

**PROPOSAL TO AMEND A LICENCE
Ontario Power Authority (“OPA”)
Regional Planning Obligations**

EB-2013-0192

STAFF SUBMISSION

July 18, 2013

INTRODUCTION

On October 18, 2012, the Board issued its [Report of the Board – A Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach](#) (the “RRFE Report”). In the RRFE Report, the Board concluded that infrastructure planning on a regional basis is required to ensure that regional issues and requirements are effectively integrated into utility planning processes, and indicated that it would establish a process in order to move to a more structured approach to regional infrastructure planning.

The Board convened a stakeholder working group (the “Planning Process Working Group”) to prepare a report to the Board (the “PPWG Report”) that set out the details of an appropriate regional planning process for Ontario. The OPA was a member of the PPWG. The PPWG Report identified that changes to the Board’s regulatory instruments and changes to the OPA’s licence (EO-2010-0220) were necessary to support the regional planning process.

On May 17, 2013, the Board issued proposed code amendments to reflect the obligations of licensed transmitters and licensed distributors in the regional planning process.

On June 3, 2013, the Board issued a Notice (the “June 3rd Notice”) initiating this proceeding which included proposed amendments to the OPA’s licence. As stated in the June 3rd Notice, the issue in this proceeding is whether the proposed amendments to the OPA licence, which are intended to reflect the OPA’s obligations in the regional planning process as well as the associated timelines to carry out those obligations, are appropriate.

On June 19th, the Board issued Procedural Order No. 1 which set out the dates for submissions by the OPA, Board staff and intervenors. The Board also clarified the scope of the proceeding in noting that it is focused on determining the OPA’s obligations in the regional planning process in a manner that is consistent with the PPWG Report, and to determine the appropriate timelines in relation to carrying out those obligations. The Board has endorsed the regional planning process for Ontario set out in the PPWG Report and has noted that any

submissions on the process in the PPWG Report are not within the scope of this proceeding and will therefore not be considered by the Board.

On July 4, 2013, the OPA provided its submission in relation to the proposed amendments and suggested some changes which are discussed below.¹

This submission reflects observations and comments which arise from Board staff's review of the OPA's submission on the proposed licence amendments issued on June 3, 2013.

PROPOSED LICENCE AMENDMENTS

Summary of OPA Submission

In its submission, the OPA submitted the proposed changes set out below.

Board staff notes that the proposed amendments would require the OPA to provide a final IRRP to the transmitter in one year and, if a final IRRP was not completed within one year, the OPA would then be required to inform the transmitter of any wires solutions required in the near term (next 5 years) for the applicable region within one year.

The OPA submitted that there was a need for "increased flexibility" due to a Government initiative, which is focused on improving the consultation process in relation to the siting of large generation facilities. The Minister of Energy issued a letter on May 6, 2013 directing the OPA and IESO to provide recommendations to the Minister on August 1st.² The OPA therefore submitted that they should, instead, be required to provide the following:

- Within one year, an "interim" IRRP be provided to the transmitter identifying any "wires" solutions required in the near term (i.e., next five years); and

¹ http://www.ontarioenergyboard.ca/OEB/Documents/EB-2013-0192/OPA_SUB_20130704.pdf

² [Minister's letter to the OPA and the IESO.](#)

- Within two years, an “IRRP” be provided to the transmitter identifying any “wires” solutions required over the mid- to long-term (i.e., up to 20 years).

The OPA also submitted that they should be required to provide the IRRP to area municipalities. The OPA noted this suggested change was triggered by feedback received through the OPA and IESO engagement sessions related to generation siting.

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Requirement to Provide IRRP to Municipalities

Board staff supports the OPA’s suggested change to provide the IRRP to municipalities, as well as to transmitters. Electricity infrastructure is the only type of infrastructure that is not taken into consideration in municipal planning documents. As such, in Board staff’s view, this OPA proposal would be beneficial in relation to better integrating electricity infrastructure considerations into municipal planning processes by, for example, ensuring corridors are planned (i.e., land is set aside) for major transmission lines.

Changes not Explained by OPA

The OPA proposed specific changes to the proposed wording of the section discussed above, which are not explained in its submission. Board staff suggests that the OPA explain each proposed change in the OPA reply submission. Otherwise, the Board has no justification for making the suggested change. Board staff agrees with one of those changes. That is, for the OPA to inform “participating distributors” as well as the “lead transmitter” of “*any investment in transmission and/or distribution facilities that are required*”. While not necessary, since the same section requires the OPA to provide participating distributors with the IRRP, it makes sense for the distributors in the region (as well as the lead transmitter) to be informed, given that both distribution and transmission investments may be identified by the OPA.

Board staff also suggests some additional minor changes to the originally proposed wording. Currently, the proposed licence amendments would require the OPA to “*inform the lead transmitter of any investment in transmission and/or distribution facilities that are required.*” Board staff suggests that this language be revised to require that the OPA:

“inform the lead transmitter of any **potential** investment in transmission and/or distribution facilities that ~~are~~ **may be** required.”

Board staff submits that the OPA will not be making a final determination in the IRRP regarding transmission or distribution facilities that are required. Rather, the OPA will essentially be recommending potential wires investments to the lead transmitter and distributors in the region. Those potential wires investments will be further assessed, in more detail, as part of a Regional Infrastructure Planning process led by the transmitter. For example, the OPA may identify a potential transmission investment in the IRRP. The lead transmitter and distributors may subsequently conclude that distribution investment(s) are more cost effective following a more detailed analysis based on more accurate cost estimates. Board staff submits that this is one of the reasons that a Regional Infrastructure Plan (not an IRRP) will be required by the Board to support utility applications. This is consistent with the PPWG Report which states:

“It is generally expected that the **IRRP process** will **assess alternatives** to infrastructure at a **higher, or more macro, level** but sufficient to permit a comparison of options. Once the IRRP process identifies that infrastructure options may best meet a need, the **Regional Infrastructure Planning process** will conduct the more detailed planning to **identify and assess the specific wires alternatives** and recommend the preferred wires solution.” (emphasis added)

Extend Timeline for Final IRRP from One to Two Years

Board staff fully agrees with the OPA that that sufficient consultation with municipalities and Aboriginal communities (where applicable) is important in the regional planning process. The need for a more structured regional planning process in Ontario, including more consultation, was first identified by the Board over two years ago when it issued its letter on April 1, 2011 that initiated the

Regional Planning consultation process.³ That letter stated *“This consultation is intended to develop a regulatory framework for regional planning ... a coordinated solution is desirable as allowing for a consideration of broader needs and for **involvement by a larger set of stakeholders.**”* (emphasis added) The reference to “a larger set of stakeholders” was relative to the ad hoc regional planning activities undertaken since 2005. The Board subsequently issued its RRFE Report which resulted in the Board convening the PPWG to establish a regional planning process for Ontario.⁴ In the RRFE Report, the Board directed the PPWG to address a number of key elements including *“The form in which broader consultation should take place before a Regional Infrastructure Plan is finalized”*. The PPWG included a broad spectrum of stakeholders including the Association of Municipalities of Ontario (“AMO”), consumer (both residential and industrial) and generator representatives, as well as distributors, transmitters and the OPA.

Board staff notes that, aside from extending the target timeframe for a final IRRP to be completed from one to two years, there appear to be no material changes suggested by the OPA relative to the proposed licence amendments. A minor proposed change involves attaching a name to the document (“Interim” IRRP) to be provided to the transmitter within one year where a final IRRP has not been completed. Staff has no concerns with referring to any OPA document that precedes a final IRRP as an “Interim” IRRP. In its submission, the OPA also notes, however, that the IRRP is a “living document”. Board staff is not fully certain what this is intended to mean within the context of the proposed licence amendments. It seems to imply that the OPA plans to revise the document, from time to time, and there is no clear indication as to when or whether the OPA will produce a “final” document. If the Board decides the “interim” IRRP nomenclature is appropriate, Board staff submits that the OPA licence amendments should refer to the IRRP, once it is completed, as a “Final IRRP” – not an “IRRP”. Board staff submits that the only reason that would not be appropriate is if the OPA never plans to finalize an IRRP. If the “final” IRRP

³ [Board letter initiating Regional Planning consultation](#), April 1, 2011.

⁴ [Report of the Board – A Renewed Regulatory Framework for Electricity Distributors: A Performance Based Approach](#), October 18, 2013.

needs to be changed, Board staff submits that it should simply be referred to as an “Updated” IRRP. Absent calling it a “Final” IRRP, parties involved in the regional planning process will not know the status of the IRRP. Board staff submits that a transmitter needs to receive a document from the OPA that is clearly “final” so that it can rely upon it before developing a Regional Infrastructure Plan which can support an application to the Board. Once the IRRP is finalized, regardless of the timeframe, Board staff submits that IRRP should not be subject to further revisions until the next planning cycle (i.e., 5 years), as set out in the PPWG Report. Otherwise uncertainty will be created for the participants in the regional planning process and for other stakeholders, including municipalities.

Stronger Rationale for Two Years Necessary

The sole rationale provided by the OPA for extending the timeline was additional consultation that may be required based on how the Minister decides after receiving the IESO and OPA recommendations.

Board staff understands that the OPA and IESO recommendations to the Minister are intended to focus solely on the siting of new “generation”. The Government’s News Release announcing the Minister’s letter only referenced “generation” (i.e., not “transmission”) as follows: *“Through strong public consultation, regional energy plans will lead to better decision making - so that future electricity generation contracts place energy infrastructure in the right location from the beginning”*.⁵ Board staff believes that is appropriate, given that the approval of the construction of new transmission infrastructure is within the Board’s mandate through Leave to Construct (“LTC” or “section 92”) proceedings. The Board’s LTC proceedings already provide a “structured” process for all directly affected parties, including municipalities and Aboriginal groups, to participate. In contrast, the siting of large generation infrastructure in Ontario currently provides for no “structured” process for consultation that is similar to an LTC proceeding (i.e., the site is primarily determined by the developer alone once it receives an OPA contract). If Board staff’s

⁵ <http://news.ontario.ca/mei/en/2013/05/new-ontario-government-strengthens-energy-planning.html>

understanding is correct that any additional consultation requirements noted in the Minister's letter (and the OPA submission) would be limited to the siting of generation infrastructure in the regional planning process, Board staff does not understand why those consultation requirements would have such a material impact on the timelines to complete an IRRP.

Board staff submits that the OPA needs to provide a stronger rationale for specifying that two years is required to complete an IRRP – twice as much time relative to the proposed licence amendments. No evidence has been provided that a two-fold increase in the timeline is needed. For example, Board staff notes that the PPWG already built consultation into the regional planning process, within the IRRP development phase. The IRRP development stage is also preceded by further consultation during the “scoping” process stage, where the appropriate regional planning approach is determined. Stakeholder engagement is therefore not a new concept in the regional planning process as developed by the PPWG and endorsed by the Board. It was also expected by the PPWG, prior to the May 6, 2013 Minister's letter, that municipalities (and Aboriginal groups) would be part of such consultation processes and that generation options were to be included in the consultation.⁶

Board staff submits that it is during the “scoping” stage – prior to IRRP development – that it will be important to ascertain whether the area municipalities are receptive to the siting of a new generation facility in their region. If, for example, it was determined that the municipalities in a region are not receptive to a new generation facility, Board staff submits that continuing to proceed with an IRRP would seem to be of little value, since new generation may not be a viable option and CDM alone is not an alternative to large transmission and/or generation infrastructure. Undertaking an IRRP, in such circumstances, may therefore only serve to delay the implementation and development of a Regional Infrastructure Plan, particularly if it is two years before the IRRP is completed.

⁶ As noted above, AMO was a member of the PPWG that developed the regional planning process. The Association of Power Producers of Ontario (“APPRO”), representing generators, was also a member.

“One Step” IRRP Needed to Determine “Optimal” Solutions

Board staff also believes that determining the “optimal” solutions in the regional planning process requires the identification of all potential solutions at the same time. Board staff therefore submits that, when a transmitter leading a Regional Infrastructure Planning process receives an IRRP from the OPA, it is important that the IRRP identify all potential “wires” solutions – “near-term”, “mid-term” and “long-term”.

Board staff’s concern in relation to the OPA’s proposed approach is the regional planning process would be structured in a manner that the above would not be the outcome. Instead, for the purpose of developing a Regional Infrastructure Plan, the OPA would provide an “interim” IRRP that identifies only “near-term” wires solutions in one year and a final IRRP identifying potential mid- and longer-term wires solutions one year later. Board staff notes, under the Board’s proposed code amendments related to regional planning, the transmitter will be required to complete a Regional Infrastructure Plan within six months of receipt of an IRRP from the OPA. As such, where the transmitter undertakes a Regional Infrastructure Plan following receipt of an “interim” IRRP from the OPA, the transmitter would receive a “final” IRRP from the OPA six months after the transmitter is required to have completed a Regional Infrastructure Plan.

Board staff does not believe the above approach would result in an efficient and effective regional planning process in Ontario and has the potential to result in “sub-optimal” wires solutions. Board staff is also concerned that the above may result in Regional Infrastructure Plans that cannot be used to support proposed investments that are the subject of utility applications to the Board unless the Regional Infrastructure Plan is delayed for up to two years until a final IRRP is completed.

OPA Proposal Results in Three Year Regional Planning Process

Board staff notes that the full regional planning process, as developed by the PPWG, would take at least two years to complete under the timelines in the

proposed code and proposed licence amendments. That would become at least three years if the OPA's suggested change was accepted.

Board staff observes that the OPA also proposed "greater flexibility" in relation to the proposed code amendments; specifically, where 30 days was proposed, the OPA proposed allowing for an indefinite (i.e., "agreed upon") period of time where information is to be provided. If all of the OPA suggestions are accepted by the Board, the full regional planning process would then take more than three years.

Board staff notes that the initial intent was for the OPA led Integrated Power System Plan ("IPSP") to be updated every three years.⁷ The IPSP was intended to plan the appropriate mix of generation, CDM and wires for the entire province.⁸ The regional planning process, including the IRRP, will achieve the same outcome for a region within Ontario. The OPA has not provided an explanation as to why a single regional plan should take as long or longer than the intended timeframe to complete a provincial plan.

Adequate Flexibility in Proposed License Amendments

Board staff notes the intent, under the proposed licence amendments, was for the OPA to target one year to complete a "final" IRRP. Completing it in one year was therefore intended to be the "norm". Flexibility was embedded in the proposed licence amendments for the OPA to take more time if one year was not achievable due to reasons that were beyond the OPA's control.

In conclusion, with some minor suggested changes, Board staff submits that the provisions in the currently proposed licence amendments are more appropriate than the changes proposed by the OPA. Board staff believes the proposed licence amendments already provide the OPA with adequate flexibility. While the proposed licence amendments targeted the completion of an IRRP within one

⁷ www.powerauthority.on.ca/introduction-ipsp.

⁸ The IPSP essentially encompassed all stages in the regional planning process developed by the PPWG, from identification of need (Needs Assessment) to identifying the appropriate solution to address the need (IRRP/Regional Infrastructure Plan).

year, section X.2.2(c) already provides the OPA with more time if events arise that are outside the OPA's control and result in the OPA requiring more time in relation to identifying mid- and longer-term wires investments. As noted above, the sole rationale provided for taking more time is related to consultation and consultation is already embedded in the regional planning process developed by the PPWG at two different stages. Board staff therefore proposes that the OPA continue to be required to target completion of a final IRRP in one year and that the current flexibility to take more time, if necessary, be maintained.

Given the two year timeframe identified by the OPA, Board staff submits that the Board may wish to consider requiring the OPA to report to the Board when more than one year will be required, with an explanation as to why the IRRP could not be completed within one year and adding a two year limitation where more than one year is needed. Relative to the OPA's proposed changes, this proposed approach would provide the same flexibility to the OPA and for a period of up to two years, as requested by the OPA. The primary difference between Board staff's and the OPA's proposed approach in relation to completing a final IRRP is:

- A one year target date and up to two years, but only where more time is actually required (Board staff).
- A blanket two year target date whether that much time is required or not (OPA).

Given the above, section X.2.2 (b) and (c) of the proposed amendments would therefore be revised to state that the Licensee shall:

*(b) Complete ~~an~~ a **final** Integrated Regional Resource Plan, within one year of determining that an integrated regional resource planning process is necessary for a region, and inform the lead transmitter **and participating distributors** of any **potential** investment in transmission and/or distribution facilities that **may be are** required to meet the electricity needs of the region. The Licensee shall provide the **final** Integrated Regional Resource Plan to all licensed distributors, **and** licensed transmitters **and municipalities** in the region and post it on its website upon completion;*

*(c) **Complete an interim Integrated Regional Resource Plan** ~~Notify~~ **that notifies** the lead transmitter **and participating distributors** of any **potential** investment in transmission and/or distribution facilities that **may be are** necessary to meet the*

*electricity needs of the region over the next five years, where the Licensee has not completed ~~an~~ a final Integrated Regional Resource Plan within one year, in accordance with section X.2.2(b). **Where a final Integrated Regional Resource Plan has not been completed within one year, the OPA shall take no longer than two years to complete it and shall provide a report to the Board explaining the reason(s) a final Integrated Regional Resource Plan could not be completed within one year;***

Other matters related to proposed amendments

Board staff submits that some additional minor changes to the proposed licence amendments are appropriate in relation to the definition of IRRP. One of those changes was triggered by the OPA's submission. The current proposed definition states:

"Integrated Regional Resource Plan" means a document prepared by the Licensee that identifies the appropriate mix of investments in one or more of conservation, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near-, mid-, and long-term;

The definition refers to "near-, mid-, and long-term". However, those terms are not defined. As the OPA notes in its submission, near-term is up to 5 years, mid-term is 5 to 10 years and long-term is 10 to 20 years. Board staff submits it would add clarity to use those specific timeframes in the definition. Board staff also submits that "conservation", as an option, is too limiting and should be broadened to include "demand management". Board staff therefore proposes that "conservation" be replaced with the broader "conservation and demand management" (i.e., CDM). The proposed revised definition would therefore read as follows:

*"Integrated Regional Resource Plan" means a document prepared by the Licensee that identifies the appropriate mix of investments in one or more of **conservation and demand management**~~conservation~~, generation, transmission facilities or distribution facilities in order to address the electricity needs of a region in the near- **(up to 5 years)**, mid- **(5 to 10 years)**, and long-term **(10 to 20 years)**;*

- All of which is respectfully submitted -