

EB-2024-0004
Independent Electricity System Operator

Application for 2024 and 2025 Fees, Expenditure and Incremental Revenue Requirement

Final Submissions AMPCO May 21, 2024

The Independent Electricity System Operator (IESO) filed an application with the Ontario Energy Board (OEB) on January 12, 2024, under section 25(1) of the Electricity Act, 1998, seeking approval to modify its revenue requirements, expenditures, and usage fees for fiscal years 2024 and 2025.

Specifically, the IESO is asking 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; and
- 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.

The IESO states that its \$9.9 million incremental funding request for fiscal years 2024 and 2025 is to support specific initiatives outlined in the Minister of Energy's letter¹ 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 Minister's letter contains seven incremental initiatives as follows:

- 1) Bruce Nuclear New-Build Impact Assessment Cost Recovery Framework
- 2) Feasibility Study and Business Case for Future Nuclear Generation in Ontario
- 3) Second Long-Term Request for Proposals (LT2 RFP)
- 4) Future Clean Electricity Fund
- 5) Energy Efficiency and Conservation Framework
- 6) Supporting Innovation Through Distributed Energy Resources (DER)
- 7) Transmission Selection Framework

The OEB approved a settlement proposal on August 29, 2023, as part of the previous application (EB-2022-0318) that was filed on March 29, 2023. As part of the package settlement, the Parties accepted the IESO's adjustment mechanism proposal to seek OEB approval to adjust previously approved expenditures, revenue requirement and fees in the event of a material

¹ B-1-1

unforeseen change. 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).²

The OEB Decision states "Prior to exercising this option, the IESO would assess its business needs, economic factors, and impacts of the request on market participants. In the case that the IESO exercises this option, approval would be sought from the Minister of Energy for a revised business plan that would form the basis of an application to the OEB seeking adjusted expenditures, revenue requirement, and fees that would take effect in Year 3."³

The Letter from the Minister regarding the POG initiatives is dated July 10, 2023, more than ten days before the Settlement Agreement was finalized and filed on July 21, 2023. The IESO did not inform the parties to settlement that the Minister's Letter could require additional resources and funding within the 3-year term of the settlement agreement. On August 29, 2023, the OEB rendered its Decision on the settlement proposal, three days before the IESO submitted an amendment to the 2023-2025 business plan to the Minister on September 1, 2023.^{4 5} The amendment includes a financial amendment to the IESO's expenses and FTEs as follows:

Expenses \$M	2024	2025
Approved Business Plan	\$218.4	\$229.7
POG	\$4.5	\$5.4
Average FTEs		
Approved Business Plan	926	900
POG	22	30

With only a three-day gap between the OEB Decision and the submission of the amended business plan to the Minister, AMPCO expects that the IESO was working on the financial amendments to the business plan prior to the OEB's Decision yet opted to not inform the OEB or the parties to settlement of the need for incremental funding for FTEs while the proceeding was still underway. AMPCO takes no issue with the need for the IESO to implement the Minister's initiatives in support of the POG, but the parties should have been notified during settlement and prior to the OEB's decision. Further, in AMPCO's view, the IESO's request to amend the usage fees so close to the filing of the Settlement Proposal brings into question whether the three-year cycle established in the settlement proposal is appropriate.

² EB-2022-0318 Settlement Proposal p. 18

³ EB-2022-0318 OEB Decision p.3

⁴ The Minister approved the amendment on November 28, 2023.

⁵ IESO AIC p. 1

Adjustment Mechanism

The IESO indicates that its request for incremental funding of \$9.9 million does not rely on the Adjustment Mechanism described in the OEB-approved Settlement Proposal in EB-2022-0318, which is based on the balance of the FVDA reducing below zero at the end of year 1 of the three-year cycle because of a material change.⁶

The IESO's position is that the review required by the Adjustment Mechanism was not triggered because the balance of the FVDA was not below zero at the end of 2023. The FVDA is forecast to reduce below zero in 2024 (year 2) and 2025 (year 3) as shown in the table below (Row A).⁷

The principal drivers of these projected deficits are the impacts from the two salary and benefit increases awarded through Arbitration to the IESO's Society of United 3 Professionals (SUP) members and the incremental work required by the Minister's letter to the IESO to support the GOP plan. The IESO is only seeking incremental funding for the POG initiatives.

Table 1: Forecasted Operating Deficits (Original Application)

	(\$ Millions)	3 Year Budget	2023 Forecast	2024 Forecast	2025 Forecast	3 Year Total
	Operating Deficit	-	(12.4)	(12.6)	(19.9)	(44.9)
A⁸	Operating Reserve Variance Account Balance	10.0	2.6	(10.0)	(29.9)	(29.9)
B	POG recovery through amended Usage Fee			4.5	5.4	
C⁹	Closing Balance		2.6	(5.5)	(20.00)	(20.0)

When accounting for the incremental funding request for these incremental expenses (Row B) the deficit balance in the FDVA is reduced to \$5.5 million at the end of 2024 (year 2) and \$20.0 million at the end of 2025 (year 3) (Row C). The resulting driver of the deficits is attributable to the incremental Bill 124 expenses in 2023 to 2025.^{10 11}

⁶ IESO AIC p. 2

⁷ B-1-4 p. 11

⁸ 2023-2026 Interim Year Business Outlook

⁹ F-1-1 p.3

¹⁰ Expected 2023 expenditures of \$1.0 million for POG plan will be managed within the approved funding and operating reserve.

¹¹ F-1-1 p.3

The IESO updated the FVDA deficits (assuming IESO borrows for POG and incremental interest costs are included) to account for the most recent energy forecast for 2023, 2024 and 2025, and 2023 actual expenses¹² as follows:

Table 2: Updated Forecasted Operating Deficits

(\$ Millions)	3 Year Budget	2023 Forecast	2023 Actual	2024 Forecast	2025 Forecast	3 Year Total
Operating Deficit	-	(12.4)	(4.8)	(10.5)	(22.1)	(37.4)
Operating Reserve Variance Account Balance	10.0	2.6	10.2	(0.3)	(22.4)	(22.4)

This is different than what was filed in the application where the IESO forecast a deficit of \$5.5 million in 2024 and \$20 million in 2025, accounting for incremental funding and adjusted fees (Row C in Table 1 above). The current deficit in 2024 is significantly less and the 2025 deficit is slightly higher. The IESO has the ability to finance the POG costs if they are included in the FVDA.

AMPCO concurs with the IESO the Adjustment Mechanism is not triggered, however the IESO's requests for incremental funding and a change in usage fees are contrary to the provisions of the Settlement Agreement between the parties.

The Settlement Proposal states "This document is called a "Settlement Proposal" because it is a proposal by the Parties to the OEB to settle the issues in this proceeding. It is termed a proposal as between the Parties and the OEB. However, as between the Parties, and subject only to the OEB's approval of this Settlement Proposal, this document is intended to be a legal agreement, creating mutual obligations, and binding and enforceable in accordance with its terms."¹³

The Settlement Agreement clearly sets out the criteria the IESO is required to meet in order to request a change in its fees during the 2023 to 2025 period. The Settlement Agreement limits the IESO's ability to adjust its fees for 2024 and 2025 to events that caused the FVDA balance to reduce below zero at the end of 2023. The POG incremental costs do not meet the criteria provided in the Settlement Agreement.

The OEB's Decision in EB-2022-0318 specifically states "Under the terms of the Settlement Proposal, the IESO may seek OEB approval to adjust the approved expenditures, revenue requirement, and fees in the event of a material unforeseen change. However, this would only occur if the balance of the FVDA is less than zero in Year 1 of the three-year cycle, and any adjustment would be for Year 3. While the Settlement Proposal does not call this an "off-ramp", the OEB agrees with OEB staff's use of this term in the event of a material unforeseen

¹² G-2-1-OEB Staff 2-2 p.4

¹³ I-1-1 p.4

change.”¹⁴ AMPCO submits the OEB was clear on the conditions that must be met for an adjustment to approved expenditures, revenue requirement, and fees.

The IESO views the new POG initiatives as significant events (outside of the Adjustment Mechanism) that will have cascading effects to the organization.¹⁵ The IESO explains that the Adjustment Mechanism was designed as a guardrail that identified specific triggers that would require the IESO to consider and assess an adjustment to its fees.¹⁶ However, the IESO further states “The inclusion of the Adjustment Mechanism in the Settlement Proposal in no way precludes the IESO from applying to adjust its usage fees in response to unplanned material operating or capital budget arising from changes in government policy.”¹⁷

AMPCO disagrees with the IESO’s interpretation which essentially makes the provision in the Settlement Agreement for an adjustment pointless and irrelevant. AMPCO is concerned that if the OEB accepts the IESO’s view that the approved Settlement Agreement does not restrict its ability to request an increase in fees, this could have influential implications on the overall integrity of the OEB’s settlement process.

Conclusion

The Settlement Proposal for the IESO’s 2023, 2024 and 2025 revenue requirement, expenditures, and fees that was approved by the OEB on August 29, 2023, is a legally binding agreement between the parties that clearly sets out the criteria/conditions the IESO is required to meet in order to request a change in its fees during the 2023-2025 period. The specific clauses in the Settlement Agreement restrict fee adjustments during the plan term. The IESO’s request for incremental funding is in breach of the Settlement Agreement.

For the reasons discussed above, AMPCO submits the OEB should deny the IESO’s request for \$9.9 million in incremental funding for 2024 and 2025.

¹⁴ EB-2022-0318 OEB Decision p.4

¹⁵ A-1-4 p.3

¹⁶ IRESO AIC p. 4

¹⁷ IESO AIC p. 5