



**Capital Power Corporation, Thorold CoGen L.P.,
Portlands Energy Centre L.P. doing business as Atura
Power, St. Clair Power L.P., TransAlta (SC) L.P.**

**Application to Review Amendments to the Market Rules
made by the Independent Electricity System Operator**

**PROCEDURAL ORDER NO. 1
November 19, 2024**

On November 8, 2024, Capital Power Corporation, Thorold CoGen L.P., Portlands Energy Centre L.P. doing business as Atura Power, St. Clair Power L.P., TransAlta (SC) L.P. (NQS Generation Group jointly filed a Notice of Application (Application) requesting that the Ontario Energy Board (OEB) review a set of amendments to the market rules made by the Independent Electricity System Operator (IESO) (MR-00481-R00 to R013) (Amendments). The Application requests that the OEB revoke the Amendments and refer them back to the IESO for further consideration. The Application was filed under section 33 of the Electricity Act, 1998, S.O. 1998, c. 15, (Schedule B) (Electricity Act).

The Amendments deal with a comprehensive set of changes to the IESO-administered markets required to operationalize the IESO Market Renewal Program to evolve Ontario's electricity market. The Amendments were published by the IESO on October 18, 2024, and became effective on November 11, 2024. The IESO is planning to launch the renewed market in early May 2025, with key milestone dates scheduled in the interim period.

A Notice of Hearing was issued on November 13, 2024. The IESO served the Notice on all market participants participating in the IESO Administered Market. As set out in the Notice of Hearing, interested parties have until November 20, 2024, to request intervenor status and cost award eligibility. The OEB expects that the IESO will participate in this proceeding. The OEB is required by section 33(6) of the Act to issue an order that embodies its final decision within 120 days of receipt of NQS Generation Group's Application, that is by March 7, 2025.

Pre-Hearing Conference

The OEB has decided to convene a transcribed virtual pre-hearing conference. The NQS Generation Group, the IESO and all parties seeking intervenor status and cost award eligibility are required to attend. The OEB will hear oral submissions on intervention and cost eligibility requests, cost responsibility, the issues list, evidentiary matters and the proceeding schedule. These are discussed in more detail below.

Intervention Requests and Cost Award Eligibility

In accordance with the Notice of Hearing, interested parties have until November 20, 2024, to apply for intervenor status in the proceeding and to indicate whether they seek cost award eligibility. The OEB expects that all parties requesting intervenor status will attend the pre-hearing conference and make submissions demonstrating that they have a substantial interest in the proceeding in accordance with Rule 22.02 of the OEB's [Rules of Practice and Procedure](#). The Applicant will also have an opportunity to make submissions in response to the intervention requests.

The OEB will make determinations on the intervention requests at the pre-hearing conference. Parties that are not granted intervenor status will not participate in the remainder of the pre-hearing conference.

The OEB will make cost awards available in this proceeding to eligible parties in accordance with the Rules of Practice and Procedure and the OEB's [Practice Direction on Cost Awards](#).

Absent special circumstances, applicants are not eligible for an award of costs.

Cost Responsibility

The OEB believes that it is appropriate for the IESO to be responsible for the OEB's costs of this proceeding. This is consistent with the overall legislative scheme, which contemplates a review by the OEB as a potential last step in relation to market rule amendments. This was the outcome in the preceding four applications before the OEB to review market rule amendments.¹ However, in previous applications, the OEB determined that applicants should generally be expected to bear the regulatory costs associated with the market rule amendment process, as they represent their private commercial interests.²

¹ [EB-2019-0242](#), [EB-2013-0029 / EB-2013-0010](#), [EB-2007-0040](#) and [EB-2019-0206](#)

² [EB-2013-0029 / EB-2013-0010](#), [EB-2019-0206](#)

Therefore, the OEB proposes that the IESO will bear the OEB's costs of this proceeding and that the NQS Generation Group will bear its own costs as well as the costs of intervenors that are granted cost eligibility. The OEB will allow the NQS Generation Group and the IESO to make submissions at the pre-hearing conference if they wish to object to bearing those costs.

Issues List and Scope of Proceeding

The issues with respect to the hearing of the Application have their basis in section 33(9) of the *Electricity Act*; namely, whether the Amendments (i) are inconsistent with the purposes of the *Act* or (ii) unjustly discriminate against or in favour of a market participant or class of market participants.

If the IESO or the NQS Generation Group wish to develop a more detailed Issues List for this proceeding within the parameters of section 33(9) of the *Electricity Act*, the OEB invites parties to exchange their views and file any proposed issues list prior to the pre-hearing conference and the OEB will hear submissions on the matter at the pre-hearing conference.

Evidentiary Matters

The OEB must accommodate two imperatives in this proceeding; namely, to treat the parties fairly and to issue an order that embodies the OEB's final decision within 120 days of the date of receipt of the Application. The OEB's preliminary schedule for this proceeding is contained in Appendix A.

On November 15, 2024, the IESO filed certain materials with the OEB, as required by a condition of its licence in respect of an application to review a market rule amendment filed under section 33 of the *Electricity Act* (IESO Licence Filing).

The OEB also notes that, as part of its Application, the NQS Generation Group requested that the IESO produce additional materials set out in Schedule A of its Application which appear to be related to the out of market contracts between the IESO and the NQS Generation Group members (Contracts). In its letter dated November 11, 2024, the IESO stated that it would not be filing the requested documents as part of the IESO Licence Filing and objected to production of the documents. In its letter dated November 15, 2024, the NQS Generation Group reiterated its request for production of the documents.

The OEB will hear submissions at the pre-hearing conference regarding the sufficiency of the IESO Licence Filing and whether the IESO should be required to file further documents related to the Contracts and any other evidentiary matters.

The OEB notes that the Application indicates that the NQS Generation Group intends to file evidence in support of the Application. The OEB will establish a deadline for the filing of evidence by the NQS Generation Group at the pre-hearing conference. The OEB will also hear submissions at the pre-hearing conference from parties (in addition to the NQS Generation Group) wishing to submit evidence. Such submissions should include an outline of the proposed evidence, its relevance to the issues to be determined and the estimated costs of preparing the evidence. The OEB will establish deadlines for the filing of such evidence.

Procedural Schedule

Attached as Appendix A is a preliminary schedule for this proceeding. Prior to the pre-hearing conference, the OEB expects that the IESO and the NQS Generation Group will work with OEB staff to establish timelines for procedural steps that the parties can agree upon. At the pre-hearing conference, the OEB will also hear submissions regarding any procedural steps and timelines upon which the parties have not reached agreement.

The OEB intends to hold a hybrid oral hearing in this proceeding and will require that the Applicant, the IESO and their respective witnesses attend in person.

Holiday Timeout Does Not Apply

The OEB annually establishes a holiday timeout period to account for the late December and early January holiday periods. Given the statutory timeline that governs this proceeding, **the Holiday Timeout will not apply to this proceeding.**

Further procedural orders will be issued by the OEB in due course.

THE ONTARIO ENERGY BOARD ORDERS THAT:

1. A transcribed virtual pre-hearing conference on the Application will be held on **November 26, 2024**, starting at 9:30 a.m. Additional time will be provided as necessary on **November 27, 2024**.
2. If the IESO or the NQS Generation Group wishes to file an issues list, they shall do so by 4:45 p.m. on Friday, **November 22, 2024**.
3. As provided for in the Notice of Hearing, any person that wishes to participate as an intervenor in this proceeding must file its request by 4:45 p.m. on **November 20, 2024**.

Parties are responsible for ensuring that any documents they file with the OEB, such as applicant and intervenor evidence, interrogatories and responses to interrogatories or any other type of document, **do not include personal information** (as that phrase is defined in the *Freedom of Information and Protection of Privacy Act*), unless filed in accordance with rule 9A of the OEB's Rules of Practice and Procedure.

Please quote file number, **EB-2024-0331** for all materials filed and submit them in searchable/unrestricted PDF format with a digital signature through the OEB's online filing portal.

- Filings should clearly state the sender's name, postal address, telephone number and e-mail address.
- Please use the document naming conventions and document submission standards outlined in the Regulatory Electronic Submission System (RESS) Document Guidelines found at the File documents online page on the OEB's website.
- Parties are encouraged to use RESS. Those who have not yet set up an account, or require assistance using the online filing portal can contact registrar@oeb.ca for assistance.

All communications should be directed to the attention of the Registrar and be received by end of business, 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 and OEB Counsel, Ljuba Djurdjevic at ljuba.djurdjevic@oeb.ca.

Email: registrar@oeb.ca
Tel: 1-877-632-2727 (Toll free)

DATED at Toronto, **November 19, 2024**

ONTARIO ENERGY BOARD

Nancy Marconi
Registrar

APPENDIX A
DRAFT SCHEDULE

| Event | Date |
|-------------------------------------|----------------------------------|
| Pre-Hearing Conference | November 26, 2025 |
| Applicant evidence | December 11, 2024 |
| OEB staff and intervenor evidence | December 18, 2024 |
| IESO's responding evidence | December 31, 2024 |
| Technical Conference | January 6 – January 7, 2025 |
| Hearing | January 13 – January 15, 2025 |
| Deadline for Undertakings Responses | January 20, 2025 |
| Applicant's argument | January 27, 2025 |
| Staff and intervenor submissions | February 3, 2025 |
| IESO reply argument | February 10, 2025 |
| OEB Final Decision | By March 7, 2025 |