

Incremental Capacity Auction (ICA) – Stakeholder Feedback Form

Stakeholder Meeting: June 14, 2018

Date Submitted: <i>YYYY/MM/DD</i>	Feedback provided by: Company Name: <u>APPrO¹</u> Contact Name: <u>Dave Butters</u> Phone: <u>[REDACTED]</u>
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¹ APPrO is a trade association representing Ontario IPP and over 100 suppliers of services, equipment and consulting services. APPrO members produce power from co-generation, hydro-electric, gas, nuclear, wind, energy waste wood and other sources. Generator members include:

1. Algonquin Power
2. Bruce Power
3. Brookfield Renewable Energy
4. Capital Power
5. Capstone
6. ENGIE
7. Goreway Station
8. Greenfield Energy Centre
9. GTAA
10. H2O Power
11. Kruger
12. Markham District Energy
13. Northland Power
14. OPG
15. Oakville Enterprises
16. Portlands Energy Centre
17. Regional Power
18. St. Catharines Hydro Generation
19. TransCanada Energy Ltd.
20. TransAlta
21. Toromont

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The IESO held the eighth meeting of the ‘Options Phase’ of the Market Renewal – Incremental Capacity Auction engagement initiative on June 14, 2018.

The presentation can be [found here](#).

In order to maximize the effectiveness of this stakeholder engagement process, the IESO requests that stakeholders use the template below to provide feedback on content presented as follows:

- Provide responses to the questions posed
- For options presented, indicate your preference along with applicable rationale/supporting arguments (reference slide numbers where applicable)
- Identify any aspects that you believe require further elaboration or discussion

Please provide feedback by **July 11, 2018** to engagement@ieso.ca. Feedback received will be summarized and will help inform further discussions at future stakeholder engagement meetings.

Topic		Questions	Stakeholder Feedback
<p>Dispute Resolution</p>	<p><i>Slides 48-66</i></p>	<p><u>Market Rule Dispute Resolution Mechanism</u></p> <ul style="list-style-type: none"> Any comments on the application of the existing Market Rule dispute resolution process to ICA-specific determinations? 	<ul style="list-style-type: none"> Could the IESO please clarify if on slide 54 the IESO is referencing chapter 3 section 2.2.1.1? If so, in order to try and capture the examples listed on page 52, modifications to that section may be required to specifically incorporate language around “IESO determinations” as disputes that may arise under this section However, even if chapter 3 could be amended in a way to incorporate “IESO determinations” the existing process falls short on OEB appeal rights, which slide 57 speaks to. In APPrO’s read of section 36(1) of the Electricity Act, it seems that an appeal (from one of the examples listed on slide 52) would not be permitted based on the narrow conditions a participant can appeal under this section 36(1). This section seems to apply mainly to orders made by the IESO likely when a participant has been found in breach of a market rule. Therefore, the current OEB appeal process would not be sufficient for appeals arising from the ICA (and more specifically those design elements listed on slide 52). Although the OEB appeal process does not seem workable with respect to ICA design elements, APPrO would like clarification on this section. Section 36(2) states that an appeal can be made under this section <u>only after</u> the use of the dispute resolution provisions under the market rules. However, per slide 55 arbitration is “binding”. Can the IESO confirm that if a dispute went through chapter 3 arbitration a participant would still be able to avail itself of this section to appeal to the

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			<p>OEB? If this is the case, does this suggest an arbitrator’s decision is ‘non-binding’?</p> <ul style="list-style-type: none"> On the point of the dispute resolution panel, it is in APPrO’s opinion, the panel members should not be appointed by the IESO board. This should be one of the items to be reviewed during the broader governance/decision-making process review process. Each party should be able to submit their own list of (independent) arbitrators and the parties should mutually agree on one that is both independent and knowledgeable in the industry. Please note that in light of a broader review of governance/decision-making process, APPrO does not feel it is appropriate to try and shoe-horn the existing dispute resolution process on specific ICA design elements when the existing processes were not written with a capacity market in mind. As we are embarking on implementing a new (capacity) market and undertaking to review current decision-making/governance structures, APPrO feels all aspects of the ICA should be contemplated within this broader review, especially as the current process seems deficient.
		<p><u>Other Mechanisms</u></p> <ul style="list-style-type: none"> What elements of the ICA may benefit from structured opportunity for review of decisions prior to elevating to dispute resolution provisions? What determinations made by the IESO when administering the ICA do stakeholders believe are the most time critical to resolve should disagreements arise? 	<ul style="list-style-type: none"> APPrO’s position is that where possible, dispute resolution should be a last resort. Despite what is stated on slide 54, dispute resolution is neither efficient nor cost effective if market participants are going to be disputing issues on a frequent basis (as may be the case if/when a capacity market is implemented). APPrO would suggest that in any new process, a step prior to arbitration is required to try and resolve disputes. The opportunity is here to

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		<p>High Level or Detailed Design</p> <ul style="list-style-type: none"> Any comments on whether design decisions regarding the above should be made in the high level or detailed design phase? 	<p>create/evolve the processes that would be superior to those currently in place and in line with an evolving market.</p> <ul style="list-style-type: none"> As stated in APPrO’s past submissions, governance remains a critical issue for market renewal and the ICA as it is key to investor confidence. How this issue is managed will directly impact the success or failure of the ICA and whether or not it can credibly claim that it can meet any of its objectives. APPrO’s opinion is that the governance structure/decision-making process needs to be in place during or just prior to the publication of the HLDs. Absent good governance structure which is fair and equitable, it is not only difficult to provide meaningful input on the various design elements but could threaten the success of the ICA.
<p>Expectations for the September 12th “Vision Session”</p>	<p><i>Slides 67-76</i></p>	<p>Please provide any comments you may have on this section of the presentation.</p>	

General Comments/Feedback:

In light of the newly launched IESO governance and decision-making stakeholder engagement, APPrO does not feel it is appropriate to try to apply the existing dispute resolution (DR) process onto a limited set of ICA design elements (per slide 52). In light of this broader governance review, all aspects of the ICA should be considered in that framework. Furthermore, as the governance and decision-making SE is looking at potential enhancements to the current dispute resolution process it would be inefficient to spend more time on trying to impose the current DR process on a set of ICA design elements when that DR process is currently subject to change.