



## 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](mailto: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: IESO Staff

(if applicable) *Market Participant /  
Metering Service Provider* No.<sup>1</sup>: n/a

*Market Participant Class:*  
n/a

Telephone: 905-855-6464

Fax: 905-855-6371

E-mail Address: Rule.amendments@ieso.ca

### PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: Provision of Prudential Support

Title: Sale of Registered Facilities – Expiring Letters of Credit

Nature of Request (please indicate with x)

Alteration       Deletion       Addition       Clarification

Chapter: 2, 7, 11      Appendix: 2.3 (Chapter 2)      Sections: 1.2, 4.2, 5.3, 9.1 (Chapter 2) 6.3 (Chapter 3) 2.4, 2.5 (Chapter 7)

Sub-sections proposed for amending/clarifying: 4.2.5, 6.3.1.3, 6.3.3.2, 9.1.4.5 (new) (Chapter 2)

<sup>1</sup> 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*.

#### Overview

The present Market Rules do not effectively address the financial risks to the IESO-administered markets from a) sales of registered facilities, and b) expiring letters of credit. A detailed description of these risks is provided below.

#### Sales of Registered Facilities - Overview

In a typical sale, a registered facility is sold to a new owner by an existing market participant (“MP”). In many cases, the new owner is unaware of its obligations to become an authorized MP including obtaining an OEB license and posting prudential support. Since the new owner is, in most cases, immediately drawing power from the date of sale, they are incurring obligations to the IESO-administered markets without providing prudential support that is designed to protect the market in the event the new owner defaults.

Currently, the Market Rules require MPs in section 2.5 of Chapter 7 to advise the IESO of the transfer of registered facilities but many do not do so. The IESO usually becomes aware of such a sale long after the date of sale from either a request from the selling MP for the return of their prudential support, various news media distributions, IESO Market Entry notifications, and/or a change in electricity consumption by the new owner.

During this “interim period”, from the date of sale until the new owner posts prudential support and becomes an authorized MP, the market is exposed to financial risks. Generally, it can take a new owner between 2 to 5 months to meet all the market entry requirements to become an authorized MP including obtaining an OEB licence.

This is not a hypothetical situation. The IESO has recently had to deal with a new owner of a registered facility missing a margin call and then defaulting on payment of several invoices before it became a fully authorized MP. Fortunately, the new owner had posted prudential support which was sufficient to meet its obligations. But the IESO has had other situations where the new owner has not posted prudential support in a timely manner.

#### Sales of Registered Facilities’ Risks

The IESO believes there are two risks associated with the sale of registered facilities.

##### Risk 1

The new owner continues to draw electricity immediately from the date of sale, while not yet posting any prudential support. Without prudential support, the IESO-administered market is exposed to financial risk should the new owner fail to pay for amounts consumed and related charges. At law, the new owner of the facility is responsible for all liabilities arising from the date of sale. But this fact does not mitigate the financial risks to the IESO-administered market if the new owner has not posted prudential support and is not able to pay their invoices.

##### Risk 2

Under the current Market Rules, the new owner does not become an authorized MP during the “interim period”. Until the new owner fulfills all of its obligations such as securing an OEB license and posting prudential support, they are not an MP. The IESO believes the IESO is subject to risk of not being able to enforce or apply the Market Rules such as sanctioning the new owner, issuing a disconnection order

**PART 3 – DESCRIPTION OF THE ISSUE**

or issuing a default levy for default amounts that originate during the “interim period” because the current Market Rules only apply to authorized MPs.

**Expiring Letters of Credit - Overview**

All Letters of Credit (“LC”) have an expiration date. In most cases, the MP posts replacement prudential support without any issue. However, in cases where LCs are not replaced, the IESO may not be able to exercise its authority to suspend / disconnect the MP in a timely manner before the LC expires.

**Expiring Letters of Credit’s Risk**

Unfortunately, the IESO may only draw on the LC for amounts owing up to and including the expiration date of the LC. Any undrawn LC amount will be forfeited at the expiry date. If the MP is unable to secure replacement prudential support, the market may be exposed to financial risk since the MP will continue to consume energy and incur related charges before the IESO is able to suspend / disconnect the MP.

**PART 4 – PROPOSAL (BY SUBMITTER)**

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

The IESO will always seek appropriate payment first from the new owner of the facilities, but if the new owner is unable to pay, the IESO recommends the Market Rules provide consequences should the current MP fail to inform the IESO of the sale of a registered facility on or before closing of the transaction. The IESO recommends that the Market Rules make the selling MP financially liable for all unpaid amounts until the new owner posts sufficient prudential support. This would require a modification to section 2.5 “Transfer of Registration of Facilities” of Chapter 7 of the Market Rules. Also, there is a need to modify section 2.4 “De-registration of Facilities” in Chapter 7 which is consequential to the recommended modification to section 2.5.

The IESO believes this amendment will give the current MP motivation and incentive to inform the new owner of its obligations and, as part of its closing of the transaction, to require the new owner to post the required prudential support. The selling MP also has legal recourse against the new owner for any amounts paid by the seller to the IESO on behalf of the new owner.

In addition, to further mitigate Risk 2, the IESO recommends the Market Rules be modified in section 4.0 “Conditional Authorization” of Chapter 2 to immediately recognize new owners as a conditionally authorized MP in the IESO markets from the date of sale. This would allow the Market Rules to be applied and enforced should any default originate from the new owner. Additionally, it is proposed to modify the definition of Market Participant in Chapter 11 to include a person that has received conditional authorization under section 4.0 of Chapter 2.

Finally, to address the expiring letter of credit risk identified above the IESO recommends that the Market Rules be modified in section 6.3 “Events of Default” of Chapter 3 to permit the IESO to draw on an expiring letter of credit for the full amount within 10 business days prior to expiration if the MP has not replaced the LC or posted other sufficient prudential support. The IESO will hold the funds as prudential support (the MP will not earn interest income on these funds) until the MP replaces the prudential support and then return the funds to the MP. The IESO will implement an internal procedure to notify (via email or telephone call) the MP that their expiring LC may be drawn upon by

**PART 4 – PROPOSAL (BY SUBMITTER)**

the IESO should the MP not replace the prudential support by 10 business days before the expiration. There will also likely be consequential rule amendments resulting from the proposed rule amendments above. These would most likely occur in Chapter 2 in the following sections: section 5.3 “Calculation of Participant Trading Limit, Default Protection Amount and Maximum Net Exposure”; section 9 “Withdrawal by a Market Participant”; and Appendix 2.3 “Prudential Support by way of Letter of Credit”. These will be included in the market rule amendment proposal.

**PART 5 – FOR IESO USE ONLY**

*Technical Panel Decision on Rule Amendment Submission:* Warrants consideration.

MR Number: MR-00355

Date Submitted to *Technical Panel*: December 10, 2008

Accepted by *Technical Panel* as: (please indicate with x) Date:  
 General       Urgent       Minor December 16, 2008

Criteria for Acceptance: It identifies ways to simplify the market and/or reduce participant or IESO costs. Addressing the risks related with the sales of registered facilities and expiring letters of credit will assist in maintaining the financial integrity of the IESO-administered market by reducing the likelihood of the IESO needing to resort to the application of the default levy to non-defaulting market participants in the event of a default.

Priority: High.

Criteria for Assigning Priority: Pervasiveness of the problem. The financial risks facing the IESO-administered markets that can result from the sale of a registered facility or an expiring letter of credit impact all market participants.

Not Accepted (please indicate with x):

Clarification/Interpretation Required (please indicate with x):

*Technical Panel Minutes Reference:* IESOTP 221-1

*Technical Panel Comments:* \_\_\_\_\_