operating reserve is approximately 5% of the IESO's proposed 2019 net revenue requirement and represents a $4 million increase from the operating reserve approved in 2018.[23] The IESO noted that the primary objective of the operating reserve, retained in the FVDA, is to fund operations if a revenue shortfall occurs or unexpected expenditures are incurred, and to minimize rate fluctuations to ratepayers as a result of such events.[24] The IESO attributes the $4 million increase from the 2018 approved operating reserve

[22] VECC Submission, p. 4.
[23] EB-2018-0143.
[24] Exhibit I/Tab 4.1/Schedule 1.18 OEB Staff 18.

to increased capital requirements and project complexities, as well as efforts pertaining to MRP, transmission capacity auctions and settlements replacement.[25]

Of the parties that addressed the IESO's operating reserve in their submissions, none supported the IESO's proposed increase to $10 million. Some parties, including CME, SEC and BOMA, stated that with the changes in scope of the MRP, the complexity, scale and risk associated with the IESO's work was reduced, and therefore an increase in the operating reserve is not warranted.[26]

Energy Probe further argued that the OEB should indicate to the IESO that any future request for an increase in its operating reserve will need to be supported by evidence on program/financial risks. VECC also argued that an increase in the IESO's operating reserve is not in the interest of ratepayers and reduces financial discipline in two ways:[27]

1) It dilutes the incentives for budgetary rigour in the development of the budget

2) It reduces management's responsibility to execute the budget efficiently by removing the disincentive inherent in the need to access other extraordinary, but undesirable, credit sources which might otherwise cause governance oversight of management

The clearance of any balance in the FVDA that is in excess of the $10 million was addressed by the IESO in its Argument-in-Chief, in which it highlighted that it was in an operating deficit position in 2018. This was attributed to an accounting policy change that resulted in a restatement of the IESO's supplemental employee retirement plans (SERP) and other post-employment benefits (OPEB) expenses back to 2010. The operating deficit position in 2018 was also attributed to a resulting restatement of the IESO's previously reported 2017 operating surplus to an operating deficit. The IESO stated that the accounting restatement confirms the merit of the proposed $10 million operating reserve.[28] OEB staff submitted that the accounting restatement could have been separated into another deficit account.[29] CME submitted that in any instance where the existing $6 million reserve is not sufficient, the FVDA would record the difference for future collection and that under-collection of up to $4 million would not

[25] Exhibit I/Tab 4.0/Schedule 3.08 VECC 8.
[26] CME Submission, p. 4, BOMA Submission, p. 6, and SEC Submission, p. 4.
[27] VECC Submission, p. 6.
[28] IESO Argument-in-Chief, pp. 9-10.
[29] OEB Staff Submission, p. 21.

cause sufficient future rate volatility to justify a permanent increase to the amount collected from ratepayers and withheld to form the operating reserve.[30]

Findings

The OEB accepts the IESO's proposal for a reserve of $10 million for the FVDA. The IESO noted that the revised $6 million operating reserve has been in place for 2017 and 2018, since the merger of the IESO with the Ontario Power Authority (OPA). For one of those two years, the $6 million operating reserve was not sufficient. The OEB finds that sufficient reason to adopt the $10 million operating reserve for the IESO. The OEB approves the disposition of the 2018 year-end balance in the FVDA that is in excess of this $10 million operating reserve as requested by the IESO, if this is a credit amount in favour of customers.[31] The surplus, if any, should be rebated to market participants in proportion to the fees collected from them in 2018, as proposed in the application.

The OEB concludes that a period of stability is also appropriate, therefore it is expected that this operating reserve will not be reviewed again for five years unless there is a material change to the operations of the IESO.

3.6 Compensation Study (Issue 5.2)

Issue 5.2: Is the Total Compensation Study for represented and non-represented staff appropriate?

Background

As noted above, the IESO agreed in the approved settlement proposal for the IESO's 2017 fees case to conduct a total compensation study for its represented and non-represented staff, excluding IESO executives. The study, conducted by Mercer, examined elements such as base salary, active employee benefits, post-retirement benefits and pensions relative to the markets that the IESO competes with for talent. The Mercer study determined that on an overall organization basis, the IESO's total remuneration, including the value of all cash compensation, benefit and pension plans is positioned 11%, 22% and 18% above the market 50th percentile for energy, public and

[30] CME Submission, p. 4.
[31] In its Argument-in-Chief, the IESO noted that the FVDA was in a deficit position, and therefore no disposition may be necessary for the 2018 balance.

private sector peer groups, respectively.[32] The IESO explained that it has negotiated significant plan changes with staff members represented by SUP in an effort to better align the IESO with its peer group comparators in the energy sector. Such changes are scheduled to become effective in 2025.

The IESO submitted that the filing of the Mercer study as part of the application meets, in all respects, its commitment in the 2017 settlement proposal regarding the undertaking of a non-executive total compensation study.[33] In its submission, OEB staff noted that the inclusion of the Mercer study aligned with the requirements parties agreed to in the 2017 settlement proposal.

Although both VECC and SUP noted several concerns related to the methodology and findings of the compensation study, Energy Probe was the only party to argue that the study did not meet the expectation established through the 2017 settlement proposal.

Further details regarding the total compensation study are provided in Section 3.2 of this Decision and Order.

Findings

The settlement proposal accepted by the OEB in the IESO's EB-2017-0150 proceeding required the IESO to hire a third party consultant to conduct a total compensation study, including all components of compensation and benefits, for its represented and non-represented staff, excluding the IESO executives. The OEB concludes that the Mercer study, filed in evidence for this proceeding, meets this requirement.

3.7 Market Renewal Project (Issues 6.1, 6.2 and 6.3)

Issue 6.1: Is the reporting on financial and operational performance of the MRP for 2017, 2018, 2019, and proposed future reporting, appropriate?

Issue 6.2: Are the IESO's forecast 2019 operational costs for the MRP appropriate in the context of the scope and timing of the overall project?

Issue 6.3: Are the IESO's forecast 2019 capital costs for the MRP appropriate in the context of the scope and timing of the overall project?

[32] Exhibit C/Tab 4/Schedule 1/Attachment 1/p. 2.
[33] IESO Argument-in-Chief, p. 11.

Background

According to the IESO's application:

> [the] MRP represents the most ambitious set of enhancements to Ontario's electricity market design since market opening in 2002. The MRP will address known issues with the existing market design and will deliver ratepayer value by meeting system needs more cost-effectively. Market renewal is about improving the way electricity is priced, scheduled and procured in order to meet Ontario's current and future electricity needs reliably, transparently, and efficiently.[34]

The MRP activities and initiatives undertaken by the IESO are organized into three Work Streams: Energy, Capacity and General. The IESO's activities pertaining to the Energy Work Stream in 2019 related to the review of stakeholder feedback on each of the draft high level designs for Single-Schedule Market, Day-Ahead Market and Enhanced Real-time Unit Commitment. The budgeted operating expenses for the Energy Work Stream in 2019 are $2.3 million and budgeted capital expenditures are $26 million.

Initial focus of the Capacity Work Stream was on the design and development of an Incremental Capacity Auction (ICA), however, on July 16, 2019, the IESO announced that it would no longer continue with the ICA high level design. Instead, the IESO said it would develop new capacity procurement options resulting in a budget reduction of $12 million for the Capacity Work Stream. The $12 million reduction results in the 2019 capital cost for the MRP to be $26 million as opposed to the original budget of $38 million. Certain costs that were scheduled to be capitalized costs were moved to OM&A.

The General Work Stream supports both the Energy and Capacity Work Streams and includes areas such as project management, control and governance, work to enable future participation in future markets, and other shared support such as recruiting. During the first half of 2019, the IESO apportioned General Work Stream spending equally between the Energy and Capacity Work Streams. However, with the revised approach to the Capacity Work Stream, resources were redirected. The IESO redirected resources primarily to the Energy Work Stream, but the General Work Stream still maintained program management as well as control and governance activities to support the Capacity Work Stream throughout 2019.[35]

[34] Exhibit C/Tab 2/Schedule 1/p. 1.
[35] IESO Argument-in-Chief, p. 17.

OEB staff as well as both CME and AMPCO expressed concern with the IESO continuing to incur MRP and ICA costs in the absence of a completed and approved business case.[36] Similarly, AMPCO, BOMA, and SEC submitted that the OEB should limit the IESO's spending on MRP activities until such time that its board of directors approves the business case.

In its reply submission, the IESO explained that the business case was approved by the IESO's board of directors on October 23, 2019.[37] Further, the IESO highlighted that it will develop a benefit and costing assessment before implementing any additional capacity auction design work beyond what has already been approved by its board of directors.[38]

APPrO submitted that the OEB should condition the approval of the IESO's expenditures on the requirement that the stakeholder engagement process addressing procurement mechanisms be open and transparent and, in particular, that the IESO include an independent cost-benefit analysis of all potential procurement approaches. APPrO further submitted that the OEB should review the effectiveness of the engagement process in the IESO's next fees case.[39]

The IESO proposed to track the Schedule Performance Index (SPI) and Cost Project Index (CPI) for 2019 against the 2019 baselines for schedule and cost. The IESO plans to track SPI and CPI for 2020 in the same manner. AMPCO submitted that the SPI and CPI should be tracked against a baseline schedule and budget for the project as a whole. AMPCO also submitted that as the IESO does not have a baseline schedule and budget for years beyond 2019, once the baseline schedule and budget for the entire project is available, the SPI and CPI should be reset on this basis.[40] Similarly, SEC submitted that the OEB should require the IESO to file a baseline budget and schedule for the entire project for CPI and SPI purposes as soon as practical.[41] The IESO noted that it will report on annual CPI and SPI for MRP work completed in 2019, in its 2020 Application. Also, the IESO submitted that in addition to providing the 2020 MRP Cost Report within its annual filing, it will be assessing its reporting on MRP as a whole.[42]

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[36] OEB Staff Submission, p. 12, CME Submission, p. 3, and AMPCO Submission, p. 2.
[37] For context, submissions from parties were due on October 25, 2019.
[38] IESO Reply Submission, p. 19.
[39] APPrO Submission, p. 2.
[40] AMPCO Submission, p. 4.
[41] SEC Submission, p. 4.
[42] IESO Reply Submission, p. 20.

The IESO did not indicate if the assessment of MRP reporting would be included in a future filing.

Findings

The OEB expects the overall MRP to be assessed as part of the 2020 Application.

Intervenors argued that it is important to review the approved business case for the MRP before further spending commitments are made. In its reply submission, the IESO advised that the MRP Energy Business Case (Business Case) was approved by its board of directors on October 23, 2019. This Business Case has not yet been filed with the OEB, and therefore has not been assessed.[43] It also appears to be solely related to the Energy Work Stream, even though the IESO has stated that the Capacity Work Stream remains part of the MRP.[44]

In approving the IESO's business plan,[45] the Minister stated that he expects future MRP 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. Consistent with this direction, the OEB plans to reassess the MRP as part of the 2020 Application. The OEB expects that the 2020 Application will include a business case for the MRP that has been approved by the IESO board of directors.

In the EB-2017-0150 proceeding, the OEB established the requirement that the IESO track specific performance measures for the MRP in order to monitor how effectively the IESO is achieving the key objectives of the project. The OEB required the IESO to incorporate the specific quantitative project performance measures of CPI and SPI for each year into the IESO's scorecard. While this requirement was to be reported each year, the OEB's expectation was that the CPI and SPI would be calculated against a baseline budget and schedule for the overall MRP. The IESO's current approach resets the budget each year for the MRP and measures against the revised budget. This approach does not facilitate the effective assessment of whether the MRP is proceeding according to schedule and budget. The IESO submitted that it will be assessing its reporting on the MRP as a whole, but no specific proposal was provided.

The OEB requires the IESO to develop an overall baseline budget and schedule for each year of the MRP, and to report the CPI and SPI annually against this baseline

[43] A link to the IESO's website was provided as part of its reply submission, but with the filing of the reply submission, the record for the proceeding was closed so there was no assessment of the information.
[44] Interrogatory Response OEB Staff-29.
[45] Approved December 11, 2018. Exhibit A/Tab 2/Schedule 3/p. 1.

budget and schedule in its 2020 Application, and in subsequent applications as applicable.

3.8 Materiality Threshold and Filing Requirements

Background

As part of the OEB's Decision on Motion and Procedural Order No. 4, to clarify matters for future proceedings, the OEB invited submissions on whether it is appropriate to establish a materiality threshold for the IESO, and if so at what level. The IESO submitted that different considerations apply to the issue of a materiality threshold for it than for regulated utilities. Considerations identified by the IESO included, but were not limited to, that the governing legislation provides that the business and affairs of the IESO are to be carried on without the purpose of gain and the business plan is reviewed and approved by the Minister before the IESO files its application with the OEB.[46] No party argued that it would *not* be appropriate to establish a materiality threshold for the IESO.

The IESO proposed that a materiality threshold for capital projects with a total cost in excess of $4 million would be appropriate. The $4 million threshold is consistent with the internal thresholds the IESO uses to determine if board of directors' approval is required for a project.[47]

Several intervenors argued that the same materiality threshold that is applied to electricity distributors should be applied to the IESO (i.e., that a materiality threshold of approximately $1 million should be established based on its revenue requirement).[48] Similarly, OEB staff submitted that the materiality threshold of an electricity distributor could be used, but also suggested that if the IESO's revenue requirement exceeded $200 million, the materiality threshold of an electricity transmitter could be used.[49] In the alternative, OEB staff submitted that given its consistency with the IESO's internal board of directors' approval threshold, a materiality threshold of $4 million may be reasonable. This materiality threshold could then be revisited in future IESO revenue requirement

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[46] IESO Argument-in-Chief, p. 18.
[47] IESO Argument-in-Chief, p. 19.
[48] The materiality threshold for electricity distributors with a distribution revenue requirement of more than $200 million is $1 million.
[49] OEB Staff Submission, pp. 27-28.

applications to determine whether the level is appropriate after some experience has been gained with the threshold and types of projects undertaken by the IESO.

The IESO argued that "…analogies to transmitters and distributors simply look past the fundamental differences between regulated utilities and the IESO and are in no way based on the IESO's role, responsibilities or circumstances".[50] The IESO submitted that the OEB could implement a materiality threshold of $4 million given its consistency with the threshold for IESO board of directors' approval.

In addition to addressing the need for, and level of, a materiality threshold, some intervenors highlighted difficulties with attaining information with regards to the IESO's spending, capital projects, and year-to-year variances. BOMA submitted that the OEB should establish a requirement/develop guidelines for the IESO's expenditures/revenue requirements applications.

Findings

The OEB concludes that a materiality threshold of $4 million is appropriate for the IESO. This is aligned with the current threshold that is used by the IESO to determine if approval of its board of directors is required for a project.

For any project that exceeds this materiality threshold, the OEB expects that a business case will be filed that includes as a minimum: the purpose of the project, the outcomes that the IESO is expecting, the rationale to proceed with the project, options considered, the approach to completing the project (e.g., build in-house versus purchase), a risk assessment, and the governance for the project including performance reporting.

This materiality threshold applies to the total cost of multi-year projects, not just to the spending in the year for which the IESO is seeking expenditure approval. The OEB requires the business case for the overall project in order to assess the proposed expenditure for the current year.

As noted in Section 3.1, one enhancement to future applications is expected to be better information on the calculation of the revenue requirement. The IESO has also committed to providing enhanced clarity around the IESO's Adjustment Account by filing evidence to delineate spending between the Adjustment Account and the usage fees. Furthermore, as determined in Section 3.2, the OEB requires the IESO to report in every IESO revenue requirement proceeding on the actions taken towards reaching the

[50] IESO Reply Submission, p. 22.

50th percentile for total compensation. Finally, as determined in Section 3.7, the IESO is expected to file a business case for the MRP, and the details necessary for the OEB to assess the progress and plans for the MRP. The OEB expects all of these aspects to be part of the 2020 Application.

The OEB currently does not have filing requirements for the IESO applications as it does for other sectors. The OEB sees merit in developing filing requirements to clarify the OEB's expectations for evidence to be filed in support of the IESO's applications. The OEB has now had three proceedings for the IESO since the merger with the OPA (2017, 2018 and 2019), and therefore there is good experience on the information necessary to be filed to support an application. The OEB will investigate developing detailed filing requirements to be used for future IESO fees cases.

4 ORDER

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. The IESO shall charge usage fees of $1.227/MWh for domestic customers and $1.0125/MWh for export customers, effective January 1, 2019.

2. The IESO's expenditures for 2019 and associated revenue requirement of $190.8 million are approved.

3. The IESO shall file a business case for the Market Renewal Program with its application for 2020 expenditures, revenue requirement and fees.

4. The IESO shall develop an overall baseline budget and schedule for each year of the Market Renewal Project, and include Cost Project Index and Schedule Performance Index metrics against this baseline schedule and budget in its 2020 Application, and in subsequent applications as applicable.

5. The IESO shall, as part of all future expenditures, revenue requirement, and fees applications, report on the progress made towards reaching the 50th percentile for total compensation.

6. The IESO shall dispose of the 2018 year-end balance in the forecast variance deferral account amounts in excess of the approved $10 million operating reserve, if the balance is in a credit amount in favour of customers, in the manner proposed in the application.

7. The IESO shall rebate or charge market participants the difference between the IESO usage fees approved in item 1 of this Order and the interim usage fees they paid in 2019, if any, in the manner proposed in the application.

8. Eligible intervenors shall file with the OEB, and forward to the IESO, their respective cost claims by December 10, 2019.

9. The IESO shall filed with the OEB, and forward to eligible intervenors, any objections to the claimed costs by December 23, 2019.

10. Eligible intervenors shall file with the OEB, and forward to the IESO, any responses to any objections to cost claims by January 7, 2020.

11. The IESO shall pay the OEB's costs of and incidental to this proceeding upon receipt of the OEB's invoice.

DATED at Toronto December 5, 2019

ONTARIO ENERGY BOARD

Original Signed By

Christine E. Long
Registrar and Board Secretary