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December 4, 2018

VIA EMAIL

Jo Chung
Supervisor – Market Rules, Legal Resources and Corporate Governance
Independent Electricity System Operator
1600 – 120 Adelaide Street West
Toronto, ON M5H 1T1

Dear Mr. Chung:

Re: MR-00437-Q00: Resolute FP Canada (“Resolute”) Rule Amendment Submission – Demand Response Registration and Metering Requirements (the “Rule Amendment Submission”)

I am in receipt of your email of November 29, 2018, attaching a Memo from Josh Duru to the Technical Panel, dated November 28, 2018, in respect of the Rule Amendment Submission. The memo proposes that the issues raised in the Rule Amendment Submission be first referred to the Demand Response Working Group (“**DRWG**”) and that “A discussion about the DRWG feedback would be tabled with the Technical Panel following discussions at the DRWG.”

Respectfully, proceeding in such a manner is improper. We are very concerned that IESO staff has interjected itself into the market rule amendment process in a way that is in violation of the Market Rules, and is aimed at preventing an independent consideration of the proposed rule amendment.

Market Rules Requirements

On October 11, 2018, Resolute filed the Rule Amendment Submission in accordance with Section 4.2 of Chapter 3 of the Market Rules.¹

Pursuant to Article 6.1 of IESO Governance and Structure By-Law, and Section 3.1 of Technical Panel Terms of Reference, the Technical Panel “shall comply with all applicable provisions of the market rules”.

Section 4.3.2 of the Market Rules provides that, “Upon receipt of the amendment submission, the **Technical Panel** may request that the person submitting the amendment submission provide further particulars with respect to the amendment submission.” After the **Technical Panel** considers the submission, pursuant to section 4.3.5.1, the **Technical Panel** is required to

¹ All reference to Market Rule sections are with respect to Chapter 3.

report to the IESO Board, with notice to the person submitting the request, and if the **Technical Panel** is of the opinion that consideration of the amendment submission is warranted, the report is to set out the extent of the consultation that the **Technical Panel** intends to take with market participants and other persons in consideration of the amendment.

Similarly, section 4.3.7 provides for the posting of public notice where the **Technical Panel** has confirmed that a rule amendment request is being considered, and gives the **Technical Panel** the discretion to seek written submissions from market participants and other interested persons in respect of the amendment submission.

The Market Rules thus impose an obligation on the Technical Panel to consider the proposed rule amendment. It is the Technical Panel who determines what further consultation it may require. The Market Rules do not provide that IESO staff may intervene in the market rule amendment process to prevent or delay the consideration of an amendment.

IESO staff's intervention is particularly concerning since it has advised that it will ensure that any Market Rule amendment will reflect staff's interpretation of the Market Rule, which, as IESO staff's memo indicates, is disputed. The improper interference by staff in the mandatory process established by the Market Rules is further heightened as the parties are currently engaged in formal dispute resolution on related issues. The IESO's attempt to interfere in the rule amendment process has the appearance of the IESO looking to use this process to garner support for its position in the on-going dispute.

The DRWG

Even apart from the binding Market Rule requirements, IESO staff's proposal to have this matter transferred to the DRWG for preliminary consideration is inappropriate. The DRWG is run by IESO staff. We have no confidence that IESO staff will be impartial in any DRWG review. Indeed, to reiterate, IESO staff has already made its intentions clear to rewrite the Market Rules to support its own interpretation. Given IESO staff's stated position on this matter, we do not believe that a process run by IESO staff can address the issues raised in the Rule Amendment Submission in a credible and independent manner.

Further, the basis supporting the Rule Amendment Application is that the IESO's stated interpretation discriminates against a Market Participant, namely Resolute. The DRWG is comprised of other Market Participants, who are competitors to Resolute, not similarly situated to Resolute in respect of the discrimination at issue, and are therefore self-interested. It is to avoid such conflicts, that the Market Rules provide for a mandatory, independent process led by the Technical Panel.

In sum, the Market Rules clearly provide that the Technical Panel may conduct any consultation that it considers appropriate so that it hears from all interested parties. That discretion is to be exercised by the Technical Panel in its review of the Rule Amendment Submission, in accordance with the Market Rules. It is not open to IESO staff to insert themselves into the process, invite parties who may be in conflict to weigh in on the Rule Amendment Submission, and colour the Technical Panel's review.

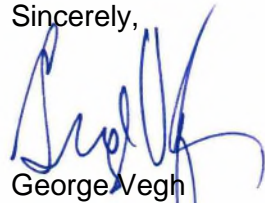
Conclusion and Next Steps

In light of the legally binding requirements of the Market Rules, and given IESO staff's stated position, we request that this matter be forwarded to the Technical Panel for its independent determination, without further delay.

In addition, to ensure that this issue is addressed transparently and to establish necessary safeguards to confirm that the Technical Panel is proceeding in a manner that is not impeded by IESO staff's self-interested position, we request that the IESO produce all internal correspondence, memos, and notes relating to its consideration of the Rule Amendment Submission, including all communications with the Technical Panel. Going forward we ask that all communications regarding consideration of the Rule Amendment Submission be documented in writing, with copy to Resolute, including all communications with or by the Technical Panel.

I look forward to receiving your confirmation that the Rule Amendment Submission has been put before the Technical Panel, and your anticipated timing for production of the requested documents.

Sincerely,



George Vegh

cc: Julie Parla, McCarthy Tétrault