

## Energy Regulatory Update (Q4, 2024)

Happy New Year! We're excited to bring you the latest edition of the Shepherd Rubenstein Energy Regulatory Update, a comprehensive quarterly summary of the incredibly busy period in Ontario's energy sector. This issue highlights the flurry of regulatory activity and significant developments from October to December (and the first few days of January).

If you missed it, don't forget to explore our [special 2024 Year in Review](#) edition, where we reflect on the major trends and milestones that shaped a dynamic and fast-paced year for energy policy and regulation in Ontario.

### **Ontario Energy Board**

The OEB issued several notable decisions over the last few months, including:

- Approving the [comprehensive Settlement Proposal for Toronto Hydro's 2025-2029 Custom IR rate application](#). In a [separate decision](#) on the lone unsettled issue, the OEB [rejected Toronto Hydro's proposed Innovation Fund](#), citing several deficiencies.
- Approving the [partial Settlement Proposal for Phase 2 of Enbridge Gas's 2024-2028 rate application](#), which represented a substantial agreement on the company's 2025-2028 incentive rate framework, as well as issues related to natural gas storage.
- Granting [Enbridge Gas's application for an exemption from the requirement for leave to construct](#) its Overlea Station Relocation project, finding that there were [special circumstances](#) under section 95(1) of the *Ontario Energy Board Act*.
- Approving Settlement Proposals in each of the five-year rate applications brought by [B2M LP](#), [Niagara Reinforcement LP](#), and [Chatham x Lakeshore LP](#), establishing a new revenue requirement framework for single-asset transmitters.

In late December, the [Minister of Energy and Electrification issued a new Letter of Direction to the Chair of the OEB](#) for the upcoming year. The [Letter of Direction](#) sets out the Minister's expectations and priorities for the OEB. These include, among others:

- Providing input on the province's Integrated Energy Plan (as well as plan implementation).
- Implementing of the *Keeping Energy Costs Down Act*.
- Considering how the 'beneficiary pays' principle can best be modified or applied to ensure: i) transmission/distribution infrastructure decisions account for probable future users, early and later beneficiaries, and other ratepayers, ii) utilities and their shareholders are kept whole, and iii) the potential for wasted costs or under-builds is minimized to protect ratepayers.
- Work related to conservation and demand management, including: i) collaborating with the IESO and Enbridge to deliver a customer-focused, one-window platform for energy efficiency programs, ii) proposing an appropriate cost-sharing mechanism between the Global Adjustment and distribution rates, to fund the development and operation of new energy efficiency programs that provide both system and local distribution benefits, and iii) reducing barriers to LDC energy efficiency program activities.
- Advancing work on electricity distributor reliability and resilience, non-wires alternatives, and regulatory efficiency.

The [Minister of Energy and Electrification endorsed the recommendations](#) of the OEB's [Report on System Expansion for Housing Developments](#). The OEB began implementing the most significant recommendation: extending the maximum connection horizon for housing developments from 5 to 15 years, and the revenue horizon for residential connections from 25 to 40 years. This was accomplished through the issuance of a [Notice of Proposal to Amend](#) the Distribution System Code (DSC), followed by a [Final Notice](#) incorporating [stakeholder comments](#). The [OEB also initiated a consultation](#) and [established an advisory group to develop a cost allocation model](#) intended to facilitate large developments with multiple customers, or developers requiring system expansions. Additionally, OEB staff issued a [Bulletin](#) outlining expectations for distributors regarding the [timely connection of new load customers](#).

The OEB initiated a consultation on [Advancing Performance-Based Rate Regulation](#). In the [short term](#), this consultation will explore adding performance incentives and mandates, while in the [long term](#), it will consider more fundamental changes to the rate-setting approach. As part of the consultation, the OEB released a [report to the Minister of Energy and Electrification on Utility Remuneration](#).

In response to the then [Minister of Energy's 2023 Letter of Direction](#) requesting clear guidance for distributors on the need for publicly available electricity distribution capacity information, the OEB announced the [Phase 1 implementation of capacity mapping](#), to be completed by March 2025. Additionally, OEB Staff issued a [Bulletin](#) regarding distributor obligations to provide access to specific forms and information related to the [connection of DERs to their systems](#).

The OEB made progress and completed work as part of its initiatives related to electricity distribution sector resilience and responsiveness, including:

- As part of the [VASH Project](#), issuing a [draft report on Vulnerability Assessment](#) for [comment](#).
- Releasing a [report authored by ICF](#) that reviews the current state of Ontario's electricity distributor sector regarding operations planning, system hardening, restoration performance, and customer communications.
- Issuing a [Notice of Proposal to Amend the DSC to establish minimum requirements for customer communications](#) during widespread power interruptions caused by severe weather.

The OEB issued the [2025 Cost of Capital Parameters](#). However, as a result of the ongoing [Generic Hearing on Cost of Capital](#), they were set on an [interim basis](#). The OEB also issued [preliminary 2025 Unconfirmed Transmission Rates \(UTRs\)](#).

As part of its [Review of the Consumer Protection Framework for Customers of Unit Sub-Meter Providers](#), undertaken in response to the [2022 Auditor General Report](#), the OEB released its [Final Report](#) and issued a [Notice of Proposal to Amend the Unit Sub-Metering Code](#) to increase consumer awareness.

The OEB held its annual [Policy Day](#), and both the [CEO](#) and [Chief Commissioner](#) released their Mid-Year Report.

To help inform the assessment of Enbridge's next gas DSM program application ([filed](#) in late November), the OEB released its [2024 Natural Gas Achievable Potential Study](#), prepared by Guidehouse.

The OEB [issued](#) an [updated version of its Ontario Cyber Security Standard](#) that requires distributors and transmitters to [complete periodic independent cyber security assessments](#).

In early January 2025, after considering [stakeholder feedback](#) on its proposal for an [Electric Vehicle Charging \(EVC\) Rate](#), the OEB issued a [draft report](#) on it for comment.

### ***Independent Electricity System Operator***

In October, the [IESO released updated electricity demand forecasts as part of its upcoming 2025 APO](#). The IESO now forecasts that electricity demand will grow by 2.2% annually, resulting in a 75% increase by 2050. Medium-term peak capacity projections were also adjusted upward, with summer and winter peaks increasing by 700 MW and 900 MW, respectively. By 2025, peak demand is expected to rise by 50–60% compared to previous forecasts for the same year. The [IESO attributes](#) these upward revisions to increased electrification in the commercial sector, growth in data centers, and the expansion of EV production and supply chains.

With respect to its procurement activities, the IESO continued consultations regarding the planned [Long-Term 2 RFP \(LT2 RFP\)](#). In mid-December, the [Minister of Energy and Electrification issued a procurement directive](#) that, among other things, directed the IESO to proceed with the LT2 RFP using a multiple-window approach. This approach targets a total of 14 TWh through the energy stream and 1,600 MW through the capacity stream. The IESO is targeting 3 TWh of energy and 500 MW of capacity as part of its first window, with a [submission deadline in Q3 2025](#). The Minister also announced an increase in the [broader procurement capacity target, raising it from 5,000 MW to 7,500 MW](#) in response to updated demand forecasts included in the upcoming 2025 APO. Additionally, the IESO was directed to report back by the end of April with options for [procuring long-lead-time resources](#), as well as a program to [re-contract existing small-scale, distribution-connected generation and acquire new resources](#). The IESO also completed its annual [Capacity Auction](#), procuring 2,122 MW of capacity for summer 2025 and 1,525 MW for winter 2024/2025.

The IESO Board of Directors approved the [final alignment batch of market rule amendments to implement the Market Renewal Program \(MRP\)](#). However, several non-quick-start natural gas generators filed an [application with the OEB seeking a review](#) of these MRP market rule amendments. The Application requests that the amendments be revoked and sent back to the IESO for reconsideration. The [statutory deadline](#) for the OEB to decide on the Application is March 6, 2025.

In October, the [Minister of Energy and Electrification wrote to the IESO](#) regarding work to ensure a smooth [transition from the current 2021-2024 CDM Framework to the new Energy Efficiency Framework](#), which was under development. The IESO also released the [2023 CDM Results](#).

The IESO released both a new [External Relations Engagement Framework](#) and its first [Indigenous Engagement Framework](#).

The [IESO Exemption Panel approved an exemption request from Algoma Steel for sections 2.4A of Chapter 9 of the Market Rules](#), allowing its new electric arc furnace non-dispatchable load facilities to be settled on a net basis when generation from a self-scheduling co-generation facility is used to offset its load. The [Exemption Panel also approved an exemption reconsideration application from Gerdau Steel](#), regarding several Market Rules due to the variable consumption patterns of its electric arc furnaces.

A [settlement agreement was reached between the IESO and Hydro Ottawa](#) regarding the utility's failure to comply with certain meter-related obligations under the Market Rules.

The [January 2025 to June 2026 Reliability Outlook](#) was released.

In early January 2025, the [Ontario Government announced a new 2025-2036 Energy Efficiency Framework \(Enhanced DSM \(eDSM\) Framework\)](#) to be launched by the IESO. The new 12-year framework budgeted and approved through a [procurement directive](#), will cost a total of \$10.9 billion, with each 3-year eDSM plan costing \$3.2 billion. The framework includes [12 continuing or expanding programs and 2 new programs](#), the Home Renovation Savings Program and Small Business Peak

Perks. Notably, the framework features an expanded [Local Initiative Program](#) and a requirement to [deliver residential and low-income programs with Enbridge Gas through a single delivery window](#). The Ontario Government also [directed the IESO to implement beneficial electrification measures](#) to promote electrification and the use of electricity to reduce emissions.

### **Legislative and Regulatory**

The Minister of Energy and Electrification released the government's energy vision document, [Ontario's Affordable Energy Future: The Pressing Case for More Power](#), which highlights priorities across three themes: planning for growth, affordable and reliable energy, and becoming an energy superpower. These priorities aim to achieve the vision of an affordable, reliable, and clean energy economy. The Minister also announced the intention to create Ontario's [first integrated energy resource plan](#), which is set to be developed and released in 2025.

The Ontario Government also introduced and passed [Bill 214, the Affordable Energy Act, 2024](#). The legislation:

- Creates a legislative framework for the [integrated energy plan](#), including outlining its goals and objectives through amendments to the [Electricity Act](#).
- Authorizes the IESO to administer programs supporting [beneficial electrification](#), aimed at promoting electrification and reducing emissions, through amendments to the [Electricity Act](#).
- Provides the Government with new authority through amendments to the [Ontario Energy Board Act to pass regulations amending the DSC and TSC, or exempting entities from their application](#) regarding cost allocation and cost recovery for the construction, expansion, and reinforcement of the distribution and transmission systems.
- Amends the [Electricity Act](#), [Ontario Energy Board Act](#), and [Energy Consumer Protection Act](#) to clarify they [do not apply to the distribution or retailing of electricity for EV charging](#), except as provided by regulation.

Concurrently, the Ministry of Energy and Electrification undertook a [consultation regarding its new authority under Bill 214](#), to amend the DSC and TSC for potential changes to [cost responsibility for certain electricity system connection infrastructure in high-growth areas](#).

The Ministry of Energy and Electrification also conducted several significant public consultations on the following topics and policy areas:

- The Government's first [integrated energy plan](#).
- Development of a [Natural Gas Policy Statement](#) to be included in the integrated energy plan.
- The proposed [2025–2036 Electricity Energy Efficiency Framework](#).
- Energy efficiency [programming to promote beneficial electrification](#).
- Priority areas for a [renewed Ontario's Low-Carbon Hydrogen Strategy](#).

The Ontario Government issued a [directive declaring the planned transmission line from Wawa TS to Porcupine TS as a priority project](#) and [designating Hydro One as the transmitter](#). They also announced that it had asked [OPG to begin discussions with Indigenous, community, and municipal leaders regarding the potential use of its existing sites](#) (Wesleyville, Nanticoke, and Lambton) for new generation facilities.

The Ministry of Energy and Electrification [proposed amendments](#) to Ontario [Regulation 328/03](#) under the [Ontario Energy Board Act](#), broadening the circumstances in which the OEB can determine that leave to construct is not required for pipeline relocation or reconstruction. This includes projects supporting priority transit initiatives and projects by road authorities, provided the remaining conditions set out in section 3 of the regulation are met.

As part of its [2024 Ontario Economic Outlook and Fiscal Review](#), the Ontario Government announced measures to incent distributor consolidation. It will [extend the municipal electricity utilities Transfer Tax reduction](#) and the [elimination of capital gains arising from the departure tax to the end of 2028](#). As part of this extension, they also proposed [expanding the eligibility](#) for the zero Transfer Tax rate to all MEUs, regardless of size (currently limited to those with fewer than 30,000 customers). The changes were implemented through amending Ontario Regulations [124/99](#) and [162/01](#).

The Ontario Government also introduced [Bill 228, the Resource Management and Safety Act, 2024](#). The legislation would enact a new [Geologic Carbon Storage Act, 2024](#), that would enable regulation of commercial-scale carbon storage.

### **Federal Government**

The Federal Government released its [Clean Electricity Strategy](#), outlining current and planned actions to support a decarbonized and expanded electricity grid. The [Wah-ila-toos Indigenous Council](#) also released its [final report](#).

The Ministers of Environment and Climate Change Canada issued the [final Clean Electricity Regulation \(CER\)](#), which included several significant changes. However, the regulations do not appear to address all the concerns [previously raised by the IESO](#) regarding their implications for Ontario. Before the CER was finalized, the [Minister of Energy and Electrification sent a letter to the relevant federal ministers](#). The [letter cited the IESO's analyses](#), which indicated that the regulations would impose steep costs on Ontario ratepayers for the necessary replacement generation and transmission infrastructure.

As part of the [Fall Economic Statement](#), the Federal Government announced the launch of the [Canada Indigenous Loan Guarantee Corporation](#). It also announced that it will soon introduce legislation to deliver the previously announced [Clean Electricity Investment Tax Credit](#), which will be retroactive to April 16, 2024, for projects that did not begin construction before March 28, 2023. For [provincial and territorial Crown corporations](#), access to the tax credit will be available by June 30, 2025, provided they, i) publicly commit to publishing an energy roadmap to achieve net-zero emissions by 2050, inclusive of all energy sources, by the end of 2026, and, ii) publicly request that provincial and territorial Crown corporations pass on the benefits of the Clean Electricity Investment Tax Credit to electricity ratepayers in their province or territory. The Federal Government is also exploring changes to the threshold in the Income Tax Act that currently [limits municipally owned utility corporations from attracting more than 10 percent private sector ownership](#).

The [Nuclear Waste Management Organization \(NWMO\)](#) announced its selection of the Township of Ignace and the Wabigoon Lake Ojibway Nation as the site for Canada's [deep geological repository for used nuclear fuel](#).

The Canadian Nuclear Safety Commission (CNSC) [approved OPG's application to operate Pickering units 5 to 8 until the end of 2026](#).

### **Judicial**

The [Ontario Court of Appeal granted leave to appeal](#) the Divisional Court's 2022 decision in [West Whitby Landowners Group Inc. v. Elexicon Energy Inc.](#), which concerned the availability of judicial review of an OEB opinion on whether a specific project was primarily an expansion or enhancement under the DSC, and the ability to challenge the OEB's assessment of a complaint. In [granting leave to appeal](#), the Court of Appeal commented that "there is no secret that both the federal and provincial governments are pursuing policies to promote much greater use of electricity in the economy" and the "Ontario government is pursuing an aggressive policy to support the construction of more residential accommodation, including subdivision project." It found that on that basis "the question of whether





some decisions of the state actor responsible for regulating the allocation of costs associated with the greater use of electricity are immune from judicial review is one of great public importance.”

### **Other**

Hydro One announced that it (via Hydro One Networks Inc.) has [entered into an agreement to purchase](#) the respective interests of OMERS (via OMERS Infrastructure Management Inc.) and Enbridge Inc. (via Enbridge Transmission Holdings Inc.) in the East-West Tie LP, who own and operate the East-West Tie Line.

The North American Electricity Reliability Corporation (NERC) released its [2024 Long-Term reliability Assessment](#).

### **What We Are Reading**

Clean Prosperity’s [Powering Up: Solutions for Electricity Distribution Finance in Ontario](#) report, Pollution Probe’s [Achieving Reliability in a Future Ontario Power System Action Plan](#) (and the companion Power Advisory [Net Zero Reliability Initiative Report](#)), Professor Schaufele’s article [How Confident Should We Be in Ontario’s Electricity Demand Forecast](#), and Power Advisory’s [From Small to Mighty: Unlocking DERs to Meet Ontario’s Electricity Needs](#) 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](mailto:mark@shepherdrubenstein.com).*