VIA RESS and EMAIL

February 3, 2025

Nancy Marconi
Registrar
Ontario Energy Board
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Nancy Marconi:

Re: Non-Quick Start (NQS) Generation Group
Market Renewal Program (MRP) Amendment Review
Consumers Council of Canada (CCC) Submission
OEB File No. EB-2024-0331

In accordance with the OEB's Decision and Procedural Order No. 2, dated December 2, 2024, please find attached CCC's submission in the above noted proceeding.

Yours truly,

Lawrie Gluck

Lawrie Gluck
Consultant for the Consumers Council of Canada

cc: All parties in EB-2024-0331

Background

On November 7, 2024, the Non-Quick Start (NQS) Generation Group[1] filed an application under section 33 of the *Electricity Act, 1998,* S.O. 1998, c. 15, (Schedule B) (Electricity Act). The NQS Generation Group requested 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) and revoke these amendments and refer them back to the IESO for further consideration. These amendments are required to operationalize the IESO Market Renewal Program (MRP) to evolve Ontario's electricity market.

Submission

CCC submits that the IESO's MRP-related amendments are not unjustly discriminatory to NQS generators nor are they inconsistent with the Electricity Act. Therefore, the OEB should reject the NQS Generation Group's application.

CCC notes that the MRP-related amendments are intended to provide benefits to consumers through a more efficient and cost-effective IESO-administered market. The IESO has estimated that the MRP benefits will amount to $975 million over 10 years[2] at an estimated cost of $233 million.[3] In its argument-in-chief, the NQS Generation Group attempts to call into question whether there will be any net benefits derived from the MRP.[4] However, the NQS Generation Group's analysis is very obviously flawed.[5] While the actual net benefits that will ultimately be derived from the MRP are unknown, it is clear that, on a forecast basis, there is expected to be material net benefits accruing to Ontario electricity consumers.

The OEB's Market Surveillance Panel (MSP) and the Auditor General of Ontario have, over many years, criticized certain aspects of the current market design, which have negatively

[1] Comprised of Capital Power Corporation, Thorold CoGen L.P., Portlands Energy Centre L.P. doing business as Atura Power, St. Clair Power L.P., and TransAlta (SC) L.P.
[2] Undertaking JT1.12, Appendix C, p. 3.
[3] IESO, MRP September 30, 2024 Quarterly Status Report, p. 2.
[4] NQS Generation Group, Argument-in-Chief, p. 31.
[5] Undertaking JT1.12, Appendix C, p. 4. NQS appears to believe that there will be a net cost of $94 million arising from the MRP. However, the analysis relied upon to come to that conclusion is flawed as the NQS Generation Group has mistaken the $266 million figure in the 2022 MRP Business Case Validation as reflective of only the benefits of the program (to be compared against costs), when, in fact, it is a net benefit figure that already includes the MRP-related costs.

impacted consumers.[6] Ontario electricity consumers have been waiting a very long time for these market deficiencies to be corrected. The MRP is the culmination of significant work by the IESO to make the necessary corrections to the benefit of consumers.

The MSP explained the likely reason for the long delay in market design corrections in its 2016 Argument for Market Reform:

> [T]he 2015 report prepared by Market Reform studies the wealth transfer aspects of [Congestion Management Settlement Credit] payments - one person's gain is another person's loss. In other words, the study focusses on how one specific group, Ontario consumers, will benefit from a move to [Locational Marginal Pricing]. This is a large group of people, very few of who have any understanding of how a revised market design would benefit them. While the benefits to the group as a whole would be substantial, the benefits per person would be less significant. The "losers" from a revised market design are, on the other hand, highly sophisticated and know how such a redesign will impact them. Losers naturally resist changes that will harm their interests, and are well positioned to slow down such changes. This is without a doubt a factor in explaining how long it has taken to make some of the piecemeal changes to market rules that have mitigated the flow of CMSC payments.[7]

The NQS Generation Group's application is nothing more than an attempt to resist changes to market design that will benefit consumers and have been documented by the MSP as necessary for more than a decade. The application, which seeks to revoke the MRP-related amendments, would strip consumers of the forecasted benefits and leave them solely responsible to bear the substantial costs.

CCC submits that there is no basis for the OEB to revoke the MRP-related amendments. CCC has had the opportunity to review the School Energy Coalition's (SEC) submission and given the quality of its submission there is no need for us to replicate its detailed analysis. We agree with, and endorse, SEC's submission in this proceeding.

As set out by SEC, the NQS Generation Group must demonstrate that the MRP-related amendments are not only economically discriminatory but also unjust in order to be successful in its application. CCC agrees with SEC that the NQS Generation Group has not done so. More specifically:

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[6] For example, see: Market Surveillance Panel, Monitoring Report on the IESO-Administered Electricity Markets for the period from November 2012 – April 2013, January 2014; Market Surveillance Panel, Congestion Payments in Ontario's Wholesale Electricity Market: An Argument for Market Reform, December 2016; Market Surveillance Panel, State of the Market Report 2023, September 2024; and Auditor General of Ontario, 2017 Annual Report, Chapter 3.

[7] Market Surveillance Panel, Congestion Payments in Ontario's Wholesale Electricity Market: An Argument for Market Reform, December 2016, p. 14.

- The NQS Generation Group has not established that the MRP-related amendments economically discriminate against NQS generators.
    - Evidence of potential financial harm to NQS generators after MRP implementation does not meet the test for economic discrimination.
    - NQS generators are not treated differently relative to other market participants after MRP implementation.[8]

- The NQS Generation Group has not properly quantified the economic harm on NQS generators arising from the MRP-related amendments, which is required to support a claim of economic discrimination.
    - The analysis of financial harm to NQS generators, which results in a claimed reduction to revenue for the NQS Generation Group of $140 million (over 6 years)[9] is flawed.
        - The proxy generator approach is inappropriate, and the characteristics of the proxy generator are not supported by evidence.
        - Pre-dispatch 3 (or PD-3) prices do not reflect a reasonable proxy for future locational marginal prices.
        - No adjustment was made to the financial model to reflect the likelihood that reduced dispatches for one NQS generator will be replaced by dispatches for another, more efficient, NQS generator.
        - Power Advisory refused to provide supporting documentation to allow for the verification of the financial model.

- The NQS Generation Group has not established that the MRP-related amendments unjustly discriminate against NQS generators.
    - The current market rules unfairly benefit NQS generators relative to other market participants and the MRP amendments are designed to ensure that NQS generators compete fairly with other resources post-MRP implementation.

[8] The only difference in treatment between NQS generators and other market participants is the availability of certain cost guarantee programs that are not available to any other participants. These programs are available to NQS generators currently and will be available to NQS generators after MRP implementation. These cost guarantee programs operate to ensure comprehensive cost recovery for NQS generators when they are dispatched. These programs are beneficial to NQS generators and cannot be viewed as a form of negative economic discrimination.
[9] Power Advisory Report, December 18, 2024, p. 9.

  - The MRP-related amendments are just as they will correct for previous market design flaws with the outcome being a more efficient and cost-effective electricity market.
  - The differential treatment of Hydroelectric generators and NQS generators in the Market Power Mitigation framework is properly justified by the differences in operational characteristics.

- The MRP-related amendments are consistent with the purposes of the Electricity Act.
  - The MRP-related amendments are designed to better protect consumers with respect to the price of the electricity commodity through improved market design and greater cost-effectiveness.
  - There is no evidence that reduced revenues for NQS generators post-MRP implementation will hinder the overall economic sustainability of generation in Ontario.

Overall, the NQS Generation Group has, in no way, met the test to establish unjust economic discrimination and its application should be dismissed. The IESO's MRP-related amendments should proceed with the expected benefits flowing to Ontario's electricity consumers after implementation.

~ All of which is respectfully submitted ~