

## IESO Engagement

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**From:** Brighton, Anna  
**Sent:** September 29, 2022 10:34 PM  
**To:** IESO Engagement; Long Term RFP  
**Subject:** Comments on IESO E-LT1 Contract dated August 25, 2022

Dear IESO partners,

Thank you for soliciting our feedback on the draft E-LT1 Contract dated August 25, 2022. Please see below the following comments for your kind consideration:

Sec 2.13(a): Materials Cost Index Adjustment. From the first principles perspective, it would be desirable to offer Materials Cost benchmarking protection between the Proposal Submission Deadline and the date the Materials Costs have been crystalized by the Supplier. Has the IESO considered if such date is representative of “the three consecutive calendar months ending with the calendar month during which first (1st) anniversary of the Contract Date occurs”?

Sec 9.1: Term. Has the IESO considered extending the Term due to a Force Majeure event prior to the Commercial Operation Date of the Facility by the duration of such an event? Please explain why the IESO chose to fix the Term, including during construction and how financing considerations were contemplated.

Sec 11.3: Definition of Force Majeure. We note that the definition of Force Majeure is somewhat limited compared to the relevant precedents. Please describe a process and guiding principles for formulating a more limited set of Force Majeure events.

Sec 13.2: Consequences of Discriminatory Action. Has the IESO contemplated a Discriminatory Action, which may make the concept of Must-Offer Obligation not relevant? For example, if the Discriminatory Action results in certain E-LT 1 contacts deemed not in compliance with laws and regulations post a Discriminatory Action date.

Exhibit F: Availability Non-Performance Charges. Please describe the process used for the determination of the Availability Non-Performance Charges and any scenario analysis performed on expected non-performance events captured by the concept.

We’ll be happy to provide any clarifications as may be necessary.

Kind regards,

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