

## Market Surveillance Panel

### Comment on the Presentation: Resource Adequacy Engagement (January 26, 2021)

February 17, 2021

On January 26, 2021, the IESO provided an update to stakeholders on Resource Adequacy, including the proposed Resource Adequacy framework, and summarized feedback received from the previous presentation. The IESO confirmed that stakeholders are seeking clarity on how “an unsolicited proposals process will be integrated into IESO governance and decision-making for the Resource Adequacy framework”. At the November 3, 2020 Stakeholder Advisory Committee meeting, the IESO indicated that a new “unsolicited proposals” process was being introduced and that it was intended to address new proposals that require near-term decisions.<sup>1</sup> At the January 26, 2021 engagement, the IESO acknowledged that reviews are “occasionally” conducted on unsolicited electricity project proposals on behalf of government. Further details from the IESO relating to “unsolicited proposals” are expected in February.

The Panel’s underlying concerns relate to the apparent lack of transparency and absence of competition in the “unsolicited proposals” process and other non-competitive procurements. We believe that certain specific issues about those procurements should be clarified.

#### Transparency

Monitoring Report 33 (December 2020) discussed capacity planning and procurements, specifically highlighting issues regarding transparency and the need for oversight and stakeholder involvement.<sup>2</sup> The “unsolicited proposals” component of the IESO’s proposed procurement framework presents the same transparency concerns raised by the Panel in Monitoring Report 33.

Following pressure from stakeholders, the IESO plans to release some details on “unsolicited proposals” in February 2021, more than a year after the Ministry of Infrastructure announced the launch of the “unsolicited proposals” process. A more transparent approach would have been to release the relevant information to stakeholders as soon as possible, rather than waiting for stakeholders to request it. Any “unsolicited proposal” being evaluated by the IESO would impact other planned procurements and therefore be of considerable interest to stakeholders. Indeed, the IESO’s planned competitive procurement may be less efficient (including potentially discouraging some from participating) if stakeholders are not well informed about the process for evaluating and deciding on “unsolicited proposals” and other non-competitive procurements, including the status of such proposals at the time that preparations are made for a competitive auction.

#### Competition

The IESO has discussed many non-competitive procurements (*e.g.* “unsolicited proposals”, sole sourced procurements/contract extensions, Reliability Must Run contracts) and there are indications that it may have procured more capacity recently from non-competitive procurements than from competitive mechanisms. Without additional effort to enhance competition, continued procurement outside of competitive mechanisms will undermine the competitive framework being proposed by the IESO and

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<sup>1</sup> See the minutes of the Stakeholder Advisory Committee meeting November 3, 2020, page 4:  
<https://www.ieso.ca/-/media/Files/IESO/Document-Library/sac/2020/sac-20201103-meeting-notes.ashx>

<sup>2</sup> See the Panel’s Monitoring Report 33 published December 2020:  
<https://www.oeb.ca/sites/default/files/msp-monitoring-report-202012.pdf>

raise electricity costs for consumers. The Brattle Report on benefits from market renewal<sup>3</sup> attributed \$2.5 billion of net benefits to a competitive procurement process. To the extent that “unsolicited proposals” are not subjected to a comparison with competitive alternatives, some of these large benefits of competitive procurement may be lost. Furthermore, a large share of procurement outside the competitive process will discourage suppliers from participating in a competitive procurement.

The Panel acknowledges that there are instances where a competitive procurement may not be practical. Under such circumstances, the IESO should be very clear – well in advance of considering any “unsolicited proposal” or sole sourced procurement – to detail which specific system needs they are seeking to address to ensure that this is a needs-based procurement that cannot be competitively procured. The IESO should also make clear what effort was made to encourage competition that was unsuccessful. When procurement is the result of a Ministerial directive to procure a specific resource, the IESO should invite stakeholder input and perform and publish a cost-benefit analysis of that project compared to alternatives that would meet the same need, if such analysis has not already been performed and published by the IESO.

If the IESO is currently analyzing procuring capacity from “unsolicited proposals” then it should be made clear which future competitive procurement would seek less capacity as a result, while detailing what factors or circumstances led to the competitive procurement not being used (*e.g.* timelines, insufficient competition, etc.). The IESO indicated in the January 26, 2021 presentation that the new Annual Acquisition Report will outline whether acquisition targets would be met through competitive or non-competitive means, however these details would need to be updated when proposals are being considered, to signal to the market well in advance that the targets may change.

In order to evaluate whether a competitive procurement is possible, the IESO mentions the use of “sector scan(s)”, “market sounding and/or Request for Information/Expressions of Interest” to explore whether there is competition or not. To fully encourage competition, this information should be made public in a clear and transparent manner on the IESO website to facilitate the market and encourage competition, in advance of such activities.

### **Clarity Needed on “Unsolicited Proposals”**

The term “unsolicited proposals” requires a clear definition and intended application. In the past, the IESO has received many proposals that were not necessarily part of a solicitation process (*i.e.* “unsolicited proposals”). These were addressed using a variety of approaches, including, but not always, conducting a full assessment. Additional details are needed on how the current process is expected to proceed.

The “unsolicited proposals” process outlined by the Ministry of Infrastructure has extensive documentation to help stakeholders understand and navigate the process. For example, it states that such proposals “must be a genuine (unsolicited proposal)” that must not constitute a response to an existing, pending or announced request for proposals (RFP) under any government procurement.

It is unclear how the existing, pending and announced competitive procurements from the IESO currently interact with what the IESO calls “unsolicited proposals” and how those interactions may change over time as competitive procurements are developed.

It would be useful for the IESO to publish, and update, the amount of capacity that is currently being considered under “unsolicited proposals” and other non-competitive procurements.

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<sup>3</sup> The Brattle Group, The Future of Ontario’s Electricity Market A Benefits Case Assessment of the Market Renewal Project, April 20, 2017, p. vi.