

Energy Regulatory Update (Q4, 2022)

Happy New Year! Welcome to 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 October and December.

If you haven't already done so, take a look at our special [2022 Year in Review edition](#), which explores some of the most important themes and regulatory developments in the Ontario energy sector in 2022 (and provides some thoughts for 2023).

Ontario Energy Board

The [Minister of Energy issued its new Letter of Direction \(previously 'Mandate Letter'\) to the Chair of the OEB](#). The Minister highlighted several near-term and business plan period initiatives that it expects to be undertaken. Over the next 12 months this includes, among other [priorities](#), supporting the work of the Electrification and Energy Transition Panel, launching workshops exploring how the OEB can enable electrification related investments while protecting consumers' interests, advice and proposals to improve distribution sector resiliency, responsiveness, and cost efficiency, and continued work to facilitate EV adoption.

The OEB issued a number of significant decisions, including:

- [Approving](#) the full [settlement proposal](#) that was filed in the Hydro One's Joint Rate Application. The [approved settlement](#) includes reductions to the proposed transmission and distribution capital and OM&A spending, as well as a substantial number of changes and commitments by the company.
- Its [decision on the 2023-2027 Demand Side Management \(DSM\) plan for Enbridge Gas](#). Among the changes in the proposed plan, the OEB approved only a three-year term (2023-2025), removed conditions prohibiting customers from switching from natural gas if they want to participate in DSM programs, and eliminated customer incentives for new gas-fired equipment. It also introduced a new incentive component, which for the first time incentivizes absolute reduction total natural gas volume sales.
- In its [Phase 1 decision](#) in its Uniform Transmission Rate (UTR) generic hearing, [setting the Export Transmission Service \(ETS\) rate](#) effective January 1, 2023 at \$1.78/MWh, increasing each year beginning in 2025.
- [Granting leave to construct to Hydro One](#) for its proposed Chatham SS to Lakeshore TS transmission line.
- [Approving an ICM for Alectra Utilities](#) for 2023 (PowerStream and Enersource rate zones) related to an underground cable replacement program, although it [denied](#) the request for 2024 approval, and made a substantial [reduction](#) to the requested amounts for the Enersource rate zone.
- [Granting leave to Enbridge Gas to construct](#) a new pipeline from its Corunna Compressor Station, replacing 7 existing compressors that Enbridge plans to retire.
- As part of its [generic proceeding regarding the price paid by rate-regulated natural gas distributors and their customers for natural gas produced in Ontario](#), [determining](#) that the OEB does not directly or indirectly have jurisdiction to set the price paid by natural gas producers for the gas they provide to Ontario distributors. The [OEB did find](#) that a panel of commissioners does have authority, in setting a particular regulated gas rate, to impose conditions, if required to address barriers to fair and transparent access to the distribution system.
- The [2023 Uniform Transmission Rates \(UTRs\)](#).

The OEB held its annual [Policy Day](#), and the [Chief Commissioner provided her Mid-Year Update for 2022-23](#). The OEB released a report that its [Innovation Task Force](#) (a committee of its Board of

Directors), commissioned entitled [Innovation Challenges and Opportunities in Ontario](#) (and whose recommendations it [adopted](#)).

As part of the on-going [Reliability and Power Quality Review \(RPQR\)](#) initiative, and its [working group](#), the OEB issued [amendments to the Reporting and Recordkeeping requirements \(RRR\) for electricity distributors](#) clarifying certain reliability definitions and introducing interruption sub-cause codes.

The OEB released its updated [RPP Price Report](#) for the Regulated Price Plan and [set RPP prices as of November 1st](#). It also issued its annual [inflation](#) and [cost of capital parameters](#) for 2023 rate applications.

In furtherance of its work developing a [dynamic pricing pilot for non-RPP class B customers](#), the OEB issued a draft [application form](#) and an [application guideline document](#).

The OEB launched its [Electric Vehicle Integration](#) initiative with a survey of electricity distributors and EV charging station providers.

As part of its modernization agenda, the OEB:

- Issued a [Generic Hearings Protocol](#).
- Based on the work undertaken by the [working group established to review the filing requirements for large distributors for 2024](#), issued an [updated version of the Filing Requirements for Electricity Distribution Rate Applications](#).
- Announced the initiation of a [project to update the OEB's Environmental Guidelines](#) for the Location, Construction and Operation of Hydrocarbon Pipelines and Facilities in Ontario.
- [Released and invited comment](#) on its [draft update to Chapter 4](#) (leave to construct and related matters) of its Filing Requirements for Electricity Transmission Applications.
- Launched a [consultation on the OEB's RRR for electricity distributors](#).

The OEB [issued a guidance letter](#) reminding distributors that they have discretion under the [Distribution System Code \(DSC\) in determining the connection horizon for system expansions](#). [OEB Staff issued a Bulletin](#) regarding the administration of the rules in the [Global Adjustment Regulation, allowing Class A consumers to remain in the Industrial Conservation Initiative \(ICI\)](#), where their average monthly demand drops below the eligibility threshold after participation in an eligible conservation initiative.

The [Regional Planning Process Advisory Group](#) (RPPAG) submitted two documents that were part of the recommendations in its [Report to the OEB](#): a [Load Forecast Guideline for Ontario](#) to use as part of the regional planning process, and a [Municipal Information Document](#) to support municipal engagement and identify information distributors need from municipalities to improve accuracy of their load forecasts.

The OEB provided [notice of final amendments to the Standard Supply Service Code \(SSSC\) and the Regulated Price Plan \(RPP\) Manual](#) to implement a new optional ultra-low overnight (ULO) pricing plan for RPP customers.

The [Industry-Led Working Group \(IWG\) for Green Button Implementation Report](#) was [released by the OEB](#).

The OEB released [the first annual report of its IRP Technical Working Group](#) for the 2021 year, which was critical of the slow start Enbridge has shown in displacing capital investments with non-pipes alternatives.

There was significant compliance activity. Eight additional Assurances of Voluntary Compliance (AVC) were accepted for electricity distributors ([ERTH Power](#), [Oshawa PUC](#), [Orangeville Hydro](#), [Elexicon](#), [Oakville Hydro](#), [Tillsonburgh Hydro](#), [Wasaga Distribution](#), [Essex Powerlines](#)) regarding

billing errors that resulted in LDCs overcharging their customers on its fixed monthly service charge. The OEB also issued its [Mid-Year Compliance Report](#).

The OEB accepted the filing of [2024-2028 Rate Application for Enbridge Gas Inc.](#), the first Enbridge's cost of service since amalgamation, and [determined that the application will be considered over 2023 and perhaps some of 2024 in two phases](#). The energy transition is expected to be one of the key areas of focus of the first phase.

Independent Electricity System Operator

In December, the IESO released its [2022 Annual Planning Outlook \(APO\)](#). The [APO](#) provides a long-term view of Ontario's electricity system demand, capacity and energy needs, and the ability to meet them.

As [requested a year earlier by the Minister of Energy](#), the IESO also issued its [Pathways to Decarbonization Report](#). The [Pathways Report](#) models to potential results of a 2027 moratorium on new natural gas generation in Ontario, and the resources needed to decarbonize the electricity system by 2050.

There were significant procurement related activities during the last quarter of 2022. The IESO continued stakeholder engagement and development, leading to its finalized [Expedited Long-Term RFP \(E-LT1 RFP\)](#). The IESO released the final [E-LT1 RFP](#) and [contract](#), with a submission deadline of February 16, 2023, and expected contract offer in May, 2023. The IESO also created a [Same Technology Upgrade Solicitation](#), with submissions due before the end of 2022. Just before the holidays, the [Minister of Energy wrote the IESO](#) to ask to make clear the expectations that a municipal council support is required for a proposed project. This led to the IESO releasing an [addendum to the E-LT1 RFP](#).

In the lead up to the release of the final E-LT1 RFP, the IESO, at the request of the Minister of Energy, provided its recommendations on eligibility of new natural gas generation projects. The [Interim Resource Eligibility Report](#) recommended that the 4,000 MW of new capacity targeted in the up-coming procurements be made up of up to 1,500 MW of new natural gas generation, which its analysis said is required, and up to 2,500 MW of storage and other non-emitting resources. On the same day the report was released, the [Minister of Energy issued a directive](#) authorizing the [E-LT1 RFP](#) and [Same Technology Upgrades Solicitation](#) with resource eligibility requirements in line with the IESO recommendations.

The IESO undertook its [annual Capacity Auction](#), securing 1,437 MW for summer 2023 and 1,150 MW for winter 2023-24 at a clearing price that was 18.41% and 117.82% higher respectively than the previous year.

Also released in December was the [IESO's 2021-2024 CDM Mid-Term Review](#). The Mid-Term Review concludes that the framework is on track to achieve its original energy and demand savings targets. The [Mid-Term Review](#) also included a number of recommendations for the remainder of the current framework, and for a post-2024 framework, including a new emphasis on electrification.

In October, the [Minister of Energy wrote to the IESO](#) and asked it to report back by the end of the year on a proposal to re-contract [small hydroelectric facilities \(<10 MW\)](#) with a target launch date of the end of July 2023.

During the quarter, the IESO issued a number of bulk and regional transmission and resource plans:

- [Need for Northeast Bulk System Reinforcement Report](#)
- [Gatineau End-of-Life Study](#)
- [Niagara Region Integrated Regional Resource Plan](#)

- [Renfrew Region Integrated Regional Resource Plan](#)
- [Burlington Nanticoke Region Scoping Assessment Outcome Report](#)

The IESO continued its engagement on [design](#) of an [Interruptible Rate Pilot](#), and submitted its report to the Ministry of Energy which has not yet been made public.

The [Minister of Energy wrote the IESO regarding the development of a Clean Energy Credit \(CEC\) registry](#), anchoring the IESO to undertake commercial activities required to support a launch as early as possible in 2023. As discussed below, the Government of Ontario also passed legislation to create the legal framework for the CEC.

The [Minister of Energy also issued a directive](#) to the IESO to work with the OEB to assess proposals made as part of the [dynamic price pilot for non-RPP class B customers](#) (discussed earlier), and to enter into procurement contracts for successful proponents, not to exceed a total of \$40M over the life of the pilot.

The [Q4 Reliability Outlook](#) was released.

The [IESO Board of Directors adopted a Market Rule amendment](#) to facilitate the delay of the replacement of the IESO's Settlement System (RSS) project.

Legislative and Regulatory

The Government of Ontario introduced and passed [Bill 36, Progress on the Plan to Build Act \(Budget Measures\), 2022](#). The legislation amends the *Electricity Act* and *Ontario Energy Board Act* to create a framework for establishment of a clean energy credit registry to be created by the IESO.

Government of Ontario amended or proposed to amend a number of existing regulations, including:

- Amending [Ontario Regulation 95/05](#) under the *Ontario Energy Board Act*, to establish the ultra-low overnight price plan.
- Amending [Ontario Regulation 161/99](#) under the *Ontario Energy Board Act*, to exempt the requirement for OEB approval to construct, expand, or reinforce a transmission line, if the costs are to be paid exclusively by a connecting customer(s).
- Amending [Ontario Regulation 363/16](#) under the *Ontario Rebate for Electricity Customers Act*, reducing the electricity rebate under the Ontario Electricity Rebate for eligible customers from 17% to 11.7%.
- Amending [Ontario Regulation 509/18](#) under the *Electricity Act*, updating the energy efficiency standards for 18 products to maintain harmonization with federal, United States, and industry standards.
- Amending [Ontario Regulation 53/05](#) under the *Ontario Energy Board Act*, establishing a variance account to track additional costs and revenues associated with extension of the operations of Ontario Power Generation's Pickering Nuclear Generation Station to September 2026.
- [Proposed amendments to various regulations under the Building Broadband Faster Act](#), to outline under what circumstances OEB orders can be modified, and to allow any compensation orders issued by the OEB to apply to designated broadband projects.
- [Proposal to amend Ontario Regulation 410/22](#) under the *Ontario Energy Board Act*, to shorten timelines electricity distributors have to grant internet service providers permission to attach broadband infrastructure to electricity poles.

The Ministry of Transportation also [sought and received feedback](#) on building new public electric vehicle charging infrastructure as it develops a program to be released in 2023.

Other News

The Government of Ontario [appointed the remaining members of the Electrification and Energy Transition Panel](#) (Dr. Monica Gattinger, University of Ottawa and Chief Emeritus Emily Whetung, former Chief of Curve Lake First Nation) to join panel chair David Collie.

As part of its [2022 Annual Report, the Auditor General of Ontario](#) released its value-for-money audits of the [OEB's electricity oversight and consumer protection](#) functions and [Ontario Power Generation's management and maintenance of its hydroelectric generating stations](#).

In November, the the Government of Canada provided details in its [Fall Economic Statement](#) of its planned [Investment Tax Credit for Clean Technologies](#) that will provide a refundable tax credit equal to 30% of the capital costs of zero-carbon electricity generation systems (e.g. solar, SMRs, wind, hydroelectric), stationary electricity storage systems that do not use fossil fuels in their operations (e.g. batteries, flywheels, compressed air storage, pumped hydro), low-carbon heat equipment, and industrial zero emission vehicle and related charging equipment. The Federal Government also announced a [Tax Credit for Clean Hydrogen](#).

Things We Are Reading and Listening To

Power Advisory's [Scenarios for a Net-Zero Electricity System in Ontario](#) Report (prepared for the Toronto Atmospheric Fund). Here are some of the energy related podcasts that are on our playlist these days: [Columbia Energy Exchange](#), [The Energy Transition Show](#), [Volts](#), [CleanLaw](#), [Catalyst](#), [Energy Radio](#) and [Flux Capacitor](#),

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.