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Discussion: Exploring Technical Panel Concerns Related to the Potential for the MPM Framework to Have Unintended Outcomes

Stephen Nusbaum – Director, Energy Implementation
James Hunter – Legal Group Lead, Senior Legal Counsel

Purpose

To facilitate a discussion regarding concerns related to market power mitigation having the potential for unintended impacts on generation resources by:

- summarizing the IESO's understanding of the expressed concerns
- identifying areas of recourse that exist for market participants within the proposed framework
- considering the sufficiency of existing recourse mechanisms and clarifying where TP members believe gaps still exist



Concerns Related to Mitigation

Introduction

The IESO's understanding is that the primary concerns with the MPM framework, expressed by external stakeholders and certain Technical Panel members, relate to the potential impact of ex-ante mitigation. More particularly, the concerns relate to:

1. uncertainty as to whether the MPM framework could have an unreasonable economic impact on generation resources
2. the sufficiency of avenues for recourse in the event MPM does have an unreasonable economic impact

Introduction, cont'd

The IESO further understands that MPM-related concerns are both not limited to the operation of ex-ante mitigation, and that they at least in part stem from:

- a) MPM being a new element of the renewed market which itself is also changing; and
- b) market participant testing of MPM being scheduled for after the Vote to Recommend

Discussion Context: Need for MPM framework

The move to LMP amplifies energy price risk for load resources

- Individual generation resources can impact local energy prices more significantly than they could under the Ontario-wide uniform pricing framework of the legacy market design

Fairness requires that the IESO balance the interests of both load and generation resources

- Where market inefficiencies result in a market power imbalance between generators and loads, a counterbalancing mechanism is required to ensure market outcomes resemble those expected in a competitive market

MPM as Counterbalance to Market Power

The ex-ante MPM Framework intercedes only when all of the following conditions are met:

- 1) supply in the local area is constrained;
- 2) a specific generation resource fails the Conduct Test by offering at prices beyond its predetermined reference levels plus the applicable thresholds; and
- 3) the generation resource's offer also adversely effects local prices (i.e., the generation resource fails the Impact Test)

Intended Outcome of Mitigation

- When mitigated, generation resources will be dispatched and settled in accordance with pre-determined reference levels, rather than in accordance with the prices reflected in their offers
- To the extent resources have registered reference levels that reflect their short-run marginal costs, they will, at a minimum, recover those costs but will not receive the higher profits they might have received had their market power been unmitigated
- By applying pre-determined reference levels, MPM approximates competitive market conditions



Existing Recourse Options

Recourse Options

As previously noted, the IESO's understanding is that a substantial portion of Technical Panel's concerns stem from the potential for there to be unintended outcomes associated with new MPM framework, and that such outcomes would not be apparent until after MRP goes live

Should such unintended consequences occur, there are questions with respect to whether existing recourse mechanisms would be sufficient to provide timely recourse and address any resulting economic impacts

The following slides are provided to summarize existing recourse mechanisms in the Ontario market, with the intent of identifying any gaps that may exist

Recourse: Reference Level Concerns

Because the outcome of mitigation is the application of reference levels to market participant settlement, if reference levels are incorrect or inadequate, a mitigated generator could be negatively impacted

The IESO understands that there are two distinct, potential concerns with respect to the appropriateness of reference levels:

1. That **reference level determinations** for a specific generation resource could be incorrect or inadequate
2. That **reference level methodologies** in the market rules and market manuals could be inadequate for a given technology type

Recourse - Reference Level Determinations

(1) Reference Level Consultations

- The IESO determines reference levels for each resource based on individual consultations with, and data submitted by, the impacted resource.
- Market Participants may trigger new assessments by submitting additional or updated documentation to reflect corrections or operational changes

Recourse - Reference Level Determinations

(2) Independent Review Process (IRP)

- Under the IRP, participants who disagree with the IESO's preliminary reference level determinations may have an independent expert recalculate the reference levels based on the same documentation and methodology used by the IESO
- Subject only to limited exceptions, the IESO will adopt and register the reference level determinations of the independent expert over the IESO own determinations

Recourse - Market Rule Amendments & Application

In addition to the recourse mechanisms discussed on the previous slides that are specific to Reference Level Determinations, there are also a number of additional mechanisms that are captured on the following slides that provide avenues for either amending Market Rules/Manuals or seeking resolution in the event that there is a disagreement with respect to the application of those rules.

Recourse - Market Rule Amendments & Application

(3) Ongoing Engagement to Enhance the Framework

- The IESO has worked closely with stakeholders over the last three years to ensure that the MPM framework is implemented in a way that appropriately reflects the operational considerations relevant to each technology type
- The IESO has made several incremental updates to the provisionally approved market rules and manuals, adding additional details to the MPM framework within the structure laid out in the detailed design
- The IESO continues to be open to adding further eligible costs identified by Market Participants to the market manuals on a go forward basis

Recourse - Market Rule Amendments & Application

(4) Market Manual Amendment

- Details regarding reference level methodologies and procedures are set out in Market Manual 0.14.2
- Can be amended with less administrative burden than market rules, allowing them to be more easily adapted to reflect new information

(5) Market Rule Amendment

- The market rule amendment proposal process will be available to address more substantial design considerations

Recourse - Market Rule Amendments & Application

(6) *Electricity Act, 1998, s.34* - Urgent Market Rule Amendments

- The *Electricity Act*, the Market Rules, and the IESO's *Governance and Structure By-law* contemplate a process for the adoption of urgent market rule amendments
- Urgent rule amendments may be triggered for reasons that include avoiding or reducing the risk, or mitigating the effects of an unintended affect of a Market Rule

Recourse - Market Rule Amendments & Application

(6) *Electricity Act, 1998, s.34* - Urgent Market Rule Amendments, cont'd

- Urgent Rule Amendments come into effect immediately upon adoption by an appointed subset of the IESO Board of Directors, serving as an Urgent Rule Amendment Committee, and are not subject to the ordinary, minimum publication timelines or engagement requirements that apply to market rule amendments in the ordinary course
- Given the number of significant changes introduced by MRP, the IESO will be prepared to address urgent rule amendment proposals in an expedited fashion through the transition period

Recourse - Market Rule Amendments & Application

(7) *Electricity Act*, s.35 Application for Review

- In the event market participants discover, through operational experience, a grounds for amending the market rules or manuals and the participant believes that the market rule and manual amendment process fails to result in an appropriate amendment, the market participant may apply to the Ontario Energy Board (OEB) for a review of the relevant market rule or manual

Recourse - Market Rule Amendments & Application

(8) Dispute Resolution Process (DRP)

- In the event a participant believes that the IESO has failed to correctly apply the market rules or manuals—including with respect to the IRP and the limited conditions under the which the IESO may reject an independent reviewer's determination—the participant may file a Notice of Dispute through the DRP.
- Arbitrators have the authority to order remedies including compensation to market participants.

Recourse - Market Rule Amendments & Application

(8) Dispute Resolution Process (DRP), cont'd

- **Non-contentious:** In cases where participants identify an instance of the IESO failing to correctly apply the market rules, and where the IESO agrees with the participant's assessment, the DRP provides for negotiated settlements. Negotiated settlements can, where appropriate, be remedial and can be resolved in an expedited fashion through good faith negotiation, and without proceeding to mitigation or arbitration.

Recourse - Market Rule Amendments & Application

(8) Dispute Resolution Process (DRP), cont'd 2

- **Contentious:** In cases where participants claim that the IESO has failed to correctly apply the market rules, but where the IESO disagrees, the DRP provides for a more detailed assessment of the application of the market rule. The DRP commences with good faith negotiation between the parties and may progress to arbitration in the event an agreement cannot otherwise be reached.

Recourse summary

1. Direct consultation with the IESO to set and update appropriate reference levels based on participant submitted documentation
2. IRP for alternate reference level determination
3. Ongoing engagement to enhance the framework
4. Market Manual amendments
5. Market Rule amendments
6. Urgent Market Rule Amendment (*Electricity Act*, s.34)
7. OEB Application for Review (*Electricity Act*, s.35)
8. Dispute Resolution Process



Request for Additional Recourse Mechanism

Request for Input

To support a discussion on available and potential approaches for dealing with material design or implementation concerns post-Go Live the IESO requested:

"To help focus the discussion IESO requests that TP members identify specific MPM related risks with respect to which they believe there is no appropriate mitigation or recourse mechanism in the proposed design."

In response to the request for feedback on the Final Alignment batch of Market Rule Amendments IESO received submissions from APPrO and a consortium of renewable generators, energy storage providers, Energy Storage Canada, and Canadian Renewable Energy Association, or the "Consortium" that contained feedback relevant to this discussion.

Submissions

Relevant excerpts from APPrO's submission:

"Due to the complexities of the newly proposed mitigations, it is not possible to compare the potential market outcomes under scenarios with and without mitigation. For this reason, problems with the market power mitigation market rules will only be discoverable well after the fact – after a material period of time, which may allow for numerous unreasonable market outcomes, and inappropriate settlement results."

"The IESO needs to undertake work with the Technical Panel and Stakeholders to establish a process by which market participants can seek timely recourse in a situation where they feel that the MPM rules have resulted in an inappropriate outcome. This process can exist on a provisional basis until the MPM framework is appropriately validated."

The above-referenced process needs to be enshrined within the Ontario Market Rules and needs to be completed before the market power mitigation rules themselves are approved."

Submissions

Relevant excerpts from the Consortium's submission:

"The Consortium recommends that IESO work directly with market participants (MPs) and other stakeholders (e.g., TP members, etc.) to successfully agree to a fair and workable framework that will permit MPs, who have been subject to IESO's application of MPM, and IESO to review IESO's application of MPM for a pre-determined time post MRP go-live.

Based on this review, if IESO's application of MPM resulted in unfair results (i.e., relating to operations of MPs' facilities within the IESO-Administered Markets (IAM), associated IAM revenues, etc.), MPs should be afforded appropriate indemnification from IESO (e.g., payments for lost revenues, other forms of compensation and reparation, etc.).

The form of such fair and workable framework between MPs and IESO must be discussed (e.g., new MRP-related amendments to the Market Rules and/or separate agreements (e.g., contract amendment agreements, etc.). This framework needs to be concluded prior to TP voting on final approval of all MRP-related amendments to the Market Rules."

Submissions

Relevant excerpts from the Consortium's submission:

"Applicable to Reference Levels only, MPs may utilize the Independent Review Process (IRP) framework, as defined within Section 22.8 of Chapter 7 of the Market Rules defined within MR-0481-R07, in the event of MPs and IESO not agreeing on changes to Reference Levels – the IRP framework is, on balance, one-sided towards IESO's favor, while the scope of the IRP framework should not only be limited to Reference Levels, especially considering that the Dispute Resolution Process within Chapter 3 of the Market Rules will likely not afford sufficient MP recourse regarding other aspects of MPM (e.g., IESO determination of Constrained Areas, dispute over MPM-related Settlement Charges, etc.)"

Questions for Discussion

The submissions detail the factors that these stakeholders feel are creating a risk of “unreasonable market outcomes, and inappropriate settlement results” that cannot be resolved prior to full operation of the MPM framework. They further offer that additional mechanisms for recourse are needed to address these outcomes should they arise.

Q: Why are the existing mechanisms for recourse (identified earlier in this presentation) insufficient to address these potential outcomes?

Q: What specific additional features would be needed to provide a recourse mechanism that would address stakeholder concerns?