

Energy Regulatory Update (Q2, 2024)

Summer has arrived, and so has the latest edition of the Shepherd Rubenstein Energy Regulatory Update, a quarterly round-up of important developments in the Ontario energy sector. Below are some of the key regulatory happenings between April and June. This past quarter saw the renaming of the [Ministry of Energy to the Ministry of Energy and Electrification](#) and the appointment of a [new Minister and an Associate Minister with responsibility over energy-intensive industries](#)

Ontario Energy Board

The OEB released several notable decisions over the past few months, including:

- [Granting leave to construct Enbridge's Panhandle Regional Expansion Project \(PREP\)](#). Commissioner Moran [dissented](#) on how to consider future pipeline expansions, the jurisdiction in a leave to construct proceeding to consider the need for capital contributions, and conditions of approval related to Indigenous engagement.
- [Approving the application for the purchase of Chapleau PUC by Hydro One](#). Previously Hydro One had been granted [interim approval](#) to take possession and control of Chapleau PUC.
- [Granting leave to construct to Hydro One's Waasigan Transmission line](#).
- [Approving a Settlement Proposal that established a formal connection procedure for producers to access Enbridge's distribution system](#), including the establishment of timelines and contestability options.
- Updates to the [2024 Uniform Transmission Rates](#).
- [Approving a Settlement Proposal in the 2024 rate adjustment application for Upper Canada Transmission 2, which operates the East-West Tie Line](#). The settlement included a disallowance of \$30M related to project cost overruns primarily due to the COVID-19 pandemic.

The final [Phase 1 Benefit-Cost Analysis \(BCA\) Framework for Addressing Electricity System Needs](#) was issued. The [BCA Framework is required for all electricity distribution capital investments greater than \\$2M, beginning with applications filed in 2026](#). However, applications filed in 2024 and 2025 are strongly encouraged to use it.

As part of its ongoing [Electric Vehicle Integration \(EVI\) Initiative](#), the OEB Staff [released for comment a discussion paper that sets out a proposal for an electricity delivery rate for public EV charging stations with a low load factor](#) through a reduced Retail Transmission Service Rate (RTSR).

The OEB concluded its [Evaluation of Policy on Utility Consolidations](#) consultation with the release of [an updated MAADs Handbook](#), which reflects the [consideration of stakeholder comments](#) on an OEB Staff Discussion Paper.

A [Stakeholder meeting](#) was held and [written comments were received](#) as part of the OEB's [System Expansion For Housing Developments Consultation](#).

With the forecasted increase in the connection of new load and supply resources to the transmission system, including energy storage, [the OEB launched a review of the connection-related section of the Transmission System Code \(TSC\)](#).

The OEB issued the [2025 inflation parameters](#).

As part of its broader [Distribution Sector Resiliency, Responsiveness, and Cost Efficiency \(DRRCE\) initiative](#), the OEB [launched its Vulnerability Assessment and System Hardening \(VASH\) project](#). The [VASH](#) project is intended to incorporate climate resiliency into asset and investment planning activities, regularly assess the vulnerabilities in the system and operations in the event of severe weather, and prioritize value for customers when investing in system enhancements for resilience purposes.

There were a number of developments regarding application filing requirements. The OEB:

- Issued a [letter](#) to communicate that, as a result of a number of ongoing initiatives, [it will not be formally updating the existing filing requirements for electricity distributors for 2025 cost of service filers](#) (Chapters 1, 2, and 5). In the same letter, it outlined a pilot to budget intervenor costs for applications for distributors with fewer than 30,000 customers.
- Updated the [filing requirements for electricity distribution incentive rate mechanism applications](#) (Chapter 3).
- Provided [guidance on the filing of System Impact Assessment \(SIA\) reports](#) in the context of electricity transmission leave to construct applications.
- Launched a consultation to [review the Filing Guidelines for Ontario Power Generation](#).

The OEB also made [minor modifications to its standard conditions of approval for natural gas leave to construct applications](#).

In advance of the expected May 2025 implementation of the IESO's Market Renewal Program (MRP), the OEB issued a [letter outlining expected necessary amendments to various codes](#). It also issued [draft accounting guidance related to commodity pass-through accounts](#).

Both the OEB's [Chief Executive Officer](#) and [Chief Commissioner](#) provided their respective 2023-2024 year-end updates

The 2023 [Innovation Sandbox Annual Report](#) was released.

Assurances of Voluntary Compliance (AVC) were accepted from [Festival Hydro](#) and [Rideau St. Lawrence Distribution](#) related to billing errors that resulted in the overcharging of customers through the fixed monthly service charge. An AVC was also accepted from [Kingston Hydro](#) regarding non-compliant disconnection practices, as well as from [Algoma Tubes Inc.](#), who was operating without an electricity wholesale license.

Independent Electricity System Operator

The IESO released the results of its [Long-Term 1 RFP \(LT1 RFP\)](#), which was targeted to provide capacity between 2026 and 2028. The [IESO procured](#) 1784.2 MW of storage capacity at a weighted average price of \$673.32/MW (per business day) and 410.7 MW of non-storage capacity (almost exclusively natural gas generation) at a weighted average price of \$1,681.14/MW (per business day).

IESO stakeholder engagement continued on the [Long-Term 2 RFP \(LT2 RFP\)](#), which is expected to have [both an energy and capacity stream](#), as well as [long-lead time resources stream](#). The engagement included consideration on a [wide range of issues including connection guidance and deliverability, changes to its proposed Enhanced PPA \(E-PPA\) revenue model, contract provisions, and resource eligibility](#). As part of the engagement, the IESO [issued a preliminary connection guidance document](#). The IESO has also accelerated the timeline for the [Mid-Term 2 \(MT2\) RFP](#) to be held in advance of LT2 RFP.

The [Ministers of Energy and Agriculture, Food and Rural Affairs also wrote to the IESO outlining policy considerations for developing energy projects on agricultural lands](#) to be part of the development and design of all future procurement

The [Minister of Energy also wrote to ask the IESO to continue engaging stakeholders on the development of, and report back with a draft design for, a Northern Hydro Program \(NHP\)](#) to recontract existing large hydroelectric generation with installed capacity greater than 10 megawatts and whose existing contracts have or will expire before 2043

The [Minister of Energy issued a directive](#) to the IESO to [extend the contracts of the Atikokan and Hornepayne biomass generating stations](#), as well as to implement some [modifications to the Small Hydro Program to allow participation of aggregated contracts](#). The [Minister of Energy also issued a](#)

[directive to the IESO to enter into a funding agreement with Bruce Power](#) to fund a portion of the Federal Impact Assessment for new nuclear generation on the existing Bruce site

Work continued on the development of a [Transmission Selection Framework](#) and prioritization of future enhancements to the [Capacity Auction](#).

The IESO issued several reports, including the:

- [Central West Bulk Plan](#)
- [July 2024 to December 2025 Reliability Outlook](#)
- Guidehouse's [Evaluation of Grid Innovation Fund \(GIF\) Program Report](#)
- EPRI's [Procuring Grid Services from Distributed Energy Resources \(DER\) Final Report](#)

The IESO's [Grid Innovation Fund issued a targeted call for innovative projects focused on electrification and demand management](#).

Posted for [review and comment were the final alignment batch of market rule amendments and related market for implementing the Market Renewal Program](#).

The Technical Panel recommended a number of market rule amendments related to the [Market Renewal Program's \(MRP\) market and system operations framework and calculation engine design](#). They were subsequently [approved by the IESO Board of Directors](#). The Board of Directors also approved market rule amendments regarding the [Transmission Rights market engagement and platform refresh](#).

Legislative and Regulatory

[Bill 165](#), the [Keeping Energy Costs Down Act, 2024](#), was passed. The legislation was introduced as the Government of Ontario's response to the [Phase 1 Decision in Enbridge's 2024-2028 rates application](#). [Bill 165](#) makes a number of amendments to the [Ontario Energy Board Act](#), to, among other things, allow the Government to set by regulation the revenue horizon to be used by the OEB when setting natural gas distribution rates, and allow the OEB to exempt the requirement for leave to construct approval where it finds the specifics of a particular case require it, or where circumstances set out by regulation have been met (a more detailed summary was included in our [Q1 2024 Edition](#)).

Using these new authorities, the Government of Ontario issued [Ontario Regulation 273/24](#), which sets the revenue horizon for natural gas distribution rates for small volume consumers (those using less than 50,000 m³) at 40 years and for all other consumers at 20 years. It also issued [Ontario Regulation 274/24](#), which exempts the requirements for leave to construct for a hydrocarbon line if the project cost is no more than \$10M, and the OEB has determined that the duty to consult has been adequately discharged. The regulation also limits when leave to construct from the OEB is required for the relocation or reconstruction of hydrocarbon lines.

The Government of Ontario also:

- [Updated a proposal to amend Ontario Regulation 429/04](#) under the *Electricity Act*, to allow Class A customers under the Industrial Conservation Initiative (ICI) to enter into power purchase agreements (PPAs) with non-emitting generation facilities to allow them to offset their peak demand.
- [Proposal to amend Ontario Regulation 509/18](#) under the *Electricity Act*, to update the energy efficiency requirements and standards for 42 products and remove requirements for 3 existing products, to maintain harmonization with federal standards.

The Minister of Energy and Electrification (and previously the then Minister of Energy) announced the Government's support for Ontario Power Generation's plan to refurbish its [Sir Adam Beck](#), [R.H. Saunders](#), and [number of Eastern Ontario](#) hydroelectric generation stations.

Federal Government

The Federal Government, as part of [its 2024 Budget](#), announced up to \$5 billion towards a new [Indigenous Loan Guarantee Program](#) for energy and natural resource projects, the launch of work to establish a new [Federal Permitting Coordinator](#), and a [Crown Consultation Coordinator](#), and further details regarding the previously announced [Clean Electricity Investment Tax Credit](#).

Bill C-59 and C-69 received royal assent, implementing the previously announced [Clean Technology, Carbon Capture, Utilization and Storage \(CCUS\), Clean Technology Manufacturing, and Clean Hydrogen Investment Tax Credits \(ITC\)](#). The CCUS and Clean Technology ITCs are now available for qualified businesses.

Bill C-59 also included [amendments to the Competition Act](#) that, among other changes, expands the scope of reviewable civil [deceptive marketing practices to include certain environmental and climate change-related product representations](#) that are not based on an adequate and proper test, and business activities that are not based on substantiation in accordance with an internationally recognized methodology. The [Competition Bureau](#) has said it will assess these new requirements and expects to issue guidance. Bill C-69 also included [amendments to the Impact Assessment Act](#) to address the [Supreme Court of Canada's reference opinion](#) on the unconstitutionality of certain provisions.

Several notable reports were issued, including:

- The [Canada Electricity Advisory Council's](#) final report, [Powering Canada: A Blueprint For Success](#).
- The [Ministerial Working Group on Regulatory Efficiency for Clean Growth Projects](#), [Building Canada's Clean Future](#) report.
- Natural Resources Canada's [progress report on its Hydrogen Strategy](#).

The Canada Growth Fund released its [Carbon Contract Strategy](#).

Judicial Decisions

The [Ontario Court of Appeal granted Enbridge's motion for leave to appeal](#) the Divisional Court's decision in [Essex \(County of\) v. Enbridge Gas Inc.](#) In that decision, the Divisional Court had determined that the OEB had erred when it determined that a 1957 franchise agreement between the County of Essex and Enbridge had expired because of the application of the rule against perpetuities.

What We Are Reading

C.D. Howe Institute's [Mind the Gap: The Impact of Budget Constraints on Ontario's Net Zero Plans](#) report and the Ivey Energy Policy and Management Centre's [Corporate Governance Transparency: A Scorecard For Electricity Distribution Utilities In Ontario](#) report.

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.