



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 Market Operator's fees, expenditures and revenue
requirement for its 2005 fiscal year.

PROCEDURAL ORDER NO. 6

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, 1998. The Board assigned file number EB-2004-0477 to this matter.

On January 1, 2005 the IMO was continued under the Electricity Act, 1998 as the Independent Electricity System Operator ("IESO").

The Board issued a Notice of Application dated November 24, 2004 with respect to this matter, which was published on December 1, 2004. Through the issuance of five Procedural Orders, the Board provided processes and dates for discovery, intervenor evidence, issues determination and a settlement conference, and provided a Board-approved issues list. The settlement conference resulted in a proposed settlement agreement, which was presented to the Board on March 3, 2005. After hearing submissions, the Board directed the IESO to redraft those sections of the proposed settlement agreement that attracted clarifying questions and to identify, on an issue-by-issue basis, which parties supported a position and which parties did not take a position. The revised proposed settlement agreement was filed with the Board on March 8, 2005.

The revised proposed settlement agreement reflects agreement by the parties to settle the following two issues on which, pursuant to the November 24, 2004 Notice of Application, the Board intended to hear evidence during the hearing:

- The IESO accumulated surplus account and financial planning (the "surplus issue").
- The cost implications of the transition to a new Independent Electricity System Operator (the "transition issue").

Circumstances have changed materially since the Board's Notice of Application was issued.

With respect to the surplus issue, the Board is now satisfied that it is no longer an issue for this proceeding. Specifically, the *Fees for OPA's 2005 Fiscal Year Regulation*, O. Reg. 47/05, authorizes the IESO to transmit amounts collected on or before December 31, 2004 to the Ontario Power Authority ("OPA") on account of the OPA's fees for its 2005 fiscal year.

With respect to the transition issue, the key change respecting the IESO's responsibilities relates to the establishment of the OPA. Given that the OPA has not become sufficiently operational to allow a thorough review of the cost implications arising from the respective responsibilities of the IESO and the OPA, the Board is of the view that the transition issue cannot be adequately addressed in a definitive manner at this time.

As a result of the above change in circumstances, the Board has determined that it is no longer necessary to deal with these issues by way of evidence at the oral hearing. The Board has also determined that these issues can be accommodated as described in the proposed revised settlement agreement.

THE BOARD ORDERS THAT:

1. The proposed revised settlement agreement as filed is accepted.
2. The issues that remain to be addressed during the oral part of this proceeding are limited to the following:
 - Market Evolution Program initiatives as described on pages 29 and 41 of the IESO's updated evidence.
 - Should the Board recommend that IESO not make expenditures beyond a threshold amount in support of components 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, 1998; and, if so, what should the threshold be?
 - IESO stakeholder consultation.
 - Comparability of IESO costs, performance and outputs with the costs, performance and outputs of other system operators.
 - IESO performance indicators, if this issue is not resolved prior to the hearing.

ISSUED at Toronto, March 18, 2005

ONTARIO ENERGY BOARD

Original signed by

Peter H. O'Dell
Assistant Board Secretary