

Energy Regulatory Update (Q3, 2022)

Fall has arrived and so too has the latest edition of the Shepherd Rubenstein *Energy Regulatory Update*, a quarterly round-up of the important developments in the Ontario energy sector. Below are some of the key regulatory happenings between July and September (and the first few days of October).

Ontario Energy Board

At the beginning of July, the Framework For Energy Innovation (FEI) Working Group [submitted its report to the OEB](#), which also included separate reports from each of the [Benefit-Cost Analysis](#), [Utility Incentives](#), and [DER Integration](#) sub-groups. The [OEB issued a letter](#) inviting comments from stakeholders on the reports and next steps.

The OEB issued a number of decisions, including:

- Approval of settlement proposals regarding the [IESO's 2022 Fees](#), and in its role as Smart Metering Entity, the [2023 to 2027 Smart Metering Charge](#).
- Determining that it was premature in light of the Government's regulatory proposal and consultation to develop a Clean Energy Credit registry, to consider the request by Environmental Defense to initiate a proceeding, or re-open a previously concluded proceeding, [to address issues around Ontario Power Generation's \(OPG\) sale of Clean Energy Credits](#).
- Giving Sun-Canadian Pipe Line Company Limited [leave to construct a replacement pipeline segment](#) for a portion of its existing petroleum pipeline.

There was continued work on two initiatives with respect to commodity pricing:

- Following-up on its [report to the Minister of Energy](#) on an ultra-low overnight time-of-use (TOU) price plan, which the Government has since [announced plan to implement](#), the OEB [initiated a consultation regarding implementation](#), and held a [stakeholder meeting](#).
- The OEB held a [stakeholder meeting](#) and sought and [received comments](#) from stakeholders on its plan to design and implement a [dynamic pricing pilot for non-RPP class B customers](#). The [Minister of Energy](#) also wrote to the OEB expressing its support for the pilot.

The OEB launched an [Electric Vehicle Integration](#) (EVI) initiative which is intended to inform OEB actions to support integration of electric vehicles with the transmission and distribution systems.

Two OEB Staff Bulletins were issued. The first, updated a 2006 Bulletin, clarifying the circumstances under which [electricity transmitters should allocate costs associated with network facility upgrades to a generator or load customer](#) connecting to the transmission system. The second, clarifies and provides cost responsibility guidance, for [when a local community prefers an alternative to the optimal \(i.e. most cost-effective\) solution](#) to meet a need determined through a distribution planning or regional planning process,

On the modernization front, the OEB issued its [Action Plan Report](#) in response to stakeholder comments on the [Framework For Review of Intervenor Processes and Cost Awards](#). The [Action Plan](#) includes 5 projects to be completed by the end of the 2022-23 fiscal year, and 6 projects to be completed by the end of the 2023-24 fiscal year.

The OEB released the [2022 Stretch Factor Assignments](#) for electricity distributors, [2021 electricity utility scorecards](#), 2021 distributor yearbooks ([natural gas](#), [electricity](#)), and the [Activity and Program-based Benchmarking \(APB\) – Unit Cost Report](#).

Also released was the [OEB Staff Report to the OEB, Review of 2022 Annual Update to Enbridge's Natural Gas Supply Plan](#).

Assurances of Voluntary Compliance were accepted from:

- [Enbridge Gas](#) with respect to non-compliance with certain service quality requirements (call answering and meter reading performance) under the Gas Distribution Access Rule.
- [Halton Hills Hydro](#) and [Chapleau PUC](#) with respect to overcharging customers caused by the way their billing system translated approved monthly charges into amounts charged on bills.
- [EPCOR Electricity Distribution Ontario Inc.](#) with respect to non-compliance with its customer disconnection-related obligations under the Distribution System Code.

Independent Electricity System Operator

The IESO has announced a [revised in-service date and budget for the Market Renewal Program \(MRP\)](#). The IESO now expect that [MRP](#) will go live in May 2025 (previously November 2023), and cost \$233M (previously \$189M).

With respect to procurement activities, the IESO:

- Concluded its [Medium-Term RFP](#), and offered new contracts for five-year commitments to [6 existing facilities](#).
- Announced that [55 applicants qualified](#) to participate in the upcoming [Long-Term \(LT\) RFP](#).
- Undertook further consultations regarding the [LT1 and Expedited LT1 RFP design and contracts](#). This included presenting a spread mechanism for energy storage proponents.
- Provided further information, including draft material, for its [Same Technology Upgrade Solicitation](#).

To help inform his decision on eligibility for upcoming procurements, the [Minister of Energy has asked the IESO to provide an interim report](#) on analysis it is undertaking regarding evaluating a potential moratorium on procurement of new natural gas generation and a pathway to phase-out natural gas.

On October 4th, the [Minister of Energy issued a directive to the IESO](#) to increase the existing 2021-2024 CDM Framework budget by \$342M for new or enhanced conservation programs, including a [new residential demand response program, targeted support for greenhouse growers in SW Ontario, enhancements to the Save on Energy Retrofit Program \(to include custom energy-efficiency projects\), and the Local Initiatives Program](#).

The [Technical Panel](#) recommended market rule amendments related to the [2022 Capacity Auction enabling participation by generator-backed capacity imports](#), as well as [adjustments to intertie flow limits](#). It also approved amendments to facilitate delay of the in-service date for the IESO's [Replacement of the Settlement System program](#), in light of issues detecting during testing.

As part of the fulfillment of a [request by the Minister of Energy](#) to investigate options to integrate low-carbon hydrogen technologies into the electricity system, the IESO launched a [Low-Carbon Hydrogen Strategy engagement](#).

The [Minister of Energy](#) also wrote the IESO asking it to work with the Ministry and undertake stakeholder consultations to design a three-year [interruptible electricity rate pilot](#) (maximum 200 MW, and generally limited to transmission-connected customers).



The IESO released [recommendations for foundational models for wholesale DER participation](#) as part of its [DER Market Vision and Design Project](#). It also released the final version of its [DER Potential Study](#) with results and recommendations.

Over the past 3 months, the IESO also released:

- [Enabling Foundational Hybrid Facility Models final design document](#)
- Results of a [refresh of the 2019 energy efficiency Achievable Potential Study \(APS\)](#).
- Independent reviews of each of the [Dispatch Scheduling and Optimization \(DSO\)](#), and [Day-Ahead Calculation Engine \(DACE\)](#).
- [Q3 2022 Reliability Outlook](#)
- [2022-27 Corporate Strategy](#)

The Market Assessment and Compliance Division (MACD) [sanctioned the IESO](#) for violating the Market Rules, by affecting the market schedule in an unauthorized way, through imposing inertia flow limits based on internal transmission constraints.

Legislative and Regulatory

The [Minister of Energy announced that Ontario Power Generation \(OPG\) will extend the operations of the Pickering Nuclear Generation Station](#) to September 2026, and that the company will undertake a feasibility assessment of the full refurbishment of the Pickering “B” units.

The Government of Ontario sought comment on a number of proposed regulations and policy proposals, including:

- [Amending Ontario Regulation 95/05](#), under the *Ontario Energy Board Act*, implementing an ultra-low overnight electricity price plan for RPP customers.
- [Amending Ontario Regulation 509/18](#), under the *Electricity Act*, updating efficiency requirements for commercial gas furnaces, residential air conditioners and heat pumps, roadway luminaires and highway luminaires.
- Development of a [Clean Energy Credit registry](#).

Other Development

The Federal Government provided further information on its planned [Clean Energy Regulation](#) (formerly known as the Clean Electricity Standard) through release of its [Frame Document](#).

Fortis announced that its subsidiary ITC has [suspended development activities and commercial negotiations for its Lake Erie Connector transmission project](#) due to recent economic conditions.

Shepherd Rubenstein News

On October 26th, Mark Rubenstein will be co-chairing the Ontario Bar Association Natural Resources and Law Section’s [Recent Developments in Energy Regulation](#) program. [Register today](#) to hear from a panel of experts.

Both [Jay Shepherd](#) and [Mark Rubenstein](#) were listed in the [2023 edition of ‘Best Lawyers’](#), and Mark was also named [Energy Regulation Law “Lawyer of the Year” for Toronto](#).

Things We Are Reading



The new book, [*California Burning: The Fall of Pacific Gas and Electric--and What It Means for America's Power Grid*](#). The latest scoping paper from the Canadian Climate Institute on [*Electricity Affordability and Equity in Canada's Energy Transition*](#).

As always, if you have any questions, or think we can be of assistance to you or your organization, please do not hesitate to reach out to Mark Rubenstein at mark@shepherdrubenstein.com.