



Market Rule Amendment Submission

This form is used to request an amendment to, or clarification of, the *Market Rules*. Please complete the first four parts of this form and submit the completed form by email or fax to the following:

Email Address: Rule.Amendments@ieso.ca

Fax No.: (416) 506-2847 Attention: Market Rules Group

Subject: Market Rule Amendment 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* will *publish* this *amendment submission* if the *Technical Panel* determines it warrants consideration and may invite public comment.

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 contact information in full.	
Name: <u>IESO Staff</u>	
(if applicable) <i>Market Participant / Metering Service Provider</i> No. ¹ : <u>N/A</u>	<i>Market Participant Class</i> : <u>N/A</u>
Telephone: <u>905.855.6464</u>	Fax: <u>905.855.6371</u>
E-mail Address: Rule.Amendments@ieso.ca	

PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: <u>Enforcement</u>	
Title: <u>Incorporate the Market Assessment and Compliance Division’s (MACD) Compliance Sanctioning Guidelines Framework into the Market Rules</u>	
Nature of Request (please indicate with x)	
<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion
<input checked="" type="checkbox"/> Addition	<input type="checkbox"/> Clarification
Chapter: <u>3</u>	Appendix: _____ Sections: <u>6</u>
Sub-sections proposed for amending/clarifying: _____	

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

PART 3 – DESCRIPTION OF THE ISSUE

Provide a brief description of the issue and reason for the proposed amendment. If possible, provide a qualitative and quantitative assessment of the impacts of the issue on you and the *IESO-administered markets*. Include the Chapter and Section number of the relevant *market rules*.

The IESO has identified the need to amend chapter 3, section 6 to improve transparency by incorporating the principal elements of the Market Assessment and Compliance Division's (MACD) existing sanctioning guidelines for extraordinary financial penalties into the market rules. These additional guidelines in the rules would include the framework to be used by the IESO to establish financial penalties up to \$1 million and greater than the 'Level' penalty amounts prescribed in section 6.6.6.

BACKGROUND

In November 2006, the IESO Board approved MR-00284 – Include Reliability Impact as Criterion for determining Financial Penalties. The amendments ensure that breaches of the market rules that have an impact on reliability are treated equally with breaches that have an impact on market operations. Furthermore, the introduction into the rules of a maximum financial penalty (\$1 million) addressed stakeholder concerns regarding the previous unlimited liability facing market participants for breaches of the market rules¹.

On December 11, 2006, Hydro One filed an application with the OEB under subsection 33(4) of the *Electricity Act, 1998* for a review of market rule amendment MR-00284. The IESO and Hydro One agreed to settle the application and outlined the terms of the settlement in a letter of understanding dated January 11, 2007 (Appendix A). MACD addressed the objectives stated in the letter of understanding by establishing a stakeholder forum to consult on the development of the sanctioning guidelines. As of June 20, 2007, the sanctioning guidelines were effective and were published².

The second step to address this issue is for the IESO to introduce market rule amendments which would incorporate the main elements of the sanctioning guidelines. The IESO committed to bring such amendments forward within the 12 months following the letter of understanding. There was agreement that the published sanctioning guidelines would be applied by the IESO until the market rule amendments were approved.

The IESO has not yet applied the published sanctioning guidelines as there have been no circumstances occurring to warrant their application.

Section 6 of Chapter 3 outlines the existing framework for the enforcement of compliance with the market rules, including the circumstances under which the IESO may impose sanctions, including financial penalties (up to the level penalty amounts in section 6.6.6), for breaches of the rules.

¹ For more information on MR-00284, please visit the amendment archive page (<http://www.ieso.ca/imoweb/amendments/amendArchive.asp>)

² The guidelines are available on the IESO public web-site at the following link: <http://www.ieso.ca/imoweb/pubs/consult/se34/se34-20070620-Sanctioning-Guidelines.pdf>

PART 4 – PROPOSAL (BY SUBMITTER)

Provide your proposed amendment. If possible, provide suggested wording of proposed amendment.

The Market Rules (section 6 of Chapter 3) should be amended to include the following elements currently specified in the published Sanctioning Guidelines regarding financial penalties between \$10,000 and \$1 million:

1. Penalty Matrix
2. Criteria for establishing the impact level
3. Criteria for establishing the non-compliance level
4. Criteria for fixing the final penalty amount with the matrix range defined above (including revising the existing case factors used as consideration in section 6.6.7)
5. Additional 'due process' when exercising the Sanctioning guidelines

Since the effective date of the sanctioning guidelines, the IESO has had no experience with their application and anticipates the requirement for future modifications as experience is gained by it or by other jurisdictions that use similar models. In spite of this, the IESO believes there is value in incorporating the sanctioning guidelines into the market rules in order to improve transparency.

PART 5 – FOR IESO USE ONLY

Technical Panel Decision on Rule Amendment Submission: Warrants Consideration

MR Number: MR-00341

Date Submitted to *Technical Panel*: November 20, 2007

Accepted by *Technical Panel* as: (please indicate with x)

Date:

General Urgent Minor

November 27, 2007

Criteria for Acceptance:

It identifies ambiguity within the market rules that cause interpretation confusion or poor coordination of implementation or to future disputes. The existing market rules do not provide the market participant any information about how a penalty amount would be established when they are subject to extraordinary non formula-based financial penalties of up to \$1 million. The proposed amendments would address this shortcoming.

Priority: Low

Criteria for Assigning Priority:

Alternative solutions: these proposed rule amendments would increase transparency about the factors considered and process used by the IESO to fix financial penalties up to \$1 million by incorporating the main elements of MACD's existing guidelines. However, the substantive provision of the rules for extraordinary financial penalties has been applied only once since May 2002 and never since the guidelines have been in place. For this reason and since the MACD intends to apply the guidelines should such circumstances arise before MR-00341 is approved, there is no urgency for the amendment.

Not Accepted (please indicate with x):

Clarification/Interpretation Required (please indicate with x):

PART 5 – FOR IESO USE ONLY

Technical Panel Minutes Reference: IESOTP 209-1

Technical Panel Comments: _____

Appendix A

January 11, 2007

Mr. Oded Hubert
Director - Regulatory Compliance
Regulatory Affairs
Hydro One Networks Inc.
8th Floor, South Tower
483 Bay Street
Toronto, Ontario
M5G 2P5

Dear Oded:

Subject: Application to Review Market Rule Amendment MR-00284-R00-R02

This is to record our understanding of the common ground between us and the actions the IESO will take to obviate the need for an OEB review of the above captioned market rule amendment.

We agreed that it is desirable for market participants to have a greater degree of certainty about when they might be subject to financial penalties greater than \$10,000, what factors would be considered and the gradations up to \$1 million. The IESO will address this objective in two steps. First, the Market Assessment and Compliance Division (MACD) will develop in consultation with market participants and publish, as soon as practical and in any event by June 1, 2007, guidelines containing the following elements:

- (i) a graduated penalty structure;
- (ii) criteria that help determine the "level" or severity of a breach;
- (iii) criteria that define the "potential impact on reliability" and that can be used to determine the "potential impact" of any breach, similar to NERC's risk levels; and
- (iv) a framework that relates all of the above, (i.e. penalty as a function of severity and potential impact on reliability, similar to the matrix proposed by NERC).

Second, the IESO will introduce market rule amendments containing these elements that will replace the framework set out in the MACD guidelines. These amendments would also be developed in consultation with market participants. The IESO intends to bring such amendments to the Technical Panel within the next 12 months on a priority basis.

It is understood that the MACD guidelines would likely be relatively simple and quicker to implement, and the later market rule amendment proposal will benefit from experience and learning derived from the operation of the guidelines and similar penalty frameworks in other jurisdictions. It is also understood that until such time as the new market rule amendments come into force, the MACD guidelines will be applied by the IESO.

I hope this letter accurately records our discussions and will help clear the way for us to continue to collaborate effectively in the future. We agree that a copy of this letter will be included by Hydro One with its request to the OEB to withdraw its application.

Yours truly,

Harry Chandler