



EB-2017-0150

Independent Electricity System Operator

Application for approval of 2017 revenue requirement, expenditures and fees

DECISION ON ISSUES LIST August 4, 2017

The Independent Electricity System Operator (IESO) filed an application with the Ontario Energy Board (OEB) on April 21, 2017 under section 25 (1) of the *Electricity Act, 1998*, seeking approval for the IESO's 2017 expenditures, revenue requirement and fees.

In accordance with Procedural Order No. 1, OEB staff and three intervenors – the Association of Power Producers of Ontario (APPrO), Energy Probe and the Vulnerable Energy Consumers Coalition (VECC) – filed comments on the draft issues list prepared by the IESO, and IESO responded to those comments. In Procedural Order No. 2, the OEB invited further submissions, particularly in respect of the issues raised by APPrO on the Wholesale Market Service Charge and the issues raised by Energy Probe and VECC on the IESO's Market Renewal Program (MRP). In response, a number of further submissions were received.

After considering all the submissions, the OEB has approved the final issues list attached as Schedule A, for the following reasons.

1.0 Revenue Requirement, Operating Costs and Capital Spending

Under this heading, the draft issues list comprised the following issues:

1.1 Is the IESO's Fiscal Year 2017 net revenue requirement of \$190.8 million appropriate?

1.2 Is the IESO's Registration & Application Fees revenue forecast of \$0.6 million for Fiscal Year 2017 appropriate?

1.3 Is the IESO's Operating Costs budget of \$191.4 million for Fiscal Year 2017 appropriate?

1.4 Are the IESO's projected staffing levels appropriate and reasonable?

1.5 Is the IESO's Capital Expenditure budget for Fiscal Year 2017 appropriate?

1.6 Are the IESO's Market Renewal Program 2017 operational costs appropriate?

OEB staff proposed a new issue to consider how productivity improvements have impacted the IESO's revenue requirement. The IESO disagreed with the inclusion of this issue based on how the IESO's fees have declined over time, savings from its merger with the Ontario Power Authority (OPA) and its ongoing oversight of its operations to maximize the value for ratepayers. The OEB will not include a new issue on productivity improvements. This is not for the reasons cited by the IESO. The assessment of the IESO's productivity is relevant to the OEB's review of its revenue requirement and fees. The IESO's productivity can be assessed as part of Issue 1.3 on operational costs or Issue 1.5 on capital expenditures. It is appropriate to consider matters such as productivity, cost trends, the business activities and initiatives in the IESO's 2017-2019 business plan approved by the Minister of Energy, and other government-mandated obligations.

Energy Probe and VECC proposed amendments to include compensation issues and the IESO did not object. The OEB agrees that Issue 1.4 should be amended to include compensation.

OEB staff proposed that there be a separate issue on pension liabilities. The OEB is of the view that the impact of pension liabilities is included within Issue 1.4 and therefore no separate issue on pension liabilities is required. For greater certainty the amendment to Issue 1.4 will highlight components of compensation.

Issue 1.4 is therefore amended as follows: *1.4 Are the IESO's projected staffing levels and compensation (including salaries, wages, benefits, pensions and other post-employment benefits) appropriate and reasonable?*

VECC questioned whether the MRP, which is described in the IESO's 2017-2019 business plan approved by the Minister of Energy, is within the mandate of the IESO. Most other intervenors and OEB staff accepted that the IESO has the authority to undertake the MRP. The OEB is satisfied that the MRP is within the mandate of the

IESO. The IESO has broad powers under the *Electricity Act, 1998* to make rules that govern the electricity market. In making rules it is appropriate for the IESO to undertake a review of the market performance and to recommend amendments.

VECC also questioned whether changes proposed under the MRP can be implemented without legislative changes. Whether such changes may be required should not limit the ability of the IESO to develop recommendations for those changes. If the outcome of the MRP is amendments to the rules, any person may apply to the OEB for review of those amendments. The IESO fees proceeding is not the appropriate forum to assess the market rules.

Several intervenors made other suggested changes to the issues list to broaden the scope of the OEB's examination of the MRP in this proceeding. The OEB will amend the issues list to incorporate the scope and timing of the MRP, as proposed by Energy Probe. The OEB also agrees with the Association of Major Power Consumers in Ontario (AMPCO) that it is appropriate to assess the costs in 2017 in the context of the overall MRP, a multi-year project. It is the 2017 operational costs that are the subject of approval in this proceeding, and the description of the issue will be amended accordingly.

The OEB does not agree with Energy Probe's suggestion to include the "cost consequences" of the MRP (beyond the IESO's operational costs of implementing the program) in the issues list. The IESO continues to consult on the proposals under the MRP, therefore it is premature to consider the cost consequences of the program.

Issue 1.6 will therefore be revised as follows: *1.6 Are the IESO's forecast 2017 operational costs for the Market Renewal Program appropriate in the context of the scope and timing of the overall project?*

2.0 Usage Fees

The following issues were included in the draft issues list:

2.1 Is the methodology used to derive the proposed IESO Usage Fees and the resulting Fees of \$1.2187/MWh for domestic customers and \$0.9872/MWh for export customers appropriate?

2.2 Is the proposed January 1, 2017 effective date for the Usage Fees appropriate?

VECC proposed that two issues be added, one on forecast energy volumes and another on the allocation of energy volumes and costs between domestic and export

markets. The OEB has determined that it will add an issue on the allocation of energy volumes and costs as a new Issue 2.1, but will not add an issue on the forecast energy volumes.

The IESO did not support the inclusion of either issue. For the forecast of energy volumes the IESO submitted that it is required by the *Electricity Act, 1998* to forecast the electricity demand and the adequacy and reliability of electricity resources for Ontario, and that this forecast is the basis for volumes used in this application. For this reason, the IESO submitted that it is not reasonable to add this issue to the list.

The OEB agrees with the IESO. While a forecast of volumes is typically an issue in a rates proceeding, the nature of the IESO's mandate under the *Electricity Act, 1998* means that its forecast is the province's forecast for planning purposes. The OEB itself uses this volume for the setting of other rates.¹ The OEB does not see the value in questioning this forecast in this proceeding.

For the allocation of energy volumes and costs between domestic and export markets the IESO noted that it has used the same cost allocation model approved by the OEB in the previous fees proceeding. The OEB acknowledges that the IESO is not proposing any alterations to the cost allocation, yet it is not clear at this point whether there are any new aspects that should be explored. A new issue will be added as follows: *2.1 Is the allocation of energy volumes and costs between domestic and export markets reasonable?*

3.0 Registration and Application Fees

The following issues were included in the draft issues list:

- 3.1 Are the registration fees of up to \$10,000 per proposal for electricity supply and capacity procurements, including conservation and load management procurements, appropriate?*
- 3.2 Are the non-refundable application fees for standard offer programs, such as the Feed-in Tariff ("FIT") program of \$0.50/kW of proposed Contract Capacity, having a minimum of \$500 and a maximum of \$5,000, appropriate?*
- 3.3 Is the \$1,000 application fee for market participation appropriate?*

¹ As set out in O. Reg. 442/01 (Rural or Remote Electricity Rate Protection), the OEB sets the amount of rural and remote rate protection based on the IESO's forecast of the kilowatt hours of electricity that will be withdrawn from the IESO-controlled grid.

None of the parties took issue with this part of the draft issues list, and the OEB has no concerns.

4.0 The Deferral and Variance Account

The following issues were included in the draft issues list:

- 4.1 Is the IESO's proposal to retain an Operating Reserve of \$10 million in the Forecast Variance Deferral Account appropriate?*
- 4.2 Is the IESO's proposal to clear 2016 Year-End balance in the Forecast Variance Deferral Account that are in excess of the \$10 million operating reserve appropriate?*
- 4.3 Is the IESO's proposal to retain, in proportionate quantities, up to \$5 million above the proposed 2017 revenue requirement received from each of the two customer classes, to be used to fund Market Renewal Program costs that occur in 2018 appropriate?*

Energy Probe proposed a new issue on the creation of a separate deferral account for the MRP, arguing that as a special project, the MRP should be subject to a higher level of review. Some intervenors, and OEB staff, supported this proposal.

The OEB will add Energy Probe's proposed issue to the issues list: *4.4 Should the IESO establish a separate Market Renewal Program Deferral Account?* While the IESO has stated that it can report on actual costs for the project against planned costs and therefore no separate account is required, the OEB agrees with OEB staff that this is best determined through this proceeding.

5.0 Commitments from Previous OEB Decisions

The following issues were included in the draft issues list:

- 5.1 Is the IESO's proposed Regulatory Scorecard appropriate?*
- 5.2 Are the four Standard Financial Reporting Forms appropriate?*
- *Appendix 2-AA (Capital Projects)*
 - *Appendix 2-JB (Operations and Administration Cost Drivers)*
 - *Appendix 2-JC (Operations and Administration Programs)*
 - *Appendix 2-K (Employee Costs)*

5.3 Are the IESO's costs and savings to implement the Ontario Government Greenhouse Gas Cap-and-Trade Initiative and any new or changing requirements arising from Bill 135 appropriate?

5.4 Is the IESO's rationale as to why benchmarking is not possible or appropriate acceptable?

None of the parties took issue with this part of the draft issues list, and the OEB has no concerns.

6.0 Pensions and Other Post-Employment Benefits (OPEBs) Costs

The following issue was included in the draft issues list:

6.1 Is the IESO's treatment of pensions and other post-employment benefits costs appropriate?

For the reasons set out under Issue 1.0, the OEB does not agree with OEB staff that a new issue regarding the impact of pension liabilities on 2017 and future revenue requirements is warranted.

VECC's Proposal for a New Issue re Filing Requirements

VECC proposed a new issue on whether the filing requirements for IESO fees applications are sufficient. The OEB will not add this issue to the list. The filing requirements for future proceedings to review the IESO fees are not within the scope of the current proceeding. If the OEB considers that filing guidelines or requirements should be established, they would more appropriately be developed in a different forum, consistent with the OEB's typical approach.

APPrO's Proposal for New Issues re Wholesale Market Service Charges

APPrO argued that "an issue in this proceeding should include a review of the terms and conditions of IESO programs, including their cost. These amounts are currently collected by distributors from customers as part of the Wholesale Market Service Charge". Specifically, APPrO put forward the following three issues:

- 1. What are the amounts paid by customers for IESO programs?*
- 2. Should these amounts be categorized as a separate IESO fee?*
- 3. Are the terms and conditions of IESO programs, including their cost, appropriate?*

Several intervenors supported the proposal. Both the IESO and OEB staff filed submissions opposing the proposal.

The OEB has determined that it will not add APPrO's proposed issues to the issues list. As noted by OEB staff, "fees" is a defined term in the *Electricity Act, 1998*:

"fees" means, with respect to the IESO, amounts charged by the IESO, or by a predecessor within the meaning of section 4, to recover its costs of operations. [Emphasis added.]

That definition can be contrasted with the definition of "charges":

"charges" means, with respect to the IESO, amounts charged by the IESO, or by a predecessor within the meaning of section 4, to recover amounts paid or payable by the IESO or the predecessor to another person with respect to electricity. [Emphasis added.]

Section 25 of the *Electricity Act, 1998* provides the OEB with the authority to review and approve the IESO's fees, but not its charges. The OEB agrees with OEB staff that this means the OEB may review the IESO's costs of operations, such as its costs related to office space, computers and staff salaries, but not the Wholesale Market Service Charges. This is consistent with what the OEB has said in previous fees cases. In its decision on the issues list in the OPA's 2011 fees case, the OEB held that it had no role in approving or rejecting the OPA's "charges",² and in its final decision on the OPA's 2008 fees, the OEB stated that "The Board's role in a fees proceeding is to assess whether the proposed organizational budget is reasonable" (emphasis added).³

Summary

The approved issues list is attached as Schedule A to this Decision.

In summary:

- Issue 1.4 has been broadened to include compensation (including salaries, benefits, pensions and other post-employment benefits)
- Issue 1.6 has been amended to clarify the scope of the OEB's review of the MRP in this proceeding
- A new issue 2.1 has been added in respect of the allocation of energy volumes and costs between domestic and export customers
- A new issue 4.4 has been added concerning whether to establish a separate MRP deferral account

² EB-2010-0279, Issues Decision and Procedural Order No. 2, January 11, 2011, p. 6.

³ EB-2007-0791, Decision and Order, May 15, 2008, p. 6.

DATED at Toronto, **August 4, 2017**

ONTARIO ENERGY BOARD

Original signed by

Kirsten Walli
Board Secretary

SCHEDULE A
FINAL ISSUES LIST
DECISION ON ISSUES LIST
INDEPENDENT ELECTRICITY SYSTEM OPERATOR
EB-2017-0150
August 4, 2017

SCHEDULE A: FINAL ISSUES LIST

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- 1.4 Are the IESO's projected staffing levels and compensation (including salaries, benefits, pensions and other post-employment benefits) appropriate and reasonable?
- 1.5 Is the IESO's Capital Expenditure budget for Fiscal Year 2017 appropriate?
- 1.6 Are the IESO's forecast 2017 operational costs for the Market Renewal Program appropriate in the context of the scope and timing of the overall project?

2.0 Usage Fees

- 2.1 Is the allocation of energy volumes and costs between domestic and export markets reasonable?
- 2.2 Is the methodology used to derive the proposed IESO Usage Fees and the resulting Fees of \$1.2187/MWh for domestic customers and \$0.9872/MWh for export customers appropriate?
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- 4.4 Should the IESO establish a separate Market Renewal Program Deferral Account?

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