



**POWER
WORKERS'
UNION**

November 18, 2009

Ms. Kirsten Walli
Board Secretary
Ontario Energy Board
P.O. Box 2319
2300 Yonge Street, 27th Floor
Toronto, Ontario M4P 1E4

Dear Ms. Walli

Re: MSP Monitoring Document – Monitoring of Offers & Bids in the IESO- Administered Electricity Markets

The Power Workers' Union ("PWU") represents a large portion of the employees working in Ontario's electricity industry. Attached please find a list of PWU employers.

The PWU is committed to participating in regulatory consultations and proceedings to contribute to the development of regulatory direction and policy that ensures ongoing service quality, reliability and safety at a reasonable price for Ontario customers. To this end, please find the PWU's comments on the MSP Monitoring Document – Monitoring of Offers & Bids in the IESO-Administered Electricity Markets.

The PWU's comments are guided by our energy policy statement:

Reliable, secure, safe, environmentally sustainable and reasonably priced electricity supply and service, supported by a financially viable energy industry and skilled labour force is essential for the continued prosperity and social welfare of the people of Ontario. In minimizing environmental impacts, due consideration must be given to economic impacts and the efficiency and sustainability of all energy sources and existing assets. A stable business environment and predictable and fair regulatory framework will promote investment in technical innovation that results in efficiency gains.

The Market Surveillance Panel ("MSP") conducted stakeholdering in 2006-2007 on a Market Power Framework. In that consultation most stakeholders raised serious concerns with respect to the proposed MSP Market Power Framework. The primary concerns raised by stakeholders included:

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- 1) The MSP had not indicated any rationale for a need for the proposed framework nor the value that the Ontario power market would derive from the proposed new framework. Further the MSP in almost all of its reporting documents had not indicated a need to deal with market power issues but rather indicated, on a number of occasions that the market was functioning well. The MSP, since its existence, has only needed to deal with one market power issue and had the tools and capability to identify and deal with that issue.
- 2) Given the resource constraints of the Independent Electricity System Operator (“IESO”) and MSP, many stakeholders urged the MSP and the IESO to focus on other issues such as Day Ahead Market and market evolution.

On November 22, 2007, at the conclusion of the 2006-7 stakeholdering process, the MSP indicated to stakeholders that the issues were complex and that they would further assess the feedback that stakeholders had provided and advise accordingly. To the PWU’s knowledge the MSP has not provided stakeholders the further analysis and no further stakeholdering has been conducted. The MSP has not recently nor in this document provided rationale for expanded Monitoring Offers and Bids. Given the concerns raised by out of province stakeholders (i.e. jurisdiction over non Ontario market participants) the MSP should have provided all stakeholders advance notice of their intentions to introduce the Monitoring Offers and Bids document and provided all stakeholders copies of the draft document. No record of such communication is on the MSP’s web site other than a posting of the document and the notice. If this document is intended to provide the MSP additional authorities the MSP should provide additional time for consultation and for stakeholders to respond to the current MSP document.

The PWU concurs with the MSP’s decision “not to adopt comprehensive quantitative indicators or require additional data from market participants”¹. The PWU understands that the MSP’s Monitoring Offers and Bids document is intended only as documentation of what the MSP believes it is currently doing (as stated at page 1 of the Monitoring Offers and Bids document). Given the recent recommendations by stakeholders to focus IESO and MSP resources on more productive issues and the MSP’s own initiative to reduce its workload, if there are incremental resources expected to be spent on monitoring, the MSP should provide stakeholders with an estimate to perform these incremental activities related to Monitoring Offers and Bids along with an explanation of the additional value the incremental Monitoring Offers and Bids activities will provide. In the PWU’s view, given the significant and critical role that electricity is expected to play in the proposed carbon market, the MSP’s efforts would be better invested in developing electricity protocols for integration of the new cap and trade/carbon market which is expected to emerge in Canada and Ontario around 2012. This will help ensure that Ontario’s power market is well prepared to effectively settle

¹ The Monitoring Offers and Bids document, pg 1, October 6, 2009

with adjacent markets and that the carbon and power markets are properly designed to effectively function together.

At page 5 the MSP states that the MSP monitoring Offers and Bids "... is not a comprehensive or binding statement of how the Panel's monitoring mandate will be exercised in specific situations" while at page 1 it states that "it would contribute to the transparency of operation of Ontario's wholesale electricity markets and oversight of them to explain these principles". These two statements appear to be inconsistent. The PWU agrees that Market Participants should have clarity on the rules and mechanisms that the MSP will be using to determine abuse of market power. While the objective of transparency is clearly articulated in the latter statement, the former statement related to the MSP Monitoring Offers and Bids does not appear to be consistent with this objective.

The MSP in its current Monitoring Offers and Bids document indicates that circumstances have changed in the Ontario market place but does not identify the changes and how they necessitate the MSP's proposal on Monitoring Offers and Bids. Further, the MSP does not identify the value (costs versus benefits) of this proposal. The market has indeed changed since the MSP's 2006-2007 stakeholdering (i.e. the new Green Energy and Economy Act, changes to the Register Price Plan, significant new levels of gas fired generation, significant new gas supplies, dramatically lower gas prices, phasing out of coal generation at Nanticoke and Lambton and new day ahead commitment process). It would appear that it is less likely now that significant market power issues will materialize under the current market design given these recent changes, especially those related to the Green Energy and Green Economy Act, 2009 (e.g. Feed-in Tariff) and as the MSP/IESO have pointed out only 23% of generation is setting the market price.

The MSP places emphasis on market participants' size and fleet. Given this emphasis, the current hybrid market that involves Ontario Power Generation's ("OPG") contracts with the Ontario Power Authority ("OPA") and the Ontario Energy Board's regulation of OPG, including the OPA replacement contract for the Lennox Reliability Must Run contract, the MSP should ensure that OPG is not unfairly monitored and assessed because of the size of its operations and its involvement in the non-competitive aspect of the hybrid market. The PWU concurs with the MSP's intent of using benchmarking to identify competitive outcomes and deviations from them related to the distinctive features of Ontario's market as set out on page 5.

At page 31 it is unclear as to what the MSP's intentions are with regard to the following statement: "where relevant, the Panel will also take into account the possibility that the identified conduct provides some benefit other than increased profit for the market participant concerned."

The PWU encourages the MSP to clarify their intent of this document. The PWU believes that this document should be limited (as set out by the MSP at page 1) to be a document that describes what the MSP is currently doing to monitor offers and bids. Any change in authorities desired by the MSP should be subject to a full stakeholder review with ample time for stakeholder consideration and comment.

We hope you will find the PWU's comments useful.

Yours very truly,

A handwritten signature in black ink, appearing to read "Don MacKinnon", with a long horizontal flourish extending to the right.

Don MacKinnon

Encl.

cc: John Sprackett
Judy Kwik

List of PWU Employers

AMEC Nuclear Safety Solutions
Atomic Energy of Canada Limited (Chalk River Laboratories)
BPC District Energy Investments Limited Partnership
Brant County Power Incorporated
Brighton Beach Power Limited
Brookfield Power – Lake Superior Power
Brookfield Power – Mississagi Power Trust
Bruce Power Inc.
Capital Power Corporation Calstock Power Plant
Capital Power Corporation Kapuskasing Power Plant
Capital Power Corporation Nipigon Power Plant
Capital Power Corporation Tunis Power Plant
Coor Nuclear Services
Corporation of the City of Dryden – Dryden Municipal Telephone
Corporation of the County of Brant, The
Coulter Water Meter Service Inc.
CRU Solutions Inc.
Ecaliber (Canada)
Electrical Safety Authority
Erie Thames Services and Powerlines
ES Fox
Great Lakes Power Limited
Grimsby Power Incorporated
Halton Hills Hydro Inc.
Hydro One Inc.
Independent Electricity System Operator
Inergi LP
Innisfil Hydro Distribution Systems Limited
Kenora Hydro Electric Corporation Ltd.
Kincardine Cable TV Ltd.
Kinectrics Inc.
Kitchener-Wilmot Hydro Inc.
London Hydro Corporation
Middlesex Power Distribution Corporation
Milton Hydro Distribution Inc.
New Horizon System Solutions
Newmarket Hydro Ltd.
Norfolk Power Distribution Inc.
Nuclear Waste Management Organization
Ontario Power Generation Inc.
Orangeville Hydro Limited
Portlands Energy Centre
PowerStream
PUC Services
Sioux Lookout Hydro Inc.
Sodexo Canada Ltd.
TransAlta Energy Corporation - O.H.S.C. Ottawa
Vertex Customer Management (Canada) Limited
Whitby Hydro Energy Services Corporation