

DECISION OF THE INDEPENDENT PANEL - Application No. 01-1087

Exemption Application: Application No. 01-1087 made by The National Research Council Canada (NRC).

Panel Hearing the Application: Glenna Carr and John Grant

Date Application Heard: February 11 and 15, 2002

Market Rules from which Exemption is Requested: Market Rules Baseline 6.0, Chapter 9, sections 6.3.14 and 6.18.12.

In making its decision, the panel considered the most recent market rules, Baseline 7.0, Chapter 9, sections 6.3.14 and 6.18.12.

Decision: An exemption from Chapter 9, section 6.18.12 is granted with conditions. The exemption from Chapter 9, section 6.3.14 is no longer required and therefore is not granted.

Effective Date of the Exemption: March 23, 2001, the date the exemption application was received.

Conditions of the Exemption: As a condition of the exemption, NRC shall provide to the IMO a prepayment amount, which shall be kept on account with the IMO. The IMO finance department in consultation with NRC shall determine this prepayment amount. The prepayment amount shall not be used for any purpose other than for actual physical energy settlement invoices. The IMO finance department shall determine the date by which the prepayment must be submitted to the IMO.

Term of the Exemption: The exemption shall be for the term of participation by NRC in the IMO-administered markets or until NRC acquires its own bank account, whichever is sooner.

Reconsideration of the Exemption: The exemption shall be reconsidered at such time as either NRC or the IMO determines that the amount of the prepayment is no longer appropriate and NRC and the IMO are not able to agree on the revised amount of the prepayment.

Reasons of the Panel

This application seeks an exemption from Chapter 9, sections 6.18.12 and 6.3.14. Section 6.18.12 establishes that each market participant is required to open and maintain a market participant settlement account at a bank named in Schedule I or Schedule II to the *Bank Act*, S.C. 1991, c. 46 and located in the province of Ontario. Section 6.3.14 requires that market participants drawing power from the grid make payment within two

business days of receiving an invoice. The exemption applicant has requested an exemption from these obligations for an indefinite period of time.

NRC is a federal agency and as such we have been advised that it does not use a bank for financial transactions. NRC has advised that Public Works Canada issues the cheques for NRC for the purchase of utilities. NRC also stated in its application that under Federal Government Policy, payment can only be made after the receipt of goods and services. The length of the procedure prevents NRC from making payment within the required two business days.

IMO staff recommended that compliance with section 6.3.14 could be achieved through a prepayment process. This prepayment amount would be linked to estimated energy usage, taking into account the possibility of price excursions. This prepaid amount is to be determined by the IMO finance department in consultation with the exemption applicant. The prepayment will be placed on account with the IMO and will be used on the appropriate IMO Settlement Schedule & Payments Calendar (SSPC) date. This prepayment amount shall be applied against the next invoice amount. The prepayment will allow the market participant to be meet the requirement that payment be made within two business days. Subsequent invoices will cover the periodic settlement amounts, plus any amounts that may be required to restore the prepayment balance to the agreed-on figure. When the IMO receives payment of the first invoice amount from NRC, the IMO will use the amount paid by NRC to replenish the prepayment balance. This process will be on-going. Therefore because prepayment will allow compliance with section 6.3.14, we will not grant an exemption from section 6.3.14. The condition of supplying a prepayment amount achieves the purpose of section 6.18.12 which is to facilitate a means for the timely transfer of funds. Therefore we have decided to grant an exemption from 6.18.12 subject to terms. Because the purpose of section 6.18.12 is being met through alternate means, we are comfortable in granting the exemption for a period that could be longer than five years.

We take notice of the fact that NRC reviewed the IMO staff recommendation, which outlined the prepayment option, and NRC was in agreement with the proposed prepayment solution.

In making our decision on the exemption application, we considered the criteria set out in section 1.4. of the "Exemption Assessment and Application Procedure." We reviewed the criteria in terms of the exemption application, and the IMO staff recommendation. We specifically considered whether the granting of this exemption would, if granted, give the exemption applicant an undue preference in the IMO-administered market. The option of prepayment would be available to other market participants and so we determined that NRC would not be given an undue preference with the granting of the exemption.

Transfer

The transferability of this exemption will not be connected to the facility, but rather the exemption will terminate on ownership transfer.

Glenna Carr April 5, 2002
Glenna Carr Dated:

John Grant April 5, 2002
John Grant Dated: