

Feedback Form

Options to Address Uninsured Liability Risk webinar – December 16, 2020

Feedback Provided by:

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Date: January 19, 2021

Please provide feedback by January 19, 2021 to engagement@ieso.ca.

Please use subject: Feedback: ULR

To promote transparency, this feedback will be posted on the Options to Address Uninsured Liability Risk webpage unless otherwise requested by the sender.

Questions

Topic	Feedback
Which of the two options do you prefer?	Capital Power believes a third option should be considered. Under this third option, the IESO would amend the Market Rules so as to limit liability for both the IESO and Market Participants except in the event of gross negligence or willful misconduct by the party against whom the claim is made. This reciprocal limitation of liability appears consistent with markets identified by the IESO, the tariffs for which are subject to FERC approval.

Topic	Feedback
Is there anything we should be aware of before implementing one of the two options?	Can the IESO provide more guidance regarding the type of feedback being sought here?

Topic	Feedback
If the compensation option were pursued, should recovery be from loads or all market participants?	If the compensation option were to be pursued, the IESO should seek recovery from customers in accordance with the existing cost-recovery framework which permits the IESO to recover its operating costs from customers through OEB-approved fees.

Topic	Feedback
Is there anything else you need to know to provide feedback on the two options?	Capital Power is interested in understanding what if any claims have been made under the previous E&O policy? If the details of these claims are confidential, can the IESO provide a summary of the issues and nature of the negligence alleged? This may help participants understand the potential quantum of damages that may arise under a successful claim of negligence.

General Comments/Feedback

Capital Power appreciates that the IESO is facing a challenging insurance market and is seeking constructive feedback from stakeholders regarding next steps it should take to resolve its uninsured liability risk. As a matter of process and effective stakeholding, Capital Power believes it would have

been helpful for the IESO to have brought forward examples of how non-FERC markets address liability arising from negligence. A comparator group including non-FERC markets would have provided stakeholders with an opportunity to review and discuss alternatives chosen in markets that - like the IAM - are outside the jurisdiction of the FERC. Stakeholders could have still considered whether the FERC model works for Ontario in this instance, but the discussion would have been informed by a broader and perhaps more relevant comparator group. Capital Power looks forward to continuing working with the IESO to identify a solution that fairly represents the interests of all stakeholders.