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IESO SENIOR MANAGEMENT UPDATE

To: Stakeholder Advisory Committee
Date: October 26, 2010
Subject: **Maximum Adjustment Period – Status**

Information Item

The IESO has completed its review and determined that the IESO is unable to apply a maximum adjustment period for charges imposed under government regulation. The issue is that a market rule amendment cannot override the statutes and regulations that govern global adjustment or other amounts imposed under government regulation.

Specifically, with respect to global adjustment, Section 78.5 of the OEB Act states that in the event of a conflict, Sections 78.1 to 78.4 of the Act (which specify the components of global adjustment), “prevail over the market rules”. The global adjustment regulation along with others do not provide for a limitation period on how far back an adjustment should be made when an error is found. Therefore the general limitation laws apply, which provides two years for a claim to be made from the date when a market participant (or the IESO) either knew, or should have known, that the error occurred. Importantly, if a claim is made within that two year period, the adjustment is for the full period of the error. Although global adjustment is the most significant charge imposed under government regulation, there are others, such as debt retirement charge and rural rate assistance.

The IESO believes there are three significant negative impacts as a result of this discovery:

First of all, one of the primary benefits of the maximum adjustment period was the reduction in risk to market participants of settlement adjustments from prior periods impacting current year financial results. The reduction in risk and therefore the benefit to market participants is significantly reduced since amounts assessed under government regulation, including particularly global adjustment charges, cannot be included in the maximum adjustment period.

Secondly, the IESO believed there would be efficiencies for both market participants and the IESO in that it would not be necessary to retain readily available data, nor maintain systems and processes to calculate and verify long duration settlements. Data, particularly metering data, will now have to be retained so that charges assessed under regulation could be resettled for the entire period of time, further reducing the benefit of the maximum adjustment period.



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Finally, if MR-00367 did continue forward, it would result in a situation where some charges were subject to a maximum adjustment period while others would not be, complicating the calculation and verification of any long duration settlement adjustments for both the IESO and market participants.