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## Market Rule Amendment Proposal

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### PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00295-R00		
Subject:	Local Market Power Mitigation		
Title:	Clarify Local Market Power Mitigation		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	7	Appendix:	7.6
Sections:	All		
Sub-sections proposed for amending:			

### PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review	03 May 05
2.0	Draft for Technical Panel Review	12 May 05
3.0	Draft for Technical Panel Review	09 June 05
4.0	Publish for Stakeholder Review and Comment	16 June 05
5.0	Draft for Technical Panel Review and Vote	03 August 05
6.0	Recommended by Technical Panel and Submitted for IESO Board Approval	09 August 05
7.0	Approved by IESO Board	23 September 05
Approved Amendment Publication Date:	27 September 05	
Approved Amendment Effective Date:	19 October 05	

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

#### Summary

This amendment proposes to clarify the market rules defining the local market power mitigation regime in the IESO-administered markets. A market participant’s recent challenge to the IESO’s interpretation and application of the existing market rules has reinforced the need for clarity. The proposed changes would clarify and align Appendix 7.6 with the IESO’s existing interpretation and application of Appendix 7.6. The specific proposed changes are as follows:

- Remove references to “abuse” of local market power to remove any inference of market participant intent and subsequent requirement to establish participant intent in order to mitigate an occurrence of local market power. The monitoring for, and the investigation of, abuse of market power is the responsibility of the Market Surveillance Panel, not the IESO.
- Remove the provision for the IESO to impose a financial penalty where there has been an abuse of local market power. By removing “abuse” and the implication of market participant intent from the IESO’s consideration, there is no justification for financial penalties in the local market power mitigation regime. The IESO would still be able to make adjustments to market participant congestion management settlement credit (CMSC) payments in order to mitigate local market power.
- Explicitly identify the conditions that would establish that local market power exists.
- Specify the criteria used by the IESO to determine if a CMSC adjustment is justified.
- Expand the scope of additional considerations to be considered by the IESO and market participants with respect to CMSC adjustments.
- Clarify that the settlement credit adjustments referred to in Appendix 7.6 apply only to congestion management settlement credits.
- Explicitly identify the conditions under which the IESO will not make a CMSC adjustment.
- Clarify the provisions of the sufficient competition screen within the context of Appendix 7.6.

Under these proposed changes, the IESO will continue to mitigate local market power as it has been doing since market commencement through adjustments to CMSC. The proposed changes provide clarity and certainty to the local market power mitigation regime.

Several other amendments that are administrative in nature are also proposed for Appendix 7.6, including replacing all references to the IMO with the IESO to reflect the name change required under Bill 100.

## PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

### Background

The current local market power mitigation market rules (Appendix 7.6) provide for the IESO to adjust a market participant's CMSC payment and impose a financial penalty where there has been an abuse of local market power. However, the current market rules do not specifically define "abuse" nor the criteria to be met for CMSC adjustments and financial penalties. Because of the lack of these specific definitions within the market rules, the IESO has, since market commencement, consistently applied the following interpretation of Appendix 7.6:

- The IESO will make a CMSC adjustment, without a financial penalty, where a participant's transaction has failed the local market power screens specified in section 1.3 of Appendix 7.6 and the participant's offer/bid prices were not consistent with its costs, including opportunity costs. These screens establish that there was local market power. The participant's degree of knowledge about the situation does not play a role in the IESO decision to adjust CMSC. Using this interpretation and approach, the IESO has recovered approximately \$10 million in CMSC payments associated with over 400 constrained-on or constrained-off events since market commencement.
- For the purposes of deciding if it should impose a financial penalty, the IESO required compelling evidence of market participant intent. Since market commencement, the IESO has not imposed a financial penalty since conditions suggesting intent were uncommon and upon investigation the IESO did not find evidence to establish intent.

The IESO has described its interpretation and application of Appendix 7.6 in Market Manual 2.12 Treatment of Local Market Power. In each investigation conducted under Appendix 7.6, the IESO ensured that the market participant understood the approach taken. Market participants have generally accepted the IESO's interpretation and application.

Recently, a market participant challenged the IESO's interpretation and application of Appendix 7.6. The participant argued that Appendix 7.6 could be interpreted to require the IESO to prove intent before adjusting the CMSC payment, not just for assessing a penalty.

The monitoring for, and the investigation of, abuse of market power and gaming is within the purview of the Market Surveillance Panel under the Electricity Act (sections 37(1) and 38(1)) and the OEB By-Law #3 (section 4.1.1).

### Discussion

The first proposed amendment to Appendix 7.6 is to remove the characterization of a constrained-on event or a constrained-off event as an abuse of local market power in order to warrant mitigation under the market rules. The current market rules provide for the IESO to adjust a CMSC payment where there has been an abuse or possible abuse of local market power. The current market rules do not specifically define "abuse". Since market commencement, the IESO has been consistent in its determination that CMSC adjustments may be warranted when an event fails the local market power screens specified in section 1.3. It is proposed to remove the references to "abuse" of local market power to remove any implied requirement to establish participant intent. Refer to the following pages for specific changes:

- Page 6 – section 1.2.1
- Page 12 – section 1.3.12
- Page 15 – sections 1.4.3.2, 1.4.5

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- Page 16 – section 1.4.6
- Page 18 – section 1.6.1

The second proposed amendment to Appendix 7.6 is to remove the provision that allows the IESO to impose a financial penalty for an occurrence of local market power. A financial penalty, which is punitive by its very nature, is appropriate when participant intent to take advantage of its local market power can be established. If the concept of participant intent is removed from the market rules, then so should the financial penalty be removed. Refer to the following pages for specific changes:

- Page 14 – section 1.4.5
- Page 22 – sections 1.6.7.2, 1.6.7.3, 1.6.9
- Page 24 – sections 1.7.4, 1.8.1

The third proposed change is to clarify that local market power is established when a market participant's transactions fails all three of the local market power screens. The current market rules indicate that failing all three of the local market power screens is a necessary condition for proceeding with the determination of whether a CMSC adjustment is justified. The proposed change explicitly links local market power to the local market power screens. Refer to section 1.3.12, page 12 for the specific changes.

The fourth proposed amendment to Appendix 7.6 is to add a new section 1.4A (refer to page 15) that explicitly identifies the criteria to be met for a CMSC adjustment when a participant fails the local market power screens. Under the current market rules, when a participant fails the local market power screens specified in section 1.3., a CMSC adjustment may be justified if the IESO determines that the investigated price represents a possible abuse of local market power. The current market rules do not explicitly define "abuse" of local market power and, therefore, the circumstances that justify a CMSC adjustment are ambiguous. It is proposed to remove the ambiguity by specifying that a CMSC adjustment is justified if the investigated price is not consistent with:

- Marginal costs of the generation facility that received the congestion management settlement credit
- Opportunity costs or replacement energy costs of a generation facility, dispatchable load facility or boundary entity
- Value or benefits of consumption for a dispatchable load facility or an exporting boundary entity
- Other such additional values, benefits or costs as the IESO may determine relevant.

The first three criteria are appropriate because experience since market commencement indicates that these factors are relevant in considering whether a CMSC adjustment is warranted. The fourth criterion is appropriate because specific circumstances may warrant consideration of other factors.

The fifth proposed amendment to Appendix 7.6 is to expand the scope of additional considerations in section 1.4.1 (see page 13) that may be considered in determining whether a CMSC adjustment is warranted. The proposed additional criteria include:

- the price of fuel used by the market participant's facility,
- market prices in neighbouring jurisdiction and variations in such prices, and

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- opportunity costs for energy-limited resources.

Experience since market commencement shows that the proposed additional considerations are frequently important factors in offer/bid pricing. Under the current market rules, the IESO must provide a market participant with a reasonable opportunity to make representations as to why a CMSC adjustment is not warranted. A market participant making such representations may also take into account the proposed additional considerations in section 1.4. One of the additional considerations (section 1.4.1.3) currently in the market rules makes reference to market participant “behaviour”, which may imply participant intent. It is proposed to remove section 1.4.1.3 to remove any implied notion of participant intent as a factor in the investigation.

The sixth proposed amendment is to clarify that the settlement credit adjustments referred to in Appendix 7.6 apply only to congestion management settlement credits. The current wording implies that all settlement credits could be adjusted. It is proposed to add the adjective “congestion management” to every settlement credit reference in Appendix 7.6 to which the Appendix applies.

The seventh proposed amendment to Appendix 7.6 is to clarify in section 1.4.2, that if the IESO does not perform the analyses specified in section 1.4., the IESO will cease its investigation and, therefore, will not make a CMSC adjustment. When the IESO does not conduct the analysis referred to in section 1.4, sections 1.3.12.5 and 1.3.13.4 provide a market participant with the opportunity to make representations as to why a CMSC adjustment is not justified. It is proposed to remove sections 1.3.12.5 and 1.3.13.4 because these provisions are unnecessary if the IESO doesn’t conduct the analysis specified in section 1.4.

The following proposed amendments to Appendix 7.6 are clarifications of the existing rules or are administrative in nature:

- Remove section 1.1.2 because the provisions contained in this section are already specified in section 2.12.1.9 of Appendix 7.5.
- Remove provisions that are no longer relevant. Sections 1.2.4 and 1.2.5 of the current rules specify that the IESO may conduct alternative analyses in the event that the IESO cannot conduct the analyses specified in section 1.4 at market commencement date. The IESO is able to conduct the analysis specified in section 1.4. Therefore, it is proposed that sections 1.2.4 and 1.2.5, and all references to these sections be removed. Refer to pages 6, 7, 11 and 12 for the specific changes.
- Remove “Initial” from section 1.3 title and rename section 1.4 to “Price Investigation”. These proposed titles better reflect the contents of the respective sections.
- Clarify, in section 1.3.9, the criteria on which the determination of whether sufficient competition existed is based.
- Move the content of sections 1.3.11.2, 1.3.13.2 and 1.3.13.3 to a new section 1.2.7 (see page 7) to improve ease of reference. These provisions are relevant to the section on investigations and are directly related to section 1.2.6.
- Move the content of sections 1.4.7 and 1.5 to new section 1.4.5A and existing section 1.4.5, respectively, to improve ease of reference.
- Replace all references to the IMO with the IESO to reflect the name change required under Bill 100.

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## PART 4 – PROPOSED AMENDMENT

## Appendix 7.6 – Local Market Power

### 1.1 Dispatch of Constrained Off Facilities and Constrained On Facilities

1.1.1 The *IMOIESO* shall, pursuant to this Chapter 7, *dispatch a registered facility as a constrained on facility or a constrained off facility* when, without such action, the *reliability of the IMOIESO-controlled grid cannot be maintained due to a transmission flow constraint on the IMOIESO-controlled grid or a security limit.* The *IMOIESO shall dispatch registered facilities as constrained on facilities and constrained off facilities in such economic merit order as will enable it to meet its reliability obligations under these market rules at the lowest cost.*

1.1.2 ~~Whenever the IMO determines a need to dispatch a registered facility as a constrained on facility or a constrained off facility, the IMO shall, pursuant to this Chapter 7, establish a locational market price for energy for the relevant location. Such locational market price for energy shall be published but shall not be used for settlement purposes.~~[Intentionally left blank – section deleted]

1.1.3 Subject to section 9.4.5 of Chapter 7 and sections 1.4.5.1 and 1.6.7.1, each *constrained on facility or constrained off facility* shall, in addition to such other *settlement* credits to which it may be entitled in accordance with Chapter 9, receive a congestion management settlement credit calculated in accordance with section 3.5.2 of Chapter 9.

### 1.2 Investigation of Local Market Power

1.2.1 Subject to sections 1.2.2, ~~1.2.4~~ and 1.2.6, where the *IMOIESO* determines that a *constrained on event or constrained off event* may have occurred, the *IMOIESO* shall conduct the analyses referred to in section 1.3 to establish whether local market power existed and as a preliminary step in determining whether the re-calculation of the congestion management settlement credit referred to in

~~section 1.1.3 is justified. there has been an abuse or possible abuse of local market power by the *constrained on facility* or the *constrained off facility*.~~

- 1.2.2 The *IMOIESO* shall not be required to conduct the analyses referred to in section 1.2.1 if the *IMOIESO* anticipates that:
- 1.2.2.1 the maximum adjustment to the *congestion management settlement* credit referred to in section 1.1.3 that may be effected on the basis of such analyses and of the analysis referred to in section 1.4.1 would not exceed the threshold amount *published* by the *IMOIESO* pursuant to section 1.2.3; or
- 1.2.2.2 the impact of the price contained in the *energy bid* or the *energy offer* submitted by the *constrained on facility* or the *constrained off facility* is, in the *IMOIESO*'s opinion, not material.
- 1.2.3 The *IMOIESO* shall determine and *publish* the threshold amount referred to in section 1.2.2.1, which shall be the minimum amount of an adjustment to a *congestion management settlement* credit referred to in section 1.1.3 that will, subject to sections 1.2.2.2, ~~1.2.4~~ and 1.2.6, trigger an obligation on the *IMOIESO* to conduct the analyses referred to in section 1.2.1.
- 1.2.4 ~~Where, for any reason, it is not feasible for the *IMO* to conduct the analyses referred to in section 1.3 as of the *market commencement date*, the *IMO* shall determine and *publish* alternative analyses that it shall conduct in lieu of the analyses referred to in section 1.3 until such time as the *IMO* *publishes* notice that the conduct of the analyses referred to in section 1.3 has become feasible. Such notice shall also specify the date on which the *IMO* shall commence to conduct the analyses referred to in section 1.3. [Intentionally left blank – section deleted]~~
- 1.2.5 ~~Where section 1.2.4 applies, the *IMO* shall apply the alternative analyses referred to in that section in respect of any *constrained on event* or *constrained off event* that may have occurred prior to the date specified in the notice referred to in section 1.2.4. [Intentionally left blank – section deleted]~~
- 1.2.6 Where the *IMOIESO* cannot, for any reason ~~other than the reason referred to in section 1.2.4~~, conduct the analyses referred to in section 1.3 in the manner described in that section, it may conduct such other analyses as it determines appropriate either prior to conducting the analysis described in section 1.4.1, if any, or as part of such analysis.
- 1.2.7 Where section 1.2.6 applies:
- 1.2.7.1 the *IESO* shall cease investigation of the *investigated price* where the *IESO* determines that the results of the analyses do not justify the re-calculation of the *congestion management settlement credit* referred to in section 1.1.3; or

1.2.7.2 the IESO shall conduct the analysis referred to in section 1.4.1 where the IESO determines that the results of the analyses referred to in section 1.2.6 reveal that the investigated price may justify the re-calculation of the congestion management settlement credit referred to in section 1.1.3.

### 1.3 Initial-Local Market Power Screens

1.3.1 The *IMOIESO* shall review the inputs and outputs of the *dispatch algorithm* for the *dispatch intervals* to which the *investigated price* relates, and such other information as the *IMOIESO* determines appropriate, for the purpose of determining whether a transmission flow constraint on the *IMOIESO*-controlled grid or a *security limit* resulted in a *constrained on event* or a *constrained off event*.

1.3.2 The *IMOIESO* shall determine whether the *investigated price* falls within the range determined in accordance with section 1.3.8 using the *reference prices* referred to in section 1.3.3 and the factors derived from the methodology approved by the *IMOIESO Board* pursuant to section 1.3.5.

1.3.3 For the purposes of section 1.3.2, the *reference prices* shall be:

1.3.3.1 the *historical reference price* representing *business days* between the hours of 07:00 and 23:00 EST for the *investigated facility*; or

1.3.3.1A the *historical reference price* representing all time periods other than those specified in section 1.3.3.1 for the *investigated facility*,

as the case may be depending on whether the *investigated price* was submitted for the time period indicated in section 1.3.3.1 or section 1.3.3.1A, referred to as  $P_h$ , or

1.3.3.1B where permitted by section 1.3.4, such alternative *reference price*, if any, as may be established by the *IMOIESO Board* and published pursuant to section 1.3.4, referred to as  $P_a$ ; and

1.3.3.2 the *market price for energy* determined for the *dispatch interval* to which the *investigated price* relates, referred to as  $P_m$ ,

provided that,

1.3.3.3 if *dispatch data* that has been accepted by the *IMOIESO*, as reflected in the *market schedules* for that *investigated facility*, is not available in respect of the *investigated facility* which is; i) a hydroelectric *generation facility* for at least ten of the thirty days; or ii) or for all other *facilities* at least fifteen of the ninety days, comprising the period

over which the relevant *historical reference price* referred to in sections 1.3.3.1 and 1.3.3.1A is calculated, or

- 1.3.3.4 if the *investigated facility* is a *boundary entity* withdrawing energy from the *IMOIESO-administered markets* at an *intertie* that has been designated by the *IMOIESO* as an uncontested export *intertie*, being an *intertie*:
- a. where at least ninety percent of the withdrawals over that *intertie* in the ninety days prior to such designation have been accounted for by one *market participant*, or
  - b. which is uncontested in accordance with criteria stipulated by the *IMOIESO Board* (which criteria shall also specify the factors allowing revocation of the designation).

sections 1.3.3.1 and 1.3.3.1A shall not apply and only the *reference price* referred to in section 1.3.3.2 shall be used for the purposes of section 1.3.2.

- 1.3.4 The *IMOIESO Board* may establish the alternative *reference price* referred to in section 1.3.3.1B based on an average of the price contained in all *energy offers* or *energy bids* submitted by the *registered market participant* for an *investigated facility* and accepted by the *IMOIESO*, as reflected in the most recent *market schedules* for that *investigated facility*, during the time periods specified in section 1.3.3.1 or the time periods specified in section 1.3.3.1A as the case may be, in respect of a given increment or increments of supply or consumption. No such alternative *reference price* shall be used by the *IMOIESO* for the purposes of section 1.3.3.1B until the manner of determination of such *reference price* and the conditions in which it may be applied have been *published* by the *IMOIESO*.
- 1.3.5 The *IESO* shall publish the methodology, as determined by the *market surveillance panel* and approved by the *IESO Board*, for determining a pair of high end factors and a pair of low end factors for each type of *reference price* referred to in section 1.3.3, including the alternative *reference price* referred to in section 1.3.3.1B, if any.
- 1.3.5.1 [Intentionally left blank – section deleted]
- 1.3.5.2 [Intentionally left blank – section deleted]
- 1.3.6 The methodology referred to in section 1.3.5 for determining the pair of high end factors and the pair of low end factors for each type of *reference price* shall be established based on the concept that it is acceptable for the *congestion management settlement* credit referred to in section 1.1.3 to be larger as the number of consecutive or the number of cumulative hours that a *registered facility* may be *dispatched* as a *constrained on facility* or as a *constrained off facility* decrease. Accordingly:

1.3.6.1 one of each such pair of high end factors and one of each such pair of low end factors shall vary according to the number of consecutive hours that a *registered facility* was *dispatched* as a *constrained on facility* or a *constrained off facility* during the *constrained on event* or *constrained off event* being investigated; and

1.3.6.2 the other of each such pair shall vary according to the cumulative number of hours that a *registered facility* was *dispatched* as a *constrained on facility* or a *constrained off facility* in the ninety-day period preceding the *constrained on event* or *constrained off event* being investigated and during such *constrained on event* or *constrained off event*.

1.3.7 The methodology referred to in section 1.3.5 for determining the pair of high end factors and the pair of low end factors may differ for, and the resulting pairs of factors may also differ for, each of the *reference prices* referred to in section 1.3.3, including the alternative *reference price*, if any, referred to in section 1.3.3.1B. For each such *reference price*:

1.3.7.1 the high end factors shall decrease as either the number of consecutive hours or the number of cumulative hours referred to in sections 1.3.6.1 and 1.3.6.2, respectively, increase, provided that neither of such factors shall be less than the value 1.0; and

1.3.7.2 the low end factors shall increase as either the number of consecutive hours or the number of cumulative hours referred to in sections 1.3.6.1 and 1.3.6.2, respectively, increase, provided that such neither of such factors shall be greater than the value 1.0.

1.3.8 The *IMOIESO* shall establish the range referred to in section 1.3.2 in respect of an *investigated price* as follows:

1.3.8.1 for the high end of the range the *IMOIESO* shall:

- a. calculate, for each applicable *reference price* referred to in section 1.3.3, high end values for each of the number of consecutive hours and the number of cumulative hours referred to in sections 1.3.6.1 and 1.3.6.2, respectively, using the following equation:

$$\text{reference price} + \text{absolute value (reference price)} \times (\text{factor} - 1)$$

where the factor used in the above equation is the high end factor determined for that type of *reference price* in accordance with sections 1.3.5 to 1.3.7 that corresponds to the appropriate number of consecutive hours or number of cumulative hours referred to in sections 1.3.6.1 and 1.3.6.2, respectively;

- b. select, in respect of each applicable *reference price*, the lesser of the high end values calculated pursuant to section 1.3.8.1(a); and

- c. select the larger of the high end values based on  $P_m$  or  $P_h$  or, where the alternative *reference price* referred to in section 1.3.3.1B is used, based on  $P_m$  or  $P_a$ ; and

1.3.8.2 for the low end of the range the *IMOIESO* shall:

- a. calculate, for each applicable *reference price* referred to in section 1.3.3, low end values for each of the number of consecutive hours and the number of cumulative hours referred to in sections 1.3.6.1 and 1.3.6.2, respectively, using the following equation:

$$\text{reference price} + \text{absolute value (reference price)} \times (\text{factor} - 1)$$

where the factor used in the above equation is the low end factor determined for that type of *reference price* in accordance with sections 1.3.5 to 1.3.7 that corresponds to the appropriate number of consecutive hours or number of cumulative hours referred to in sections 1.3.6.1 and 1.3.6.2, respectively;

- b. select, in respect of each applicable *reference price*, the larger of the low end values calculated pursuant to section 1.3.8.2(a); and
- c. select the lesser of the low end values based on  $P_m$  or  $P_h$  or, where the alternative *reference price* referred to in section 1.3.3.1B is used, based on  $P_m$  or  $P_a$ .

1.3.9 The *IMOIESO* shall determine, ~~based on the number and the MW quantity of energy bids and energy offers submitted by other market participants but not accepted by the IMO, as reflected in the market schedules for those market participants, that could have responded to dispatch instructions comparable to those issued to the investigated facility,~~ whether, in the *IMOIESO*'s opinion, there existed sufficient competition for the provision of the *physical services* that the *investigated facility* was to provide in being dispatched as a constrained on facility or a constrained off facility to provide. The IESO shall determine whether sufficient competition existed based on the number of market participants and the MW quantity associated with, as applicable:

1.3.9.1 energy offers, not included in the market schedule, for a generation facility or an import that could have been constrained on; and

1.3.9.2 energy bids, included in the market schedule, for a dispatchable load or an export that could have been constrained off;

or,

1.3.9.3 energy offers, included in the market schedule, for a generation facility or an import that could have been constrained off; and

1.3.9.4 energy bids, not included in the market schedule, for a dispatchable load or an export that could have been constrained on;

- for those market participants that could have effectively responded to dispatch instructions comparable to those issued for the investigated facility.
- 1.3.10 Where the *IMOIESO* determines:
- 1.3.10.1 pursuant to section 1.3.1, that a transmission flow constraint on the *IMOIESO*-controlled grid or a security limit did not result in a constrained on event or a constrained off event;
  - 1.3.10.2 pursuant to section 1.3.2, that the *investigated price* falls within the range referred to in that section; or
  - 1.3.10.3 pursuant to section 1.3.9, that sufficient competition existed for the provision of the physical services that the *investigated facility* was dispatched as a *constrained on facility* or a *constrained off facility* to provide,
- the *IMOIESO* shall, subject to section 1.8, cease investigation of the *investigated price*.
- 1.3.11 ~~Where:~~[Intentionally left blank – section deleted]
- 1.3.11.1 ~~section 1.2.4 applies and the IMO determines, in accordance with the criteria established pursuant to that section, if any, that the results of the alternative analyses referred to in that section do not justify the recalculation of the settlement credit referred to in section 1.1.3; or~~[Intentionally left blank – section deleted]
  - 1.3.11.2 ~~section 1.2.6 applies and the IMO determines, prior to conducting the analysis referred to in section 1.4.1, that the results of the analyses referred to in section 1.2.6 do not justify the re-calculation of the settlement credit referred to in section 1.1.3;~~[Intentionally left blank – section deleted]
- ~~the IMO shall, subject to section 1.8, cease investigation of the investigated price.~~
- 1.3.12 For the purpose of Appendix 7.6, local market power is established wWhere the *IMOIESO* determines:
- 1.3.12.1 pursuant to section 1.3.1, that a transmission flow constraint on the *IMOIESO*-controlled grid or a security limit resulted in *constrained on event* or a *constrained off event*;
  - 1.3.12.2 pursuant to section 1.3.2, that the *investigated price* falls outside of the range referred to in that section; and
  - 1.3.12.3 pursuant to section 1.3.9, that sufficient competition did not exist for the provision of the *physical services* that the *investigated facility* was

*dispatched as a constrained on facility or a constrained off facility to provide;*

~~the *investigated price* shall be considered to represent a possible abuse of local market power and to If the *IESO* establishes that local market power exists, the *IESO* shall conduct the analysis referred to in 1.4.1 to determine whether the *investigated price* justifies the re-calculation of the congestion management settlement credit referred to in section 1.1.3, accordingly, and the *IMO* shall:~~

1.3.12.4 ~~conduct the analysis referred to in section 1.4.1; or [Intentionally left blank – section deleted]~~

1.3.12.5 ~~where the *IMO* determines, in accordance with section 1.4.2, that it shall not conduct the analysis referred to in section 1.4.1, provide the registered market participant for the *investigated facility* with a reasonable opportunity to make representations as to why the *investigated price* does not represent an abuse of local market power and does not justify the re-calculation of the settlement credit referred to in section 1.1.3. [Intentionally left blank – section deleted]~~

1.3.13 ~~Where: [Intentionally left blank – section deleted]~~

1.3.13.1 ~~section 1.2.4 applies and the *IMO* determines, in accordance with the criteria established pursuant to that section, if any, that the results of the alternative analyses referred to in that section reveal that the *investigated price* represents a possible abuse of local market power and justifies the re-calculation of the settlement credit referred to in section 1.1.3 accordingly; or [Intentionally left blank – section deleted]~~

1.3.13.2 ~~where section 1.2.6 applies and the *IMO* determines, prior to conducting the analysis referred to in section 1.4.1, that the results of the analyses referred to in section 1.2.6 reveal that the *investigated price* may justifies the re-calculation of the settlement credit referred to in section 1.1.3 accordingly, [Intentionally left blank – section deleted]~~

~~the *IMO* shall:~~

1.3.13.3 ~~conduct the analysis referred to in section 1.4.1; or [Intentionally left blank – section deleted]~~

1.3.13.4 ~~where the *IMO* determines, in accordance with section 1.4.2, that it shall not conduct the analysis referred to in section 1.4.1, provide the registered market participant for the *investigated facility* with a reasonable opportunity to make representations as to why the *investigated price* does not justify represent an abuse of local market power and does not justify the re-calculation of the settlement credit referred to in section 1.1.3. [Intentionally left blank – section deleted]~~

## 1.4 Additional Considerations Price Investigation

- 1.4.1 Subject to section 1.4.2, the *IMOIESO* shall conduct an analysis of such factors that the *IMOIESO* considers relevant to a determination of whether the *investigated price* justifies the re-calculation of the congestion management settlement credit referred to in section 1.1.3, which factors may include:
- 1.4.1.1 the price, and variations in the price<sub>2</sub> of the fuel used by the *investigated facility*;
  - 1.4.1.2 the degree to which the prices contained in the *energy offers* or *energy bids* submitted by the *registered market* participant for the *investigated facility* and accepted by the *IMOIESO*, as reflected in the *market schedules* for that *investigated facility*, have varied over time; ~~and~~
  - 1.4.1.3 ~~changes in the energy offer or energy bid behaviour of the registered market participant for the investigated facility over time. [Intentionally left blank – section deleted]~~
  - 1.4.1.4 market prices and variations in market prices in neighbouring jurisdictions; and
  - 1.4.1.5 opportunity costs for energy-limited resources.
- 1.4.2 The *IMOIESO* shall not be required to conduct the analysis referred to in section 1.4.1 and shall cease investigation of the investigated price if, in the *IMOIESO*'s opinion:
- 1.4.2.1 the *IMOIESO* does not have sufficient reliable information upon which to base the determination referred to in section 1.4.1;
  - 1.4.2.2 the level of effort that would be required to conduct the analysis is large relative to the materiality of the anticipated impact of the *investigated price*; or
  - 1.4.2.3 the conduct of the analysis would constitute an inefficient utilization of the *IMOIESO*'s resources, having regard to the *IMOIESO*'s other activities and to the desire to allocate resources to the investigation of *energy offers* and *energy bids* that are most likely to require remedial action pursuant to this Appendix.
- 1.4.3 Where, ~~on the basis of~~ on the analysis conducted ~~pursuant to in~~ section 1.4.1 and on the criteria specified in section 1.4A, the *IMOIESO* determines that:
- 1.4.3.1 the *investigated price* does not justify the re-calculation of the congestion management settlement credit referred to in section 1.1.3, the *IMOIESO* shall, subject to section 1.8, cease investigation of the *investigated price*; or

1.4.3.2 the *investigated price* ~~may justify~~ ~~represents a possible abuse of local market power and justifies~~ the re-calculation of the congestion management settlement credit referred to in section 1.1.3, the *IMOIESO* shall provide the *registered market participant* for the *investigated facility* with a reasonable opportunity to make representations as to why the *investigated price* ~~does not represent an abuse of local market power and~~ does not justify the re-calculation of the congestion management settlement credit referred to in section 1.1.3. As part of its representations, the *registered market participant* may request that the *IMOIESO* apply alternate high end or low end values in place of those prescribed by section 1.3.8 for the purpose of replacing the *investigated price* pursuant to section 1.5.1.4.5.1.

1.4.4 Where, following a consideration of any representations made by the *registered market participant* for the *investigated facility* pursuant to section ~~1.3.12.5, 1.3.13.4 or~~ 1.4.3.2, the *IMOIESO* determines that the *investigated price* does not justify the re-calculation of the congestion management settlement credit referred to in section 1.1.3, the *IMOIESO* shall, subject to section 1.8, cease investigation of the *investigated price*.

1.4.5 Where, following a consideration of any representations made by the *registered market participant* for the *investigated facility* pursuant to section ~~1.3.12.5, 1.3.13.4 or~~ 1.4.3.2 and based on the criteria specified in section 1.4A, the *IMOIESO* determines that the *investigated price* ~~represents an abuse of local market power and~~ justifies the re-calculation of the congestion management settlement credit referred to in section 1.1.3:

- 1.4.5.1 the ~~*IMOIESO*~~ shall replace the *investigated price* with the following:
- a. ~~shall, subject to section 1.4.7, replace the *investigated price* with a price determined in accordance with section 1.5.1 and revise, for settlement purposes, the settlement credit referred to in section 1.1.3 on the basis of such price~~ in the case of a constrained on generation unit or a constrained off dispatchable load, the high end of the range determined in accordance with section 1.3.8.1 or such other value as may be agreed to by the IESO and the market participant; or
  - b. ~~may impose a financial penalty, determined in accordance with section 1.5.2, on the registered market participant for the investigated facility; and in the case of a constrained off generation unit or a constrained on dispatchable load, the low end of the range determined in accordance with section 1.3.8.2 or such other value as may be agreed to by the IESO and the market participant; or~~

~~e. shall provide the registered market participant for the investigated facility with written reasons for the determinations referred to in section 1.4.5; or [Intentionally left blank – section deleted]~~

1.4.5.2 the *IMOIESO* may commence an inquiry pursuant to section 1.6.1.

1.4.5A Where section 1.4.5.1 applies, the *IESO* shall:

1.4.5A.1 re-calculate the congestion management *settlement* credit referred to in section 1.1.3 on the basis of the price referred to in section 1.4.5.1; and

1.4.5A.2 provide notice to the registered market participant for the investigated facility specifying:

a. the grounds and associated information upon which the *IESO* is relying in support of its intention to use, for settlement purposes, the re-calculated congestion management *settlement* credit referred to in section 1.4.5A.1;

b. an estimate of the replacement price for the *investigated price* referred to in section 1.4.5.1; and

c. the right of the registered market participant to request, within five *business days* of the date of receipt of the notice, an inquiry pursuant to section 1.6.1.

1.4.6 Where, following a consideration of any representations made by the registered market participant for the investigated facility pursuant to section ~~1.3.12.5, 1.3.13.4 or~~ 1.4.3.2 and the criteria specified in section 1.4A, the *IMOIESO* determines that the *investigated price* ~~may represent an abuse of local market power and~~ may justify the re-calculation of the congestion management *settlement* credit referred to in section 1.1.3, the *IMOIESO* may commence an inquiry pursuant to section 1.6.1.

1.4.7 ~~Where the *IMO* intends to take the action referred to in section 1.4.5.1, the *IMO* shall give the registered market participant for the investigated facility notice of its intention to do so. The notice shall specify: [Intentionally left blank – section deleted]~~

~~1.4.7.1 the grounds and associated information upon which the *IMO* is relying in support of its intention to take such action; [Intentionally left blank – section deleted]~~

~~1.4.7.2 an estimate of the replacement price for the *investigated price* referred to in section 1.5.1 and the amount, if any, of the penalty that the *IMO* intends to impose; and [Intentionally left blank – section deleted]~~

~~1.4.7.3 the right of the registered market participant to request, within five *business days* of the date of receipt of the notice, an inquiry pursuant to section 1.6.1. [Intentionally left blank – section deleted]~~

- 1.4.8 Where a *registered market participant* requests an inquiry pursuant to section ~~1.4.7.3-1.4.5A.2c~~ within the time referred to in that section, the ~~IMO~~IESO shall not take any action pursuant to section 1.4.5.1 and shall conduct an inquiry pursuant to section 1.6.1.
- ~~1.4.9~~ Where a *registered market participant* does not request an inquiry pursuant to section 1.4.5A.2c within the time referred to in that section, the IESO shall use, for *settlement* purposes, the re-calculated congestion management *settlement* credit referred to in section 1.4.5A.1.

## **1.4A Criteria for Re-calculating Congestion Management Settlement Credits**

- ~~1.4A.1~~ Having established in section 1.3 that local market power existed, the re-calculation of the congestion management *settlement* credit referred to in section 1.1.3 shall be justified if the IESO establishes that the *investigated price* is not consistent with:
- 1.4A.1.1 the marginal costs of the *generation facility* that received the congestion management *settlement* credit;
- 1.4A.1.2 opportunity costs or replacement energy costs of a *generation facility, dispatchable load facility* or *boundary entity*; or
- 1.4A.1.3 value or benefits of consumption for a *dispatchable load facility* or an *exporting boundary entity*,
- and such other additional values, benefits or costs as the IESO may determine relevant.
- ~~1.4A.2~~ Such values, benefits, and costs referred to in [section 1.4A.1](#) will be based on information available to the IESO at the time of its decision under section 1.4, which may be:
- 1.4A.2.1 estimated information available to the IESO; or
- 1.4A.2.2 information provided by the *registered market participant* as part of its representations under section 1.4.3.2 or [otherwise](#).

## **1.5 Replacement Price and Penalty[Intentionally left blank – section deleted]**

- 1.5.1 The price at which the IMO shall, pursuant to section 1.4.5.1(a), replace the *investigated price* shall be determined as follows:[Intentionally left blank – section deleted]

1.5.1.1 ~~in the case of a constrained on generation unit or a constrained off dispatchable load, the high end of the range determined in accordance with section 1.3.8.1 or such other value as may be agreed to by the IMO and the market participant; and~~[Intentionally left blank – section deleted]

1.5.1.2 ~~in the case of a constrained off generation unit or a constrained on dispatchable load, the low end of the range determined in accordance with section 1.3.8.2 or such other value as may be agreed to by the IMO and the market participant.~~[Intentionally left blank – section deleted]

1.5.2 ~~The financial penalty that may be imposed by the IMO on the registered market participant for an investigated facility pursuant to section 1.4.5.1(b) shall be such amount, up to a maximum of three times the difference between the investigated price and the replacement price determined for that investigated facility in accordance with section 1.5.1, as the IMO considers appropriate.~~[Intentionally left blank – section deleted]

## 1.6 Inquiry

1.6.1 Where the ~~IMO~~IMOIESO determines that an inquiry is required under section 1.4.5.2 or section 1.4.6 or an inquiry is requested by the registered market participant for the investigated facility under section ~~1.4.7.31.4.5A.2c~~, the ~~IMO~~IMOIESO shall conduct an inquiry to determine whether the investigated price falls within the range determined in accordance with section 1.6.3 or 1.6.6, as the case may be, and shall notify the registered market participant for the investigated facility of the commencement of the inquiry. During such inquiry, the ~~IMO~~IMOIESO shall provide the registered market participant for the investigated facility with a reasonable opportunity to make representations as to why the investigated price ~~does not represent an abuse of local market power and~~ does not justify the recalculation of the congestion management settlement credit referred to in section 1.1.3 including, but not limited to, representations:

1.6.1.1 as to the costs that should be considered for purposes of the determination referred to in section 1.6.3;

1.6.1.2 where section 1.6.6 applies, as to the costs or other information that should be considered for purposes of the determination referred to in that section; and

1.6.1.3 where applicable, as to the costs that should be considered for purposes of the adjustment referred to in section 1.6.4 and the revenues, operating income and forecasts or estimates referred to in section 1.6.5.

- 1.6.2 The *IMOIESO* shall, for the purposes of determining the range referred to in section 1.6.1, notify the *registered market participant* for the *investigated facility* of the information required to be submitted by it for that purpose and shall use such information to the extent that the *IMOIESO* determines that such information is complete and accurate. The *registered market participant* shall supply this information to the *IMOIESO* by the date specified in the notification. Where the *IMOIESO* determines that such information is incomplete or inaccurate, or where the *IMOIESO* considers that the information received from the *registered market participant* is insufficient for the purpose of determining the range referred to in section 1.6.1, the *IMOIESO* may refer the matter to the *dispute resolution panel* pursuant to section 2 of Chapter 3 and request, in the *notice of dispute*, that the *dispute resolution panel* complete the inquiry.
- 1.6.3 The *IMOIESO* shall determine the range referred to in section 1.6.1 with respect to a *constrained on generation unit* or a *constrained off generation unit* in accordance with the following:
- 1.6.3.1 the low end of the range shall be the short-run marginal cost associated with that portion of the *generation unit's* output that was *dispatched* as a *constrained on generation unit* or a *constrained off generation unit* determined on the basis of:
- a. fuel costs;
  - b. variable operating and maintenance costs;
  - c. opportunity costs; and
  - d. any other appropriate costs,
- adjusted, where applicable and as the *IMOIESO* may determine appropriate, by deducting an amount equal to the cycle costs incurred in circumstances where a *constrained off generation unit* was required to cease operation solely as a result of being *dispatched* as a *constrained off generation unit*. For the purposes of calculating the short-run marginal cost, the *IMOIESO* may exclude any of the foregoing cost factors, or estimate any of these cost factors, in the event the *market participant* does not supply the necessary information as requested by the *IMOIESO* pursuant to section 1.6.2; and
- 1.6.3.2 the high end of the range shall be 110 percent of the amount calculated in accordance with section 1.6.3.1, adjusted in accordance with one or both of the following as may be applicable and as the *IMOIESO* may determine appropriate:
- a. by adding an amount equal to the cycle costs incurred in circumstances where a *constrained on generation unit* was required to operate solely as a result of being *dispatched* as a *constrained on generation unit*; and

- b. where section 1.6.4 applies, adding an amount equal to the *investigated facility's* fixed and embedded costs or such portion thereof as determined appropriate by the *IMOIESO* in accordance with that section.

1.6.4 Where an *investigated facility* is a *constrained on generation unit* that, in the *IMOIESO's* opinion based on the *investigated facility's* operating history:

1.6.4.1 has not recovered, during the twelve-month period prior to the *constrained on event* to which the *investigated price* relates:

- a. the whole of the operating costs; and
- b. such portion of the fixed and embedded costs as determined appropriate by the *IMOIESO*,

associated with having been dispatched as a *constrained on generation unit* as a result of that *constrained on event*; or

1.6.4.2 in the case of a *generation unit*:

- a. that commenced operations less than twelve months prior to the *constrained on event* in respect of which the *investigated price* was submitted; or
- b. with respect to which the *constrained on event* to which the *investigated price* relates occurred less than twelve months following the *market commencement date*,

might not recover, during the twelve-month period beginning on the date of commencement of operations referred to in section 1.6.4.2(a) or the *market commencement date*, as the case may be,

the *IMOIESO* may make the adjustment referred to in section 1.6.3.2(b) in such amount as determined appropriate by the *IMOIESO*, based on the considerations referred to in section 1.6.5.

1.6.5 In determining whether to make the adjustment referred to in section 1.6.4 and in determining the amount of any such adjustment, the *IMOIESO* shall:

1.6.5.1 consider the *investigated facility's* revenues and operating income associated with dispatch of the *investigated facility* prior to the *constrained on event* to which the *investigated price* relates; and

1.6.5.2 where section 1.6.4.2 applies consider:

- a. the *investigated facility's* revenues and operating income associated with dispatch of the *investigated facility* prior to the *constrained on event* to which the *investigated price* relates; and

- b. based on such forecasts or estimates as the *IMOIESO* considers appropriate including, but not limited to, prorating the revenues and operating income referred to in section 1.6.5.2(a) over the period equal to the difference between (i) and (ii) referred to below in this section 1.6.5.2(b), the revenues and operating income that may be projected or estimated to be associated with *dispatch* of the *investigated facility* for a period equal to the difference between: (i) twelve months; and (ii) the period of time between the date of commencement of operations referred to in section 1.6.4.2(a) or the *market commencement date*, as the case may be, and the *constrained on event* to which the *investigated price* relates.

1.6.6 The *IMOIESO* shall determine the range referred to in section 1.6.1 with respect to an *investigated facility* that is a *constrained on dispatchable load* or a *constrained off dispatchable load* in accordance with the following:

1.6.6.1 the low end of the range shall be 90 percent of the value or opportunity costs associated with that portion of the *facility's* consumption that was *dispatched* as a *constrained on dispatchable load* which may be determined on the basis of:

- a. net profit or value associated with consumption, excluding the costs of purchasing *energy*;
- b. opportunity costs, which may be the alternate cost for obtaining *energy* for consumption; and
- c. any other appropriate value or benefits of consumption to the *market participant*,

adjusted, where applicable and as the *IMOIESO* may determine appropriate, by adding an amount equal to the cycle costs incurred in circumstances where a *constrained on dispatchable load* was required to operate solely as a result of being *dispatched* as a *constrained on facility*. For the purposes of calculating the value or opportunity cost, the *IMOIESO* may exclude any of the foregoing cost factors, or estimate any of these cost factors, in the event the *market participant* does not supply the necessary information as requested by the *IMOIESO* pursuant to section 1.6.2.

1.6.6.2 the high end of the range shall be 110 percent of the amount calculated in accordance with section 1.6.6.1 and adjusted, as may be applicable and as the *IMOIESO* may determine appropriate, by adding an amount equal to the cycle costs incurred in circumstances where the *facility* was *dispatched* as a *constrained off dispatchable load*.

1.6.7 Where the *investigated price* falls outside the range determined in accordance with section 1.6.3 or 1.6.6, as the case may be, the *IMOIESO*:

- 1.6.7.1 shall replace the *investigated price* with a price determined in accordance with section 1.6.8 and revise, for *settlement* purposes, the congestion management *settlement* credit referred to in section 1.1.3 on the basis of such price;
- 1.6.7.2 ~~may impose a financial penalty, determined in accordance with section 1.6.9, on the registered market participant for the investigated facility; and~~ Intentionally left blank – section deleted
- 1.6.7.3 shall provide the *registered market participant* for the *investigated facility* with written reasons describing the manner in which the range referred to in section 1.6.7; and the revision referred to in section 1.6.7.1 ~~and, where applicable, the financial penalty referred to in section 1.6.7.2~~ have been calculated.
- 1.6.8 The price at which the *IMOIESO* shall, pursuant to section 1.6.7.1, replace the *investigated price* shall be determined as follows:
- 1.6.8.1 where the *investigated facility* is a *constrained on generation unit*, the amount determined pursuant to section 1.6.3.2;
- 1.6.8.2 where the *investigated facility* is a *constrained off generation unit*, the amount determined pursuant to section 1.6.3.1;
- 1.6.8.3 where the *investigated facility* is a *constrained off dispatchable load*, the amount that represents the high end of the range referred to in section 1.6.1, determined in accordance with the methodology developed pursuant to section 1.6.6; and
- 1.6.8.4 where the *investigated facility* is a *constrained on dispatchable load*, the amount that represents the low end of the range referred to in section 1.6.1, determined in accordance with the methodology developed pursuant to section 1.6.6.
- 1.6.9 ~~The financial penalty that may be imposed by the *IMO* on the *registered market participant* for an *investigated facility* pursuant to section 1.6.7.2 shall be such amount, up to a maximum of three times the difference between the *investigated price* and the replacement price for that *investigated facility* determined in accordance with section 1.6.8, as the *IMO* considers appropriate.~~ Intentionally left blank – section deleted
- 1.6.10 Where the *investigated price* falls within the range calculated in accordance with section 1.6.3 or 1.6.6, as the case may be, the *IMOIESO* shall not take the action referred to in section 1.6.7 and shall notify the *registered market participant* for the *investigated facility* accordingly.

## 1.7 Settlement

1.7.1 Where the *IMOIESO* revises a *settlement credit* in accordance with section 1.4.5.1 or 1.6.7.1:

- 1.7.1.1 the revision shall be applied, in accordance with section 1.7.2, to the last *preliminary settlement statement* issued to:
- a. the *metered market participant* for the *investigated facility* that is a *generation unit* or *dispatchable load*, or
  - b. the *registered market participant* for the *investigated facility* that is a *boundary entity*
- for the current *billing period* for which such revised *settlement credit* is calculated; and
- 1.7.1.2 a consequential revision effected in accordance with section 1.7.2 shall, where applicable, be applied in accordance with section 4.8.2 of Chapter 9.

1.7.2 Where the *IMOIESO* determines that a revision referred to in section 1.7.1.1 and a consequential revision referred to in section 1.7.1.2 are required to reflect alterations to payments due on a previous *invoice*, the *IMOIESO* shall:

- 1.7.2.1 for the *market participant* for the *investigated facility* referred to in section 1.7.1.1, reflect the revision in the *market participant's* last *preliminary settlement statement* issued for the current *billing period* for which the revised *settlement credit* is calculated;
- 1.7.2.2 for the *market participant* for the *investigated facility* referred to in section 1.7.1.1, include in the *preliminary settlement statement* a debit adjustment reflecting *default interest* on the difference between:
- a. the amount of the *settlement credit* as revised in accordance with section 1.4.5.1 or 1.6.7.1, and
  - b. the amount of the *settlement credit* that would otherwise have been applicable,
- accrued:
- c. from the *date* on which overpayment was made to the *market participant* for the *investigated facility* for the *constrained on event* or the *constrained off event* to which the *investigated price* relates,
  - d. to the *market participant payment date* to which the *preliminary settlement statement* relates; and
- 1.7.2.3 apply the amounts received pursuant to section 1.7.2.1 and 1.7.2.2 in accordance with section 4.8.2 of Chapter 9.

1.7.2.4 [Intentionally left blank]

1.7.2.5 [Intentionally left blank]

1.7.3 [Intentionally left blank]

1.7.3.1 [Intentionally left blank]

1.7.3.2 [Intentionally left blank]

1.7.4 ~~Any penalty imposed on a registered market participant pursuant to this Chapter shall be invoiced to the registered market participant for the investigated facility in accordance with section 4.5 of Chapter 9.~~ [Intentionally left blank – section deleted]

## 1.8 No Prejudice to Other Investigations

1.8.1 Nothing in this Appendix shall preclude the *market assessment unit* or the *market surveillance panel* from conducting, in accordance with section 3 of Chapter 3, any monitoring or evaluation activity or analysis or any investigation with respect to or that involves an *energy bid* or an *energy offer* that has been the subject of an investigation or inquiry pursuant to this Appendix, provided that no *registered market participant* shall, as a result of such activity, analysis or investigation, be subject to the imposition of any financial sanction by the *IMOIESO* other than the revision of a *settlement credit* ~~or the imposition of a financial penalty~~ effected in accordance with this Appendix.

## 1.9 Non-application

1.9.1 Notwithstanding any other provision of this Appendix, the *IMOIESO* shall not commence or continue an investigation or an inquiry pursuant to this Appendix in respect of an *energy offer* or an *energy bid* submitted by a *constrained off facility* or a *constrained on facility* where it is determined that the *facility*:

1.9.1.1 is one with respect to which there exists a *reliability must-run contract* or a *contracted ancillary services contract* with the *IMOIESO* that contains provisions fixing, by reference to a pre-determined amount or to a formula, the price at which *energy offers* or *energy bids* are to be submitted thereunder and the *investigated price* is consistent with such pre-determined amount or formula; and

1.9.1.2 was dispatched as a constrained on facility or a constrained off facility pursuant to and in accordance with such reliability must-run contract or such contracted ancillary services contract.

**PART 5 – IESO BOARD DECISION RATIONALE**

This amendment will clarify and align the market rules defining the local market power mitigation regime with the IESO's existing interpretation and application of that regime.