



**Resolute FP Canada Inc.**

**Application by Resolute FP Canada Inc. for an order  
directing the Independent Electricity System Operator  
to amend the Market Rules relating to  
the qualifications for participating in Demand Response Auctions**

**PROCEDURAL ORDER NO. 4  
January 21, 2020**

On August 7, 2019, Resolute FP Canada Inc. (Resolute) applied to the Ontario Energy Board (OEB), pursuant to section 35 of the Electricity Act, 1998 (Act), for an order directing the Independent Electricity System Operator (IESO) to amend sections 18.2.1 and 19.2.1 of Chapter 7 of the IESO's Market Rules (DR Qualification Rules) (Application). These market rules address the qualifications for participating in the IESO's Demand Response Auctions.

On December 6, 2019, the OEB issued a Decision on Issues List and Procedural Order No. 2 (Decision and PO No. 2) which, among other things, ordered the IESO to file all materials that were before the IESO's Technical Panel and Board of Directors related to the IESO's review of the market rule amendment proposal made by Resolute for the purposes of section 35(4) of the Act. Decision and PO No. 2 also made provision for the filing of interrogatories on that material as well as on Resolute's Application material by January 17, 2020, and for responses to interrogatories by January 31, 2020.

On December 13, 2019, Resolute filed a letter with the OEB advising that it proposed to file evidence with respect to the purpose and effect of the DR Qualification Rules by December 20, 2019. Resolute noted that the filing of evidence by Resolute had not yet been addressed by the OEB.

The OEB issued Procedural Order No. 3 (PO No. 3) on December 17, 2019 providing the opportunity for Resolute, other parties and OEB staff to file evidence consistent with the approved Issues List by December 20, 2019.

On December 20, 2019, the IESO filed a letter requesting an extension of the deadline to file its evidence until a reasonable period of time following the delivery of Resolute's evidence, stating that it was unable to determine the nature or totality of its evidence that might be relevant to the OEB's determination of the Application without first seeing Resolute's evidence.

On December 20, 2019, the OEB issued a letter denying the IESO's request for an extension, stating that the OEB does not consider it necessary for the IESO to review Resolute's evidence before submitting its own evidence, and that all parties and OEB staff have the opportunity, through the interrogatory process, to request any relevant information with respect to evidence filed by any party or OEB staff.

On January 6, 2020, the IESO filed a Notice of Motion under Rule 40 of the OEB's *Rules of Practice and Procedure* (Rules) requesting that the OEB review and vary the portions of PO No. 3 regarding the filing of evidence such that the IESO be provided with an extension to file and serve its evidence 30 days after the date the OEB renders its decision on the Motion.

In its Notice of Motion, the IESO stated that, given the three-day deadline set out in PO No. 3, it was not in a position to file any evidence on December 20, 2019 other than the materials that it was ordered to file in Decision and PO No. 2. The IESO identified a number of errors that it asserts were committed by the OEB in setting the deadline for the delivery of evidence by all parties in PO No. 3, and submitted that the deadline set out in PO No. 3 significantly prejudices its ability to effectively assert its position and fairly participate in this proceeding. The IESO also submitted that the interrogatory process would not be sufficient to ensure that relevant evidence is before the OEB. A non-exhaustive list of the evidence that the IESO intends to file was also included in the Notice of Motion.

On January 16, 2020, the parties were advised that the OEB is deferring the date for the submission of interrogatories that was identified in Decision and PO No. 2 given that the matter of the IESO's Notice of Motion was pending.

As indicated in the IESO's Notice of Motion, when the OEB issued PO No. 3 it was unaware of the IESO's intention to file evidence in response to the evidence filed by Resolute, beyond the materials that the IESO was ordered to file in Decision and PO No. 2.

While the IESO's Notice of Motion is framed as a motion to review, it relates exclusively to procedural aspects of this proceeding. The OEB considers it efficient in this case to proceed under Rule 4.01 of the Rules, which states that the OEB may at any time in a

proceeding make orders with respect to the procedure and practices that apply in the proceeding, rather than under Part VII of the Rules.

The OEB will allow the IESO, as well as all other parties and OEB staff, a further opportunity to file evidence in the interests of having a more complete evidentiary record in this proceeding. The OEB wishes to emphasize that any evidence to be filed must be directly relevant to the issues on the approved Issues List. To facilitate the OEB's review of the evidence, parties that file evidence must file a compendium of their evidence with a table of contents or index which:

- identifies the tab where each piece of evidence is found in the compendium
- provides a high-level description of each piece of evidence
- identifies the issue(s) on the approved Issues List to which each item of evidence relates

The OEB expects Resolute to file a similar table of contents or index for the evidence it filed on December 20, 2019, in order to identify the issue(s) to which each item of evidence relates.

The OEB is also making provision for revised dates for the filing of interrogatories and interrogatory responses on all evidence filed in this proceeding to date and in response to this Procedural Order.

All procedural steps and timelines related to (i) the filing of interrogatories and responses to interrogatories set out in Decision and PO No. 2 and PO No. 3 and (ii) the filing of evidence set out in PO No. 3 are superseded by the steps and timelines set out below.

**THE ONTARIO ENERGY BOARD ORDERS THAT:**

1. If any party or OEB staff wishes to file evidence, that evidence shall be prepared in accordance with the directions provided in this Procedural Order and filed with the OEB and served on all parties by **February 20, 2020**.
2. If any party or OEB staff wishes to request any relevant information and documentation with respect to any evidence filed by any party or OEB staff in this proceeding to date and in response to this Procedural Order, they shall file written interrogatories with the OEB and serve them on all parties by **March 5, 2020**.

3. Parties and OEB staff shall file with the OEB complete written responses to any interrogatories received and serve them on all parties by **March 26, 2020**.

All materials filed with the OEB must quote the file number, EB-2019-0206, be made in a searchable/unrestricted PDF format and sent electronically through the OEB's web portal at <https://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 email address. Parties must use the document naming conventions and document submission standards outlined in the RESS Document Guideline found at <https://www.oeb.ca/industry>. If the web portal is not available parties may email their documents to the address below. Those who do not have computer access are required to file seven 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 Manager, Michael Bell at [Michael.Bell@oeb.ca](mailto:Michael.Bell@oeb.ca) and OEB Counsel, Ljuba Djurdjevic at [Ljuba.Djurdjevic@oeb.ca](mailto:Ljuba.Djurdjevic@oeb.ca).

### **ADDRESS**

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**DATED** at Toronto, **January 21, 2020**

**ONTARIO ENERGY BOARD**

*Original signed by*

Christine E. Long  
Registrar and Board Secretary