



EB-2005-0499

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

AND IN THE MATTER OF the Independent
Electricity System Operator Fiscal 2006 Fees
Submission for Review

BEFORE: Paul Sommerville
Presiding Member

Pamela Nowina
Member

Ken Quesnelle
Member

INTERIM DECISION AND ORDER

BACKGROUND

On October 28, 2005, the Independent Electricity System Operator ("IESO") filed its proposed Fiscal 2006 Fees Submission for Review with the Ontario Energy Board for review in accordance with sections 18 and 19 of the *Electricity Act, 1998*. The Board assigned file number EB-2005-0499 to this matter.

On December 6, 2005, the Board issued its Procedural Order No. 1 which set timelines for an Issues Conference, the interrogatory process and a Settlement Conference.

The Issues Conference was held on December 14, 2005. At the conference, the Participants and Board Staff agreed on an issues list which was approved by the Board and included with Procedural Order No. 2 dated December 19, 2005.

A Settlement Conference was held on January 30 and 31, 2006. The following parties participated in the settlement discussions:

- The IESO
- Vulnerable Energy Consumer's Coalition ("VECC")
- Canadian Manufacturers & Exporters ("CME")
- The Society of Energy Professionals ("SEP")
- Energy Probe Research Foundation
- The Association of Power Producers of Ontario ("APPPrO")
- Ontario Power Generation Inc. ("OPG")
- Power Worker's Union

The Board Staff attended the conference but took no position on any issue. At the Settlement Conference, the parties settled all issues from the Board approved issues list. The settlement proposal was filed by the Applicant with the Board on February 1, 2006 and is included, along with a cover letter, as Appendix "A".

RATIONALE FOR AN INTERIM DECISION AND ORDER

In its cover letter for the settlement proposal (Appendix A), the IESO notes that, if the Board can approve the agreed-to usage fee of \$0.909 / MWh by February 3, 2006, the IESO would be able to incorporate the reduced usage fee in its first 2006 bill to market participants. The IESO has, therefore, requested that that the Board approve the usage fee by February 3, 2006, if possible.

The Applicant also notes that all parties to the Settlement Agreement supported the earliest possible Board approval of the reduced usage fee.

BOARD FINDINGS

The Board acknowledges that the parties settled all of the issues from the Board approved issues list at the Settlement Conference on January 30 and 31, 2006.

The settlement proposal, included as Appendix A, describes the agreement reached, including the parties' rationale and provides a link between each settlement and the supporting evidence in the record to date.

The Board notes that the settlement discussions concentrated on issues related

to operating cost, capital spending and coordination between the IESO and the Ontario Power Authority. There appears to be significant interest among the parties on these issues as evidenced by the conditions attached to the agreements and the commitments and undertakings required of the IESO.

Conversely, there is no evidence of any concern expressed by the parties regarding the IESO's proposed revenue requirements, expenditures and fees.

Although the Board wishes to further consider the details of the settlement proposal and other aspects of the application, it is satisfied that the public interest is served by making an Interim Order respecting the usage fees at this time, pending its final decision on the application as a whole.

BOARD ORDER

- The Board approves the IESO's proposed usage fee for 2006 of \$0.909 / MWh on an interim basis, effective January 1, 2006, pending a final decision in this proceeding, at which time final usage fees will be approved and applied retroactively from January 1, 2006.

Issued at Toronto, February 3, 2006

ONTARIO ENERGY BOARD



John Zych
Board Secretary

**Appendix A
To
Interim Decision and Order**

INDEPENDENT ELECTRICITY SYSTEM OPERATOR (“IESO”)

FISCAL 2006 FEES SUBMISSION FOR REVIEW

Settlement Agreement

EB-2005-0499

February 3, 2006

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February 1, 2006
File: 101926-1036

Mr. John Zych
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street
Toronto, Ontario
M4P 1E4

Dear Mr. Zych:

**Re: Independent Electricity System Operator
2006 Fee Submission EB-2005-0499**

On January 30 and 31, 2006 a settlement conference was held in this matter. The Independent Electricity System Operator ("IESO") is pleased to inform the Board that the parties settled all issues. I am submitting for the Board's review and consideration the Settlement Agreement negotiated and approved by all intervenors who participated in the settlement conference.

As the Board is aware, under section 19(4) of the *Electricity Act* the IESO requires Board approval to change any fee. The IESO's application, to which the parties have agreed, calls for a reduction in the IESO's usage fee from a 2005 charge of \$0.959/MWh to \$0.909/MWh for 2006.

If the Board can approve the agreed upon usage fee of \$0.909/MWh by this Friday, February 3, 2006 and advise the IESO of such approval, the IESO would be able to incorporate the reduced usage fee in the first 2006 bill to be sent to market participants. Receipt of Board approval after this Friday would result in January 2006 bills being sent out using the higher 2005 usage fee, with an adjustment then made on the February 2006 bill.

TORONTO

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NEW YORK

LONDON

SYDNEY

All parties to the Settlement Agreement supported the earliest possible Board approval of the reduced usage fee and the IESO respectfully requests the Board to approve the reduced 2006 usage fee by this Friday, if possible.

Should you have any questions regarding the draft Settlement Agreement, please do not hesitate to contact me.

Yours truly,



David M. Brown

DMB/kh
Encl.

cc: All Registered Intervenors

Filed: February 1, 2006
EB-2005-0499
Exhibit B
Tab 11
Schedule 1

INDEPENDENT ELECTRICITY SYSTEM OPERATOR (IESO)
FISCAL YEAR 2006 FEES SUBMISSION FOR REVIEW
SETTLEMENT AGREEMENT

EB-2005-0499

This Settlement Proposal is filed with the Ontario Energy Board (“the OEB”) for consideration in the determination of the Independent Electricity System Operator (“the IESO”) EB-2005-0499 Submission for Review. A Settlement Conference was conducted on January 30 and 31 of 2006, in accordance with Rule 38 of the OEB’s *Rule of Practice and Procedure* and the OEB’s *Settlement Conference Guidelines*. The Settlement Proposal arises from the Conference.

The following parties participated in the settlement discussions:

- The IESO;
- Association of Power Producers of Ontario (APPrO);
- Canadian Manufacturers & Exporters (CME);
- Energy Probe Research Foundation (Energy Probe);
- Ontario Power Generation (OPG);
- Power Workers’ Union (PWU);
- Society of Energy Professionals (SEP); and
- Vulnerable Energy Consumers Coalition (VECC)

The Settlement Proposal deals with all issues of the Board’s Issues List:

1. Operating Cost
2. Capital Spending
3. Operating Surplus
4. Benchmarking
5. Coordination between the IESO and Ontario Power Authority (OPA)

The parties have settled all issues.

The OEB Staff take no position on any issue and as a result is not party to this proposal.

This Settlement Proposal was prepared in accordance with Rule 39 and the Settlement Guidelines. The Settlement Proposal accordingly describes the agreements reached on the settled issues, including the rationale, and provides a direct and transparent link between each settlement and the supporting evidence in the record to date. In this regard, the parties agree that the evidence provided with the IESO’s Submission for Review is sufficient to support the Settlement Proposal in relation to the settled issues. Moreover, the quality and the detail of the supporting evidence together with the corresponding rationale will allow the Board to make findings on the settled issues.

IESO 2006 Revenue Requirement, Expenditures and Fees

The parties reached agreement on the IESO's 2006 proposed revenue requirements of \$147.8 million and proposed 2006 capital expenditures of \$25.0 million.

The parties also agreed to the reduced IESO usage fee of \$0.909/MWh commencing January 1, 2006 and to the continuation of the \$1,000 application fee.

The following evidence support this settlement:

*Amended Submission for Review, Exhibit A, Tab 1, Pages 1-4;
Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Pages 22, 30, 37-38.*

Other Matters

Several parties raised concerns regarding some of the issues set out in the Issues List and the settlement of these concerns is described below:

1.0 Operating Cost

- 1.1 Why are the IESO's staff costs increasing from 2005 - 2008 while some of their previous responsibilities are allocated to the OPA? Are the IESO's staff costs reasonable given skills, quality and experience required?
- 1.2 Are the IESO's pension costs and strategy reasonable?
- 1.3 Why have total expenses not declined over the years to reflect the benefits of knowledge gained, efficiencies and experience? Is the trend from inception (1999) to 2008 appropriate?
- 1.4 Are the forecast expenditures for the reliability initiatives for 2006 reasonable and appropriate?
- 1.5 Provide and update the 2005 performance measures. Is the IESO meeting the performance measures?
- 1.6 What is the status of the implementation of the 2005 settlement agreement on modification to IESO performance metrics (for absolute error and bias calculation for on-peak and off-peak hours for both day ahead, one and three-hour-out day-at-hand demand forecast), and what is the proper process for determining appropriate performance metrics?

A. Pension Plan

The following parties raised concerns about the IESO's pension plan:

- CME;
- VECC;
- Energy Probe

The parties have agreed to settle these concerns on the following basis:

The IESO has agreed to report to the Human Resources and Governance Committee of the IESO's Board of Directors the following:

- (i) that some intervenors wish the IESO to design and conduct a study which will explore the advantages and disadvantages of Defined Benefit Programs vs. Defined Contribution Programs for all employee categories of the Applicant;
- (ii) that intervenors wish to have input into the selection of the consultant doing the study and the terms of reference;
- (iii) that intervenors desire that these concerns be reported to the full Board of Directors of the IESO.

The IESO has further agreed to provide to intervenors (i) documentation demonstrating that the Human Resources and Governance Committee of the IESO Board has received and considered the intervenors' request and (ii) the response from the Human Resources and Governance Committee of the IESO Board of Directors to the intervenors' request. The IESO will also file such documentation and response with the OEB by way of fulfilling this undertaking.

The following evidence support this settlement:

Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Pages 27-29;
Exhibit B, Tab 4, Schedule 1: The IESO's Compensation Programs
Interrogatory #s 1.3; 4.1, 6.1 to 6.12.

The following intervenors took no position on the pension plan issue:

- APPrO;
- OPG;
- Society;
- PWU

B. Compensation

The parties have agreed that the IESO, as part of its 2007 Fees Case filing, will provide its views on whether or not it is appropriate to set targets for the IESO's compensation levels on a quartile or some other basis.

The following evidence support this settlement:

Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Page 25;
Exhibit B, Tab 4, Schedule 1: The IESO's Compensation Programs;
Exhibit B, Tab 5, Schedule 1: Section 7 of Status Report on Undertakings;
Exhibit B, Tab 9, Schedule 1: Minutes of the Regulatory Affairs Standing Committee, June 29, 2005;
Interrogatory #s 4.2 and 4.3

The following intervenors took no position on the compensation issue:

- Society;
- PWU;
- APPrO

C. Demand Forecast Performance Metrics

Some intervenors expressed a desire to have the day ahead and the day at hand performance metrics reported on an on-peak seasonal basis in lieu of the current annual basis and further requested that the processes and tools be reviewed to seek improvement in the accuracy of these forecasts.

The IESO expressed the view that the Stakeholder Advisory Committee (SAC) or its Committees would be the most appropriate forum in which to consider this issue. The IESO also advised that issues around deviations from forecasts, especially deviations from day ahead forecasts, are currently under review by the IESO.

With regard to demand forecast performance metrics, some intervenors and the IESO agreed on the following:

The IESO will publish on its public website on a monthly basis (1) the bias calculations for on peak and off peak hours for both day ahead and one and three hour out day at hand measures, and to be shown separately for on and off peak periods, and (2) the number of days in which the absolute value of error in any hour exceeds 3%, for both day ahead and one and three hour out day at hand measures, including the maximum absolute error in which any hour exceeds the 3% value.

Further, with an eye to improving the accuracy of the demand forecast, some intervenors will recommend to the SAC that a task force (1) be established to examine ways to narrow the range of forecasting deviations, (for day ahead as well as day-at hand) and (2) commence its work and report back to the SAC with its recommendations as soon as possible. The IESO will not oppose a recommendation to establish a task force, however, should the IESO believe that there is another more appropriate means to address this issue, the IESO reserves the right to make such recommendation to the SAC and will work constructively under the approach adopted.

The following evidence support this settlement:

Exhibit B, Tab 5, Schedule 1: Section 8 of Status Report on Undertakings; Interrogatory #s 2.2, 3.1 c) and 3.2.

The following intervenors took no position on this issue:

- APPrO;
- CME;
- VECC;
- Society;
- PWU

D. OM&A Costs for Current market Issues

The parties have agreed that on a trial basis for the 2006 forecast year the IESO will provide, as part of its 2007 Fees Case filing, an informed estimate of the actual OM&A costs incurred in 2006 on each identified current market initiative in the event that such OM&A costs for any initiative exceeds \$500,000, to be updated once final 2006 costs are known.

The parties' agreement respecting costs charged by the IESO to the OPA is set out in Section 5.0 below.

The following evidence support this settlement:

Exhibit B, Tab 1 Schedule 1: 2006-2008 Business Plan, Pages 16-17 and 29; Interrogatory #s 1.5 to 1.7 and 5.1 to 5.7.

E. Funding for IESO stakeholder processes

The IESO advises that IESO management plans to bring to the IESO's Board of Directors in the near future a proposal for a pilot project for intervenor funding for IESO stakeholdering processes.

The following evidence support this settlement:

*Exhibit B, Tab 1 Schedule 1: 2006-2008 Business Plan, Page 8;
Interrogatory #s 5.8.*

2.0 Capital Spending

- 2.1 Are the forecast expenditures for the Day Ahead Commitment Process (DACP) and the other reliability measures reasonable and appropriate?
- 2.2 Does the IESO have all the necessary market rules in place for the development of the DACP?
- 2.3 What is the level of IESO commitment to DACP and is this sufficient for funding approval?

A. Capital Expenditures

Some intervenors expressed a desire to be provided with information comparing actual capital expenditures on capital projects in a year against forecast expenditures for such projects.

All parties agreed to settle this issue on the basis that in its 2007 fees application, the IESO will file a Capital Project List similar in form to Appendix 3 in the 2006-2008 Business Plan that includes additional information showing the actual 2005 expenditures for the capital projects forecast for 2005 and year to date 2006 expenditures for the capital projects forecast in 2006.

The following evidence support this settlement:

*Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Pages 19-20 and Appendix 3: Capital Projects.
Interrogatory #s 1.5 to 1.8 and 5.1 to 5.7.*

B. Timelines for Current Market Issues and Initiatives

In its pre-filed evidence, the IESO has identified the following priority current market issues:

- (a) Reliability Issues and Initiatives including:
 - i. the DACP

- ii. Demand Response (the ELRP)
- iii. Internal resource dispatch
- iv. Intertie scheduling

(b) Market Pricing Issues and Initiatives including:

- i. The appropriate ramp rate multiplier to be employed in the Market Schedule
- ii. Whether intertie transactions should be considered in the calculation of the Ontario Market Clearing Price, and

(c) Market Evolution Programs including resuming and advancing work with stakeholders on the Day-Ahead Market.

In relation to Reliability Issues and Initiatives identified in (a) above, the IESO is committed to implementing these initiatives prior to summer of 2006 subject to the General Understanding of the Parties set out below.

In relation to all Market Pricing Issues and Initiatives identified in (b) above, the IESO is committed to implementing these initiatives in 2006 in parallel with the implementation of the DACP, to the extent feasible without jeopardizing the June 1, 2006 DACP in-service date and subject to the General Understanding of the Parties set out below.

The IESO is also committed to resuming and advancing work with stakeholders on the Day-Ahead Market identified in (c) above, in accordance with the Resolution of the Board of Directors dated December 7, 2005, subject to the General Understanding of the Parties set out below.

General Understanding of the Parties

The parties understand that the IESO's ability to fulfill its commitments set out above under this 2.0 series of issues relating to "Timelines" is subject to: (i) the completion and results of any required stakeholdering processes, which may involve discussions and resolutions on the timing of implementing the above-mentioned initiatives; (ii) the IESO's ability to access required resources such as outsider vendors to implement the agreed upon solutions; and (iii) the availability of human resources in the event of extraordinary circumstances impacting the IESO.

The following evidence support this settlement:

Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Pages 5-7;
Exhibit B, Tab 10, Schedule 1: Update re: Day-Ahead Commitment Process and Reliability Initiatives;

Interrogatory #s 1.7, 5.1, 5.3, 5.4 and 5.5.

3.0 Operating Surplus

- 3.1 What is the appropriate amount of accumulated surplus that the IESO should retain?
- 3.2 Is the forecast of the surplus accurate?
- 3.3 How should the excess surplus be returned to market participants?

The parties agreed to the continuation of the treatment of deferral account balances as agreed upon in the Settlement Agreement in EB-2004-0477.

The following evidence support this settlement:

*Amended Submission for Review, December 13, 2005: Exhibit A, Tab 1, Pages 1-2;
Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Pages 12 and 39;
Exhibit B, Tab 5, Schedule 1: Section 4 of Status Report on Undertakings;
Interrogatory #s 1.9 to 1.11.*

The following intervenor took no position on the operating surplus issue:

- APPrO

4.0 Benchmarking

- 4.1 What is the status of the FERC cost comparison initiative?
- 4.2 What are the proposed cost categories for comparison? Are they appropriate?

The IESO confirmed to the parties that it will track and report costs consistent with FERC's Order No. 668 cost categories, and will include in its 2007 fees case such comparative information as is available at that time.

The following evidence support this settlement:

Exhibit B, Tab 5, Schedule 1: Section 3 of Status Report on Undertakings;

Exhibit B, Tab 7, Schedules 1, 2 and 3: FERC NOPR on Accounting and Financial Reporting and IESO and ISO/RTO Comments on FERC's NOPR; Interrogatory #s 1.12 to 1.14.

5.0 Coordination between IESO and OPA

5.1 Is there any overlap or duplication of activities? What is the process to eliminate overlap and duplication between these two agencies?

The IESO's evidence discloses that in 2006 the IESO anticipates providing services to the OPA and charging the OPA for such services on a cost recovery basis. The IESO has filed the Memorandum of Understanding (Ex. B, Tab 8, Schedule 1) entered into between the IESO and the OPA. The IESO commits to filing as part of its 2007 fees case:

- (i) a copy of the OPA/IESO Master Service Agreement to be executed by the IESO and OPA, subject to any confidentiality concerns;
- (ii) any schedules negotiated thereunder, subject to any confidentiality concerns; and,
- (iii) the actual costs incurred and charged by the IESO to the OPA for services provided in 2006.

The following evidence support this settlement:

Exhibit B, Tab 1, Schedule 1: 2006-2008 Business Plan, Pages 4, 9, 23 and 36-37;

*Exhibit B, Tab 5, Schedule 1: Section 6 of Status Report on Undertakings;
Exhibit B, Tab 8, Schedule 1: Memorandum of Understanding: Principles to Govern Coordination Between the OPA and the IESO;
Interrogatory #s 1.1, 1.15, 1.16 and 2.4.*