

April 21, 2023

Independent Electricity System Operator  
Market Renewal Program (“MRP”) Team

**Marketing d’énergie HQ Inc. /  
HQ Energy Marketing Inc.**  
75 René-Lévesque Ouest, 18e étage  
Montréal, Québec  
H2Z 1A4

**Subject: Market Power Mitigation – Comments of HQEM**

To Whom It May Concern:

HQ Energy Marketing Inc. (“HQEM”) appreciates the opportunity to provide the following comments in regard of the Market Power Mitigation (“MPM”) package. HQEM does not have any comment in respect of the most recently proposed markets rules and market manuals amendments that were presented by the MRP Team during the March 30, 2023 webinar.

However, HQEM takes this opportunity to address a number of MPM features applicable to interties designated as uncompetitive by the IESO. In HQEM’s opinion, these features should be reviewed at this stage while the IESO is still developing its future system functional requirements. Although we understand that it may be a little late to raise such concerns, we also note that, to the best of our knowledge, it has not been possible for the intertie trading community to address concerns specific to their areas of business activities in a targeted forum, the way other stakeholders have been able to address theirs.

As a general matter, HQEM wishes to emphasize that, by and large, the MPM package as it stands today appears to be reasonably carrying over the market power mitigation rules and procedures that exist today for Congestion Management Settlement Credits (“CMSC”), at least as they pertain to intertie transactions. However, as we explain in the comments below, we believe that a number of features of the MPM package are unnecessarily administratively cumbersome, excessive, or unwarranted. These include the determination of the reference levels applicable to border entities at interties designated as uncompetitive by the IESO, the level of the clawback settlement charge, and the applicability of the MPM to energy bids (i.e., exports out of Ontario).

## Intertie Reference Levels

HQEM is of the view that the determination of reference levels for border entities at intertie designated as uncompetitive is unnecessarily cumbersome for both the border entities and for the IESO, without any added value.

Under the approved interim rules and procedures, at each intertie designated as uncompetitive, the IESO intends to calculate one reference level per resource, per period of the day (peak and off-peak), for each of the Day-Ahead and the Real Time markets, for both energy and operating reserves, in both directions. HQEM alone, at the PQAT intertie, counts 20 resources in each direction. **This means that the IESO will potentially calculate, at the PQAT intertie, around 240 reference levels, for HQEM only.** Knowing that Ontario and Québec share 6 other interties, the total number of reference levels will reach several hundreds for HQEM only. One would add to that total the number of reference levels for all other market participants which also transact at PQAT or other interties with Québec.

In turn, since these reference levels will likely not be available directly from the IESO's website, this will also mean that HQEM and other market participants will have to approximate all these reference levels to inform their respective trading personnel's marketing decisions in the Day-Ahead and Real Time markets so to avoid triggering unwanted or unwarranted mitigation, given the steep clawback charge that might be imposed (which we address later in these comments).

This is an unreasonable and unnecessary administrative burden for both market participants and the IESO, way out of proportion with the overall share of imports at the Québec interties in the global Ontario energy market. Furthermore, the informational value of such a mountain of data is dubious at best to incentivize acceptable market behaviour from market participants. More likely, all these data will cause confusion for market participants (which reference level is the right one for this resource or that one?) and increase the perceived risk of offering energy into the Ontario market.

Moreover, one likely outcome of the IESO's proposed MPM construct for interties designated as uncompetitive would be for two distinct resources at PQAT (belonging either to HQEM or to two distinct market participants) offering energy at the same price would be calculated distinct reference levels, simply because they would have distinct rolling 90-day historical transactional activities. **This, in turn, would mean that one resource might fail the conduct and impact tests while the other would not. In other words, two resources, offering energy at the same price, would not be treated alike in the MPM.**

On its face, such a differential treatment is of concern to HQEM. Its theoretical underpinnings are not clear to HQEM but at a high level, such an outcome certainly raises questions as to a perceived unfairness built into the proposed construct.

As a starting point for future discussions on the matter, HQEM proposes to significantly streamline the determination of reference levels by basing them on the Intertie Border Price

(“IBP”) only, without any relation to the number of cleared energy offers in the last 90 days. Doing so would greatly reduce the number of reference levels: one per intertie, in both the Day-Ahead and Real Time markets, for both energy and operating reserves. This would be much more manageable for everyone involved and be much more transparent, with no loss of consumer protection.

### **The Clawback Settlement Charge**

For a market participant that was found to have exercised market power at an intertie designated as uncompetitive, the IESO will impose a clawback settlement charge of 100% of the revenue received by the market participant. In other words, the market participant will in the end have sold the energy to the IESO for \$0. We understand that such a steep clawback charge is intended to incentivize good behaviour from market participants.

In HQEM’s view, this clawback charge is unreasonable and excessive, and it has not been demonstrated that such a high level of clawback was necessary to incentivize good behaviour. As it stands, it amounts more to a punishment than to a true desire to ensure that the wholesale price of energy reflects its proper economic value.

HQEM also notes that this 100% clawback charge is inconsistent with how it would be calculated in the case of make-whole payments. Finally, since the MPM package is largely intended to replace the current CMSC mitigation framework, a 100% clawback charge is also inconsistent with the current approach with respect to excess CMSC payments.

HQEM is of the view that the clawback approach should be limited to the difference in value. The level of the charge can be revised later if it can be shown that it does not provide a sufficient incentive to market participants.

### **Applicability of the Mitigation to Energy Exports**

The interim rules provide that the MPM package will also apply to energy exports (also called energy bids) at interties designated as uncompetitive by the IESO as part of the economic withholding mitigation framework.

For starters, HQEM understands that the applicability of mitigation to energy bids is a carry-over from the current mitigation of CMSC payments for constrained-off exports. However, the move from the current market design based on the HOEP to the MRP market design based on locational marginal pricing should in principle remove the need for energy bid mitigation altogether.<sup>1</sup> As such, HQEM fails to understand what problem the mitigation of energy bids is intended to resolve going forward. In fact, with the Global Adjustment still in place after MRP deployment, it is hard to understand how Ontario consumers might be harmed if a market participant is willing to *pay more* to export energy out of Ontario.

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<sup>1</sup> In this regard, HQEM would note that for exports to become a rational market strategy for profitable economic withholding in an LMP-based market design, other conditions would need to be fulfilled. HQEM would argue that this falls more within the realm of compliance than administrative settlement charges.

As it happens, HQEM understands that, for a market participant deemed to have exercised market power by entering into economic withholding behaviour through exports, the clawback charge would be such that the market participant would have to pay *twice* for the energy that it bought. The message to that market participant seems to be that it did not pay enough in the first place, which is very much inconsistent with the entire thinking behind the application of MPM to exports, which is that the exporter paid *too much*.

HQEM believes the entire logic behind the applicability of the MPM to exports needs to be revisited. In fact, in our view, the MPM package should be further streamlined by not applying the MPM to exports at all.

### **Conclusion**

HQEM believes that the MPM package can be greatly streamlined, *with no loss of consumer protection*, by significantly reducing the number of reference levels applicable to interties designated as uncompetitive by the IESO, and by not applying the MPM to exports. Furthermore, HQEM believes that the clawback charge should be revised as explained above.

We look forward to continuing these discussions in the following months.

Respectfully,

Yannick Vennes  
Acting Manager, Regulatory Affairs, HQEM