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**Market Manual 2: Market Administration**

**Part 2.1: Dispute  
Resolution**

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**Issue 14.0**

This procedure provides information to allow *market participants*, the *IESO*, and others to resolve disputes that are subject to the dispute resolution process set forth in the *market rules*.

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This *market manual* may contain a summary of a particular rule. Where provided, the summary has been used because of the length of the *market rule* itself. The reader should be aware, however, that where a *market rule* is applicable, the obligation that needs to be met is as stated in the *market rules*. To the extent of any discrepancy or inconsistency between the provisions of a particular *market rule* and the summary, the provision of the *market rule* shall govern.

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## Related Documents

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| <b>Reference</b> | <b>Description of Change</b>   |
|------------------|--|
| Section 1.5      | Changes to permit service by email and changes of PLC to CDMS in section 1.5 to reflect new IESO operating system. |

# Market Manuals

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The *market manuals* consolidate the market procedures and associated forms, standards, and policies that define certain elements relating to the operation of the *IESO-administered markets*. Market procedures provide more detailed descriptions of the requirements for various activities than is specified in the *market rules*. Where there is a discrepancy between the requirements in a document within a *market manual* and the *market rules*, the *market rules* shall prevail. Standards and policies appended to, or referenced in, these procedures provide a supporting framework.

## Market Procedures

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The “Market Administration Manual” is Volume 2 of the *market manuals*, where this document forms “Part 2.1: Dispute Resolution”.

A list of the other component parts of the “Market Administration Manual” is provided in “Part 2.0: Market Administration Overview, in Section 2, About This Manual”.

## Structure of Market Procedures

Each market procedure is composed of the following sections:

1. **Introduction**, which contains general information about the procedure, including an overview, a description of the purpose and scope of the procedure, and information about roles and responsibilities of the parties involved in the procedure.
2. **Procedural Work Flow**, which contains a graphical representation of the steps and flow of information within the procedure.
3. **Procedural Steps**, which contains a table that describes each step and provides other details related to each step.
4. **Appendices**, which may include such items as standards, policies, agreements and list of forms.

## Conventions

The *market manual* standard conventions are as defined in the “Market Manual Overview” document.

– End of Section –



# 1. Introduction

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## 1.1 Purpose

The purpose of this document is to describe the negotiation, mediation, and arbitration steps that are used to resolve disputes between parties<sup>1</sup> that are subject to the dispute resolution process described in Chapter 3, section 2 of the *market rules*. These disputes are described in Chapter 3, section 2.2.1 of the *market rules* and include most disputes that arise under the *market rules*, disputes that arise under certain agreements to which the *IESO* is a party, and disputes relating to orders by the *IESO* denying authorization to a prospective *market participant* or denying registration to a prospective *metering service provider*.

The dispute resolution provisions of Chapter 3, section 2 of the *market rules* also apply to disputes between *market participants* where all of the parties to the dispute so agree. Accordingly, the procedure outlined in this *market manual* generally also applies to such disputes, though the right to intervene is not available as an option in the context of such disputes.

## 1.2 Scope

This procedure is intended to provide parties to a dispute with a summary of the steps and interfaces involved in the resolution of disputes under the dispute resolution process described in Chapter 3, section 2 of the *market rules*. The procedural work flows and steps described in this document serve as a roadmap for parties to a dispute and reflect the requirements set out in the *market rules* and applicable *IESO* policies and standards.

The dispute resolution process described in this procedure is not intended to be used for *market* surveillance. Where a breach of the *market rules* or inappropriate market conduct is suspected or detected, the matter should be referred to the Market Assessment and Compliance Division. (See “Market Manual 2: Part 2.6: Treatment of Compliance Issues” and “Part 2.7: Treatment of Market Surveillance Issues” for more information on these processes.) Thus, this procedure does not address:

- disputes between the *IESO* and a *market participant* that arise under or are related to a contract between them, unless agreed to by both parties.
- the appointment of the members of the *Dispute Resolution Panel* and the selection of the *secretary* by the *IESO* Board. These matters are addressed in the *IESO* “Governance and Structure By-Law”.
- the execution of confidentiality agreements by members of the *Dispute Resolution Panel*. This matter is addressed by the *IESO* Board when it appoints members to the Panel.

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<sup>1</sup> The parties to a dispute may be the *IESO*, *market participants*, prospective *market participants*, *meter service providers*, prospective *meter service providers*, waiver applicants, connection applicants or market commissioning participants.

- the *IESO's* obligation to *publish* the address of the *secretary* under Chapter 3, section 2.1.4, of the *market rules*.

Other sections of the *market rules* provide for a dispute resolution process prior to or other than that described in this procedure. These address disputes related to:

- *suspension orders* and associated *disconnection orders* issued pursuant to Chapter 3, section 6.3;
- *termination orders* and associated *disconnection orders* issued pursuant to Chapter 3, section 6.4;
- orders cancelling the registration of *facilities* pursuant to Chapter 3, section 6.5;
- the revocation of the registration of a *metering service provider* pursuant to Chapter 3, section 5.3; and
- disputes relating to commissioning.

The role of the *IESO* in the foregoing disputes is likely to be primarily that of a *respondent*, but it may also in certain cases be an *applicant*. The *Dispute Resolution Panel* does not have a role in these disputes, other than with respect to the revocation of the registration of a *metering service provider*, where the Chapter 3, section 2 of the *market rules* process can apply after any show cause hearing held by the *IESO* Board. In all of the above cases, other than in respect of commissioning disputes, the *market participant* or *metering service provider* has an opportunity to request a hearing before the *IESO* Board to show cause why the relevant order should not be issued. In the case of suspension and *termination orders*, an appeal also lies to the *Ontario Energy Board (OEB)*.

Some disputes will be resolved by processes managed by the *OEB*. The role of the *IESO* in the following matters of dispute is likely to be primarily that of a *respondent*, but it may also in certain cases be an *applicant*. The *Dispute Resolution Panel* does not have a role in these disputes. Disputes to be settled through the process(es) established by the *OEB* include:

- a dispute pertaining to non-compliance by the *IESO* with its *licence*;
- the appeal of an *IESO* order pertaining to a financial penalty or other amount of money greater than that prescribed in the applicable *regulation (Electricity Act, 1998, section 36.1 (a))*;
- the appeal of an *IESO* order that denies a person authorization to participate in the *IESO-administered markets (Electricity Act, 1998, 36.1 (b))*;
- the appeal of an *IESO* order to terminate, suspend or restrict the right of a person to participate in the *IESO-administered markets (Electricity Act, 1998, 36.1 (c))*;
- disputes pertaining to proposals to *amend* or not *amend* any provision of Chapter 3, section 2.2.3.2 of the *market rules*;
- the appeal of an arbitration award made under , Chapter 3, section 2.2.3.8 of the *market rules*; and
- certain disputes under *operating agreements* and under certain *ancillary services contracts* and *reliability must-run contracts (Ontario Energy Board Act, 1998, Section 70(3) and IESO Licence, Sections 13.4, 13.5, 14.4, and 15.4.)*

Some disputes will be resolved by processes managed by authorities other than the *IESO* or the *OEB*. The *Dispute Resolution Panel* does not have a role in these disputes, which will typically be resolved using commercial arbitration or the civil courts. Disputes to be settled by processes other than those identified in the *market rules* or managed by the *OEB* include:

- disputes arising under contracts or agreements to which the *IESO* is a party and that are not required to be resolved using the process described in the *market rules* or a process managed by the *OEB*;
- disputes relating to the standards established by a *standards authority*, including the Northeast Power Coordinating Council (*NPCC*) and the North American Electric Reliability Council (*NERC*), to the extent that an agreement with the relevant *standards authority* provides for an alternative dispute resolution mechanism;
- disputes arising under the agreement between the *IESO* and Ontario Power Generation Incorporated regarding the provision of market-based *ancillary services* as contemplated in the *IESO's Licence*; and
- disputes relating to metering under the *Electricity and Gas Inspection Act*. This *Act* contains a dispute resolution process applicable to certain metering disputes that can be used by *market participants* that are not satisfied with the outcome of the *market rules* dispute resolution process<sup>2</sup>.

The overview information in Section 1.3, below, is provided for context purposes only, highlighting the main actions that comprise the procedure as illustrated in Section 2 and described in Section 3.

## 1.3 Overview

This *market* procedure on dispute resolution is the procedure by which disputes described in Chapter 3, Section 2.2.1 of the *market rules* are to be resolved.

The dispute resolution process is inherently unpredictable since, among other reasons, much of the process is dictated or directed by the *mediator* or *arbitrator* (within the scope of the *market rules*) and *settlement* may occur at any stage. As a result, this procedure focuses on the steps by which the party initiating the dispute (the *applicant*) and the party responding to the dispute (the *respondent*) work together and with others to settle or seek a formal resolution of the dispute.

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<sup>2</sup> Note that the process described in this procedure is required to be used first, in this situation.

The dispute resolution process is generally composed of three stages:

- good faith negotiations;
- mediation; and
- arbitration.

These stages are discussed in more detail in Section 2.

## 1.4 Roles and Responsibilities

Responsibility for resolving a dispute through the dispute resolution process is shared between the *IESO* and the other party or parties to the dispute. The role of each party will depend on whether it is initiating or responding to the dispute.

Responsibility for carrying out the procedures involved in dispute resolution is shared among:

- *Applicants* and *respondents*, who are responsible for:
  - submitting a *notice of dispute* in order to begin good faith negotiations;
  - initiating or responding to good faith attempts to resolve the dispute amicably;
  - assigning a negotiator with authority to participate in good faith negotiations aimed at an amicable resolution of the dispute;
  - submitting a *notice of dispute* or *response* in order to begin the mediation or arbitration dispute resolution processes;
  - where mediation applies, assigning a representative to participate in mediation with the authority to bind the represented party to any *settlement* that may be reached; and
  - selecting the *arbitrator* who will arbitrate the dispute in the event that mediation fails, or where mediation is not required, to resolve the matter, and participating in the arbitration hearing.

Responsibility for the administration and implementation of the dispute resolution process is shared among:

- The *Dispute Resolution Panel*, any member of which is appointed to mediate or arbitrate disputes, and the *secretary* of the *Dispute Resolution Panel*, are responsible for:
  - receipt of documentation relating to a dispute that is required by the *market rules* to be filed with the *secretary*;
  - assigning a member of the *Dispute Resolution Panel* to act as *mediator*, as required;
  - providing to the parties a list of five members of the *Dispute Resolution Panel* available for selection as the *arbitrator*;
  - selecting a member of the *Dispute Resolution Panel* as the *arbitrator* if the disputing parties make no such selection within the time required;
  - overseeing the administration of the dispute resolution process once the mediation phase is commenced or dispensed with; and

- maintaining the records of disputes and transferring such records to the *IESO* for archiving.
- The *mediator*, appointed by the *secretary*, is responsible for:
  - presiding over mediation sessions *attended* by the parties;
  - assisting in fact-finding;
  - meeting jointly or separately with the parties;
  - making recommendations for *settlement*;
  - with the consent of the parties, requesting that an employee, officer, director, or agent of the *IESO*, or a member of the *Dispute Resolution Panel*, provide information relevant to the dispute, including *confidential information*; and
  - with the consent of the parties, obtaining expert advice concerning technical aspects of the dispute.

(**Note:** The *mediator* has no authority to make any decision with respect to the outcome of the dispute, and is there to assist the parties in settling their dispute.)

- The *arbitrator*, appointed by the parties to the dispute or by the *secretary*, as the case may be, is responsible for:
  - the receipt of written statements containing submissions from both the *applicant* and the *respondent*;
  - fixing a date, time, and place for the arbitration hearing;
  - in its sole discretion, granting leave to intervene to any *market participant*;
  - filing the record of the arbitration proceedings with the *secretary*;
  - filing an *invoice* containing an itemized statement of the costs of arbitration with the *secretary*;
  - delivering its award in writing within 30 days of completion of the hearing, unless the parties otherwise agree; and
  - filing a copy of its award with the *secretary* and filing a copy with the *IESO* for publishing.
- The *IESO*, which is responsible for:
  - publishing information pertaining to disputes as and when required by the *market rules*;
  - archiving the records of each dispute; and
  - issuing *invoices* to recover the costs incurred in the resolution of a dispute.

Disputes may sometimes involve many parties, with such parties typically being aligned in interest with either the *applicant* or the *respondent*. The dispute resolution procedure described in this document outlines the process for resolving disputes involving only two parties. For disputes involving more than two parties, all other parties should be served with relevant documentation, as applicable, and otherwise treated as a party to the proceedings in the same manner as would apply to a single *applicant* or *respondent*. The procedural rights of an intervenor will be determined by the *arbitrator* when it grants an intervenor leave to intervene.

## 1.5 Contact Information

As part of the participant authorization and registration process, *applicants* are able to identify a range of contacts within their organization that address specific areas of market operations. In the area of disputes, this contact will most likely be the Dispute Resolution Market Contact Type as indicated in CDMS. If a *market participant* has not identified a specific contact, the *IESO* will seek to contact the Main Contact in CDMS that is established during the participant authorization process. The *IESO* will seek to contact these individuals for activities within this procedure, unless alternative arrangements have been established between the *IESO* and the *market participant*. For more information on CDMS and the participant authorization process see “Market Entry, Maintenance and Exit, Part 1.1 – Participant Authorization Maintenance and Exit”.

If the *market participant* wishes to contact the *IESO*, the *market participant* can contact the *IESO* Customer Relations via email at [customer.relations@ieso.ca](mailto:customer.relations@ieso.ca) or via telephone, mail or courier to the numbers and addresses given on the *IESO*'s Web site ([www.ieso.ca](http://www.ieso.ca) - or click on 'Have a question?' to go to the 'Contacting the *IESO*' page). If the *IESO* Customer Relations is closed, telephone messages or emails may be left in relevant voice or electronic *IESO* mail boxes, which will be answered as soon as possible by Customer Relations staff.

Standard forms that participants must complete for this procedure are listed in Appendix A. These forms are generally available for downloading on the *IESO*'s public website. These signed forms as well as the accompanying supporting documentation must be transmitted to the *IESO* via mail, fax, email or courier, by using the appropriate address or number provided on the *IESO*'s public website or on the form. All correspondence relating to this procedure shall identify the **subject: Dispute Resolution**. It is important that proof of service is retained. Service by email will be effective when email confirmation has been received by the party serving the form, from the receiving party. For any questions specific to dispute resolution please contact [customer.relations@ieso.ca](mailto:customer.relations@ieso.ca).

– End of Section –

## 2. Procedural Work Flow

The diagrams in this section represent the flow of work and information relating to the dispute resolution procedure among the *IESO*, the primary external participant involved in the procedure, and any other parties.

The steps illustrated in the diagrams are described in detail in Section 3.

**Table 2–1: Legend for Work Flow Diagrams**

| <b>Legend</b>         | <b>Description</b>   |
|-----------------------|--|
| Oval                  | An event that triggers task or that completes task. Trigger events and completion events are numbered sequentially within procedure (01 to 99).  |
| Task Box              | Shows reference number, party responsible for performing task (if “other party”), and task name or brief summary of task. Reference number (e.g., 1A.02) indicates procedure number within current <i>market manual</i> (1), sub-procedure identifier (if applicable) (A), and task number (02). |
| Solid horizontal line | Shows information flow between the <i>IESO</i> and external parties.   |
| Solid vertical line   | Shows linkage between tasks.   |
| Broken line           | Links trigger events and completion events to preceding or succeeding task.  |

### 2.1 Negotiating in Good Faith

Good faith negotiations are the first stage in attempting to resolve a dispute and this is initiated by the serving of a *notice of dispute* on the *respondent* only. If this process fails to resolve the dispute, the parties may initiate the more formal stage of the dispute resolution process that, as described in Section 2.2 below, commences with the filing of a *notice of dispute* with the *secretary*.

Where the dispute involves an order, direction, instruction or other decision of the *IESO*, issued prior to January 1, 2004, the parties to the dispute must commence good faith negotiations within six years of the date of receipt of the order, direction, instruction or other decision. Where the order, direction, instruction or other decision was issued on or after January 1, 2004, the parties must commence good faith negotiations within two years of the date of receipt of the order, direction, instruction or other decision

In all other cases, good faith negotiations must commence within six years of:

- the date on which the event that is the subject-matter of the dispute occurred; or
- the date on which the party initiating the negotiation became aware or, with the exercise of due diligence, ought to have become aware of the event that is the subject-matter of the dispute,

whichever is the later, where the event occurred prior to January 1, 2004, or where the date on which the party became aware of the event, was prior to January 1, 2004.

For events occurring on or after January 1, 2004, or where the party initiating the negotiation first knew of or should reasonably have known of the event that is the subject matter of the dispute, after January 1, 2004, good faith negotiations must commence within two years of that event or date.

Where a dispute is not settled through good faith negotiations, one of the parties must file with the other a “Notice of Termination of Negotiation” form as available on the *IESO* Web site.

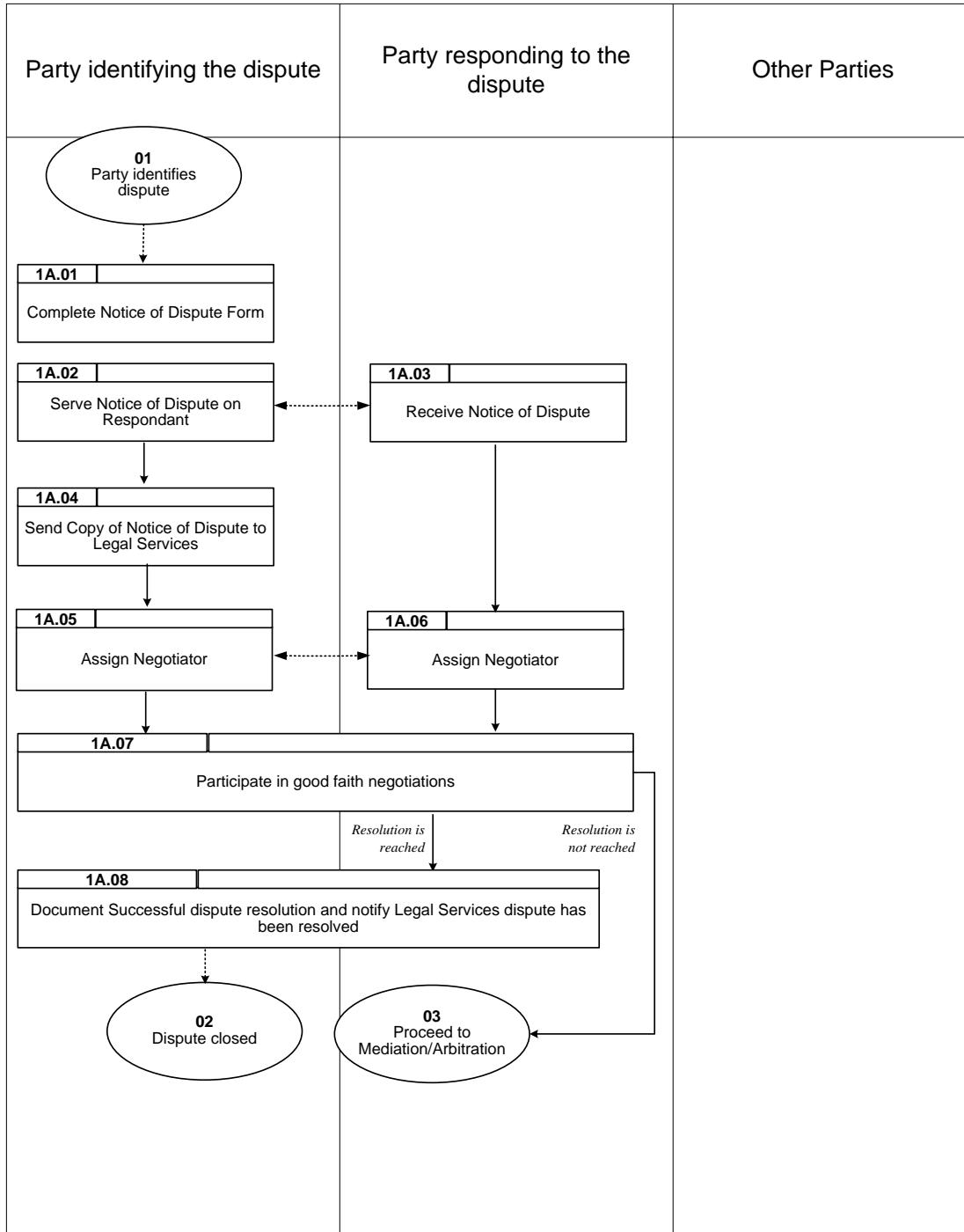
Successful negotiations may lead to a requirement by one party to make a payment to the other or to take some other form of action. The terms and conditions on which any payment is to be made or other action taken will be specific to the agreement reached and, as such, this element is not documented in the work flow diagram presented below.

Figure 2–1 represents the flow of work and information relating to negotiating in good faith between the party identifying the dispute and the party responding to the dispute. The party identifying the dispute or the party responding to the dispute may be the *IESO*, *market participants*, prospective *market participants*, *meter service providers*, prospective *meter service providers*, waiver *applicants*, *connection applicants* or *market commissioning participants*.

The parties to the dispute may wish to enter into a confidentiality agreement at this stage of the dispute resolution process, although it is not required by the *market rules* and is not addressed in Figure 2-1.

The steps illustrated in Figure 2–1 are described in detail in Section 3.1.





**Figure 2–1: Work Flow for Good Faith Negotiations**

## 2.2 Filing a Dispute

Where good faith negotiations fail to reach a resolution the *applicant* may proceed and file the *notice of dispute* with the *secretary*.

At this stage, and unless the parties otherwise agree, the *secretary* will, unless special circumstances or the public interest require him or her to do otherwise, reject a *notice of dispute* or a *response* where he or she determines that the *notice of dispute* or the *response* as the case may be:

- does not contain the information required by the *market rules*;
- is not filed within the time prescribed;
- is not accompanied by the required summary; or
- addresses a dispute with respect to which good faith negotiations were not commenced within the time prescribed (as described in Section 2.1, above).

Where the *secretary* rejects a *notice of dispute* or a *response*, he or she will provide written reasons for the rejection to the *applicant* and the *respondent*. Where a *response* is rejected, the *respondent* should resubmit a revised *response* within the required timeframe.

Figure 2–2 represents the flow of work and information relating to the initiation of the more formal stage of the dispute resolution process. The steps illustrated in Figure 2–2 are described in detail in Section 3.2.

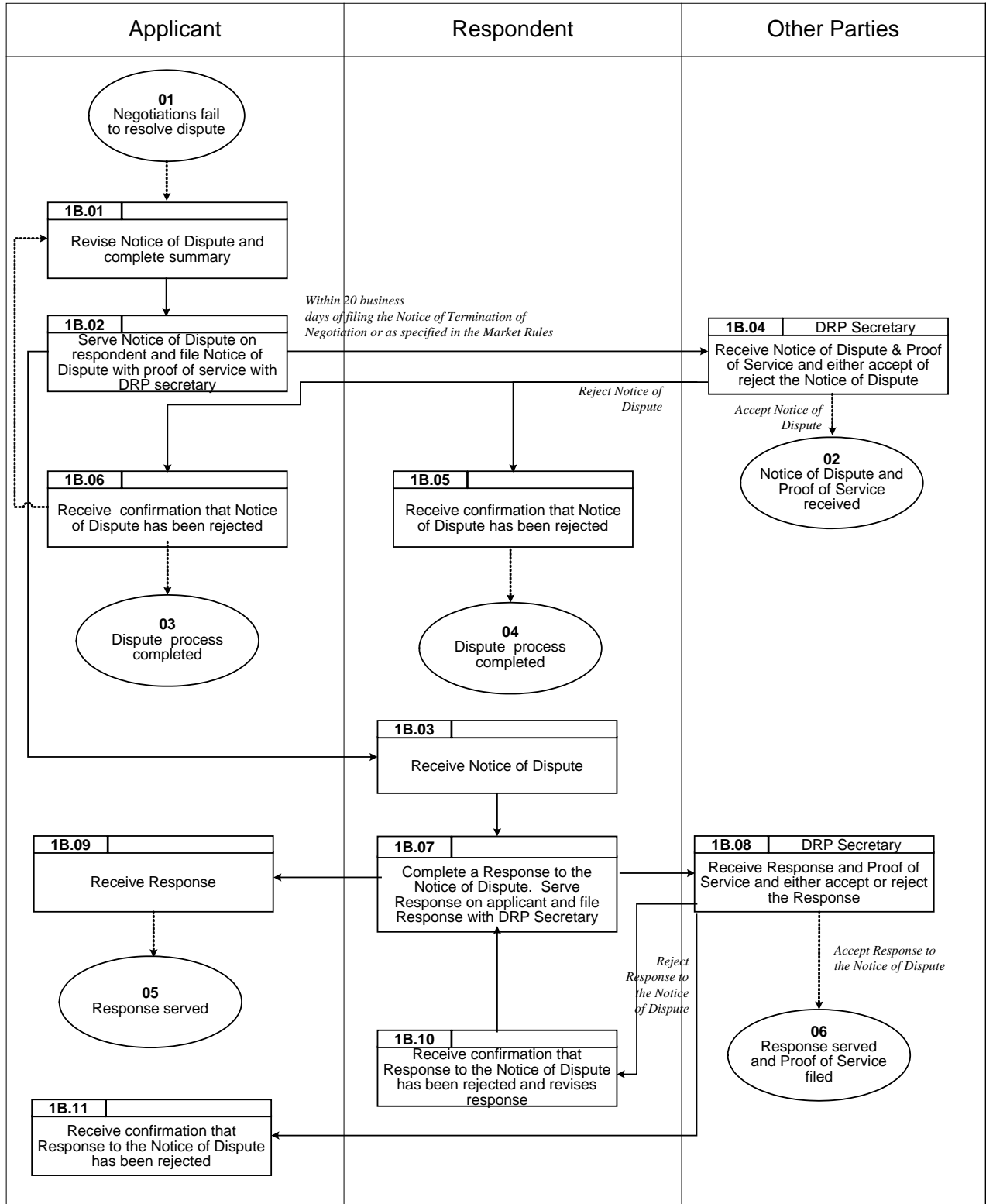


Figure 2–2: Work Flow for Filing a Dispute

## 2.3 Participating in Mediation

The mediation stage of the dispute resolution process is triggered by the service and filing of a *response* to the initial filing of a *notice of dispute* (or, if no *response* is filed, by the expiry of time within which a *response* is required to be filed). Where a *response* contains a cross-claim or counterclaim against another *respondent*, the *secretary* will then wait until the earlier of five *business days* following the filing of a “Response to Cross-claim or Counterclaim” or the expiry of the time for filing a *response* to the last cross-claim filed. At such time, the *secretary* will, unless he or she is of the view that the dispute is not one to which the dispute resolution process set forth in Chapter 3, section 2 of the *market rules* applies (or has received notification that all parties to the dispute agree to dispense with mediation) assign a member of the *Dispute Resolution Panel* to act as *mediator* and will so notify the parties.

Absent agreement of the parties, mediation does not apply to:

- an application by a *generator* for compensation pursuant to Chapter 5, Section 6.7.5 of the *market rules* in respect of an *outage* rejected by the *IESO*;
- a dispute relating to a *reviewable decision* referred to in Chapter 6, section 5.3.9 6 of the *market rules* (revocation by the *IESO* of the registration of a *metering service provider*); or
- a request by a *market participant* for a *settlement statement recalculation* or other dispute referred to in Chapter 9, section 6.8.2A, 6.8.2B or 6.8.9 of the *market rules*.

In these cases, the parties proceed to the arbitration stage described in Section 2.4, below. In addition, where the parties to a dispute agree, they may dispense with the mediation stage by filing a “Notice of Intent to Dispense with Mediation” with the *secretary*. In such circumstances, the parties would similarly proceed to the arbitration stage described in Section 2.4.

Where mediation is successful, the terms of the *settlement* will be included in a *settlement* agreement signed by the parties. A *settlement* agreement resulting from successful mediation may require one party to make payment to another (or to take some other action). The terms and conditions on which any payment is to be made or other action taken will be specific to the agreement reached and, as such, this element is not documented in the work flow diagram presented below.

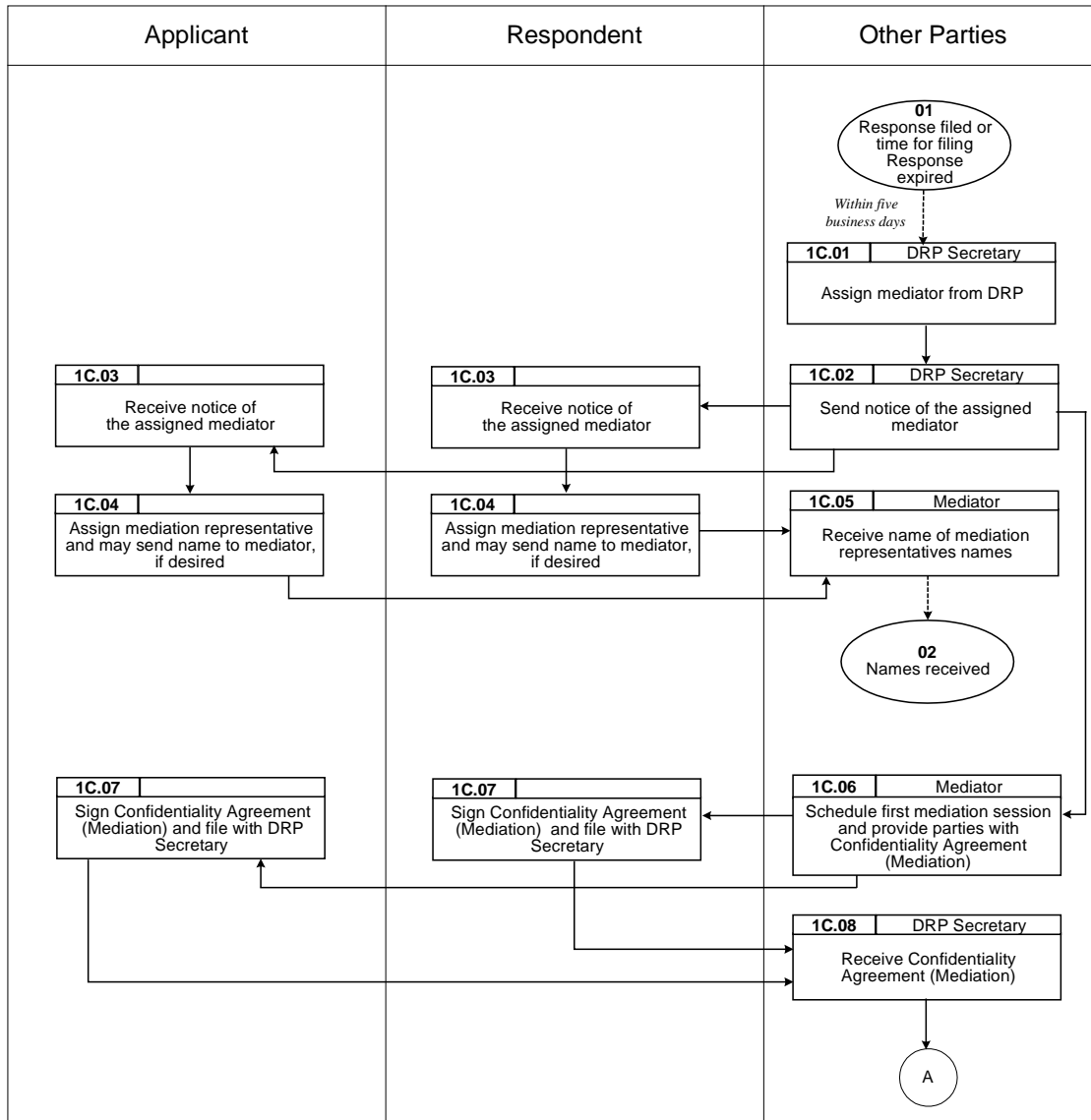
Where mediation is not successful, or the parties have agreed to dispense with mediation, or the time for mediation has expired and not been extended by the parties, the parties proceed to the arbitration stage described in Section 2.4, below. Even though the parties may not have resolved their dispute through the mediation process, they are nonetheless required to attempt to arrive at an agreed statement of fact and/or issues relating to the dispute.

Records of the mediation stage are not all maintained by the *secretary* or transferred to the *IESO* for archiving. Consistent with the confidentiality obligations relating to mediation, only the documents identified in Chapter 3, section 2.9.1A of the *market rules* are maintained by the *secretary* and subsequently transferred to the *IESO* for archiving. All other documents will be disposed of in a secure manner<sup>3</sup>.

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<sup>3</sup> When a *settlement* agreement reflects or contains an element that is, in the opinion of the *IESO Board*, an important matter of public policy or interest, the *IESO* must *publish* a statement describing that matter. For example, a *settlement* agreement may reflect a decision by the *IESO* to interpret a provision of the *market rules* in a particular way. This will be made available on the *IESO* public Web site.

Figure 2–3 represents the flow of work and information relating to the mediation process shared between the parties to the dispute. The steps illustrated in Figure 2–3 are described in detail in Section 3.3.



**Figure 2–3: Work Flow for Participating in Mediation**

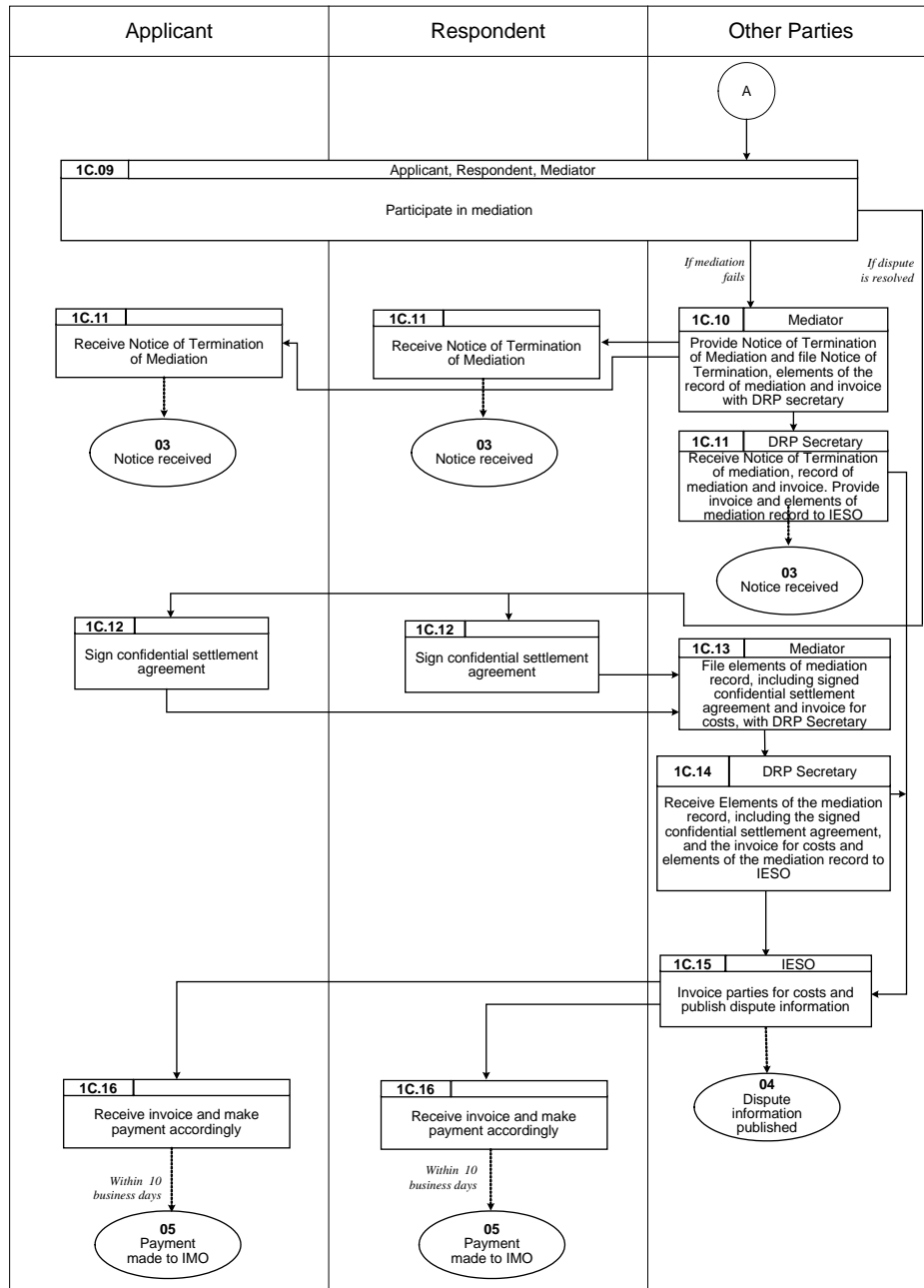


Figure 2-3: Work Flow for Participating in Mediation (continued)

## 2.4 Participating in Arbitration

When mediation fails to resolve a dispute, or where mediation does not apply (either in accordance with the *market rules* or by agreement of the parties), the parties proceed to the arbitration stage. At this time, the process of selecting an *arbitrator* begins.

It is possible for any *market participant* that might be directly affected by the award of the *arbitrator* in a given dispute to request leave to intervene in an arbitration hearing. *Market participants* must apply to the *arbitrator*, on giving notice to the parties to the dispute, at least five *business days* prior to the date of the hearing. The form of “Application for Leave to Intervene” is available on the *IESO* Website.

An award of the *arbitrator* is final and binding on the parties to the dispute, subject only to any rights of appeal or review prescribed by *applicable law*.

The arbitration hearing takes place at a location to be determined by the *arbitrator*. To protect legitimate commercial interests relating to the confidentiality of information that a party may wish or be required to disclose for purposes of an arbitration hearing, the arbitration process is subject to specific rules relating to confidentiality. Specifically, a party to a dispute may claim that a document, or information contained in a document, that is to be produced in the context of arbitration is confidential. The party claiming that the document or information is confidential must provide to the *arbitrator*, in writing, the basis for its assertion of confidentiality. If the *arbitrator* agrees with the claim, procedural safeguards will be established to protect the confidentiality of the information. Such procedural safeguards could include limiting disclosure of the information to independent legal counsel that has signed a confidentiality undertaking as well as holding in camera hearings.

If the *arbitrator* obtains expert advice regarding the technical aspects of a dispute, the *arbitrator* may impose such conditions relating to confidentiality as may be necessary.

An arbitration award resulting from the arbitration process may require one party to make payment to another (or to take some other action). The *arbitrator* has broad jurisdiction to make any award that is just and reasonable, subject to the provisions of the *market rules* relating to liability. Possible awards include:

- damages, in appropriate cases;
- imposition of financial penalties on a *market participant*;
- an order to the *IESO* directing it to comply with the *market rules* or to interpret or apply the *market rules* in a particular manner;
- an order to the *IESO* to authorize a person to participate in the *IESO-administered markets* or to change the conditions of an existing authorization;
- an order to the *IESO* to perform a *settlement statement re-calculation*;
- an order to the *IESO* to register a *metering service provider* or a *metering installation* or to reinstate the registration of a *metering services provider*; and
- an order that compensation be paid to a *generator* in respect of a rejected *outage*.

The terms and conditions on which any payment is to be made or other action taken will be specific to the arbitration award issued and, as such, this element is not generally documented in the work flow diagram presented below. By way of exception, the *market rules* do provide that any payment required to be made under an arbitration award must, unless the award itself provides otherwise, be paid within 30 days of the date of the award.

An award of an *arbitrator* made under the *market rules* is final and binding and is not subject to appeal or review except as permitted by law. Under Section 36(1) of the “Electricity Act”, 1998, the following orders of the *IESO* (including, for this purpose, awards of an *arbitrator* under the *market rules*), are subject to appeal to the *OEB*:

- an order that requires a person to pay a financial penalty;
- an order that denies a person authorization to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*; and
- an order that terminates, suspends, or restricts a *market participant's* rights to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid* (such as the issuance or modification of a *suspension order* or the issuance of a *termination order*).

Initiation of an appeal does not stay the disputed order unless the *OEB* orders otherwise. The appeals process to the *OEB* is not documented further in this procedure.

Figure 2–4 represents the flow of work and information related to the arbitration process shared between the parties to the dispute. The steps illustrated in Figure 2–4 are described in detail in Section 3.4.



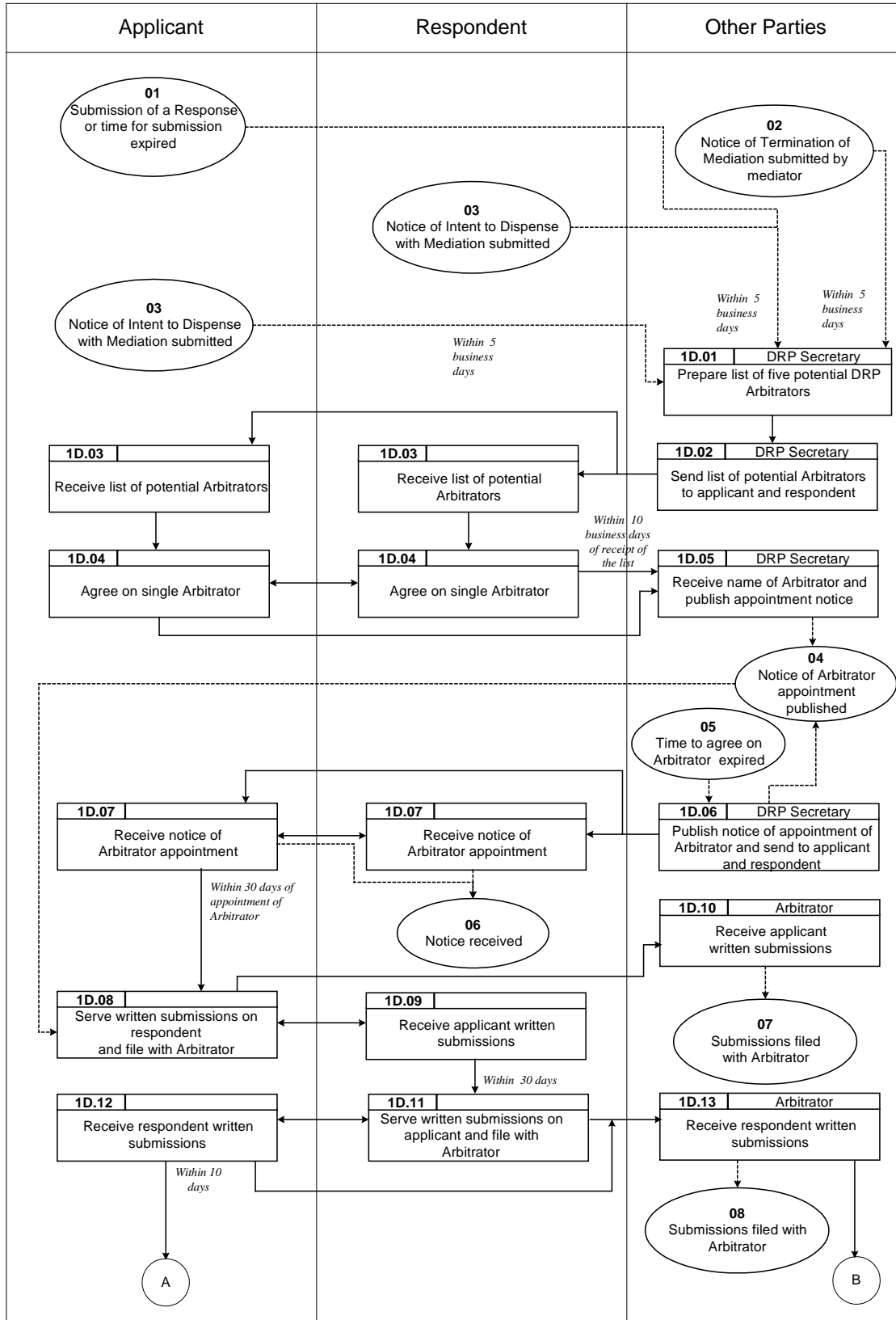


Figure 2-4: Work Flow for Participating in Arbitration

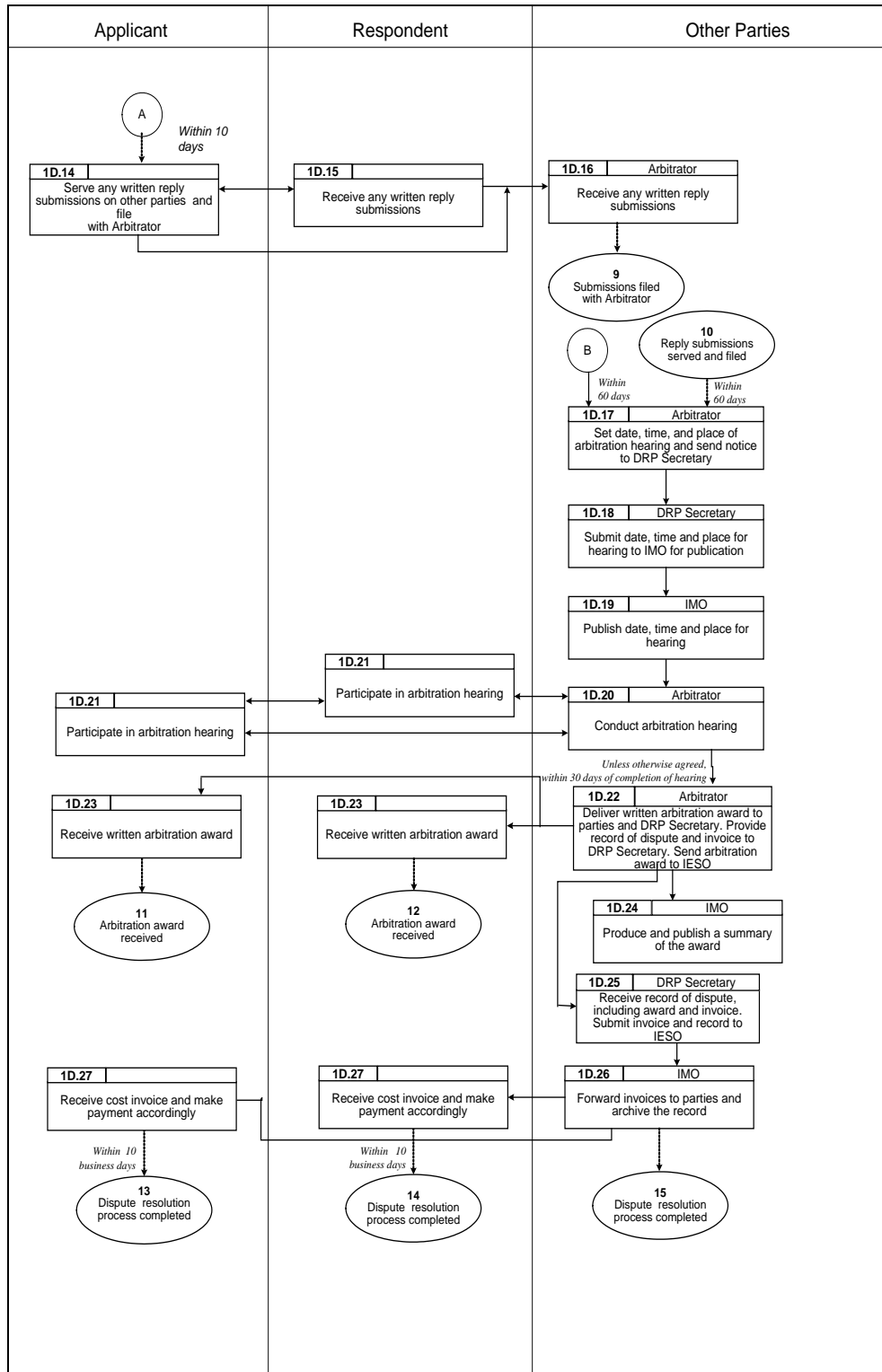


Figure 2-4: Work Flow for Participating in Arbitration (continued)

**– End of Section –**

## 3. Procedural Steps

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This section contains details on the tasks (steps) that comprise the dispute resolution procedure for disputes that are subject to the dispute resolution process set forth in Chapter 3, section 2 of the *market rules*. The steps in the following tables are illustrated in section 2.

The tables contain seven columns, as follows:

### **Ref**

The numerical reference to the task.

### **Task Name**

The task name as identified in section 2.

### **Task Detail**

Detail about the task.

### **When**

A list of all the events that can trigger commencement of the task.

### **Resulting Information**

A list of the information flows that may or must result from the task.

### **Method**

The format and method for each information flow are specified.

### **Completion Events**

A list of all the circumstances in which the task should be deemed finished.

### 3.1 Negotiating in Good Faith

The following table shows the tasks related to negotiating in good faith. The steps described in Table 3–1 are illustrated in Figure 2-1

**Table 3–1: Procedural Steps for Negotiating in Good Faith**

| Ref.            | Task Name  | Task Detail   | When  | Resulting Information                           | Method                           | Completion Events   |
|-----------------|--|---|---|---|----------------------------------|---|
| 1A.01           | Complete <i>notice of dispute</i> form.                  | Party downloads <i>notice of dispute</i> form from the IESO website and completes all sections except the “Summary of Dispute”.   | Upon identification by a disputing party of a dispute with the responding party that is subject to the dispute resolution provisions of Chapter 3, section 2 of the <i>market rules</i> . | <i>Notice of dispute</i> form.                  | Download form from IESO website. | <i>Notice of dispute</i> form complete with the exception of the summary for publication. |
| 1A.02 and 1A.03 | Serve <i>notice of dispute</i> on <i>respondent</i> .    | The party identifying the dispute (‘disputing party’) serves notification of the dispute to the other party involved in the dispute (‘responding party’). The disputing party must retain proof of service as it will be required in <i>notice of dispute</i> filed with the <i>secretary</i> . | When <i>notice of dispute</i> form has been completed as per instructions and within the time set out in section 2.5.1A.  | Documentation of the disputing party’s dispute. | Fax, courier and/or e-mail.      | Notification provided by the disputing party.   |
| 1A.04           | Send copy of <i>notice of dispute</i> to Legal Services. | Send a copy of the <i>notice of dispute</i> to Legal Services.  | When serving <i>notice of dispute</i> on <i>respondent</i> .  |   | Fax, courier and/or e-mail.      | Legal Services receives copy of <i>notice of dispute</i> .                                |
|                 |  |   |   |   |                                  |   |

**Table 3–1: Procedural Steps for Negotiating in Good Faith**

| <b>Ref.</b>     | <b>Task Name</b>  | <b>Task Detail</b>   | <b>When</b>  | <b>Resulting Information</b>                                     | <b>Method</b>                            | <b>Completion Events</b>                                       |
|-----------------|---|--|--|--|--|--|
| 1A.05 and 1A.06 | Assign <i>negotiator</i> .  | The disputing party and the responding party each designate an individual with authority to negotiate the matter in dispute and so inform the other party. | After step 1A.02.  | <i>Negotiator</i> names and contact information.                 | Fax, courier, e-mail and/or telephone.   | <i>Negotiator</i> information recorded by the parties.         |
| 1A.07           | Participate in good faith negotiations.                                     | The negotiators for the parties conduct negotiations in an attempt to resolve the dispute as amicably as possible.   | Upon suggestion and/or arrangement by either <i>negotiator</i> . | If successful:<br>Agreement as to the resolution of the dispute. | In any manner the parties agree to.      | Resolution of the dispute.                                     |
|                 |   |  |  |  | Fax, courier, registered mail or e-mail. | Negotiations terminated and Legal Services notified.           |
| 1A.08           | Document successful resolution of the dispute and file related information. | The parties document the results of the negotiations.  | Upon successful resolution of dispute through negotiations.      | Documented details of dispute resolution.                        | As agreed between the parties.           | Results of the negotiated resolution documented by each party. |
|                 |   |  |  |  |  |  |

## 3.2 Filing a Dispute

The following table shows the steps related to the formal registration of a dispute. The steps described in Table 3–2 are illustrated in Figure 2-2.

**Table 3–2: Procedural Steps for Filing a Dispute**

| Ref.  | Task Name  | Task Detail  | When   | Resulting Information                | Method | Completion Events   |
|-------|--|--|--|--------------------------------------|--------|---|
| 1B.01 | Revise <i>notice of dispute</i> and complete summary of dispute section of the form. | The <i>applicant</i> completes the summary of dispute section of the <i>notice of dispute</i> and completes any revisions to the <i>notice of dispute</i> form previously served on the <i>respondent</i> . This form, including the summary of dispute, must be completed in hard copy. The information to be provided includes the nature and basis for the dispute, <i>market rules</i> at issue, parties to the dispute, concise summary of facts, relief sought, summary of grounds, and a description of supporting documentation. | Upon failure of negotiations to resolve the dispute. | Completed <i>notice of dispute</i> . | None.  | <i>Notice of dispute</i> ", including the summary of dispute completed in a manner suitable for publication if mediation is not successful or inapplicable and parties move to arbitration. |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name   | Task Detail   | When  | Resulting Information | Method   | Completion Events  |
|-------|---|---|---|-----------------------|--|--|
| 1B.02 | Serve <i>notice of dispute</i> on <i>respondent</i> and file <i>notice of dispute</i> and proof of service with <i>Dispute Resolution Panel secretary</i> . | The <i>applicant</i> serves the <i>notice of dispute</i> on the <i>respondent</i> , and files a copy of this “Notice” with proof of service with the <i>Dispute Resolution Panel secretary</i> , in both cases with copies, if any, of any supporting documentation that the <i>applicant</i> considers relevant. | In the event that a dispute is not settled through good faith negotiations. |                       | Fax, courier, registered mail or personal service. | <i>Notice of dispute</i> served and <i>notice of dispute</i> and proof of service filed. |
| 1B.03 | Receive <i>notice of dispute</i> .  | The <i>respondent</i> receives the <i>notice of dispute</i> and the summary of dispute.   | Upon service of the <i>notice of dispute</i> .                              | None.                 | None.  | <i>Notice of dispute</i> and summary of dispute received and processed.                  |



Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name  | Task Detail   | When  | Resulting Information                    | Method | Completion Events   |
|-------|--|---|---|--|--------|---|
| 1B.04 | Receive <i>notice of dispute</i> and proof of service and either accept or reject the <i>notice of dispute</i> . | <p>The <i>secretary</i> receives the <i>notice of dispute</i>, proof of service and the summary of dispute. The <i>secretary</i> ensures the due completion of the summary of dispute.</p> <p>Where the <i>notice of dispute</i>:</p> <ul style="list-style-type: none"> <li>• does not contain the information required by the <i>market rules</i>;</li> <li>• is not filed within the time prescribed;</li> <li>• is not accompanied by the required summary; or</li> <li>• addresses a dispute with respect to which good faith negotiations were not commenced within the time prescribed,</li> </ul> | Upon filing of the <i>notice of dispute</i> and proof of service. | <i>Notice of dispute</i> accepted: None. | None.  | <i>Notice of dispute</i> , proof of service, and summary of dispute received and processed. |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name   | Task Detail   | When  | Resulting Information   | Method                      | Completion Events                  |
|-------|---|---|---|---|-----------------------------|------------------------------------|
|       |   | The <i>secretary</i> rejects a <i>notice of dispute</i> and provides the <i>applicant</i> and the <i>respondent</i> with the reasons for the rejection. |   | <i>Notice of dispute</i> rejected: Rejection of <i>notice of dispute</i> , detailing reasons for rejection. | Courier or registered mail. | <i>Notice of dispute</i> rejected. |
| 1B.05 | Receive confirmation that <i>notice of dispute</i> has been rejected. | The <i>respondent</i> receives confirmation that <i>notice of dispute</i> has been rejected.  | Following Step 1B.04, if <i>notice of dispute</i> is rejected by the <i>secretary</i> . | None.   | None.                       | Dispute process completed.         |
| 1B.06 | Receive confirmation that <i>notice of dispute</i> has been rejected. | The <i>applicant</i> receives confirmation that <i>notice of dispute</i> has been rejected.   | Following Step 1B.04, if <i>is</i> rejected by the <i>secretary</i> .                   | None.   | None.                       | Dispute process completed.         |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name   | Task Detail   | When   | Resulting Information   | Method  | Completion Events  |
|-------|---|---|--|---|---|--|
| 1B.07 | Complete a <i>response</i> (to the <i>notice of dispute</i> ). Serve <i>response</i> on <i>applicant</i> and file <i>response</i> with <i>secretary</i> | The <i>respondent</i> completes the <i>response</i> in the form obtained from the IESO Web site or from Customer Relations. This form, including the Summary of <i>response</i> , must be completed in hard copy. The information to be provided includes the nature and basis for the dispute, the <i>market rules</i> at issue, the parties to the dispute, a concise summary of facts (to the extent that the <i>respondent</i> disagrees with the corresponding information in the <i>notice of dispute</i> ), concise <i>response</i> to allegations against <i>respondent</i> , relief sought, and grounds for applicable counterclaim or cross-claim, and a description of supporting documentation. | Within 10 <i>business days</i> following Step 1B.03. | Completed <i>response</i><br>See form “Response (to a Notice of Dispute)” | Fax, courier, registered mail or personal service | <i>Response</i> served and <i>response</i> and proof of service filed. |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref. | Task Name | Task Detail   | When | Resulting Information | Method | Completion Events |
|------|-----------|---|------|-----------------------|--------|-------------------|
|      |           | The <i>respondent</i> serves the <i>Response</i> on the <i>applicant</i> , and files copy of the <i>response</i> with <i>secretary</i> and proof of service with the <i>secretary</i> , in both cases with copies, if any, of any supporting documentation that the <i>respondent</i> considers relevant. |      |                       |        |                   |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name  | Task Detail   | When  | Resulting Information  | Method                               | Completion Events  |
|-------|--|---|---|--|--------------------------------------|--|
| 1B.08 | Receive <i>response</i> and Proof of Service and either accept or reject the <i>response</i> . | <p>The <i>secretary</i> receives the <i>response</i>, proof of service, and the summary of response. In this regard, the <i>secretary</i> ensures the due completion of the summary of response</p> <p>Where the <i>response</i>:</p> <ul style="list-style-type: none"> <li>• does not contain the information required by the <i>market rules</i>; or</li> <li>• is not accompanied by the required summary,</li> </ul> <p>the <i>secretary</i> rejects the <i>response</i> and provides the <i>respondent</i> with written reasons for the rejection and requests resubmission of the <i>response</i> within the required timeframe.</p> | Upon filing of the <i>response</i> (to a <i>notice of dispute</i> ).  | <i>Response</i> accepted:<br>None.   | None.                                | <i>Response</i> served and <i>response</i> and proof of service filed. |
|       |  |   |   | <i>Response</i> rejected:<br>Rejection of <i>response</i> , detailing reasons for rejection. | E-mail or Telephone followed by mail | <i>Response</i> rejected.  |
| 1B.09 | Receive <i>response</i> .  | The <i>applicant</i> receives the <i>response</i> , and the summary of <i>response</i> .  | Upon service of the <i>response</i> (to a <i>notice of dispute</i> ). | None.  | None.                                | <i>Response</i> served.  |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name   | Task Detail   | When   | Resulting Information  | Method   | Completion Events  |
|-------|---|---|--|--|--|--|
| 1B.10 | Receive confirmation that the <i>response</i> (to the <i>notice of dispute</i> ) has been rejected and revise the <i>response</i> .                       | The <i>respondent</i> receives confirmation that the <i>response</i> (to the <i>notice of dispute</i> ) has been rejected and revises the <i>response</i> in line with the reasons stated in the rejection prior to resubmitting the <i>response</i> through step 1B.07.  | Following Step 1B.08, where the <i>secretary</i> rejects the <i>response</i> . | None.  | None.  | Rejection of <i>response</i> received and <i>response</i> revised accordingly.   |
| 1B.11 | Receive confirmation that the <i>response</i> (to the <i>notice of dispute</i> ) has been rejected.   | The <i>applicant</i> receives confirmation that the <i>response</i> (to the <i>notice of dispute</i> ) has been rejected.   | Following Step 1B.08, where the <i>secretary</i> rejects the <i>response</i> . | None.  | None.  | Rejection of <i>response</i> received.   |
| 1B.12 | Where the <i>response</i> (to the <i>notice of dispute</i> ) includes a cross-claim or counterclaim, prepare “Response to a Cross-claim or Counterclaim”. | The <i>applicant</i> (now the <i>respondent</i> to the cross-claim or counterclaim) prepares a “Response to a Cross-claim or Counterclaim”, along with a summary for publication with the <i>IESO</i> , and serves it on all <i>respondents</i> , and files with “Proof of Service” with the <i>secretary</i> . | Within 10 <i>business days</i> following step 1B.09.                           | Completed <i>response</i> to a Cross-claim or Counterclaim”. | Fax, courier, registered mail or personal service. | “Response to a Cross-claim or Counterclaim” served and “Response to a Cross-claim or Counterclaim” and “Proof of Service” filed. |

Table 3–2: Procedural Steps for Filing a Dispute

| Ref.  | Task Name   | Task Detail   | When   | Resulting Information                                  | Method   | Completion Events  |
|-------|---|---|--|--|--|--|
| 1B.12 | Where the <i>response</i> (to the <i>notice of dispute</i> ) includes a cross-claim or counterclaim, prepare “Response to a Cross-claim or Counterclaim”. | The <i>applicant</i> (now the <i>respondent</i> to the cross-claim or counterclaim) prepares a “Response to a Cross-claim or Counterclaim”, along with a “Summary for Publication” with the <i>IESO</i> , and serves it on all <i>respondents</i> , and files with proof of service with the <i>secretary</i> . | Within 10 <i>business days</i> following step 1B.09. | Completed “Response to a Cross-claim or Counterclaim”. | Fax, courier, registered mail or personal service. | “Response to a Cross-claim or Counterclaim” served and “Response to a Cross-claim or Counterclaim” and “Proof of Service” filed. |

### 3.3 Participating in Mediation

The following table shows the steps related to the mediation process. The steps described in Table 3–3 are illustrated in Figure 2-3.

**Table 3–3: Procedural Steps for Participating in Mediation**

| Ref.  | Task Name   | Task Detail   | When   | Resulting Information                                    | Method                                    | Completion Events   |
|-------|---|---|--|--|---|---|
| 1C.01 | Assign <i>mediator</i> from <i>Dispute Resolution Panel</i> . | The <i>secretary</i> assigns a member of the <i>Dispute Resolution Panel</i> to act as a <i>mediator</i> .                | Within five <i>business days</i> following the earlier of the filing of a <i>response</i> or the expiry of time for the filing of a <i>response</i> , or if a <i>response</i> contains a cross-claim against another <i>respondent</i> , then the earlier of the filing of a <i>response</i> to the last cross-claim filed or the expiry of the time for filing a <i>response</i> to the last cross-claim filed. | None.  | None.                                     | <i>Mediator</i> to conduct the mediation assigned by the <i>secretary</i> .   |
| 1C.02 | Send notice of the assigned <i>mediator</i> .                 | The <i>secretary</i> sends notice of the assigned <i>mediator</i> to the <i>applicant</i> and the <i>respondent</i> .     | Following Step 1C.01.  | Named <i>mediator</i> with relevant contact information. | Fax, courier, registered mail, or e-mail. | Notice of assigned <i>mediator</i> issued by the <i>secretary</i> to the <i>applicant</i> and the <i>respondent</i> . |
| 1C.03 | Receive notice of the assigned <i>mediator</i> .              | The <i>applicant</i> and the <i>respondent</i> receive notice of the assigned <i>mediator</i> from the <i>secretary</i> . | Following Step 1C.02.  | None.  | None.                                     | Notice of assigned <i>mediator</i> received by the <i>applicant</i> and the <i>respondent</i> .                       |



Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name  | Task Detail  | When   | Resulting Information                           | Method  | Completion Events   |
|-------|--|--|--|---|---|---|
| 1C.04 | Assign mediation representative and may send name to <i>mediator</i> , if desired.                 | The <i>applicant</i> and the <i>respondent</i> each assign its own representative duly authorized to mediate on its behalf.  | Following Step 1C.03.  | Optional: Name of mediation representative.     | E-mail, telephone.  | Mediation representatives selected.   |
| 1C.05 | Receive mediation representative names.  | The <i>mediator</i> receives the names of the mediation representatives assigned by the parties to the dispute, where they have chosen to supply this information.   | Following Step 1C.04.  | None.   | None.   | Mediation representative names received.  |
| 1C.06 | Schedule first mediation session and provide parties with “Confidentiality Agreement (Mediation)”. | The <i>mediator</i> schedules the first mediation session to occur within seven <i>business days</i> of notice of the <i>mediator’s</i> appointment (unless otherwise agreed by the parties) and provides the representative of each party with the “Confidentiality Agreement (Mediation)”. | Within seven <i>business days</i> of notice of the <i>mediator’s</i> appointment, unless otherwise agreed by the parties.      | Notice of first mediation session.              | Meetings , as required, information exchanged by fax, courier, e-mail, and/or telephone | First mediation session scheduled and “Confidentiality Agreement (Mediation)” provided by the <i>market rules</i> to the parties. |
| 1C.07 | Sign “Confidentiality Agreement (Mediation)” and file with the <i>secretary</i> .                  | The <i>applicant</i> and the <i>respondent</i> sign the “Confidentiality Agreement (Mediation)” at the first scheduled meeting, and file the signed agreement with the <i>secretary</i> .  | Upon receipt of the “Confidentiality Agreement (Mediation)” from the <i>market rules</i> prior to the first mediation session. | Signed “Confidentiality Agreement (Mediation)”. | Personal service.   | Signed “Confidentiality Agreement (Mediation)” filed with <i>secretary</i> .  |

Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name  | Task Detail  | When   | Resulting Information  | Method   | Completion Events  |
|-------|--|--|--|--|--|--|
| 1C.08 | Receive “Confidentiality Agreement” (Mediation). | The <i>secretary</i> receives the signed “Confidentiality Agreement” (Mediation).  | Following Step 1C.06.  | None.  | None.  | Signed “Confidentiality Agreement” (Mediation) filed with the <i>secretary</i> . |
| 1C.09 | Participate in mediation.                        | <p>The representatives of the parties participate in the mediation process as organized and conducted by the <i>market rules</i><sup>4</sup></p> <p>Mediation is terminated in one of three ways:</p> <ul style="list-style-type: none"> <li>• If the dispute is resolved;</li> <li>• If the <i>mediator</i> determines that mediation will not achieve resolution; or</li> <li>• If the time allotted by the <i>market rules</i> for mediation expires and is not extended by the parties.</li> </ul> | Following Step 1C.07 (and within seven <i>business days</i> of notice of the <i>mediator’s</i> appointment, unless otherwise agreed by the parties). | If mediation successful: Parties sign confidential <i>settlement</i> agreement as described in Step 1D.12. | Fax, courier, registered mail or personal service. | Dispute resolved through mediation.  |

<sup>4</sup> The parties to the dispute and their representatives may attend the mediation session. Other persons may attend only with the permission of the parties and the consent of the *mediator*.

**Table 3–3: Procedural Steps for Participating in Mediation**

| <b>Ref.</b> | <b>Task Name</b> | <b>Task Detail</b> | <b>When</b> | <b>Resulting Information</b>   | <b>Method</b>                                      | <b>Completion Events</b>  |
|-------------|------------------|--------------------|-------------|--|--|---------------------------|
|             |                  |                    |             | If unsuccessful:<br>“Notice of Termination of Mediation” is issued as described in Step 1D.09. | Fax, courier, registered mail or personal service. | Termination of mediation. |

Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name   | Task Detail  | When  | Resulting Information                 | Method   | Completion Events   |
|-------|---|--|---|---------------------------------------|--|---|
| 1C.10 | Provide “Notice of Termination of Mediation” and file Notice of Termination, elements of the record of mediation and <i>invoice</i> with the <i>secretary</i> . | <p>The <i>mediator</i> provides to the <i>applicant</i> and <i>respondent</i>, and files with the <i>secretary</i>, a “Notice of Termination of Mediation” in the event of failed mediation or if the time allowed for mediation expires without extension (unless otherwise agreed to by the parties, the time limit is 10 <i>business days</i> from the date of the first mediation session).</p> <p>The <i>mediator</i> provides the elements of the mediation record<sup>5</sup> and an <i>invoice</i> for costs to the <i>secretary</i>. The “Notice of Termination of Mediation” will be forwarded as soon as it is signed but the <i>mediator</i> may submit the record and <i>invoice</i> at a later date.</p> | Upon determination by the <i>mediator</i> that an impasse or time limit has been reached. | “Notice of Termination of Mediation”. | Fax, courier, registered mail or personal service. | <p>“Notice of Termination of Mediation” provided by the <i>market rules</i> to the <i>applicant</i> and the <i>respondent</i> and filed with the <i>secretary</i>.</p> <p>Elements of the mediation record and <i>invoice</i> provided to the <i>secretary</i>.</p> |

<sup>5</sup> The elements of a mediation record that are required to be filed with the *Dispute Resolution Panel secretary* and transferred to the *IESO* for archiving are the name and address for service of the mediator, the signed “Confidentiality Agreement (Mediation)”, any signed confidential *settlement* agreement, the “Notice of Termination of Mediation”; any agreed statement of fact and/or issues; and information and documentation pertaining to the *costs of the mediation*, including the *mediator’s invoice*.

Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name  | Task Detail   | When   | Resulting Information  | Method | Completion Events  |
|-------|--|---|--|--|--------|--|
| 1C.11 | Receive “Notice of Termination of Mediation”. Provide elements of mediation record and <i>invoice</i> to <i>IESO</i> . | The <i>applicant</i> , <i>respondent</i> and <i>secretary</i> receive a copy of the “Notice of Termination of Mediation”. The <i>secretary</i> provides the elements of mediation record and <i>mediator’s invoice</i> to the <i>IESO</i> . | Following Step 1C.10.                                    | None.  | None.  | “Notice of Termination of Mediation” received by the <i>applicant</i> , the <i>respondent</i> and the <i>secretary</i> .<br><br>Elements of the mediation record and <i>invoice</i> received by the <i>secretary</i> . |
| 1C.12 | Sign confidential <i>settlement</i> agreement.   | The <i>applicant</i> and the <i>respondent</i> sign a confidential <i>settlement</i> agreement setting forth the terms and conditions on which the dispute has been resolved.   | Upon successful resolution of the dispute in Step 1C.08. | Signed confidential <i>settlement</i> agreement containing relevant <i>settlement</i> information. | None.  | Confidential <i>settlement</i> agreement signed.   |

Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name   | Task Detail  | When                  | Resulting Information   | Method   | Completion Events  |
|-------|---|--|-----------------------|---|--|--|
| 1C.13 | File elements of the mediation record, <sup>6</sup> including signed confidential <i>settlement</i> agreement, and an <i>invoice</i> for costs, with the <i>secretary</i> . | The <i>mediator</i> files elements of the mediation record, including the signed confidential <i>settlement</i> agreement and an <i>invoice</i> for costs with the <i>secretary</i> . These may occur in sequence rather than at the same time. The <i>settlement</i> agreement will be forwarded to the <i>secretary</i> as soon as it is signed – there may be some lapse of time thereafter before the <i>market rules</i> submits all other records and the <i>invoice</i> . | Following Step 1C.11. | Elements of the <i>mediator's</i> record of the mediation proceedings, including the signed confidential <i>settlement</i> agreement, and an <i>invoice</i> for costs.<br><br>See form “Invoice for Costs of the Mediation or Costs of the Arbitration” | Fax, courier, registered mail or personal service. | Confidential <i>settlement</i> agreement, elements of the mediation record, and <i>invoice</i> for costs submitted to the <i>secretary</i> . |

<sup>6</sup> The elements of a mediation record that are required to be filed with the *Dispute Resolution Panel secretary* and transferred to the *IESO* for archiving are the name and address for service of the *mediator*, the signed “Confidentiality Agreement (Mediation)”, any signed confidential *settlement* agreement, the “Notice of Termination of Mediation”; any agreed statement of fact and/or issues; and information and documentation pertaining to the *costs of the mediation*, including the *mediator's invoice*.

Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name   | Task Detail  | When                           | Resulting Information   | Method   | Completion Events  |
|-------|---|--|--------------------------------|---|--|--|
| 1C.14 | Receive elements of the mediation record, including the signed confidential <i>settlement</i> agreement, and the “Invoice for Costs”. Provide ‘Invoice for Costs’ and elements of the mediation record to <i>IESO</i> . | The <i>secretary</i> processes the results of the mediation and the <i>invoice</i> obtained from the <i>mediator</i> , and forwards the <i>invoice</i> and the elements of the mediation record to the <i>IESO</i> .   | Following Step 1C.13.          | None.   | Fax or courier.  | Material received by the <i>IESO</i> .   |
| 1C.15 | <i>Invoice</i> parties for costs and <i>publish</i> dispute information, where applicable.  | The <i>IESO</i> <i>invoices</i> parties for the <i>costs of the mediation</i> . Where the mediation was successful, the <i>IESO</i> will <i>publish</i> any element of the confidential <i>settlement</i> agreement that the <i>IESO</i> Board considers should be communicated to the public. Where the mediation was unsuccessful, the <i>IESO</i> will <i>publish</i> the summary of dispute and the summary of <i>response</i> referred to in Steps 1B.01 and 1B.07. | Following Step 1C.11 or 1C.14. | <i>Invoices</i> for <i>costs of the mediation</i> and publication of elements of <i>settlement</i> agreement, where applicable. | Fax, e-mail or courier for <i>invoice</i> .<br><i>IESO</i> Web site for publication. | <i>Invoices</i> sent to parties and elements of <i>settlement</i> agreement published, where applicable. |

Table 3–3: Procedural Steps for Participating in Mediation

| Ref.  | Task Name   | Task Detail   | When   | Resulting Information                                    | Method   | Completion Events                 |
|-------|---|---|--|--|--|-----------------------------------|
| 1C.16 | Receive <i>invoice</i> and make payments accordingly. | The <i>applicant</i> and the <i>respondent</i> receive an <i>invoice</i> from the <i>IESO</i> , corresponding to their respective share of the <i>costs of the mediation</i> , and make payments accordingly. | Following Step 1C.15. Payments must be made within 10 <i>business days</i> . | Basis for payment of the <i>costs of the mediation</i> . | <i>Electronic Funds Transfer</i> or as agreed with <i>IESO</i> . | Payment made to the <i>IESO</i> . |



### 3.4 Participating in Arbitration

The following table shows the steps related to the arbitration process. The steps described in Table 3–4 are illustrated in Figure 2-4

**Table 3–4: Procedural Steps for Participating in Arbitration**

| Ref.  | Task Name  | Task Detail   | When   | Resulting Information                  | Method                                    | Completion Events   |
|-------|--|---|--|--|---|---|
| 1D.01 | Prepare list of five members of the <i>Dispute Resolution Panel</i> available to act as <i>arbitrators</i> . | The <i>secretary</i> prepares a list naming five members of the <i>Dispute Resolution Panel</i> who are available for selection as <i>arbitrators</i> . | Within five <i>business days</i> of receipt of the “Notice of Termination of Mediation”, “Response” or “Notice of Intent to Dispense with Mediation”, depending on the nature of the dispute       | None                                   | None                                      | List of potential <i>arbitrators</i> recorded by the <i>secretary</i>                           |
| 1D.02 | Send list of potential <i>arbitrators</i> to <i>applicant</i> and <i>respondent</i> .                        | The <i>secretary</i> sends the list of five potential <i>arbitrators</i> to the <i>applicant</i> and the <i>respondent</i> .                            | Within five <i>business days</i> of receipt of the “Notice of Termination of Mediation”, <i>response or</i> “Notice of Intent to Dispense with Mediation”, depending on the nature of the dispute. | List of potential <i>arbitrators</i> . | Fax, courier, registered mail, or e-mail. | List of potential <i>arbitrators</i> issued to the <i>applicant</i> and the <i>respondent</i> . |

**Table 3–4: Procedural Steps for Participating in Arbitration**

| <b>Ref.</b> | <b>Task Name</b>   | <b>Task Detail</b>   | <b>When</b>   | <b>Resulting Information</b> | <b>Method</b>  | <b>Completion Events</b>   |
|-------------|--|--|---|------------------------------|--|--|
| 1D.03       | Receive list of potential <i>arbitrators</i> .                           | The <i>applicant</i> and the <i>respondent</i> receive the list of five potential <i>arbitrators</i> from the <i>secretary</i> .   | Following Step 1D.02.   | None.                        | None.  | List of five potential <i>arbitrators</i> received by the <i>applicant</i> and the <i>respondent</i> . |
| 1D.04       | Agree on single <i>arbitrator</i> .                                      | The <i>applicant</i> and the <i>respondent</i> select one of the members on the list of five potential <i>arbitrators</i> to act as <i>arbitrator</i> and advise the <i>secretary</i> accordingly. | Within ten <i>business days</i> of receipt of the list of potential <i>arbitrators</i> from the <i>Dispute Resolution Panel</i> . | Name of <i>arbitrator</i> .  | <i>Applicant</i> and <i>respondent</i> internal and external processes, including <i>applicant</i> and <i>respondent</i> interactions and use of fax, courier, registered mail, or e-mail. | <i>Arbitrator</i> selected by the <i>applicant</i> and the <i>respondent</i> .                         |
| 1D.05       | Receive name of <i>arbitrator</i> and <i>publish</i> appointment notice. | The <i>secretary</i> receives the name of the <i>arbitrator</i> selected by the <i>applicant</i> and the <i>respondent</i> . A notice of appointment is published by the <i>IESO</i> .             | Following Step 1D.04.   | None.                        | <i>IESO</i> Web site for publication of notice of appointment.   | <i>Arbitrator</i> name received and publication by the <i>IESO</i> of notice of appointment.           |

Table 3–4: Procedural Steps for Participating in Arbitration

| Ref.  | Task Name  | Task Detail  | When  | Resulting Information                             | Method  | Completion Events  |
|-------|--|--|---|---|---|--|
| 1D.06 | <i>Publish</i> notice of appointment of <i>arbitrator</i> and send to <i>applicant</i> and <i>respondent</i> . | If the parties fail to select an <i>arbitrator</i> within 10 <i>business days</i> of receipt of the list of potential <i>arbitrators</i> from the <i>secretary</i> , the <i>secretary</i> selects a member of the <i>Dispute Resolution Panel</i> to act as the <i>arbitrator</i> and informs the parties accordingly. | Where the parties do not agree on the appointment of the <i>arbitrator</i> within the time allowed. | <i>Arbitrator</i> appointed by <i>secretary</i> . | Fax, courier, registered mail, or e-mail.<br><br><i>IESO</i> Web site for publication of notice of appointment. | Notice of appointment sent and published.  |
| 1D.07 | Receive notice of appointment of <i>arbitrator</i> .   | The <i>applicant</i> and the <i>respondent</i> receive the notice of appointment of the <i>arbitrator</i> from the <i>secretary</i> . A notice of appointment is published by the <i>IESO</i> .  | Following Step 1D.06.   | None.   | <i>IESO</i> Web site for publication of notice of appointment.  | Notice of appointment of <i>arbitrator</i> received by the <i>applicant</i> and the <i>respondent</i> and published by the <i>IESO</i> . |

**Table 3–4: Procedural Steps for Participating in Arbitration**

| <b>Ref.</b> | <b>Task Name</b>   | <b>Task Detail</b>   | <b>When</b>  | <b>Resulting Information</b>   | <b>Method</b>                                      | <b>Completion Events</b>   |
|-------------|--|--|--|--|--|--|
| 1D.08       | Serve written submissions on <i>respondent</i> and file with <i>arbitrator</i> . | The <i>applicant</i> prepares written submissions, using the form obtained from the IESO Web site or Customer Relations, that documents the issues in dispute, a list of witnesses and a summary of their evidence, its decision to proceed with legal counsel or some other representative, and associated evidence and documents. The <i>applicant</i> serves the submissions and other materials on the <i>respondent</i> and files them with the <i>arbitrator</i> . | Within 30 days following Step 1D.04 or Step 1D.06. | <i>Applicant's</i> submissions and evidence to be used at the arbitration hearing.<br><br>See form "Form for Written Submissions for Arbitration". | Fax, courier, registered mail or personal service. | Written submissions and other materials served on <i>respondent</i> and filed with <i>arbitrator</i> . |
| 1D.09       | Receive <i>applicant's</i> written submissions.                                  | The <i>respondent</i> receives the <i>applicant's</i> submissions and other materials.   | Following Step 1D.08.                              | None.  | None.  | Receipt of <i>applicant's</i> submissions and other materials by <i>respondent</i> .                   |
| 1D.10       | Receive <i>applicant's</i> written submissions.                                  | The <i>arbitrator</i> receives the <i>applicant's</i> submissions and other materials.   | Following Step 1E.08.                              | None.  | None.  | <i>Applicant's</i> submissions and other materials filed with the <i>arbitrator</i> .                  |

Table 3–4: Procedural Steps for Participating in Arbitration

| Ref.  | Task Name   | Task Detail   | When  | Resulting Information  | Method   | Completion Events   |
|-------|---|---|---|--|--|---|
| 1D.11 | Serve written submissions on <i>applicant</i> and file with <i>arbitrator</i> . | <p>The <i>respondent</i> prepares written submissions, using the form obtained from the IESO Web site or the Call Centre, that document the issues in dispute, a list of any witnesses, a summary of their evidence, its decision to proceed with legal counsel or some other representative, and associated evidence and documents. The <i>respondent</i> serves the submissions and other materials on the <i>applicant</i> and files them with the <i>arbitrator</i>.</p> <p>As part of this submission, the <i>respondent</i> may identify a counter-claim against the <i>applicant</i> or a cross-claim against another <i>respondent</i> in the same dispute.<sup>7</sup></p> | Within 30 days following receipt of the <i>applicant's</i> submissions and other materials. | <p><i>Respondent's</i> submissions and evidence to be used at the arbitration hearing.</p> <p>See form "Form for Written Submissions for Arbitration".</p> | Fax, courier, registered mail or personal service. | Written submissions and other materials served on <i>applicant</i> and filed with <i>arbitrator</i> . |

<sup>7</sup> In a situation where a counter-claim is identified within a written submission, the *respondent* may also undertake to serve a written reply submission on the *applicant* and file this with the *arbitrator* (equivalent to Task 1D.14). In a situation where a cross-claim is identified within a written submission, the *respondent* may also undertake to serve a written reply submission on another *respondent* and file this with the *arbitrator* (equivalent to Task 1D.14). These additional tasks are not detailed in the work flow diagram in section 2.

**Table 3–4: Procedural Steps for Participating in Arbitration**

| <b>Ref.</b> | <b>Task Name</b>   | <b>Task Detail</b>  | <b>When</b>  | <b>Resulting Information</b>  | <b>Method</b>                                      | <b>Completion Events</b>   |
|-------------|--|---|--|---|--|--|
| 1D.12       | Receive <i>respondent's</i> written submissions.                                     | The <i>applicant</i> receives the submissions and other materials served by the <i>respondent</i> .   | Following Step 1D.11.  | None.   | None.  | Receipt of <i>respondent's</i> submissions and other materials by <i>applicant</i> .   |
| 1D.13       | Receive <i>respondent's</i> written submissions.                                     | The <i>arbitrator</i> receives the submissions and other materials from the <i>respondent</i> .   | Following Step 1D.11.  | None.   | None.  | <i>Respondent's</i> submissions and other materials filed with the <i>arbitrator</i> . |
| 1D.14       | Serve any written reply submissions on other party and file with <i>arbitrator</i> . | If appropriate, an <i>applicant</i> or a <i>respondent</i> ( <i>applicant</i> by counterclaim or cross-claim) may prepare written reply submissions using the form obtained from the <i>IESO</i> Web site or Customer Relations. The replying party serves the submissions on the other party and files it with the <i>arbitrator</i> . | Within 10 days following Step 1D.09 or Step 1D.12, as the case may be. | Reply submissions<br>See form “Form for Written Reply Submissions for Arbitration”. | Fax, courier, registered mail or personal service. | Written reply submissions served on other party and filed with <i>arbitrator</i> .     |
| 1D.15       | Receive any written reply submissions.   | The other party receives any reply submissions served by the replying party.  | Following Step 1D.14.  | None.   | None.  | Receipt of written reply submissions by other party.                                   |
| 1D.16       | Receive any written reply submissions.   | The <i>arbitrator</i> receives any reply submissions from the replying party.   | Following Step 1E.14.  | None.   | None.  | Reply submissions filed with <i>arbitrator</i> .                                       |

**Table 3–4: Procedural Steps for Participating in Arbitration**

| <b>Ref.</b> | <b>Task Name</b>   | <b>Task Detail</b>   | <b>When</b>   | <b>Resulting Information</b>                  | <b>Method</b>                             | <b>Completion Events</b>                                 |
|-------------|--|--|---|---|---|--|
| 1D.17       | Set date, time, and place of arbitration hearing and notify <i>secretary</i> . | The <i>arbitrator</i> sets the date, time and place for the arbitration hearing, informing the parties and filing this information with the <i>secretary</i> . | Unless otherwise agreed by all parties, the date of hearing cannot be more than 60 days from the date of service and filing of the <i>respondent's</i> submissions and other materials or of service and filing of any reply submissions, as the case may be. | Date, time, and place of arbitration hearing. | Fax, courier, registered mail, or e-mail. | Date, time and place of arbitration hearing established. |
| 1D.18       | Submit date, time and place for hearing to <i>IESO</i> for publication.        | The <i>secretary</i> sends the date, time and place for the arbitration hearing to the <i>IESO</i> for publication.  | Following Step 1D.17.   | Date, time, and place of arbitration hearing. | Fax, courier, registered mail, or e-mail. | <i>IESO</i> receives information for publication.        |
| 1D.19       | <i>IESO publishes</i> date, time and place for arbitration hearing.            |  | Following Step 1D.18.   | Date, time, and place of arbitration hearing. | <i>IESO</i> Web site.                     | Date, time, and place of arbitration hearing published.  |
| 1D.20       | Conduct arbitration hearing.   | The <i>arbitrator</i> conducts the arbitration hearing.  | According to date set by <i>arbitrator</i> .  | Award of <i>arbitrator</i> .                  | Arbitration hearing.                      | Arbitration hearing completed.                           |
| 1D.21       | Participate in arbitration hearing.  | The <i>applicant</i> and the <i>respondent</i> participate in the arbitration hearing.   | According to date set by <i>arbitrator</i> .  | None.   | None.                                     | Arbitration hearing completed.                           |

**Table 3–4: Procedural Steps for Participating in Arbitration**

| <b>Ref.</b> | <b>Task Name</b>   | <b>Task Detail</b>  | <b>When</b>  | <b>Resulting Information</b>  | <b>Method</b>                     | <b>Completion Events</b>  |
|-------------|--|---|--|-------------------------------|-----------------------------------|---|
| 1D.22       | Deliver written arbitration award to parties and <i>secretary</i> . Provide record of dispute and <i>invoice</i> to <i>secretary</i> . Send arbitration award to <i>IESO</i> . | The <i>arbitrator</i> delivers an award to the <i>applicant</i> and the <i>respondent</i> and files a copy with the <i>secretary</i> . The arbitration award is sent to the <i>IESO</i> to enable a summary to be published. The arbitration award will be filed with the <i>secretary</i> as soon as it is issued – there may be some lapse of time thereafter before the <i>arbitrator</i> submits all other records and the <i>invoice</i> . | Unless otherwise agreed between the parties, within 30 days following the completion of the arbitration hearing. | Arbitration award.            | Fax, courier, or registered mail. | Written arbitration award delivered to the parties and filed with the <i>secretary</i> .  |
| 1D.23       | Receive written arbitration award.   | The <i>applicant</i> , <i>respondent</i> and <i>secretary</i> receive a copy of the written arbitration award from the <i>arbitrator</i> .  | Following Step 1D.22.  | None.                         | None.                             | Arbitration award received by <i>applicant</i> , <i>respondent</i> and <i>secretary</i> . |
| 1D.24       | Produce and <i>publish</i> summary of the award.   | <i>IESO</i> produces and <i>publishes</i> a summary of the arbitration award.   | Following Step 1D.22.  | Summary of arbitration award. | <i>IESO</i> Web site.             | Arbitration award summary published.  |



Table 3–4: Procedural Steps for Participating in Arbitration

| Ref.  | Task Name   | Task Detail   | When  | Resulting Information  | Method   | Completion Events  |
|-------|---|---|---|--|--|--|
| 1D.25 | Receive record of dispute, including award and <i>invoice</i> . Submit <i>invoice</i> and record to <i>IESO</i> . | The <i>secretary</i> forwards the arbitration record and <i>invoice</i> to the <i>IESO</i> . If not previously sent, the <i>Dispute Resolution Panel secretary</i> also forwards to the <i>IESO</i> the elements of the mediation record referred to in Step 1D.10. These may occur in sequence rather than at the same time. | Following the completion of the arbitration hearing.  | <i>Dispute Resolution Panel secretary</i> and <i>IESO</i> files containing arbitration record and <i>invoice</i> .<br><br>See form “Invoice for Costs of the Mediation or Costs of the Arbitration”. | Fax, courier, registered mail or personal service.                 | Records of arbitration proceedings and costs filed with <i>secretary</i> and received by the <i>IESO</i> . |
| 1D.26 | Forward <i>invoices</i> to parties and archive the records.   | The <i>IESO</i> submits an <i>invoice</i> to each party for its share of the costs of the arbitration and archives the dispute record.  | Following Step 1D.25.   | All information required to close the arbitration process.   | Fax, e-mail, courier, or registered mail.                          | <i>Invoice</i> submitted to the <i>applicant</i> and the <i>respondent</i> . Records archived.             |
| 1D.27 | Receive <i>invoice</i> and make payment accordingly.  | The <i>applicant</i> and the <i>respondent</i> receive an <i>invoice</i> , corresponding to their respective shares of the costs of the arbitration, and make their payments accordingly.   | After the <i>IESO</i> has received and processed the <i>invoice</i> prepared by the <i>arbitrator</i> .<br><br>Parties must settle their <i>invoices</i> within 10 <i>business days</i> of receipt. | Basis for payment of the costs of the arbitration.   | <i>Electronic Funds Transfer</i> , or as agreed with <i>IESO</i> . | Dispute resolution process completed, following payment of all costs of the arbitration.                   |

**- End of Section**

## Appendix A: Forms

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This appendix contains a list of the forms associated with the “Dispute Resolution Procedure”. These forms are available on the *IESO* public Web site in the same location as this procedure. The forms included are as follows:

| <b>Form Name</b>  | <b>Form Number</b> |
|---|--------------------|
|   |                    |
| Notice of Dispute   | IESO_FORM_1001     |
| Response (to a Notice of Dispute)   | IESO_FORM_1002     |
| Response to a Cross-claim or Counterclaim   | IESO_FORM_1446     |
| Notice of Intent to Dispense with Mediation   | IESO_FORM_1095     |
| Confidentiality Agreement (Mediation)   | IESO_AGR_0005      |
| Notice of Termination of Mediation  | IESO_FORM_1097     |
| Dispute Resolution Form for Written Submissions for Arbitration   | IESO_FORM_1090     |
| Dispute Resolution Form for Written Reply Submissions for Arbitration   | IESO_FORM_1091     |
| Dispute Resolution Leave to Intervene   | IESO_FORM_1092     |
| Invoice for Costs of the Mediation or Costs of the Arbitration (to be completed by the mediator or by the arbitrator) | IESO_FORM_1094     |

– End of Section –

## References

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| <b>Document ID</b> | <b>Document Title</b>   |
|--------------------|---|
| MDP_RUL-0002       | Market Rules  |
| MDP_MAN_0002       | Market Manual 2: Market Administration, Part 2.0: Market Administration Overview          |
| MDP_PRO_0022       | Market Manual 2: Market Administration, Part 2.6: Treatment of Compliance Issues          |
| MDP_PRO_0023       | Market Manual 2: Market Administration, Part 2.7: Treatment of Market Surveillance Issues |
|                    | IESO Governance and Structure By-Law  |
|                    | Electricity Act 1998  |
|                    | Ontario Energy Board Act, 1998  |
|                    | Electricity and Gas Inspection Act  |

– End of Document –