

Feedback Form

IESO Market Rule Amendments, Chapter 3

Feedback Provided by:

Name: Alex Zbarcea

Title: Director, Reliability Standards Compliance & Strategy

Organization: Hydro One Networks Inc.

Date: February 27, 2024

To promote transparency, feedback submitted will be posted on the [Market Rule Amendments, Chapter 3 engagement webpage](#) unless otherwise requested by the sender. If you wish to provide confidential feedback, please mark as "Confidential".

Following the February 6, 2024, engagement webinar, the Independent Electricity System Operator (IESO) is seeking feedback from stakeholders on items discussed. The webinar presentation and recording can be accessed from the [engagement web page](#).

Please submit feedback to engagement@ieso.ca by February 20, 2024.

Amendments

Item	Feedback
Do you have any feedback on the market rule amendments presented and posted for stakeholder review?	

General Comments/Feedback:

On December 5, 2023, Hydro One Networks Inc. (“Hydro One”) filed written comments on the proposed amendments.

On February 6, 2024, Hydro One attended the engagement webinar (the “webinar”) held by the IESO to review the proposed amendments.

Based on the discussion, materials, and the Stakeholder Feedback and IESO Response (the “IESO response”), presented during the webinar, Hydro One is of the view that its comments and concerns have not been addressed adequately or at all.

Hydro One reiterates its original position and comments as filed on December 5, 2023. Notwithstanding, Hydro One is providing additional comments below.

Chapter 3, Section 5.3.1.5B – Proposed Amendment:

The IESO refers to a Compliance and Enforcement Guidance (“CEG”) document which purportedly will contain additional information and processes related to these proposed changes.

In the absence of the CEG document or any additional information regarding the CEG, it is not clear to Hydro One whether the IESO intends for CEG to form part of the Market Rules nor when Market Participants will be given an opportunity to review the comprehensive set of proposed amendments and relevant processes related to this topic.

These proposed amendments should therefore be re-issued for stakeholder comments once the CEG is made available to all stakeholders.

Furthermore, as noted during the webinar and in Hydro One’s December 5, 2023 comments, it remains unclear to Hydro One how the existing confidentiality provisions prevent the IESO from the “effective enforcement of the Market Rules” and from “ensur[ing] efficient and reliable IESO-Administered Markets and the IESO-Controlled Grid”.

Lastly, in keeping with the peer comparison approach, Hydro One recommends that the IESO examines confidentiality clauses in comparable peer jurisdictions, including but not limited to those referenced in Appendix A of the IESO response.

Chapter 3, Section 6.6.6. – Proposed Amendments

On pp. 4-5 of the IESO response to the proposed amendments for the lower penalty table¹, the IESO remarks, that amongst other concerns, the lower penalty table: (i) has hindered the IESO’s ability to enforce non-compliance cases and (ii) is significantly lower than comparator jurisdictions (NERC, FERC, Alberta, British Columbia, and Australia).

¹ Market Manual 2: Market Administration, Part 2.6: Treatment of Compliance Issues, Issue 22, Levels of Non-Compliance & Penalty Ranges in section 6.6.6, p.6

In support of these remarks and the proposed amendments, the IESO provided a high-level peer comparison in the Appendix to the response, however omitted to provide the methodology or supporting evidence for how the IESO derived the proposed penalty levels for the lower penalty table, which are on average 11 times higher than the current penalty levels. Hydro One notes that other items, such as limitation periods for enforcement sanctions are another area that the IESO may wish to consider when benchmarking against other peers.

The proposed amended amounts are in-fact so high, that they are now identical to maximum amounts in parts of the Penalty Matrix in 6.6.6B, typically reserved for assessing extraordinary penalties under the Ontario Electricity Market Rules.

Analogous to the issue raised above regarding the provision of a complete and comprehensive set of proposed amendments and processes, Hydro One notes that during the webinar the IESO confirmed that the proposed penalty amounts would be applicable to the MACD Expedited Resolution Program ("ERP"). Similar to the CEG, it is not clear to Hydro One whether the IESO intends for the ERP to form part of the Market Rules nor when Market Participants will be given an opportunity to review the ERP process.

It is also not clear how the existing lower penalty amounts have hindered the IESO's ability to enforce non-compliance cases.

Lastly, Hydro One has comments on the peer comparisons provided in the response Appendix.

In the response Appendix, the IESO states that the maximum penalty available under the Alberta Utilities Commission ("AUC") framework is up to \$1M per incident per day.

The reference to the \$1M penalty per incident per day is for administrative penalties that can be imposed on a person that has contravened or failed to comply with any provision of the AUC Act (2007), or any other enactments, decisions, commission rules, or ISO rule or reliability standards.²

Rule 027, Specified Penalties for Contravention of Reliability Standards (2002) of the AUC, categorizes each reliability standard into one of nine categories and by Violation Severity Level ("VSL") for four of the nine categories.

From a peer comparator perspective, the categories and penalty levels in Rule 027 are those most comparable to the lower penalty table, and not the \$1M per incident per day referenced by the IESO in Appendix A of the response. When comparing the penalty levels in Rule 027 to the proposed amendments, the lowest proposed amount by the IESO (i.e. L1, \$25k) is equal to the highest penalty available under Rule 027, while the highest proposed amount by the IESO (i.e. L4, \$100k) is four times higher than what is available under Rule 027.

Comparisons to the British Columbia Utilities Commission ("BCUC"), Regie De L'Energie ("Regie"), North American Electric Reliability Corporation ("NERC") and the Australian Energy Regulator ("AER") are also provided in the response Appendix. However, neither of these comparators seem to have a comparable lower penalty table, but rather only penalty tables comparable to the Penalty Matrix in 6.6.6B. A comparison between the IESO's lower penalty table and those penalties available under these frameworks is therefore not an appropriate comparison.

² Alberta Utilities Commission Act, 2007, Part 6, s.63(1)

Changes to Market Manual 2.6 to Align with Changes to the Market Rules

To reiterate Hydro One's December 5, 2023 comments, it is clear that the proposed amendments remove the restriction for the sharing of files and investigative information between MACD and the IESO.

S.1.3.1 currently states:

"[MACD] enforces compliance against both market participants and the IESO, operating in a ring-fenced structure within the IESO with **its files and investigative information accessible only to MACD staff members** [emphasis added]."

The proposed amendment states:

"[MACD] enforces compliance against both market participants and the IESO, operating independently within the IESO, reporting directly to the Board of Directors."

Non-Market Rule Amendment Related Comments (2023 Amendments to Market Manual 2.6, s.1.3.10 Public Reporting)

This change should be brought back for further consideration as part of this proposed package, or a new Market Rule should be added to this package requiring that publication will be stayed if a notice of dispute has been filed, pending full and final resolution of the dispute.