



Market Rule Amendment Written Submission

This form is used to provide comment on a *market rule* amendment under consideration by the *IESO*. Please complete all four sections of this form and submit the completed form by email to the following:

Email Address: Rule.Amendments@ieso.ca
Attention: Market Rules Group
Subject: Market Rule Written Submission

All information submitted in this process will be used by the *IESO* solely in support of its obligations under the *Electricity Act, 1998*, the *Ontario Energy Board Act, 1998*, the *Market Rules* and associated policies, standards and procedures and its licence. All submitted information will be assigned the *confidentiality classification* of “Public” upon receipt. You should be aware that the *IESO* intends to *publish* this written submission.

Terms and acronyms used in this Form that are italicized have the meanings ascribed thereto in Chapter 11 of the *Market Rules*.

PART 1 – SUBMITTER’S INFORMATION

Please enter your organization and contact information in full.

Name: Hydro One Networks Incorporated

(if applicable) *Market Participant /
Metering Service Provider* No.¹: _____

Market Participant Class: _____

Telephone: 416-345-5721

Fax: _____

E-mail Address: Jeffrey.Smith@HydroOne.com

PART 2 – MARKET RULE AMENDMENT REFERENCE

Type of Rule Amendment Being Commented on (please indicate with x):

Amendment Submission Proposed Rule Amendment Recommended Rule Amendment

MR Number: MR-00407

This *Market Rule* number is located on the “Current Market Rule Amendment” web page.

Date Relevant Amendment Submission, Proposed or Recommended Rule Amendment Posted for Comment: March 25, 2014 to April 17, 2014

¹ This number is a maximum of 12 characters and does not include any spaces or underscore.

PART 3A – SUBMITTER’S INFORMATION

Date Relevant [2014/04/15], Proposed or Recommended Rule Amendment Posted for
Comment: See Appendix A, Appendix B attached for Proposed Rule amendment

PART 3B – COMMENTS ON RULE AMENDMENT

Provide your comments.

On March 25, 2014, the IESO posted their Proposed GCR for comments. Hydro One Networks Incorporated (HONI) wants to address the following concerns with this proposal:

1. IESO’s choice of language.
See *Appendix A* and *Appendix B* attached with this submission. Changes made by Hydro One are in red. Formatting or deletion of words in the language will have a comment associated with it in the appendices. Words that were added will be underlined in the appendices.
2. The use of the verb, “exploit”.
To find that a company is “exploiting” a provision is an extremely subjective test. In Canadian income tax law, the word used in circumstances like this is “evasion” of a rule, which has a stronger, more particular meaning and is a more appropriate test for a prosecutor to meet. The verb, “exploit”, is in section 10A.1.1. The change is shown in *Appendix A*, section 10 A1.1.
3. Hydro One reserves the right to comment on APPrO’s amendment submission at this time.

PART 4 – EXTERNAL CONSULTATION MEETING

If you believe that a special meeting of stakeholders would be necessary/desirable to discuss the issues raised by the rule amendment, please complete the following information:

External Stakeholdering meeting necessary/desirable (please indicate with x):

Reason(s) why you believe a meeting is necessary/desirable:

The General Conduct Rule raises policy issues that benefit a wide range of market participants and other interested parties, including the Ontario Power Authority and the Ontario Energy Board. It would be very helpful to have broader input and participation in this process.

APPENDIX A



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00407-R00 - General Conduct Rule		
Subject:	Compliance		
Title:	General Conduct Rule		
Nature of Proposal:	<input type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Addition
Chapter:	1, 3	Appendix:	
Sections:	Ch1 section 10A(new), Ch 3 section 6.2B.19 (new), 6.2B.20 (new)		
Sub-sections proposed for amending:			

PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review	February 19, 2014
2.0	Draft for Technical Panel Review	February 27, 2014
3.0	Draft for Technical Panel Review	March 18, 2014
Approved Amendment Publication Date:		
Approved Amendment Effective Date:		

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

The IESO proposes to amend the market rules by introducing a general conduct rule to support the well-functioning of the IESO-administered markets.

Specifically, the amendments will:

- Require market participants and the IESO, to not directly or indirectly engage or attempt to engage in conduct, alone or with another person, that they know, or ought reasonably to know, exploits, circumvents, manipulates, undermines or interferes with the IESO-administered markets or the market rules; and
- Allow market participants whose conduct is entirely or predominately connected to the provisions of a procurement contract as defined in the *Electricity Act, 1998*, or an order of the Ontario Energy Board made in accordance with s. 78.1 of the *Ontario Energy Board Act, 1998*, to present a defence for conduct that is alleged to have breached the proposed general conduct rule.

This proposal is based on stakeholder consultation as part of SE-112: General Conduct Rule.

Further information on SE-112 can be found on the IESO's website at:

[IESO General Conduct Rule \(SE-112\)](#)

Background

Please refer to MR-00407-Q00.

Discussion

The following additions are proposed in Chapter 1, section 10A (new):

- 10A.1 (new): Specify through specific prohibitions, that market participants and the IESO shall not directly or indirectly engage or attempt to engage in conduct (defined below in section 10A.3), alone or with another person, that they know, or ought reasonably to know:
 - 10A.1.1 (new): exploits the IESO-administered markets, including by, without limitation, exploiting any gap or defect in the market rules;
 - 10A.1.2 (new): circumvents any of the market rules;
 - 10A.1.3 (new): manipulates any of the IESO-administered markets, including by, without limitation, manipulating the determination of a settlement amount;

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

- o 10A.1.4 (new): undermines through any means the ability of the *IESO* to carry out its powers, duties and functions under the *Electricity Act, 1998* and the *market rules*; or
- o 10A.1.5 (new): interferes with the determination of a market price or dispatch outcome by competitive market forces.
- 10A.2 (new): Notwithstanding any other defence a market participant may raise with respect to conduct set out in section 10A.1, a market participant will not have violated section 10A.1 where it establishes that its conduct occurred, entirely or predominantly, to comply with the terms of:
 - o 10A.2.1 (new): a procurement contract as defined in the *Electricity Act, 1998*; or
 - o 10A.2.2 (new): an order of the Ontario Energy Board made in accordance with s. 78.1 of the *Ontario Energy Board Act, 1998*.

As requested by stakeholders, specific provisions for conduct occurring entirely or predominantly to comply with OPA contracts or OEB regulation have been added.

- 10A.3 (new): For the purposes of sections 10A only, all references to the term “conduct” shall include acts and omissions, but with respect to the OPA and OEFC, includes acts and omissions only in their capacity as market participants, and with respect to the IESO does not include activities pertaining to market design, policy, or rulemaking.

Limitation Period:

The following proposed sections on a limitation period for the GCR are additions to the proposed section 6.2B (new) in MR-00407-R01: General Conduct Rule – Governance:

- 6.2B.19 (new): The IESO shall be required, pursuant to section 6.2B.2, to serve a notice of intention no later than six years after the day on which the alleged breach of section 10A of Chapter 1 was discovered by the IESO. Where the IESO fails to serve a notice of intention within the time provided, no finding of breach of section 10A of Chapter 1 shall be made pursuant to the market rules in respect of that conduct.
- 6.2B.20 (new): For the purposes of section 6.2B.19, the term “discovered” has the meaning prescribed in section 5(1) of the *Limitations Act, 2002*.

Prospective Effect of the GCR:

Rather than add a proposed section in the market rules that the GCR cannot be applied retroactively prior to its effective date, the IESO will follow its current practice, which explicitly states the effective date in the published version of any market rule amendment approved by the IESO Board.

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PART 4 – PROPOSED AMENDMENT

Chapter 1

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10A. General Conduct

10A.1 *Market participants* and the *IESO* shall not directly or indirectly engage or attempt to engage in conduct, alone or with another person, that they know, or ought reasonably to know:

10A.1.1 evades the *IESO-administered markets*, including by, without limitation, evading any gap or defect in the *market rules*;

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10A.1.2 circumvents any of the *market rules*;

10A.1.3 manipulates any of the *IESO-administered markets*, including by, without limitation, manipulating the determination of a *settlement amount*;

10A.1.4 undermines through any means the ability of the *IESO* to carry out its powers, duties and functions under the *Electricity Act, 1998* and the *market rules*; or

10A.1.5 interferes with the determination of a *market price* or *dispatch* outcome by competitive market forces.

10A.2 Notwithstanding any other defence a *market participant* may raise with respect to conduct set out in section 10A.1, a *market participant* will not have violated section 10A.1 where it establishes that its conduct occurred entirely or predominantly to comply with;

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10A.2.1 a procurement contract as defined in the *Electricity Act, 1998*; or;

10A.2.2 an order of the *Ontario Energy Board* made in accordance with s. 78.1 of the *Ontario Energy Board Act, 1998*.

10A.3 For the purposes of this section 10A, “conduct” includes acts and omissions, but with respect to the *OPA* and *OEFC* includes acts or omissions only in their capacity as *market participants*, and with respect to the *IESO* does not include activities pertaining to market design, policy or rulemaking.

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11. Information Disclosure

Chapter 3

NOTE: The following proposed section is an addition to the proposed section 6.2B (new) in MR-00407-R01: General Conduct Rule – Governance

- 6.2B.19 The *IESO* shall, pursuant to section 6.2B.2, serve a *notice of intention* no later than six years after the day on which the alleged breach of section 10A of Chapter 1 was discovered by the *IESO*. Where the *IESO* fails to serve a *notice of intention* within the time provided, no finding of breach of section 10A of Chapter 1 shall be made pursuant to the *market rules* in respect of that conduct.
- 6.2B.20 For the purposes of section 6.2B.19, the term “discovered” has the meaning prescribed in section 5(1) of the *Limitations Act, 2002*.

PART 5 – IESO BOARD DECISION RATIONALE

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APPENDIX B



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00407-R01: General Conduct Rule - Governance		
Subject:	Compliance		
Title:	General Conduct Rule – Governance		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Addition
Chapter:	3, 11	Appendix:	
Sections:	Ch 3, sections 2.2.1.1A (new), 2.2.1.1B (new), 2.5.1A.4D (new), 2.5.1A.4E (new), 2.7.1.2A (new), 2.7.24, 6.2.7, 6.2.7A (new), 6.2B (new), Ch 11 Definitions		
Sub-sections proposed for amending:			

PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review	February 26, 2014
2.0	Draft for Technical Panel Review	March 18, 2014
Approved Amendment Publication Date:		
Approved Amendment Effective Date:		

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

The IESO proposes to amend the market rules by introducing a general conduct rule to support the well-functioning of the IESO-administered markets.

To support the general conduct rule (GCR), an alternative enforcement process is proposed. It will provide market participants the option of a hearing before the Ontario Energy Board (OEB) to determine whether a breach has occurred under the GCR.

This proposal is based on stakeholder consultation as part of SE-112: General Conduct Rule.

Further information on SE-112 can be found on the IESO's website at:

[IESO General Conduct Rule \(SE-112\)](#)

Background

The IESO plays an enforcement role under the *Electricity Act, 1998* and the market rules. Chapter 3 of the market rules allows for the imposition of financial penalties, among other sanctions, on market participants who are found to be in breach of a market rule. The IESO also has the authority to enforce compliance with reliability standards. As set out in the market rules, IESO (through its Market Assessment and Compliance Division - MACD) will “monitor, assess and enforce compliance with the market rules, including by means of the imposition of financial penalties, the issuance of non-compliance letters, suspension orders, termination orders and disconnection orders and the taking of such other enforcement actions as provided for in the market rules.”¹

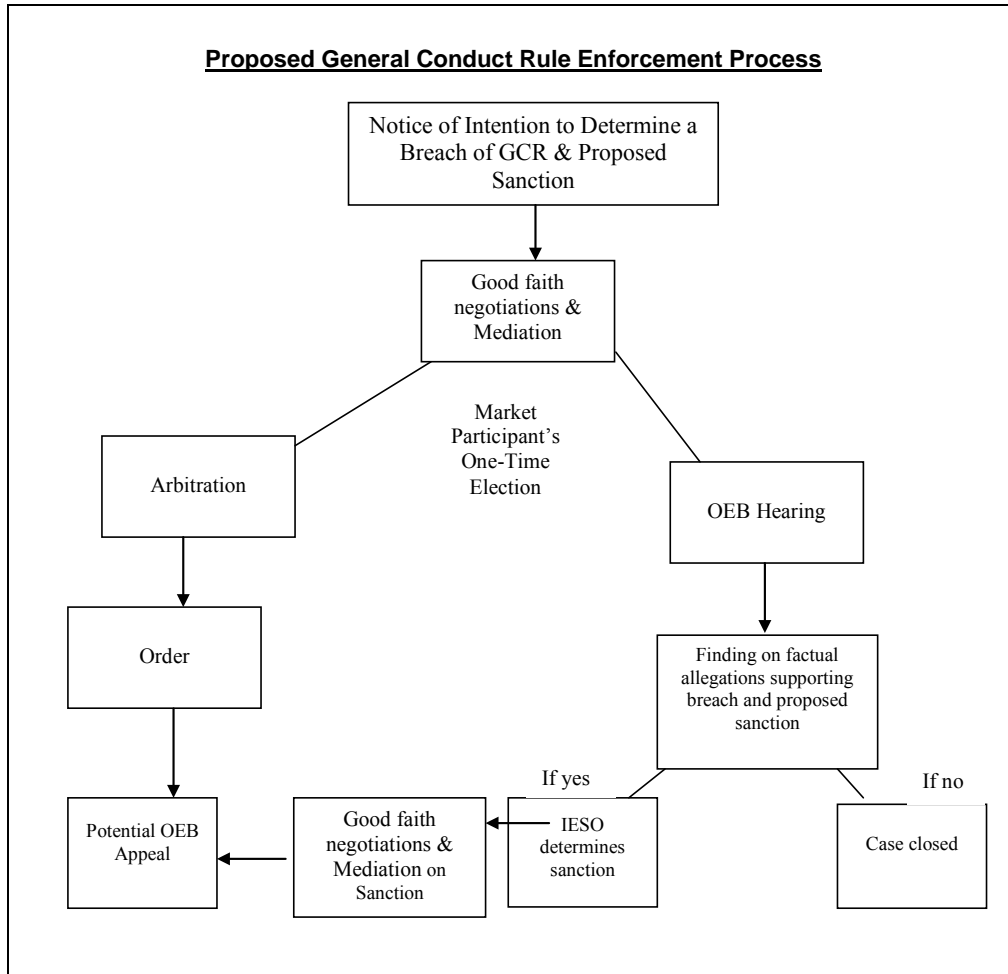
Under the proposed GCR enforcement process, market participants will have the option to make a one-time election to either pursue arbitration under section 2.5 of Chapter 3 of the market rules, or to request that the IESO apply to the OEB to determine whether a breach has occurred under the GCR. This alternative under the proposed enforcement process is shown in the attached Appendix A.

Discussion

The proposed amendments to chapter 3 and 11 are intended to capture the concepts and principles depicted in the following flowchart:

¹ IESO market rules, Ch 3 section 6.1.1.

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT



PART 4 – PROPOSED AMENDMENT

Chapter 3

2. Dispute Resolution

2.2 Application

2.2.1 Subject to sections 2.2.3 and 3.8 and to section 8.8.1 of Chapter 2, the dispute resolution regime provided for in this section 2 shall apply to:

2.2.1.1 any dispute between the *IESO* and any *market participant* which arises under the *market rules*, *market manuals* or any standard, policy or procedure established by the *IESO* pursuant to these *market rules*, including with respect to any alleged violation or breach thereof, whether or not specifically identified in the *market rules* as a dispute to which this section 2 applies;

2.2.1.1A a contested matter pursuant to in section 6.2B;

2.5 Notice of Dispute, Negotiation and Response

2.5.1 The complaining person (the “*applicant*”) shall, within the time specified in section 2.5.1A, serve a written notice of the dispute (the “*notice of dispute*”) on any *respondent*.

2.5.1A A *notice of dispute* shall be served:

2.5.1A.1 in the case of an application referred to in section 2.2.1.3, within 20 *business days* of the date of receipt of notice by the *generator* of rejection by the *IESO* of the *outage* in respect of which compensation is claimed pursuant to section 6.7.5 of Chapter 5;

2.5.1A.2 in the case of a dispute that involves a *reviewable decision* referred to in section 5.3.9 of Chapter 6, within 20 *business days* of the date of receipt by the *metering service provider* of notice of the revocation of its registration by the *IESO*;

- 2.5.1A.3 in the case of a request or dispute referred to in section 6.8.2A or 6.8.2B of Chapter 9, within the time specified in section 6.8.8 of Chapter 9;
- 2.5.1A.4 in the case of a dispute referred to in section 6.8.9 of Chapter 9, within the time specified in section 6.8.10 of Chapter 9;
- 2.5.1A.4A in the case of a dispute referred to in section 2.1A.6A of Chapter 9, within 20 *business days* of the date of receipt of the first *invoice* that reflects the apportionment that is the subject-matter of the dispute;
- 2.5.1A.4B in the case of a dispute involving an order, direction, instruction or decision of the *IESO* issued prior to January 1, 2004 not otherwise addressed by subsections 2.5.1A.1 to 2.5.1A.4A, within six years of the date of receipt of the order, direction, instruction or decision;
- 2.5.1A.4C in the case of a dispute involving an order, direction, instruction or decision of the *IESO* issued on or after January 1, 2004 not otherwise addressed by subsections 2.5.1A.1 to 2.5.1A.4A, within two years of the date of receipt of the order, direction, instruction or decision;
- 2.5.1A.4D in the case where the *market participant* contests the *notice of intention* under section 6.2B.3, within the timelines set out in section 6.2B.3, and the *response to the notice of intention* shall be deemed to constitute the *notice of dispute*;
- 2.5.1A.4E in the case of a dispute involving one or more orders referred to in section 6.2B.15, within the timelines set out in section 6.2B.16; and
- 2.5.1A.5 in all other cases, within the applicable limitation period set out in the *Limitations Act, 2002*.

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2.7 Arbitration

- 2.7.1 Subject to section 2.7.1A, within five *business days* of:
 - 2.7.1.1 the earlier of the filing of a *response* or of the expiry of the time for filing a *response* pursuant to section 2.5.4, where the dispute is one to which section 2.6.1A.1, 2.6.1A.2 or 2.6.1A.3 applies;
 - 2.7.1.1A the filing of the request referred to in section 2.5.9.2, where the dispute is one to which that section applies;

- 2.7.1.2 the filing of a notice of intent to dispense with mediation pursuant to section 2.6.1B, where the dispute is one to which that section applies;
- 2.7.1.2A the filing of the *notice to elect* referred to in section 6.2B.7, ~~electing subsection 6.2B.7.1; or~~
- 2.7.1.3 the filing of the notice of termination referred to in section 2.6.13 or 2.6.16, in any other case,

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the *secretary* shall in accordance with the *Governance and Structure By-law* provide the parties with a list of at least three names of members of the *dispute resolution panel* available to arbitrate the dispute. No person who acted as a *mediator* in respect of a dispute may be included on the list of members available to arbitrate the same dispute.

2.7.24 Where, in the case of a dispute referred to in section 2.2.1.1 or 2.2.1.1A, the *arbitrator* concludes that a *market participant* has violated a provision of the *market rules*, the *arbitrator* may in his or her award impose such financial penalties, assess such damages or make such further and other orders or directions as the *arbitrator* considers just and reasonable, provided that:

- 2.7.24.1 no financial penalty shall be imposed on a *market participant* unless the *arbitrator* determines that the breach of the *market rules* could have been avoided by the exercise of due diligence by the *market participant* or that the *market participant* acted intentionally; and
- 2.7.24.2 in fixing the amount of the penalty, the *arbitrator* shall have regard to the criteria set forth in section 6.6.7.

An award of the *arbitrator* under this section shall be deemed to be a decision or order of the *IESO* for purposes of the *market rules* and the application of the appeal provisions of section 36 of the *Electricity Act, 1998*.

6. Enforcement

6.2 Procedures Concerning Alleged Breaches of the Market Rules

- 6.2.7 Subject to section 6.2.7A, where the *IESO* determines that a *market participant* has breached the *market rules*, the *IESO* may by order do any one or more of the following:
- 6.2.7.1 direct the *market participant* to do, within a specified period, such things as may be necessary to comply with the *market rules*;
 - 6.2.7.2 direct the *market participant* to cease, within a specified period, the act, activity or practice constituting the breach;
 - 6.2.7.3 impose additional or more stringent record-keeping or reporting requirements on the *market participant*;
 - 6.2.7.4 issue a non-compliance letter in accordance with section 6.6;
 - 6.2.7.5 impose financial penalties in accordance with section 6.6 indicating the time within which payment of the financial penalty must be made to the *IESO*, provided that no such penalties shall be imposed unless the *IESO* is satisfied that the breach could have been avoided by the exercise of due diligence by the *market participant* or that the *market participant* acted intentionally; or
 - 6.2.7.6 take such other action as may be provided for in Appendix 3.1 in respect of the *market rule* that has been breached by the *market participant*.
 - 6.2.7.7 [Intentionally left blank – section deleted]

6.2.7A If the *IESO* is satisfied that the *market participant* has breached section 10A of Chapter 1, and the *IESO* proposes to issue one or more orders under section 6.2.7, the *IESO* shall serve a *notice of intention* on the *market participant* in accordance with section 6.2B. The *IESO* may include in the *notice of intention* any or all alleged breaches of the *market rules* that were included in the notice issued under section 6.2.3. If the *IESO* does not include in the *notice of intention* an alleged breach described in the notice issued under section 6.2.3, excluding an alleged breach of section 10A of Chapter 1, then the *IESO* may make one or more orders under section 6.2.7 respecting that alleged breach.

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6.2B Alleged Breaches of Section 10A of Chapter 1

- 6.2B.1 For the purposes of section 6.2B, excluding sections 6.2B.19 and 6.2B.20, a reference to section 10A of Chapter 1 shall be deemed to include all breaches described in the *notice of intention*.
- 6.2B.2 If the *IESO* is satisfied that the *market participant* has breached section 10A of Chapter 1, the *IESO* shall, prior to making any order under section 6.2.7, serve a

written *notice of intention* on the *market participant*. The notice shall set out the following:

- 6.2B.2.1 the *market rules* that the *IESO* is satisfied that the *market participant* has breached;
 - 6.2B.2.2 the reasons the *IESO* intends to determine that the *market participant* has breached section 10A of Chapter 1;
 - 6.2B.2.3 the proposed order or orders under section 6.2.7;
 - 6.2B.2.4 the *market participant's* right to contest the *notice of intention* pursuant to section 6.2B.3; and
 - 6.2B.2.5 the time within which the *market participant* may contest the *notice of intention*.
- 6.2B.3 If the *market participant* wishes to contest the *notice of intention*, it shall serve a *response to the notice of intention* on the *IESO* within 20 *business days* of receipt of the *notice of intention*.
- 6.2B.4 If the *market participant* does not contest the *notice of intention* within 20 *business days* of the receipt of the *notice of intention*, the *IESO* may determine that the *market participant* has breached section 10A of Chapter 1 and impose one or more orders under section 6.2.7.
- 6.2B.5 If the *market participant* contests the *notice of intention*, the *market participant* and the *IESO* shall attempt to resolve the matter through good faith negotiations in accordance with sections 2.5.3A and 2.5.3B, except that the *response to the notice of intention* shall replace the *notice of dispute* referred to in section 2.5.3A and shall be served in accordance with section 2.5.1A.4D.
- 6.2B.6 Notwithstanding sections 2.5.3C and 2.5.4, if the parties are unable to resolve the matter through good faith negotiations, the mediation process described in section 2.6 shall apply and either party may file with the *secretary* on written notice to each other party a copy of the *notice of intention* and *response to the notice of intention* together with proof of service. The *secretary* and *mediator* shall rely on the *notice of intention* and *response to the notice of intention* in lieu of the *notice of dispute* and *response* for the purposes of section 2.6. The *IESO* shall provide a summary of the matter for *publication* in accordance with section 2.9.2.1.
- 6.2B.7 If the parties are unable to resolve the matter through the mediation process, then within 5 *business days* of the filing of the written notice terminating the mediation process, as referred to in section 2.6.1B, 2.6.13 or 2.6.16, the *market participant* shall file with the *secretary* and serve on the *IESO* a *notice to elect* electing one of the following available options:
- 6.2B.7.1 that the matter be referred to an *arbitrator* pursuant to the process described in section 2.7;

- 6.2B.7.2 that the *IESO* apply to the *Ontario Energy Board* to make a determination and findings of fact as described in section 6.2B.11; or
- 6.2B.7.3 not to pursue the matter under either subsections 6.2B.7.1 or 6.2B.7.2.
- 6.2B.8 Where the *market participant* elects not to pursue the matter under section 6.2B.7.3 or does not make any election as described in section 6.2B.7, the *IESO* may determine that the *market participant* has breached section 10A of Chapter 1 and impose one or more orders under section 6.2.7.
- 6.2B.9 Where the *market participant* elects that the matter be referred to an *arbitrator* pursuant to section 6.2B.7.1, section 2.7 shall apply. For the purposes of section 2.7, the *IESO* shall be deemed to be the *applicant* and the *market participant* shall be deemed to be the *respondent*.
- 6.2B.10 Where the *market participant* elects that the *IESO* apply to the *Ontario Energy Board* pursuant to section 6.2B.7.2, the *IESO* shall bring the application to the *Ontario Energy Board* within 20 *business days* of the service of the *notice to elect*.
- 6.2B.11 In an application brought pursuant to section 6.2B.10, the *IESO* shall request that the *Ontario Energy Board* make the following:
- 6.2B.11.1 a determination of whether the *market participant* has breached section 10A of Chapter 1; and
- 6.2B.11.2 findings of fact relevant to the imposition of one or more orders by the *IESO* under section 6.2.7.
- 6.2B.12 Where the *IESO* applies for a hearing before the *Ontario Energy Board* pursuant to section 6.2B.10 and the *Ontario Energy Board* dismisses the proceeding without a hearing under subsection 4.6(1)(b) of the *Statutory Powers Procedure Act*, the *notice to elect* shall be deemed to be a request for arbitration under section 6.2B.7.1 and the *IESO* shall refer the matter to an *arbitrator* in accordance with section 6.2B.9.
- 6.2B.13 Where the *Ontario Energy Board* holds a hearing referred to in section 6.2B.11 and determines that the *market participant* has not breached section 10A of Chapter 1, subject to any rights of appeal or review, the *IESO* shall adopt the *Ontario Energy Board's* findings.
- 6.2B.14 Where the *Ontario Energy Board* holds a hearing referred to in section 6.2B.11 and determines that the *market participant* has breached section 10A of Chapter 1, subject to any rights of appeal or review, the matter shall return to the *IESO* and the *IESO* shall adopt the *Ontario Energy Board's* determination on breach.
- 6.2B.15 Where the matter returns to the *IESO* under section 6.2B.14, the *IESO* may issue one or more orders pursuant to section 6.2.7 and, in doing so:

6.2B.15.1 shall adopt and apply all findings of fact made by the *Ontario Energy Board*; and

6.2B.15.2 may adopt and apply any information from the record of the hearing before the *Ontario Energy Board*,

that are relevant to the order or orders under section 6.2.7 but may not rely on any additional evidence.

6.2B.16 If the *market participant* wishes to dispute the *IESO*'s order or orders issued pursuant to section 6.2B.15, it shall serve a *notice of dispute* on the *IESO* within 20 *business days* of receipt of the order or orders.

6.2B.17 Where the *market participant* disputes the order or orders issued by the *IESO* pursuant to section 6.2B.15, the *market participant* and the *IESO* shall attempt to resolve the matter in accordance with sections 2.5 and 2.6.

6.2B.18 The arbitration process set out in section 2.7 shall not apply to disputes as described in section 6.2B.16. An order issued under section 6.2B.15 may be appealed as provided for in section 36 of the *Electricity Act, 1998* upon the filing of a notice under section 2.6.2B, 2.6.13 or 2.6.16 terminating the mediation process.

Chapter 11

1. Definitions

notice of intention means a notice issued by the *IESO* to a *market participant* under section 6.2B.2 of Chapter 3;

notice to elect shall be in such form as may be established by the *IESO* and means a written notice provided by the *market participant* to the *IESO* under section 6.2B.6 of Chapter 3;

response to the notice of intention shall be in such form as may be established by the *IESO* and means a notice provided by the *market participant* under section 6.2B.3 of Chapter 3;

Statutory Powers Procedure Act means the *Statutory Powers Procedure Act*, R.S.O. 1990, c. S.22;

PART 5 – IESO BOARD DECISION RATIONALE

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