

# IESO Technical Panel Meeting

## Minutes of Meeting

<b>Date held:</b> January 29, 2019		<b>Time held:</b> 10:00 am	<b>Location held:</b> Teleconference
<b>Invited/Attended</b>	<b>Sector Representation</b>		<b>Attended/Regrets</b>
Robert Bieler	Consumer		Present
David Brown	Ontario Energy Board		Present
Ron Collins	Energy-Related Businesses and Services		Present
David Dent	Other Market Participant		Present
Sarah Griffiths	Other Market Participant		Present
Robert Lake	Residential Consumer		Present
Phil Lasek	Industrial Consumer		Present
Dave Forsyth	Consumer		Present
Sushil Samant	Generator		Present
Joe Saunders	Distributor		Present
Jessica Savage	IESO		Present
Vlad Urukov	Generator		Present
Julien Wu	Wholesaler		Present
Michael Lyle	Chair		Present
<b>Observers / Presenters</b>			
Jo Chung	IESO		Present
Josh Duru	IESO		Present
George Vegh	McCarthy Tétrault LLP		Present
<b>Secretariat</b>			
Reena Goyal	IESO		Present
Jason Grbavac	IESO		Present
Prepared by: Kathy Pearsall / Smarter Shift Inc.			

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## **Agenda Item 1: Introduction and Administration**

### Agenda

The meeting agenda was approved with no comments, questions, or additions.

### Minutes and Action Items

The minutes of the August 14, 2018, meeting were approved unanimously.

## **Agenda Item 2: Stakeholder Engagement Update**

Jason Grbavac, IESO, provided an update on current engagements.

With respect to Market Renewal, high-level designs (HLDs) for the Single Schedule Market (SSM), the Day-Ahead Market (DAM), and the Enhanced Real-Time Unit Commitment (ERUC) are nearing the detailed design phase. The DAM and ERUC HLDs are still under review and comments are due by February 28. Stakeholders will be invited to participate in the detailed design engagement to address specific design elements.

A kick-off meeting tentatively planned for March will walk stakeholders through the various design elements of the Energy stream. The Technical Panel is encouraged to continue participating in MRP engagement opportunities.

The HLD for the Incremental Capacity Auction will be released in March. Stakeholder review and a detailed design engagement will follow.

The IESO will provide regular updates on market renewal and non-market renewal engagement activities in 2019.

### Questions

Mr. Urukov said a handy document on active engagements was last published in November 2018. He asked whether an update is coming. Mr. Grbavac said the engagement report was paused late last year, and the IESO is looking at reviving it before the Panel meeting in March.

Mr. Dent asked when market rule amendments driven by Market Renewal detailed design work might start rolling out. Mr. Grbavac said design forum conversations would begin after the March kick-off meeting. Mr. Chung said the Market Renewal amendments might be published for stakeholder comment by the fourth quarter of 2019.

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<b>Agenda Item 3: Market Rule Amendment Submission</b>	
IESO Support Staff	Josh Duru
Stakeholder Plan	MR-0437-Q00: Resolute FP Canada (“Resolute”) Market Rule Amendment Submission – Demand Response Registration and Metering Requirements

The Chair said the purpose of the discussion was to seek the Panel’s recommendation on processing a market rule amendment submission from Resolute FP Canada. Josh Duru, IESO, will deliver an overview of the submission. George V~~egh~~, McCarthy Tétrault LLP (“McCarthy’s), will describe the amendment and provide context.

Mr. Duru said that on October 11, 2018, McCarthy’s filed an amendment submission with the IESO on behalf of Resolute. It claims the demand response (DR) market rule unjustly discriminates against market participants, or a class of market participants. The IESO sent the amendment submission to the Panel on November 28, 2018. At that time, the IESO proposed that the submission be referred to the Demand Response Working Group (DRWG) at its first meeting in 2019. In response to the IESO’s November 28 memo to the Panel, McCarthy’s raised concerns that were documented in letters to the IESO which have been published on the Panel’s web page, along with the IESO’s response. The IESO requests that the Panel support the proposal that the submission be referred to the DRWG in order to inform future Panel discussions.

#### Questions for IESO Staff

Mr. Samant asked whether there was a DRWG meeting after the amendment submission proposal. Mr. Duru said the letter was sent to the Panel in advance of the joint IESO Board/Panel meeting on December 4. The last DRWG meeting of 2018 was before the submission was received and the next DRWG was scheduled for February 2019.

Ms. Griffiths asked for confirmation that the first time the Panel knew of McCarthy’s concerns noted in their December 4<sup>th</sup> letter was in January when it received material that included the McCarthy’s letters. Mr. Duru said the Panel was first informed of the concerns in January.

Mr. Bieler said Mr. Grbavac circulated the amendment submission proposal to the Panel on November 28, but no formal Panel meeting was held at the time. Mr. Duru confirmed. Mr. Grbavac indicated that the annual joint IESO Board/Panel meeting is an opportunity to connect the two groups on broader perspectives, with the Resolute submission sent to the Panel with proposed next steps indicated in the November cover memo. Mr. Bieler noted that today is the first Panel meeting where the amendment submission is being discussed. Mr. Duru confirmed.

Mr. Urukov said some of language around next steps was expanded after the November memorandum. He asked whether this was done in response to further comments made by Resolute or to clarify the IESO’s original intent. He asked whether the Panel was to have provided an opinion. Mr. Duru said that at this time the IESO is seeking explicit endorsement of

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the proposal put forward in November and that the IESO's proposed course of action indicated in the November cover memo has not changed.

Ms. Griffiths asked whether there are examples of amendment requests from other market participants that were sent to an established working group. Ms. Savage said amendment submissions driven by market participants are rare and the IESO has only received one or two in recent history.

Mr. Bieler said he supported the amendment submission going first to the DRWG because it is a technical matter concerning the configuration of meters. The DRWG discussion would inform the Panel discussion.

Mr. Forsyth asked what the alternatives are if the submission does not go to the DRWG. The Chair indicated that the Panel could vote that the amendment warrants consideration and determine what process or forum would best assist the Panel.

Mr. Saunders said it was mentioned in the documentation that the arrangement with the revenue meters and grid meters has been accepted in previous programs, and that the IESO has changed its position. He asked the IESO to explain further. Mr. Grbavac said previous DR opportunities were provided in contracts from the former Ontario Power Authority. The IESO worked with stakeholders to transition to a market-based mechanism that brought changes to older, contract-based opportunities. Changes were made to DR2 and DR3 program rules and requirements.

Mr. Collins asked how many other entities could be affected by the submission. Mr. Grbavac said only one participant has been heard from.

The Chair turned the discussion over to Mr. Vegh and invited the Panel to ask questions.

Mr. Vegh provided the details of the amendment. Resolute is asking that the Panel follow the market rules. The rules demonstrate the need for the Panel to act independently and not be managed by IESO staff. There is concern regarding the role of the IESO in managing the DRWG process in this matter.

In November, Resolute proposed a simple market rule amendment to the IESO with respect to the DR program. Resolute does not see the market rule itself as discriminatory. Rather, it is Resolute's position that the interpretation of the rule by staff is discriminatory. The amendment seeks a clarification of the market rule that the measurement of DR includes demand served by the grid as well as by self-generation. The market rules do not differentiate, and Resolute's position is that there should be no differentiation. The IESO's interpretation is that self-generation counts toward DR behind the distribution meter but does not count if the customer is directly connected. Resolute does not agree with the IESO's interpretation and asks for clarification from within the market rules.

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Furthermore, if the IESO's interpretation of the market rule stands, the rule will be seen as discriminatory under the *Electricity Act*, and this would provide grounds for the Ontario Energy Board to overturn it.

Resolute raised concerns that the amendment submission should not be administered through the DRWG, but the IESO has not addressed the concern. Resolute claimed that IESO staff said that they control the market rule amendment process and that this particular amendment will not pass. Under the market rules, IESO staff do not control the amendments. The Panel has an independent mandate to consider the rules and their merits. The Panel's terms of reference differentiate between rules brought forward by IESO staff and those that are not. The role of the Panel is limited to considering whether the language of the rule meets the goal of the proposed amendment.

Resolute filed the amendment in November, and it has been difficult to get the amendment to the Panel. Three letters were provided (two in December, one in January), and it has been difficult to get a response. Resolute stated that the position of staff that the amendment should not go forward is central to the Panel's consideration and that market participants must get a fair hearing.

The rules being discussed are in Chapter 3, Section 4 of the market rule amendment process. The rules set up a requirement for the Panel to undertake a specific, transparent process in making determinations regarding proposed rules.

Resolute went on to describe the following sections of the Market Rules:

- Section 4.2.4 requires that amendment submissions be put forward. Resolute put forward its submission in November.
- Section 4.3.2 states that the Panel may request that the submitter provide further particulars. The Panel has not made a request.
- Section 4.3.5 states that the Panel shall report to the board and give notice to market participants or other interested persons as to whether the request for amendment is, in the opinion of the Panel, of such a nature that consideration is warranted as well as the extent of the consultation. There is no prescribed step stating that it should be left up to IESO staff to consult with others and report back to the Panel.

Mr. Samant asked whether the Panel would be following Section 4.3.2 by asking the submitter whether stakeholders were consulted regarding the amendment submission. Mr. Vegh said the Panel could request that the person submitting the amendment provide further particulars. Section 4.3.5.1 addresses the consultation. Mr. Samant said he wants to know whether the participant has consulted stakeholders. Mr. Vegh said he does not believe so. It is not that Resolute is opposed to stakeholder consultation; rather, Resolute wants the matter to be managed by the Panel.

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Mr. Vegh continued, section 4.3.7 states that if the Panel decides consideration is warranted, the Panel can publish the rule, seek comments, and set the time of submission. It is a very transparent process.

Mr. Bieler said it appears the cart is being placed before the horse. The IESO is saying that it is referring the submission to the DRWG to assist and inform the Panel. The Panel has not discussed or debated the submission yet because it has only just been circulated to the Panel. Whether or not the IESO should have first gone to the DRWG is up for debate. The normal Panel process has not yet begun. The Panel now awaits comments from the DRWG, and the Panel will debate the rule amendment. Mr. Vegh said that short-circuiting the submission process through the DRWG is not consistent with what the rules require.

Mr. Samant asked whether Resolute would take issue if the Panel wants to solicit input on the submission from the community at large. Mr. Vegh said it is fine if the Panel wants to directly solicit input from outside the DRWG.

Mr. Bieler said the DRWG is just one source of input.

Mr. Vegh said the submission process must be carried out in a formal and transparent way, not under the auspices of the DRWG.

The Chair noted that the one-hour time allotment for today's meeting was coming to an end and asked whether Panel members would like to continue past the hour. All Panel members agreed to stay.

Ms. Griffiths said today's discussion is a significant issue that requires more than an hour conference call. It is the first participant-driven submission in recent history, and it is precedent setting. Secondly, in the IESO's January 18<sup>th</sup> response memo to McCarthy's concerns, Ms. Griffiths indicated she has an issue with the statement that "the IESO has not received any objection to date from any Panel members on the proposed approach noted in the November 28<sup>th</sup> cover letter." Had Panel members known of McCarthy's concerns, TP members may have had an issue had they known all the facts.

Mr. Wu suggested that an in-camera session would be helpful to continue this discussion.

Mr. Urukov requested clarification of the rule amendment submission. Mr. Vegh said the rule does not need an amendment because it does not differentiate between DR behind the meter and DR that is directly connected. However, because IESO staff are not reading it this way, Resolute is proposing an amendment for clarification. Mr. Urukov asked whether Resolute is looking for further clarification from the IESO. Mr. Vegh said Resolute is looking for an amendment of the rule to provide clarification.

Mr. Vegh added that section 4.9.3 states that the Panel can establish working groups to assist it. It can set the terms of reference, the questions, and the mandate of a working group. The Panel must notify the IESO Board of its intention to set up a group, and the IESO must give notice to

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all market participants and other interested parties. It is a formal process. He requested that the Panel follow the process to the letter of the law.

### IESO Staff Remarks

Ms. Goyal said different IESO staff are involved in the Panel and in dispute resolution, which operates on a confidential, without-prejudice basis. Any representations that IESO staff may have made about the market rule amendment were made in the context of a without-prejudice process, not within the Panel process. As Mr. Vegh said Section 4.9.3 states that the Panel can refer the matter for further consultation. The IESO had suggested that the matter be referred to the DRWG because that group was already established and has expertise in dealing with these issues. The Panel can establish a working group or strike a subgroup of the DRWG to consider specifically mandated items. The DRWG is a public forum. It is not necessarily the DRWG's mandate to provide opinions and guidance to the IESO. The IESO merely facilitates the forum and administers the meetings. The DRWG is an appropriate and transparent forum to assist the Panel in making a determination.

Responding to Mr. Forsyth's earlier question about alternatives to the process, Ms. Goyal said if the Panel determines that the DRWG is not the correct forum, it is within the purview of the Panel to direct the IESO toward an appropriate forum.

Mr. Vegh said it is not accurate to state that the comment by IESO staff that the market rule amendment would not pass was made without prejudice. Resolute asked three times for correspondence to determine who within the IESO has been communicating with whom about the submission. Given the lack of response, Resolute filed a Freedom of Information request. The IESO will need to demonstrate that there is a separate group that does not communicate with the Panel. The terms of reference state that the DRWG was established to advise and assist the IESO, and not the Panel, which is independent.

The Chair said it was the view of IESO staff that the DRWG would be of assistance to the Panel in making a determination, just as other working groups and/or committees have supported the Technical Panel's review of recent amendments, e.g. Capacity Exports. It is a decision for the Panel to make.

Ms. Griffiths said the letter from the IESO to McCarthy Tétrault made her uncomfortable. It stated that the IESO had heard no objections from Panel members concerning the proposed approach. However, the Panel did not have enough information to provide any response.

The Chair suggested that it appears that Panel members would like time to deliberate without IESO staff and legal counsel present. Panel members confirmed and agreed to attend an in-camera meeting on Thursday, January 31, at 4 p.m. The purpose of that meeting will be to discuss the process going forward, not to make a decision on the rule amendment.

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It was agreed that Ms. Savage, who is both a Panel member and IESO staff, would be invited to attend the in-camera meeting. It was agreed that there is no conflict if a Panel member in attendance is also part of the DRWG.

The meeting adjourned at 11:20 a.m.

<b>Action Item Summary</b>			
<b>Date</b>	<b>Action</b>	<b>Status</b>	<b>Comments</b>
Jan. 29, 2019	In camera meeting to discuss the process for the market rule amendment proposed by Resolute.	Closed	In-camera session occurred on January 31, 2019.

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