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May 21, 2024

Nancy Marconi  
Registrar  
Ontario Energy Board  
2300 Yonge Street, P.O. Box 2319  
Toronto ON, M4P 1E4

Dear Ms. Marconi,

**RE: EB-2024-0004 IESO Application for 2024 and 2025 Fees, Expenditures, and Revenue Requirements – Argument of Energy Probe**

Attached is the Argument of Energy Probe Research Foundation (Energy Probe) in the EB-2024-0004 IESO Application for 2024 and 2025 Fees, Expenditures, and Revenue Requirements proceeding.

Respectfully submitted on behalf of Energy Probe.

Tom Ladanyi  
TL Energy Regulatory Consultants Inc.

cc. Patricia Adams (Energy Probe)  
Parties to the Proceeding

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**ONTARIO ENERGY BOARD**

**IN THE MATTER OF** section 25(1) of the Electricity Act, 1998, S.O. 1998, c. 15S

**AND IN THE MATTER OF** an application by the Independent Electricity System Operator to modify its revenue requirements, expenditures, and usage fees for fiscal years 2024 and 2025.

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**IESO Application for 2024 and 2025 Fees, Expenditures, and Revenue Requirements**

**Energy Probe Argument**

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**May 21, 2024**

# **IESO Application for 2024 and 2025 Fees, Expenditures, and Revenue Requirements**

## **Energy Probe Argument**

### **Executive Summary**

Energy Probe submits that the OEB should not approve the IESO's application for increases in 2024 and 2025 fees, expenditures, and revenue requirements for the following reasons.

The application is for adjustments to 2024 and 2025 fees, expenditures, and revenue requirements previously approved in the EB-2022-0318 Decision which included in the OEB approved Settlement Agreement an adjustment mechanism for 2024 and 2025. The application does not meet the condition for adjustment that the balance in the FDVA at the end of 2023 be negative.

According to the IESO, the increases are required to meet the seven initiatives listed in the letter from the Minister of Energy to the IESO of July 10, 2023. Even though IESO received the letter prior to the submission of the Settlement Proposal to the OEB on July 21, it did not disclose the letter to the intervenors or the OEB until December 8, 2023.

There is insufficient evidence on the record for the OEB to approve the requested 2024 and 2025 increases.

### **Regulatory Background**

The Independent Electricity System Operator (IESO) filed an application with the Ontario Energy Board on January 12, 2024, seeking approval to modify its revenue requirements, expenditures, and usage fees for fiscal years 2024 and 2025. The OEB previously approved a settlement proposal for the IESO's 2023, 2024 and 2025 revenue requirement, expenditures, and fees. The IESO stated that its incremental funding request for fiscal years 2024 and 2025 is intended to support specific initiatives outlined in the Minister of Energy's letter to the IESO in support of the Ministry of Energy's *Powering Ontario's Growth: Ontario's Plan for a Clean Energy Future* (POG) plan.

The IESO asked the OEB to approve the following:

- Proposed 2024 incremental revenue requirement of \$4.5 million

- Proposed 2024 IESO usage fees of \$1.4516/MWh for domestic customers and \$1.2549/MWh for export customers to be effective on the next billing cycle following the month in which OEB approval is received.
- Proposed 2025 incremental revenue requirement of \$5.4 million
- Proposed 2025 IESO usage fees of \$1.4854/MWh for domestic customers and \$1.4333/MWh for export customers to be paid effective January 1, 2025.

In Procedural Order No.1 of February 12, 2024, the OEB ordered parties to proceed directly to settlement negotiations on February 27, without an interrogatory process or a technical conference.

The IESO and the parties were unable to reach settlement and in its Procedural Order No.2 the OEB provided for written interrogatories to be followed by written argument submissions by May 21. The following are argument submissions of Energy Probe on the issues in the case.

**Issue 1.1 – What is the effect of the approved settlement proposal for the IESO’s 2023-2025 expenditure, revenue requirement, and fees application (and associated OEB decision) and the timing of the Minister of Energy’s July 10, 2023, letter upon the relief now sought by the IESO.**

In its evidence the IESO explained that it decided not to rely on the adjustment mechanism in the approved settlement proposal for 2024 and 2025 fees, expenditures and revenue requirements that was approved by the OEB in the EB-2022-0318 decision because it views the POG plan as “significant event with cascading effects to the organization that could compromise the IESO’s 2023-21 2025 Business Plan.”

The following is the adjustment mechanism in the settlement proposal referred to in its evidence.<sup>1</sup>

*As part of the Package Settlement, the Parties accept the IESO’s proposal to seek OEB approval to adjust previously approved expenditures, revenue requirement and fees in the event of a material unforeseen change is appropriate.*

*The IESO’s proposal, as set out in the Application and clarified through IRs, for adjustment due to a material change in circumstances is as follows:*

*If unforeseen expenses or changes in revenues cause the IESO’s balance of the FVDA to reduce below zero at the end of Year 1 of the three-year cycle (i.e., in 2023), the IESO proposes that the IESO may choose to re-apply to adjust its fees for Year 3 of the three-year cycle (i.e., for 2025). In this instance, the IESO would review whether it is appropriate and feasible to apply for*

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<sup>1</sup> EB-2022-0318 Decision and Order, August 29, 2023, Schedule B, Settlement Proposal, Pages 17 and 18

*revised usage fees. The IESO's review would take into account the timing of the Minister's review of a revised Business Plan, the timing of an OEB proceeding, economic conditions, the impact on ratepayers, and the cost of utilizing the IESO's line of credit.*

*If the IESO's FVDA balance reduces to below zero, and the IESO decides the best course of action is to revise its usage fees for Year 3, then the IESO would file a revised Business Plan with the Minister of Energy (The Minister) and following the Minister's approval of the revised Business Plan, file a revised revenue requirement submission to the OEB for revised usage fees. The IESO would request approval of revised usage fees for Year 3 necessary to recover some or all of the IESO's operating reserve as appropriate at the judgment of the IESO based on business needs, economic factors and impact on market participants.*

*In the case that the FVDA balance reaches below zero in year 1 of the three-year cycle the IESO proposes that a revised submission during interim years would adhere to the following process:*

- *IESO Annual Report completed in Q1 Year 2 confirms that the balance in the FVDA in Year 1 has reached below zero.*
- *IESO Business Plan is revised and re-submitted to Minister.*
- *After Minister approval received, revised application is filed with OEB.*
- *Revised application would request:*
  - *Approval to amend usage fees in Year 3 to recover some or all of the amounts that impacted the IESO's FVDA to reduce below zero.*

*IESO will notify the OEB and parties when a revised business plan has been approved by the Minister.*

The adjustment mechanism has a condition that needs to be met.

*If unforeseen expenses or changes in revenues cause the IESO's balance of the FVDA to reduce below zero at the end of Year 1 of the three-year cycle (i.e., in 2023),*

The balance in the Forecast Variance Deferral Account (FVDA) at the end of 2023 was \$2.6 million<sup>2</sup>. It was clearly not below zero so the condition for adjustment was not met. IESO confirmed that in a response to an interrogatory.<sup>3</sup>

In its evidence the IESO projects that the balances in the FVDA will be below zero at the end of 2024 and 2025. Energy Probe submits that these are not relevant because they were not conditions for adjustment in the Settlement Agreement approved by the OEB in EB-2022-0318.

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<sup>2</sup> Exhibit F, Tab 1, Schedule 1, Page 1, Line 19

<sup>3</sup> Exhibit G, Tab 1.0, Schedule 1 -VECC-4a

Therefore, the IESO has not met the condition for adjustment and there should be no change to the revenue requirements, expenditures, and usage fees for fiscal years 2024 and 2025.

The Minister's POG plan letter to the IESO<sup>4</sup> is dated July 10, 2023. The EB-2022-0318 Settlement Proposal<sup>5</sup> is dated July 21, 2023. The IESO was certainly aware of the POG Plan eleven days prior to filing the Settlement Proposal with the OEB. The incremental impact of the POG plan must have been known to the IESO, yet it chose not to bring it to OEBE's attention until December 8. "*The IESO notified parties to the Settlement Proposal on December 8, 2023, after receiving Minister approval of the IESO's Amendment to its 2023-2025 Business Plan ("Amendment") in accordance with the Settlement Proposal approved by the OEB in EB-2022-0318.*"<sup>6</sup> Energy Probe submits that since POG Plan was known prior to Settlement Proposal submission, it can not be considered "*unplanned*".

**Issue 1.2 In the event of the OEB's approval of the relief sought by the IESO, what additional provisions to such approval should be included?**

Energy Probe submits that the OEB should not approve the relief sought by the IESO. However, should the OEB approve the relief sought, it should direct the IESO to file with its Draft Rate orders for 2024 and 2025 detail budgets for each of the seven initiatives<sup>7</sup> identified in the Minister's letter and then to file variance reports of 2024 and 2025 actual results on the same basis.

**Issue 1.3 - What are the implications of any approval of the IESO's request upon continuation of a three-year term for setting the IESO's fees, expenditure, and revenue requirements?**

The IESO claims that the Adjustment mechanism does not preclude it from applying to adjust its usage fees in response to "*unplanned material operating or capital budget arising from changes in government policy.*"<sup>8</sup>

While IESO can apply, Energy Probe submits that any approval of the IESO's request would immediately end the three-year term for setting the IESO's fees, expenditures and revenue requirements that is covered by the EB-2022-0318 Settlement Agreement. The Settlement Agreement is a complete document. It can only be changed by the Adjustment mechanism.

**Issue 2.1 Is the IESO's Fiscal Year 2024 incremental revenue requirement of \$4.5 million appropriate?  
and**

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<sup>4</sup> Exhibit B-1-1

<sup>5</sup> EB-2022-0318 Decision and Order, August 29, 2023, Schedule B, Settlement Proposal, Page 1

<sup>6</sup> Exhibit G, Tab 1,1, Schedule 3 -SEC-2

<sup>7</sup> Exhibit B-1-1, Minister's Letter on Powering Ontario's Growth Page 3 of 4

<sup>8</sup> AIC, Page 4, Paragraph 13

## **Issue 2.2 Is the IESO's Fiscal Year 2025 incremental revenue requirement of \$5.4 million appropriate?**

The IESO claims that it needs more money but its actual results for 2023 prove otherwise. It underspent its OEB approved 2023 budget by \$12.9 million<sup>9</sup> yet was able to accomplish its planned 2023 work. It should be noted that \$12.9 million is more than the combined incremental \$4.5 million requested for 2024 and \$5.4 million requested for 2025.

The IESO did not explain the materiality threshold that it is using to define what are material operating or capital budget arising from changes in government policy. The incremental revenue requirement percentages are very low. In response to an interrogatory<sup>10</sup>, it stated that it has different materiality thresholds materiality for internal and external purposes.

*The IESO's internal materiality threshold for reporting to the Executive Leadership Team and Board of Directors is any variance of +/- 2%.*

*The material change threshold in reference to the Adjustment Mechanism as per Exhibit F-1-1 in EB-2022-0318 is defined as follows:*

- *A change in revenue or expenses that results in an operating reserve deficit*
- *Occurs in Year 1 after receiving three-year approval of IESO usage fees*
- *A change that has significant impact on the operation of the IESO*

What IESO is requesting is similar to a Z factor for distribution rate applications. Energy Probe is not aware of any instance where the OEB has approved a Z factor for a distributor that is as low as 2.4% of revenue requirement.

The IESO did not file detail evidence that would link its request for approval of incremental costs to the specific seven initiatives identified in Minister's letter. It claims that it "*required time following the July 10th Minister's letter to the IESO to undertake an assessment on the resourcing needed to complete the government's requested actions and determine if it was necessary to amend to its 2023-2025 Business Plan*".<sup>11</sup> However after all this time there is still no budget for 2024 and 2025 by initiative in evidence. There is no evidence that the IESO has made any changes in priority of other initiatives to accommodate the new initiatives in the Minister's letter. The IESO does not even have a work plan to address the seven initiatives in the Minister's letter.<sup>12</sup>

Based on Energy Probe's experience, the OEB has required much better evidence from utilities seeking approval for incremental spending. Energy Probe submits that there is insufficient evidence on the record for the OEB to decide if the 2024 and 2025 incremental revenue requirements are appropriate.

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<sup>9</sup> Exhibit G, Tab 1, Schedule 2- OEB Staff 2-2a; Schedule 2.3-SEC-8

<sup>10</sup> Exhibit G, 2-AMPCO-2

<sup>11</sup> Exhibit G, Tab 1, Schedule 1, OEB Staff-2.1a

<sup>12</sup> Exhibit G, Tab 1, Schedule 2-Ampco-8

**Issue 2.3 What are the alternatives to the IESO's proposal to meet the additional revenue requirement? What alternatives did the IESO consider?**

Any other utility that is required to deal with new initiatives would have re-prioritized all of its initiatives to see if it could meet them by re-deploying existing staff. There is no evidence that the IESO did that. Energy Probe submits that the IESO did not adequately consider alternatives.

**Issue 3.1 Are the IESO's proposed 2024 and 2025 Usage Fees appropriate?**

Energy Probe submits that the proposed 2024 and 2025 usage fees are not appropriate since there is insufficient evidence to determine if the 2024 and 2025 incremental revenue requirements are appropriate.

**Issue 3.2 Is the proposed effective date of the next billing cycle following the month in which OEB approval is received for the IESO's 2024 Usage Fees appropriate?**

Energy Probe has no submission on this issue.