

## **IESO Engagement**

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**From:** Santo Giorno  
**Sent:** September 28, 2022 11:24 AM  
**To:** IESO Engagement  
**Subject:** Comments re: Draft E-LT1-RFP

Attention: IESO

The purpose of this correspondence is to express my concern about the recent documents that outline the IESO's plans to procure additional electricity, and electrical reliability services.

The IESO's September 15, 2022 presentation [Seeking Feedback on Draft E-LT1 RFP and Draft #-LY1 Contract Posted August 25, 2022](#), stated that proposed projects would be rated with "criteria points" based on:

1. Location, 0 to 4 points;
2. Duration of Service, 2 to 6 points;
3. Local Governing Body Support Resolutions, 3 points;
4. Indigenous Community Participation, 1 to 3 points, based on the level of economic participation.

It should be noted that Local Governing Body Support Resolutions accounts for 3 points out of a possible 16.

A reasonable inference would be that the IESO views support from municipalities to be only 1 of 4 optional criteria, in addition to the Proposal Price, in its evaluation and eventual awarding of contracts for proposed projects.

The IESO is a provincial agency that is accountable to Ontario's Minister of Energy. As a provincial agency, the IESO must follow the directives and policies provided by the Minister and the provincial government. A provincial agency does not set policy.

However, the language in sections of the September 15, 2022 presentation, and in the E-LAT1 RFP draft document, suggests that the IESO is attempting to ignore this government's policy regarding municipal control over zoning requirements for energy projects. A policy that followed the repeal of the Green Energy Act in 2018.

As stated by then Energy Minister Greg Rickford:

"By repealing this act, we're restoring planning decisions to municipalities that were stripped by previous government and ensuring local voices have the final say on energy projects in their communities."

The Municipalities' responsibility for zoning has been included in Ontario's O.Reg. 359/09 Renewal Energy Approvals that states:

**57.4 (1)** No renewable energy approval shall be issued in respect of a renewable energy project unless the person who proposes to engage in the renewable energy project submits to the Director written confirmation from the following bodies that the proposed use of land at the project location is not prohibited by a zoning by-law or zoning order under Part V of the Planning Act:

1. Any local municipality in which the project location is situated.
2. Any planning board that has jurisdiction in an area without municipal organization in which the project location is situated.
3. The Ministry of Municipal Affairs and Housing, if the project location is situated in an area without municipal organization and no planning board has jurisdiction in respect of that location. O. Reg. 122/19, s. 6.

The DRAFT E-LT1 document does list Evidence of Municipal Support as one of the prescribed forms to be submitted with project proposals. (pages 24 - 25).

If the Long-Term Reliability Project is located in whole or in part (excluding the Connection Line) on lands subject to the authority of one or more Local Municipalities and the Proponent is seeking to attain the Rated Criteria Points in Section 4.3(d), the Proponent must submit an electronic copy of the completed Prescribed Form: Evidence of Municipal Support.

However, the language "If ... and the Proponent is seeking to attain the Rated Criteria Points in Section 4.3(d)..." implies (as does the September 15 presentation) that Evidence of Municipal Support is only one of several stated criteria in the evaluation of a project's approval, and as such, is optional.

That statement should be amended to conform to the stated commitment by this government. A sample draft, using unequivocal language, is written below.

If the Long-Term Reliability Project is located in whole or in part (excluding the Connection Line) on lands subject to the authority of one or more Local Municipalities, the Proponent must provide proof of local municipal support and submit an electronic copy of the completed Prescribed Form: Evidence of Municipal Support.

The DRAFT E-LT1 RFP (pages 16 - 17) also states:

m) Municipal Support Confirmation

(i) If the Proposal did not include a Municipal Support Confirmation from a Local Municipality at the time of its submission under the E- LT1 RFP, the Supplier shall, by no later than sixty (60) days after the first (1st) anniversary of the Contract Date, provide the IESO with a written notice including:

(A) a Municipal Support Confirmation dated after the Proposal Submission Deadline, or

(B) a letter signed by a Land Use Planner confirming that all permits and approvals that are required to be issued by or on behalf of a Local Municipality for the construction, operation and maintenance of the Facility have been received or issued.

(ii) If the Supplier fails to meet the requirements described in Section 2.2(m)(i), such failure shall constitute a Supplier Event of Default under the E-LT1 Contract. **If the IESO elects to terminate the E-LT1 Contract** as a result of such Supplier Event of Default, such termination shall be without any costs or payments of any kind to either Party and all Completion and Performance Security shall be returned to the Supplier. (my emphasis)

The language highlighted above ("If the IESO elects to terminate..." implies the IESO may elect not to terminate; and indicates that the IESO considers a formal statement of municipal support to be optional in decisions to award, or terminate, project contracts that are in default under the E-LT1 contract.

This should be rectified to conform to government policy by using unequivocal language in place of the highlighted text to read:

"The IESO will terminate the E-LT1 contract as a result of such Supplier Event of Default".

In summary: the IESO does not have the authority to amend or ignore the policy made by this government that any future energy projects must be in compliance with the zoning by-laws of the municipalities that would host the proposed projects.

The language in the IESO's communications and documents should reflect this policy without any ambiguity.

Thank you  
Santo Giorno