
Ministry Response to the Auditor General's 2017 Annual Report

Issues and Key Messages

November 21, 2017

Summary – OEB, IESO, and the Wholesale Electricity Market

The OAG has reviewed reports issued by the Ontario Energy Board's Market Surveillance Panel regarding the operation of two programs (the Real-Time Generator Cost Guarantee Program and the Congestion Management Settlement Credits) and claims that:

- **P2.** “The OEB itself could have done more to protect ratepayers’ interests by attempting to address the IESO’s lack of action on the OEB Market Surveillance Panel’s (MSP) repeated recommendations to fix certain weaknesses and flaws in the design Ontario’s wholesale electricity market.”
- **P2.** “The IESO has a Market Renewal Initiative that consists of a working group helping to determine the future design of the electricity market in Ontario. In addition to there being little representation for residential ratepayers’ interests in the working group, it has membership from market participants that have been, or are being, investigated for benefitting financially from existing market design problems.”
- **P32.** “Market participants benefitting from market flaws are involved in changing market rules and market design.”
 - o “Anyone, including the IESO or market participants, can request an amendment to market rules.”
 - o “Before the IESO Board approves any amendment, it is first reviewed by the IESO Technical Panel, appointed by the IESO Board, made up of members who are mostly industry and generators’ representatives.”

Summary – Industrial Conservation Initiative

The OAG reviews the impact of expanding the eligibility for the Industrial Conservation Initiative on residential and small business consumers and claims that:

- **P2.** “The government has several times broadened industry participation in the Industrial Conservation Initiative (ICI), a program that allows industrial ratepayers to reduce their electricity charge by shifting their global adjustment costs to residential and small-business ratepayers.”
- **P2.** “The OEB Panel reported on the impact of the ICI shortly after it was launched in 2011. Electricity prices for about 65 large industrial ratepayers decrease by about 13%.”
- **P2.** “In the first 10 months of the ICI, their global adjustment charge was reduced by about \$245 million. This \$245 million was added to the electricity bills of residential and small-business ratepayers.”
- **P2.** “Since the initial launch, the ICI was further expanded three times, shifting a large amount of global adjustment charge from large industrial ratepayers to residential and small-business ratepayers.”
- **P7.** “With the ICI being broadened in January and July 2017, this amount will increase.”

Summary – IESO Cybersecurity

The OAG reviews the IESO's cybersecurity processes and resources, and states in the report that:

- **P3.** “The IESO's cybersecurity system complies with the power grid reliability standards. However the IESO could be better equipped to defend itself against an advanced cyberattack should one occur.”
- **P7.** “The IESO could do more to improve its cybersecurity, such as:
 - o creating a senior executive position dedicated to cybersecurity,
 - o Increasing its cybersecurity staff,
 - o having an IT cybersecurity vendor on standby,
 - o procuring technology that monitors authorized users' access to confidential information to prevent and identify breaches,
 - o encrypting its backup tapes.”

Main Ministry Concerns with Report

The Ministry's main concerns with the report are that it creates a perception of the following:

1. The inability of the Ministry and its agencies to enforce the electricity system's market rules effectively, allowing private companies to gain a financial advantage at the expense of residential and small business ratepayers.
2. The ICI has and continues to shift costs to residential and small business bills and will influence bill reductions under OFHP. The OAG's report fails to recognize the system benefits of ICI that all consumers benefit from (i.e., avoiding the need to procure additional resources).
3. The IESO lacks due-diligence in protecting itself against a cyber-attack.

Potential Issues

From an ENERGY perspective, the following are the main criticisms/media lines that are forecast to potentially emerge from the relevant sections of the OAG's report:

1. The OAG is saying that the system operator isn't taking action on the OEB Panel's recommendations. And if that's the case, neither is the Ministry. The OAG joins the Market Surveillance Panel and others in pointing out examples of companies gaming the system at a cost to everyday-ratepayers.
2. A major component of the electricity system's rate design is unfair to some consumers. ICI is unfairly shifting the burden to the residential/small business consumer. Residential and small business rate payers continue to bear the burden of the government's mistakes in spite of the savings from OFHP.
3. The IESO doesn't have appropriate measures in place right now to deal with cyber-attacks.

High-Level Key Messages

- We thank the Auditor General for her analysis. The Ministry of Energy remains committed to assisting the Office of the Auditor General so that it can provide its independent views to the Legislative Assembly.
- However, we disagree with several aspects of this report, including the characterisation of the wholesale electricity market and of the operation of the ICI program.
- We support the Ontario Energy Board (OEB) and the Independent Electricity System Operator (IESO) in the important roles they play to ensure that Ontario's electricity market operates efficiently. We are confident in IESO's ability to administer an efficient and fair electricity market.
- In the longer-term, IESO's Market Renewal initiative will reduce gaming opportunities and out-of-market payments and better allocate risk.
- Some of these costs are necessary given the electricity system design. Many of the instances raised by the OAG were also investigated by the IESO and the market participants were fined for their conduct. Money collected through fines is returned to ratepayers.
- With respect to ICI, lowered peak demand reduces the need for supply resources and ultimately the projection for electricity system cost, benefiting all consumers. The IESO estimates that ICI reduced peak demand by about 1,300 MW in 2016.
- Furthermore, bill reductions under Ontario's Fair Hydro Plan (OFHP) will not be influenced by ICI expansion. The OEB sets rates to achieve OFHP reductions for a proxy consumer, regardless of participation in ICI.

Issue 1: Response / Key Messages

Potential media line: The OAG is saying that the system operator isn't taking action on the OEB Panel's recommendations. And if that's the case, neither is the Ministry. The OAG joins the Market Surveillance Panel and others in pointing out examples of companies gaming the system at a cost to everyday-ratepayers.

Response:

- **The Ministry of Energy supports the Ontario Energy Board (OEB) and the Independent Electricity System Operator (IESO) in the important roles they play to ensure that Ontario's electricity market operates efficiently and fairly.**
- **Both the Real-Time Generation Cost Guarantee (RT-GCG) program and Congestion Management Settlement Credits (CMSC) are necessary to ensure system reliability.**
- **The Ministry, in consultation with both the OEB and IESO, will review the Electricity Act, 1998 regarding the market rule approval process. The Ministry will also review the authority of the OEB regarding the enforcement of market rules and the response to abuses and gaming of market rules.**
- **The government and its agencies take the recommendations of the Market Surveillance Panel (MSP) very seriously, and that is why IESO has made a number of changes over the years that have improved the effectiveness and transparency of both these programs.**
- **Furthermore, many of these instances raised by the OAG were also investigated by IESO's Market Assessment and Compliance Division (MACD) and the market participants were fined for their conduct. Money collected through fines is returned to ratepayers.**
- **Any remaining inefficiencies are best addressed by the broad and fundamental market design changes IESO is pursuing through its Market Renewal Initiative.**
- **The IESO's Market Renewal initiative will reduce gaming opportunities, allocate risk better and reduce out-of-market payments. This represents the most fundamental redesign of Ontario's electricity system since the electricity market opened in 2002. The IESO will apply its 15 years of experience in this market as well lessons learned from other jurisdictions to the Market Renewal process.**

Issue 2: Response / Key Messages

Potential media line: A major component of the electricity system's rate design is unfair to some consumers. ICI is unfairly shifting the burden to the residential/small business consumer. Residential and small business rate payers continue to bear the burden of the government's mistakes in spite of the savings from OFHP.

Response:

- **Lowered peak demand reduces the need for supply resources and ultimately the projection for electricity system cost. The IESO estimates that ICI reduced peak demand by about 1,300 MW in 2016, equivalent to the capacity of two natural gas generating plants the size of the Halton Hills Generating Station.**
- **Under ICI, consumers who are contributing the least to peak demand pay a smaller portion of costs associated with electricity generation, conservation and demand management programs.**
- **Despite the comments in the OAG's report about the impact of the expansion of ICI on Ontario's Fair Hydro Plan (OFHP), the benefit for residential and small business consumers will not be influenced by ICI expansion.**
- **OFHP reduced electricity bills for residential consumers by an average of 25 per cent and will hold any increases to the rate of inflation for four years. Under the Ontario Fair Hydro Plan Act, 2017 and its regulations, the OEB sets rates to achieve these reductions for a proxy consumer, regardless of participation in ICI.**
- **We do not believe that it would appropriate for the government to fund ICI through the tax-base, because of the significant savings that accrue to electricity consumers through the lowered peak demand levels resulting from ICI.**

Issue 3: Response / Key Messages

Potential media line: The IESO doesn't have appropriate measures in place right now to deal with cyber-attacks.

Response:

- **We're pleased the IESO is already in the process of recruiting a new Chief Information Officer (CIO) with an increased focus on cybersecurity, and will consider creating a senior-level position for cybersecurity with formal reporting to both IESO executives and the IESO Board of Directors.**
- **In addition, I know that the IESO is in the process of implementing an independent consultant's recommendation to increase the number of current cybersecurity staff in a manner consistent with the OAGO's recommendation.**
- **The IESO complies with all applicable North American Electric Reliability Corporation (NERC) Critical Infrastructure Protection standards, which include standards for cybersecurity. The electricity sector is unique as the only critical infrastructure sector with mandatory and enforceable cybersecurity standards.**

Potential Additional Issues

There are some additional issues that could emerge, depending on what is included in the final report:

- The Auditor General could draw attention to an IESO draft response table which cited an incorrect figure for the value of forecast savings as a result of market renewal
 - The IESO initially submitted a comment table to the OAG that included an estimated savings figure of \$3.4 billion. The figure stated in the 2017 LTEP is “up to \$5.2 billion”. [NTD we believe this has been resolved through IESO’s revised responses].

Response:

- **The Independent Electricity System Operator’s Market Renewal initiative will result in a more efficient marketplace with competitive and transparent mechanisms that will meet future system needs at the lowest cost. The project is expected to save up to \$5.2 billion over a 10-year period and forms a key component of Ontario’s plan to ensure the affordability of electricity in the longer term.**
- The Auditor General could draw attention to particular companies who supposedly exploited flaws in the wholesale electricity market. In her draft report, the OAG names some specific companies who are reaping the benefits of the flaws in the wholesale electricity market. One of the companies she named was OPG. The Ministry requested that the Auditor remove company names, but is unsure if she will comply.

Response:

- **Audit information and information obtained through investigations are designated confidential information under the provisions of Market Rules, and therefore we do not believe it appropriate to discuss any cases naming particular companies.**

Appendix

List of Auditor's Recommendations [To Be Updated]

1. (i) IESO implement the Ontario Energy Board's [OEB] Market Surveillance Panel's [MSP] recommendations in an effective and timely way; and (ii) where the MSP submits a report to the IESO that contains recommendations related to the misuse, abuse or possible abuse of market power, the IESO should use its authority to amend the market rule immediately and submit it to the OEB for their review.
2. The OEB use its legislative authority to, upon review of an amendment of a market rule, make an order directing the IESO to amend the market rule to address the MSPs recommendations and ensure that the market rule is in the best interest of ratepayers.
3. The Ministry of Energy review the legislative power and authority of the OEB to conduct a review of a market rule on their own motion, and to consider expanding their authority under the Electricity Act, 1998 when misuse or abuse of a market rule is brought forward by the MSP and is not effectively being addressed by the IESO in a timely manner.
4. To ensure the transparency of government decisions, we recommend that the Ministry of Energy review the impact of the Industrial Conservation Initiative on low-energy consuming ratepayers and publicly report this information.
5. Given the government's concerns about billing ratepayers and taxpayers separately for costs relating to their respective interests, we recommend that the Ministry of Energy reconsider whether ratepayers or taxpayers are the most suitable base for paying for the electricity bill reduction of the Industrial Conservation Initiative, in light of what intended role it may have in helping to secure Ontario's economic health.
6. IESO provide data to the OEB MSP to support its assertion that the Standby Cost Recovery Program is necessary to ensure a reliable supply of electricity for Ontarians.
7. If the IESO does not cancel the Standby Cost Recovery Program, it fully implement the OEB MSP's recommendations and not reimburse generators for operating and maintenance costs under the program.

List of Auditor's Recommendations [To Be Updated]

8. IESO implement the recommendations of the MSP regarding payments under [the Lost Profit Recovery] Program to market participants.
9. To ensure that the Market Renewal Initiative considers and protects all ratepayers' interests, we recommend that the IESO: (i) immediately prohibit representatives from companies that have been found by the OEB MSP or the IESO Oversight Division to have misused IESO programs from participating in the [Market Renewal] Initiative working group; (ii) establish a minimum number of working group members representing low-power consumers and ensure that those positions are always filled; and (iii) publicly report in clear language how the results of the Initiative will be in the best interests of all ratepayers.
10. To ensure that the IESO MACD can conduct proper oversight of the market, we recommend that the IESO: (i) assess the resources needed to eliminate its investigation backlog and conduct the largescale investigations that have proven effective in recovering funds and identifying and sanctioning significant rule violations; and (ii) attract and retain staff with experience in market rules and expertise in investigation.
11. To enable the MACD to conduct thorough and effective investigations, we recommend that the Ministry of Energy give MACD explicit legislative authority under the Electricity Act to compel information and evidence in the course of its investigations.
12. To ensure that MACD can conduct proper oversight of the market, we recommend that the IESO replace the Oversight Division's computer system as soon as possible
13. IESO change MACD's reporting structure to give MACD more independence.
14. IESO create a senior-level position for cybersecurity and establish a formal reporting process to both IESO executives and the IESO Board of Directors.

List of Auditor's Recommendations [To Be Updated]

15. IESO procure technology that prevents and identifies breaches of confidential information and monitors staff access to confidential information in real time.
16. (i) IESO establish an external vendor cybersecurity policy; and (ii) the cybersecurity team conduct a regular assessment of the security risk that external vendors pose to the IESO.
17. IESO properly encrypt all backup tapes and store them in a secure off-site location.
18. IESO increase the number of cybersecurity staff to the recommended level of seven and/or engage an external IT cybersecurity vendor to be on standby.
19. IT department of the IESO involve its cybersecurity staff in the early stages of all IT projects that could pose cybersecurity risks.