



EB-2004-0477

IN THE MATTER OF the *Ontario Energy Board Act, 1998*,
S.O. 1998, c. 15, Schedule B;

AND IN THE MATTER OF the review of the Independent
Electricity System Operator's fees, expenditures and
revenue requirement for its 2005 fiscal year.

PROCEDURAL ORDER NO. 3

On November 5, 2004, the Independent Electricity Market Operator ("IMO") filed its proposed fees, revenue requirement and expenditures for its 2005 fiscal year with the Ontario Energy Board for review under section 19 of the *Electricity Act*. The Board assigned file number EB-2004-0477 to this matter.

The Board issued a Notice of Application dated November 24, 2004 with respect to this matter; it was served and published as directed by the Board. The Board issued Procedural Order No. 1 dated December 13, 2004; it provided an issues determination process, an interrogatory process and a process concerning intervenor evidence.

On January 1, 2005 the IMO was renamed the Independent Electricity System Operator ("IESO").

An Issues Conference was held on January 5, 2005; it resulted in a List of Agreed to Issues and a List of Contested Issues. During the Issues Day held on January 10, 2005, a panel of the Board heard submissions on the List of Contested Issues. The first contested issue was whether the Board has jurisdiction under s. 19 of the *Electricity Act* (the "*Act*") to review the merits of the components of the Market Evolution Program ("MEP") as part of its review of the IESO's expenditure and revenue requirements. The Board found that it had this jurisdiction. However, the Board also found that the merits of the MEP can be effectively reviewed in accordance with the market rule amendment review process under ss. 33 and 34 of the *Act*, on the condition that the IESO undertake that "no expenditures would be incurred in this area without a market rule having been established to accommodate and encapsulate those expenditures, and the review process having been completed."

The Board therefore proposed a cap of expenditure commitments that the IESO may make in 2005 pending the completion of the market rule amendment review process for the MEP and requested that the IESO advise whether it was prepared to provide an undertaking to that effect. The IESO has advised that it is not prepared to provide such an undertaking. The Board continues to be of the view that a review of the merits of the MEP is most appropriately addressed in the market rule amendment review process, provided that this review is not prejudiced as a result of expenditures made in support of the MEP.

The Board will therefore address the following issue in this proceeding:

“Should the Board recommend that the IESO not make expenditures beyond a threshold amount in support of the Market Evolution Program pending the completion of the Market Evolution Program market rule amendment process under ss. 33 and 34 of the *Electricity Act*; if so, what is the threshold?”

The second disputed issue addressed the IESO’s legal authority to enter into the Memorandum of Understanding (as defined in Appendix “A”). In this regard, the Board will address the following issue in this proceeding:

“What is the IESO’s legal authority to enter into the Memorandum of Understanding?”

The Board considers it necessary to make provision for the following procedural matters. The Board may issue further procedural orders from time to time.

THE BOARD ORDERS THAT:

1. The issues for this proceeding are set out in Appendix “A” attached to this Order.

Issued at Toronto, January 13, 2005

Ontario Energy Board

Original Signed by

Peter H. O’Dell
Assistant Board Secretary

Appendix "A" to
Procedural Order No. 3

EB-2004-0477

Dated January 13, 2005

Original Signed by

Peter H. O'Dell
Assistant Board Secretary

EB-2004-0477
Independent Electricity System Operator

Review of Fees, Expenses and Revenue Requirement

Issues List

- 1. Financial Management**
 - 1.1. Impact of the change in the accrued surplus for the IESO's rate stabilization proposals:
 - 1.1.1. Rationale for retaining an accumulated surplus
 - 1.1.2. Impact of the December 23, 2004 Memorandum of Understanding between the Ministry of Energy and the IESO
 - 1.1.3. Implications on 2005 operations
 - 1.2. Financial practices, including budgeting process, debt position and fluctuations in debt levels, and policies for providing financial support for non-IESO activities
- 2. The Effect of Bill 100**
 - 2.1. Impact of Bill 100 on the duties and operations of the IESO in 2005 and the consequent impact on 2005 expenditures and revenue requirements
 - 2.2. Scope of the services provided by the IESO to the Ontario Power Authority and the Ontario Energy Board, including the associated costs and compensation
- 3. Costs Incurred in 2005**
 - 3.1. Appropriate level of costs – including:
 - 3.1.1. Operations Maintenance and Administration
 - 3.1.2. Labour (costs and strategies)
 - 3.1.3. Depreciation
 - 3.1.4. Capital expenditures management
- 4. Stakeholdering**
 - 4.1. IESO Stakeholder consultation
- 5. Rate and Fee Design**
 - 5.1. Cost allocation
 - 5.2. Translation of costs into fees and charges
 - 5.3. Direct incidence of fees and charges among market participants and energy customers

6. Benchmarking

6.1. Comparability of IESO costs, performance and outputs with the costs, performance and outputs of other system operators

7. Performance Indicators

7.1. IESO performance indicators

8. The Memorandum of Understanding

8.1. What is the IESO's legal authority to enter into the Memorandum of Understanding?

9. 2005 Expenditure and Revenue Requirement: Market Evolution Program

9.1. Should the Board recommend that the IESO not make expenditures beyond a threshold amount in support of the Market Evolution Program pending the completion of the Market Evolution Program market rule amendment process under ss. 33 and 34 of the *Electricity Act*, if so, what is the threshold?