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**BY EMAIL**

October 20, 2021

Ms. Christine E. Long  
Registrar  
Ontario Energy Board  
2300 Yonge Street, 27<sup>th</sup> Floor  
Toronto ON M4P 1E4  
[Registrar@oeb.ca](mailto:Registrar@oeb.ca)

Dear Ms. Long:

**Re: Ontario Energy Board (OEB) Staff Submission on Settlement Proposal  
Independent Electricity System Operator  
Application for approval of 2020 and 2021 revenue requirement,  
expenditures and fees  
OEB File Number: EB-2020-0230**

In accordance with Procedural Order No. 1, please find attached the OEB staff submission on the Settlement Proposal dated October 12, 2021 filed by the IESO in the above referenced proceeding.

Yours truly,

*Original Signed By*

Andrew Bishop  
Project Advisor, Generation & Transmission

Encl.

cc: Parties to EB-2020-0230



# **ONTARIO ENERGY BOARD**

## **OEB Staff Submission on Settlement Proposal**

**Independent Electricity System Operator**

**Application for approval of 2020 and 2021 revenue requirement,  
expenditures and fees**

**EB-2020-0230**

**October 20, 2021**

## **Background**

On May 27, 2021, the Independent Electricity System Operator (IESO) filed an application with the Ontario Energy Board (OEB) under section 25(1) of the *Electricity Act, 1998*, seeking approval of its 2020 and 2021 expenditures, revenue requirement and fees (Application).

For 2020, the IESO proposed a revenue requirement of \$188.6 million which represents the actual amount of usage fee revenue collected by the IESO from both domestic and export customers in 2020. The revenue requirement is comprised of the IESO's actual 2020 operating expenditures of \$186.3 million and the IESO's request that it retain the remaining \$2.3 million in the Forecast Variance Deferral Account (FVDA). The IESO's application also included a request for approval of its 2020 capital expenditures of \$52 million.

For 2021, the IESO proposed a revenue requirement of \$191.8 million that will be funded through usage fee revenue collected from both domestic and export customers. The IESO's application also included requests for approval of its proposed 2021 capital expenditure envelope of \$68.6 million and approval to charge registration fees of up to \$50,000 per proposal for electricity supply and capacity procurements, including ancillary services.

The IESO has also requested that the January 1, 2021 balance of \$1.3 million be retained in the FVDA. The Application states that the IESO is deferring further recovery of the depleted FVDA (relative to the \$10 million operating reserve approved by the OEB for retention<sup>1</sup>) to future revenue requirement applications.

## **Status of Issues**

A settlement conference was held on September 15, 17 and 20, 2021. The IESO and the following intervenors participated in the settlement conference: Association of Major Power Consumers in Ontario (AMPCO), Association of Power Producers of Ontario (APPrO), Canadian Manufacturers & Exporters (CME), Canadian Renewable Energy Association, Energy Storage Canada, Ontario Waterpower Association, Electricity Distributors Association (EDA), Energy Probe Research Foundation (Energy Probe), Environmental Defence (ED), HQ Energy Marketing Inc. (HQEM), Ontario Sustainable Energy Association (OSEA), Power Workers' Union (PWU), School Energy Coalition (SEC), and Society of United Professionals Local 160 (SUP), and Vulnerable Energy Consumers Coalition (VECC) (the Parties).

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<sup>1</sup> EB-2019-0002: OEB Decision and Order, December 5, 2019

The IESO filed a settlement proposal on October 12, 2021 (Settlement Proposal). All of the Parties supported the settlement proposal except for HQEM and PWU who took no position on the settlement proposal, and ED, EDA and SUP who only took positions on certain issues in the settlement proposal.<sup>2</sup>

The Settlement Proposal reflects a comprehensive settlement on all issues included on the OEB approved Issues List<sup>3</sup> except for Issue 3.1, which the Parties have agreed to defer consideration of until the IESO files additional evidence. The Settlement Proposal recommends a supplemental process once the additional evidence is filed (expected in the first quarter of 2022).

OEB staff's submission comments on two aspects of the Settlement Proposal: whether the settlement represents an acceptable outcome from a public interest perspective, and whether the accompanying explanation and rationale is adequate to support the settlement. OEB staff discusses both aspects below.

### **Submission**

OEB staff submits that the Settlement Proposal is in the public interest, and that the accompanying explanation and rationale is adequate to support the Settlement Proposal. OEB staff's submission provides reasons for OEB staff's position by commenting on its most material aspects, rather than examining each issue on the approved issues list individually.

For the following reasons, OEB staff supports the agreement reached by the Parties:

- The Application appears to be consistent from both a budget and objectives perspective with the IESO's Minister-approved Business Plan.
- The Parties have provided sufficient explanation in the Settlement Proposal for why the agreed upon resolution is appropriate, including by citing the applicable sections of the evidence.
- The IESO's proposed 2020 and 2021 revenue requirements of \$188.6 million and \$191.8 million, respectively, which were accepted by the Parties, appear reasonable. The proposed revenue requirements are generally consistent with those previously approved by the OEB. The 2020 and 2021 budgets represent a \$2.2 million decrease and \$1.0 million increase, respectively, compared to the

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<sup>2</sup> The Settlement Proposal specifies that ED only takes a position on Issue 3.1, that HQEM and PWU take no position on all of the issues, that the EDA only takes a position on issues 2.1, 2.2, 3.1, and 4.2, and SUP takes no position with respect to Issues 1.1, 1.2, 1.3, 1.4 and 5.1.

<sup>3</sup> The OEB approved issues list as provided through the Decision on Issues List dated August 12, 2021.

IESO's OEB approved 2019 budget of \$190.8 million. Further, OEB staff is of the view that through the course of the proceeding the IESO has provided evidence to support the IESO's previous and planned activities in 2020 and 2021 to support their expenditures. OEB staff notes that the IESO had previously committed to reviewing its strategy on how it intends to collect the incremental \$31.3 million associated with its accounting policy changes in 2018.<sup>4</sup> In the context of the Settlement Proposal, OEB staff does not object to the public sector accounting standards (PSAS) Transition Item Recovery of \$3.3 million through the IESO's proposed 2020 and 2021 revenue requirements. However, OEB staff suggests that as part of its next revenue requirement proceeding, it would be helpful to the OEB and parties for the IESO to fulfill its commitment by clearly outlining its proposal for how it intends to recover the \$31.3 million amount and why that strategy is appropriate. OEB staff intends to further explore this issue in the IESO's next revenue requirement proceeding by seeking clarity on, amongst other things, why certain amounts are included in the FVDA as period charges in 2018, instead of grouping all amounts with those recorded in the PSAS Transition Item – Accumulated Deficit account, which is recovered over a long-term period.

- The IESO's proposed 2020 and 2021 capital expenditure envelopes of \$52.0 million and \$68.6 million, respectively, which were accepted by the Parties, appear reasonable. The proposed 2020 amount represents the IESO's actual 2020 capital expenditures whereas the 2021 amount represents a forecast. The IESO has filed business cases for each capital project that exceeds the \$4 million threshold as part of its application, in accordance with the Decision and Order on the IESO's 2019 revenue requirement application. The IESO has provided an understanding of the IESO's previous and planned capital plans for 2020 and 2021.
- In the OEB-approved settlement proposal from the 2018 revenue requirement proceeding, the IESO agreed that it would "do all it reasonably can to ensure that it files a full revenue requirement submission 60 days before the beginning of the fiscal year as set out in section 25(1) of the Electricity Act."<sup>5</sup> The Application notes that the IESO is investigating the potential implementation of a three-year business plan and revenue requirement application approvals process, and the Settlement Proposal indicates that Parties "strongly support" the move to a three-year planning process and encourages the IESO to do so "as soon as possible".<sup>6</sup>

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<sup>4</sup> EB-2019-0002; OEB Staff Interrogatory 4, April 30, 2019

<sup>5</sup> EB-2018-0143: Settlement Proposal, p. 10

<sup>6</sup> EB-2020-0230: Settlement Proposal, p. 7

In OEB staff's view, the IESO's continued investigation of a three-year revenue requirement application is responsive to the commitment in the 2018 settlement proposal. In his letter approving the IESO's 2020-2022 Business Plan, the Minister requested that the IESO "...work with my staff and the Ontario Energy Board on further exploring implementation of [a multi-year revenue requirement] process."

- The OEB's Decision and Order on the IESO's 2019 revenue requirement application directed the IESO to report on actions taken towards reaching the 50<sup>th</sup> percentile for total compensation, including the results of those actions. The Settlement Proposal indicates that Parties are satisfied that the IESO has sufficiently reported on its progress in the Application. The Settlement Proposal establishes that the IESO include the following in its next revenue requirement application:
  - An updated total compensation study,
  - A report on progress made towards reaching the 50<sup>th</sup> percentile for total compensation, and
  - A forward-looking itemized plan identifying how the IESO proposes to make progress towards reaching the 50<sup>th</sup> percentile for total compensation, including incremental steps taken or planned to be taken.<sup>7</sup>

OEB staff is also satisfied that the requested pension and OPEB amounts for 2020 and 2021 are appropriate because relative to the 2019 OEB-approved revenue requirement, it is apparent that the IESO has offset some of the pension and OPEB increases by executing other savings and cost reductions.<sup>8</sup>

In addition, OEB staff supports the inclusion of the above additional information in the IESO's next revenue requirement application which will allow for continued scrutiny of the IESO's compensation envelope. OEB staff has observed that these costs have risen significantly (the difference between 2020 actual and 2019 OEB-approved is an increase of \$4.6 million, or 25.8%), and should therefore continue to be a focus of review in subsequent IESO revenue requirement applications.<sup>9</sup>

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<sup>7</sup> EB-2020-0230: Settlement Proposal, p. 19

<sup>8</sup> The 2019 OEB-approved revenue requirement is \$190.8 million. IESO's proposed 2020 revenue requirement is \$188.6 million and 2021 revenue requirement is \$191.8 million. 2020 is a decrease of \$2.2 million versus 2019 OEB-approved; 2021 is an increase of \$1.0 million versus 2019 OEB-approved.

<sup>9</sup> OEB Staff Clarification 4.

- The Settlement Proposal indicates that the Parties have agreed to defer consideration of the proposed fee of up to \$50,000 per submission for electricity supply and capacity procurements, including ancillary services, until after the IESO has developed a more detailed fee structure and completed its related stakeholder engagement efforts. As stated in the Settlement Proposal, deferring consideration of the proposed fee will allow the IESO an opportunity to conduct additional stakeholder engagement and include the outcomes in evidence, while also maintaining the schedule for acquiring capacity through related procurements. In OEB staff's view, the proposed approach appropriately balances intervenor's desire for additional information and the IESO's desire to establish an acceptable fee structure prior to initiating applicable procurements.

The Parties have jointly proposed a supplemental process to review this new evidence and any proposed fee structure that may result for the OEB's consideration. OEB staff supports the proposed process that is expected to conclude in the first quarter of 2022.

- The Settlement Proposal requires the IESO to conduct a review of the OEB approved cost allocation model that is used to derive both domestic and export usage fees.<sup>10</sup> The results of this review are to be filed in the IESO's next revenue requirement submission, including any proposed changes.

OEB staff is of the view that reviewing the IESO cost allocation model is appropriate given the number of organizational changes the IESO has undergone since the model was originally approved, including, but not limited to, the addition of the Market Renewal Division. The purpose of the comprehensive review of the cost allocation model is to ensure it remains an effective tool for determining domestic and export usage fees.

- The Settlement Proposal indicates that the Parties have accepted the IESO's actual 2020 and forecast 2021 operational and capital costs for the Market Renewal Program (MRP). With respect to the MRP, the Settlement Proposal also specifies that the IESO will:
  - As part of all future expenditures, revenue requirement and fees applications, file a more detailed breakdown of MRP Operating, Maintenance and Administrative (OM&A) costs, and

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<sup>10</sup> The cost allocation model was approved in the 2016 IESO revenue requirement proceeding (EB-2015-0275).

- Publicly release its plan for market participant readiness by the end of 2021.

OEB staff agrees that the additional level of transparency provided by more detailed OM&A reporting will be of benefit to both the OEB and parties to future proceedings by enabling a more comprehensive understanding of the IESO's MRP related activities and most notably, the reasonableness of their associated costs. This level of reporting is also consistent with previous OEB decisions that directed the IESO to provide detailed MRP-related actual and budgeted capital and operating costs in future revenue requirement submissions.<sup>11</sup>

Similarly, OEB staff sees value in the IESO's publication of its market readiness plan (Plan) by the end of 2021. The Plan is expected to provide important insights to stakeholders on the actions the IESO will undertake to prepare current and future market participants for the changes being brought on by the MRP, and, presumably, an opportunity to comment on the sufficiency of the IESO's actions prior to MRP rollout. The overall effect of early engagement of stakeholders on this important matter should be improved MRP implementation.

The Settlement Proposal notes that "[c]ertain intervenors raised concerns about the IESO's MRP risk mitigation strategy pertaining to possible MRP market rule amendment challenges that may be brought by market participants to the OEB". It further explains:

Based on the evidence filed by the IESO in this application, the IESO intends as part of its MRP risk mitigation strategy to address the impacts of a challenge of MRP rules at the OEB, to have certain meetings with OEB Staff for the purpose of strengthening the OEB's understanding of the foundational changes for MRP. For transparency purposes, intervenors requested that the IESO agree that for any meetings with OEB related to potential MRP market rule amendment review/appeal applications, it will post publicly any meeting agendas and materials that relate to that issue. The IESO did not agree to this request on the basis that it fell outside the scope of the issues of this application. Although this commitment has not been agreed to, it was important for certain intervenors that the underlying concern be noted on the record. For clarity, the Parties agree that issue 4.2 is settled.

It is clear from the passage above that, although "it was important for certain intervenors that the underlying concern be noted on the record", the MRP-related issues are settled and there is no dispute that needs to be resolved in this case. OEB staff would add, for the record, that we are in agreement with the IESO that

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<sup>11</sup> EB-2017-0150



this particular request by certain intervenors would be beyond the scope of this case, as defined in the August 12, 2021 Decision on Issues List. In any event, Commissioners should generally be wary of imposing limits in an adjudicative proceeding on the ability of regulated entities to interact with OEB staff, as in our experience, such interactions can be useful for both the regulated entity and OEB staff, as well as to regulatory efficiency and effectiveness more broadly, which are two of the strategic themes guiding the OEB's Strategic Plan.<sup>12</sup>

- The Settlement Proposal specifies that the IESO has agreed to include in its next revenue requirement application information that will provide added transparency into its operations, and the costs it incurs to deliver on specific aspects of its mandate. The additional information to be provided includes:
  - A 3-year work plan related to the IESO's innovation initiatives and the costs to deliver the plan;<sup>13</sup>
  - Descriptions of all internal audit reports undertaken, resulting recommendations, and the implementation status of recommendations;
  - General descriptions of the types of insurance the IESO has and the costs of each type of insurance; and
  - With respect to Market Surveillance Panel (MSP) recommendations, the latest OEB Annual Status Update and a link between the MSP's recommendations and spending in that revenue requirement submission.

In OEB staff's view, the IESO's agreement to provide the above information demonstrates its commitment to continue to provide Parties with the evidence necessary to assess the reasonableness of future revenue requirement requests. OEB staff therefore supports the inclusion of this additional information.

All of which is respectfully submitted.

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<sup>12</sup> <https://www.oeb.ca/sites/default/files/OEB-Strategic-Plan-2021-22-to-2025-26.pdf>

<sup>13</sup> Examples include the IESO's Grid Innovation Fund, Conservation Fund and Technology Development Fund Project