

Stakeholder Feedback and IESO Response

Q&A Session on the Small Hydro Program (SHP) Draft Documents: Contract & Program Rules – September 19, 2023

Following the Engagement Webinar on September 19, 2023, the IESO invited stakeholders to provide comments and feedback on the items presented by September 26, 2023. A summary of this feedback is provided below as information.

OEFC

Feedback	IESO Response
Stakeholders suggested that applicants with existing OEFC contracts should be able to keep the terms of their existing OEFC contract when entering into a contract with the IESO through the SHP.	<p>Any merchant or OEFC applicants will receive the SHP terms upon entering into an SHP Contract. OEFC Contract holders will be considered Stream 1 Applicants.</p> <p>The IESO has been directed by the Ministry of Energy to consider the feasibility of transferring non-utility generator (NUG) contracts to the IESO by terminating all of OEFC's remaining contracts for hydroelectric facilities. The consideration of this concept is independent of the work done on the SHP.</p>
Stakeholders suggested that evidence of termination (in the form of a letter from OEFC confirming the termination date) should be provided to the Sponsor within sixty (60) Business Days of the Contract, rather than the	The twenty (20) day requirement for evidence submission will remain as drafted. To manage this requirement, the Applicant may consider engaging with the OEFC before applying to the SHP and/or before accepting a contract offer from the IESO.

Feedback	IESO Response
proposed twenty (20) days, to allow more processing time.	
Stakeholders that currently have an OEFC contract are seeking confirmation that a gap in contracted revenues from the OEFC and the IESO (under the SHP) can be avoided.	The SHP is designed to allow a seamless transition of facilities currently under OEFC contracts to begin receiving revenues under the SHP Contract the day after their OEFC contract is terminated or expires. For Facilities with an OEFC Contract in effect as of the Application Date, the proposed Contract Date will be made known by the Sponsor as of the Offer Date, thereby allowing Eligible Participants with an OEFC Contract to work with the OEFC during the Offer Period to ensure the OEFC Contract is terminated immediately prior to the Effective Time. Suppliers will be required to submit to the Sponsor a letter from the OEFC confirming that the OEFC Contract was terminated on a day that is at least one (1) Business Day prior to the Contract Date. This letter must be provided within twenty (20) Business Days of the Contract Date.

Tax Credits

Feedback	IESO Response
Stakeholders expressed support that the Clean Technology Investment Tax Credit (ITC) will remain with suppliers and strongly recommended that the Clean Electricity ITC should also vest with the Supplier.	The IESO has considered and incorporated this feedback into the contracts by enabling Suppliers to retain both the Clean Technology Investment ITC and the Clean Electricity ITC.
Stakeholders suggest that the SHP contract anticipate potential future federal or provincial measures to support the industry.	The contract will remain as drafted.

Applications

Feedback	IESO Response
Stakeholders suggested minor updates to the Application Form for clarity (such as describing the expectation for “Legal Description”).	The IESO has updated the Application Form for clarity, where applicable.
Stakeholders asked the IESO to consider the necessity of some of the information requested in the Application Form, including: a list of all local water level control authorities, a description of environmental features and details on ownership.	It is the IESO’s responsibility to perform an adequate level of due diligence when entering into contracts with Suppliers on behalf of ratepayers. The Application Form will remain as drafted to request the necessary level of information for reasonable due diligence.

Upgrades & Expansions

Feedback	IESO Response
<p>Stakeholders communicated disagreement with the concept of having a threshold for upgrade eligibility.</p> <p>Recommended that the eligibility for upgrades and expansions be:</p> <ol style="list-style-type: none"> 1) consistent with regulations for the federal Clean Technology and Clean Electricity Investment Tax Credits to encourage and enable optimization of production from existing hydroelectric facilities, or 2) consistent with the current HCI definition, which references increasing generating capacity by more than 5% 	<p>The documents remain as drafted to include minimum criteria for upgrades (an increase in the Nameplate Capacity by either: (a) 1 MW; or (b) 50% of the Nameplate Capacity (prior to the Upgrade or Expansion), whichever is lessor).</p> <p>The minimum criteria are meant to ensure that upgrades and expansions via the program meaningfully contribute to resource adequacy in the province.</p>
Stakeholders suggest that any incremental generation that occurs as a result of an efficiency improvement should be included in the contract payments.	Energy that is provided above the Contract Capacity, will receive the relevant wholesale market price of electricity.

Specific Contract Provisions

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<p>Stakeholders requested modifications to specific provisions from the base HCI contract and to existing contract settlement terms, such as: the methodology used to calculate the Hourly Delivered Electricity Foregone in Exhibit B1, and sections 2.8 (c), 2.9 (a), 9.1 (j), 15.7 of the SHP-AR Contract and SHP Contract.</p>	<p>The intent of using the existing HCI terms as the basis of the SHP Contract was to maintain consistency for existing contract holders and minimize the need for legal review. Modification of these base terms is not in the scope for SHP document development.</p>
<p>Stakeholder is looking to confirm that section 2.8 (a) (the requirement that the Supplier own or lease the Facility) does not in any way conflict with a Change of Control for the Supplier as outlined in section 15.7 or assignment of the AR-SHP Contract in section 15.6 as long as the Supplier continues to own or lease the Facility post-transaction.</p>	<p>With respect to Change of Control, there is no conflict between the provisions. A Change of Control is generally acceptable to the IESO where it does not cause a Material Adverse Effect on the Supplier’s ability to perform its obligations under the Agreement. If the Supplier is still able to perform its obligation to own or otherwise control the Facility after the Change of Control, then the Change of Control would not have a Material Adverse Effect.</p> <p>With respect to assignment, in order for the IESO to consent to the assignment, the assignee who is taking over the obligations of the Supplier must be able to satisfy the requirement to own or otherwise control the Facility.</p>
<p>Stakeholders inquired as to the section 1.6 of the SHP-AR Contract (which applies to only certain contract types during the Original Term) regarding the Lakes and Rivers Improvement Act and Endangered Species Act and the basis of the price cap for changes to the Contract Price (to support material capital investments required by the Act(s)).</p>	<p>The \$140.40/MWh was calculated by escalating the original price cap that was in the existing terms of HCI. The original price cap was based on the 2009 FIT rate. To calculate the price cap included in this provision under SHP, (which only relates to work done under the Lakes and Rivers Improvement Act and Endangered Species Act), the 2009 FIT rate was escalated using a 20% escalation factor (as per the FIT schedule).</p>
<p>Stakeholders would like the IESO to confirm that the use of the term Dispatch Interval does not mean a facility is required to become dispatchable.</p>	<p>There is no requirement in the SHP-AR Contract or the SHP Contract for a facility to become dispatchable.</p>

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<p>Stakeholder inquired as to the addition of batteries and if that would be permissible under Section 2.8 (b) of the contract.</p>	<p>The addition of battery storage (or other type of storage) is not prohibited by the SHP contract as long as the storage equipment/mechanism is charged through waterpower at the Facility. The addition of storage at a Facility would constitute a facility amendment governed by Section 2.6 of the Contract, and a corresponding contractual amendment would be required, subject to obtaining the IESO’s prior written consent.</p>
<p>Stakeholders requested that the intent of Section 1.5, as it relates to the Market Renewal Program (MRP) be clarified.</p> <p>More specific language, such as “elements of Market Renewal that should reasonably have been known and/or in place at the time of contract execution” should be used to limit the practical application of the provision.</p>	<p>The language in Draft 3 of the SHP contracts provides that any changes to the IESO Market Rules that are part of MRP are excluded from the scope of section 1.5, meaning that they cannot form the basis for the parties renegotiating any part of the contract.</p> <p>The development of the MRP is at a stage that should allow all SHP Applicants to evaluate the impact of MRP on their Supplier Economics prior to their Contract Date. Information about the changes proposed as part of MRP is available on the MRP website. Applicants to the SHP are encouraged to review the information on the MRP website and participate in MRP engagement sessions as needed to familiarize themselves with the changes that are planned.</p> <p>If any Applicant is unable to evaluate the impact of MRP on their Supplier Economics at this time, they are welcome to wait until MRP comes into effect before applying to the SHP.</p>

Eligibility

Feedback	IESO Response
<p>Stakeholders provided several comments on the criteria used for determining a facilities Nameplate Capacity:</p> <p>a) Typically the nameplate is on the generator, not the turbine which is submerged.</p>	<p>a) The IESO has incorporated this feedback and reference to the nameplate capacity on the turbine has been replaced with generator in the Rules and the Application Form.</p> <p>b) The IESO accepts that in some cases, the nameplate capacity of the generators may not</p>

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<p>b) Nameplate capacity may not be available for many existing turbines (nameplate not existing or severely corroded).</p> <p>c) Instead of using photographs to verify Nameplate Capacity, an approach that is based on historical generation over the last five years, based on the 98th percentile, should be used.</p> <p>d) The existing contract capacity for Stream 2 facilities should be used as the Contract Capacity in the SHP-AR Contract.</p>	<p>be sufficiently available/clear for photographic evidence and has included an alternative approach to eligibility.</p> <p>c) As an alternative to submitting photographs, an Applicant can submit 5 years of historical data, provided in a .csv format from the LDC for the five-year period preceding the Application Date, which demonstrates that the maximum energy (MWh) Delivered by the Proposed Facility in every hour is less than or equal to 10 MW.</p> <p>d) Nameplate Capacity represents a standardized and simple approach to assessing the capacity for the purposes of eligibility for both Streams as well as eligibility for the 1MW or less price adder.</p>
<p>For some facilities, leases are controlled by the Ministry of Natural Resources and Forestry - the Lessee cannot control the timing of the lease being renewed, beyond that of complying with the appropriate application requirements to extend the lease prior to expiry. It was suggested that the language in the contract reflect the scenario of lease renewal being delayed beyond the control of the Supplier.</p>	<p>The contract will remain as drafted to ensure that the Supplier has the proper rights to the land. The IESO can manage issues related to lease renewals on a case-by-case basis through the application of a cure period, as applicable.</p>
<p>Stakeholders inquired as to alternative documentation being acceptable to meet the eligibility requirement of owning or leasing the land the Facility is on, specifically in the case of Crown Land.</p>	<p>In the case of Applicants located on Crown Land, the IESO will permit the Applicant to submit alternative documentation to evidence the Applicant has the proper rights to the land. Documentation other than a title or lease may be accepted by the IESO on a case-by-case basis if the documentation sufficiently evidences the Applicant's rights to the land.</p>

Exhibits B (SHP Contract), B1 & B2 (SHP-AR Contract)

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<p>Stakeholders would like to confirm their understanding that Exhibit B1 replicates</p>	<p>Yes, Exhibit B1 replicates existing IESO contract terms, with the addition of language that</p>

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existing metering and settlement provisions of the various forms of existing IESO contracts.	incorporates MRP in Exhibit B1 Type 1 and Exhibit B1 Type 4.
Stakeholder is seeking clarity on the settlement mechanism with respect to the first 438 hours of negative market prices in a year.	<p>In the first 438 hours in a calendar year in which the market price is \$0/MWh or less (negative pricing), the Supplier will be made whole to \$0/MWh (if applicable) and will then receive 25% of the contract rate.</p> <p>The first 438 hours will be the same for all facilities, as based on the market price, regardless if the facility is offline/generating in the zero or negative hours.</p>
<p>Stakeholders expressed confusion around current contract structure (as included in Exhibit B1) and the SHP payment terms (as included in Exhibit B2) as it relates to being a contract for differences.</p> <p>Stakeholders requested clarity on any requirements for the Supplier to obtain market revenues (such as becoming a market participant).</p>	<p>Both settlement terms in Exhibit B1 and Exhibit B2 represent a contract for differences.</p> <p>There is no change in the settlement process between Exhibit B1 & B2 as it relates to how a Supplier will receive payment from the connecting authority.</p> <p>There is no requirement for a Supplier to become a market participant.</p>