



IESO Staff Recommendation to Panel on Exemption Reconsideration

All information submitted in this process will be used by the IESO solely in support of its obligations under the "Electricity Act, 1998", the "Ontario Energy Board Act, 1998", the *market rules* and associated policies, standards and procedures and its licence. All submitted information will be assigned the appropriate confidentiality level upon receipt.

Terms and acronyms used in this Form that are italicized have the meanings ascribed thereto in Chapter 11 of the *market rules*.

PART 1 – GENERAL INFORMATION

Market Participant Name: **Gerdau Long Steel (“Gerdau”)**

Location/Site: **Whitby, ON / GERDAUWBY-LT.T3_LF (“Gerdau Whitby’s dispatchable load”)**

Exemption Application ID: **1304**

Market Participant ID:

Description of Exemption Reconsideration Requested: **Dispatchable Loads with electric arc furnaces have a variable consumption pattern. In order to participate in the energy and operating reserve markets, the market participant requires an exemption from the following provisions of the market rules:**

- Section 1.2.1 of Appendix 5.1;
- Section 1.2.4 of Appendix 5.1;
- Section 2.1.2 of Chapter 7;
- Section 3.3.8 of Chapter 7;
- Section 7.5.1 of Chapter 7;
- Section 7.5.2 of Chapter 7;
- Section 7.4.2 of Chapter 7;
- Section 7.4.2.1 of Chapter 7; and
- Section 3.4.2 of Chapter 9.

Date to *Publish* Exemption Reconsideration: **June 10, 2022**

Management Approvals Obtained: Yes No

The exemption reconsideration is requested to address:

Compliance Activities Change in Circumstances

Section of the Exemption Application and Assessment Procedure under which the exemption reconsideration is made:

- **Section 1.9 “Reconsideration/Removal of Exemptions”**

Third Party Submissions Received: Yes No *Pending Third Party Review*

Supplemental Assessment Information Attached: Yes No

PART 1 – GENERAL INFORMATION

Related Historical *Exemption Application(s)* or Related *Exemption Application(s)* in Process:

Yes No

Note: If YES, list history of *exemption applications*:

Exemption application # 1304 (approved for Gerdau on December 16, 2004)

Role of *exemption applicant* in the market as it relates to this *exemption application*: **Dispatchable Load**

PART 2 – RECOMMENDATION

Recommendation: IESO staff recommend that the exemption reconsideration be granted on the following basis:

- 1- Gerdau Long Steel will be required to operate its dispatchable load facility within pre-defined operating parameters that prescribe IESO expectations for the facility. These operating parameters are specified in Appendix A of the IESO staff recommendation and will help to ensure reliability of the IESO-controlled grid.
- 2- Given the variable operating nature of Gerdau Long Steel's electric arc furnace, the facility will be limited to offering no more than their average dispatchable consumption into the operating reserve market, which is further described in Appendix A.
- 3- Gerdau Long Steel will be exempt from the proposed inaccessible operating reserve settlement charge in MR-00467-R00 which will be considered by the Technical Panel in June 2022.

PART 2 – RECOMMENDATION

Criteria Used in Assessment of Exemption Reconsideration (Section 1.9.2 of Exemption Application and Assessment Procedure):

(If X appears in a box, the criterion is applicable to this *exemption* reconsideration and is evaluated in Part 3 - Details of Assessment; if X does not appear in a box, the criterion is not applicable to this *exemption* reconsideration.)

Whether the reconsidered *exemption* would, if granted, materially:

- impact the ability of the *IESO* to direct the operations and maintain the *reliability* of the *IESO-controlled grid*;

Provided that Gerdau Whitby’s dispatchable load complies with the terms and conditions in the proposed reconsidered *exemption*, there will be a positive impact on the ability of the *IESO* to direct the operations and maintain the *reliability* of the *IESO-controlled grid*.

This is because there will be less inaccessible operating reserve scheduled from the facility than was highlighted in the relevant Market Surveillance Panel [report](#).

- impact the ability of the *IESO* to ensure non-discriminatory access to the *IESO-controlled grid*;
- affect the ability of the *IESO* to operate the *IESO-administered markets* in an efficient, competitive, and reliable manner;

Provided that Gerdau Whitby’s dispatchable load complies with the terms and conditions in the proposed reconsidered *exemption*, there will be a positive impact on the efficiency of the *IESO-administered markets*. This is because there will be less inaccessible *operating reserve* scheduled from the facility than was highlighted in the relevant Market Surveillance Panel [report](#).

On net, the terms and conditions in the proposed reconsidered *exemption* does not materially affect the ability of the *IESO* to operate the *IESO-administered markets* competitively. This is because the maximum amount of *operating reserve* that may be offered by Gerdau Whitby’s dispatchable load is defined by the proposed *exemption* even though it is exempt from the inaccessible *operating reserve* settlement charge.

- increase costs of *market participants*; or

While the reconsidered *exemption* will limit the amount of inaccessible *operating reserve* scheduled from the facility compared to what was highlighted in the relevant Market Surveillance Panel [report](#), it will also grant an *exemption* from the inaccessible *operating reserve* settlement charge so long as Gerdau Whitby’s dispatchable load complies with the terms and conditions set out in the reconsidered *exemption*. In doing so, the reconsidered *exemption* limits the ability in future of the *IESO* to recover payments for scheduled *operating reserve* that was inaccessible.

- increase costs of the *IESO*;

Whether the *exemption* that is the subject-matter of the *exemption* reconsideration would, if granted, give the *exemption applicant* an undue preference in the *IESO-administered markets*;

PART 2 – RECOMMENDATION

Whether the cost or delay to the *exemption applicant* of complying with the obligation or standard to which the *exemption* reconsideration relates is reasonable, having regard to the nature of the obligation or standard, the nature of the *exemption application* and the anticipated impact of non-compliance by the *exemption applicant* in terms of the elements referred to above;

The cost to Gerdau Whitby’s dispatchable load of complying with the terms and conditions in their current *exemptions* as well as of complying with the inaccessible *operating reserve* settlement charge is reasonable. As the settlement charge will become fully automated, there is no additional cost to Gerdau Whitby’s dispatchable load to comply.

The adequacy of the *exemption* plan submitted by the *exemption applicant*;

Where the *exemption applicant* is the *IESO*, the identification of the benefit to *market participants* of compliance with the obligation or standard relative to the financial and other resources required to achieve compliance within such deadlines as may be applicable;

Where the *exemption applicant* is the *IESO*, the manner in which it proposes to operate in the *IESO-administered markets* or direct the operations and maintain the *reliability* of the *IESO-controlled grid* during the period in which the *exemption* would be in effect;

Whether the *facility* or equipment that is the subject-matter of the *exemption application*:

- was in service or was returned to service on the date on which the obligation or standard to which the *exemption* application relates came into force;

Gerdau Whitby’s electric arc furnace was established in 1964.

- was ordered by the *exemption applicant* on or prior to the date on which the obligation or standard to which the *exemption application* relates came into force; or
- was in the process of construction on or prior to the date on which the obligation or standard to which the *exemption application* relates came into force; and

The capability of the owner of the *facility* to operate the *facility* consistent with the terms of the proposed reconsidered *exemption*.

The terms and conditions of the reconsidered exemption have been discussed with Gerdau. The *IESO* does not have any reason to believe that Gerdau Whitby’s dispatchable load will be unable to operate consistent with the terms and conditions of the proposed reconsidered *exemption*.

PART 3 – DETAILS OF ASSESSMENT

SUMMARY

Since market opening the IESO has been a leader in enabling demand-side participation, including that of dispatchable loads. For nearly 20 years, dispatchable loads have participated in the IESO’s real-time markets, providing the IESO with the ability to direct their operations during times of system need and a source of operating reserve (OR) without the need for complex and expensive changes to scheduling software. In return, the loads have benefitted from reduced energy bills. In the early days of the market, accommodations were made to performance expectations to balance the needs of the power system with the operating characteristics of these facilities – reflected in a set of approved market rule exemptions. That said, there are improvements to dispatchable load participation in the wholesale markets that can be made.

Gerdau’s existing exemption application was granted by the Exemption Review Panel on December 16, 2004. IESO staff requested a reconsideration of the exemption application as a result of a change in circumstances. The IESO staff recommendation should not be construed as providing any interpretation on the scope of the existing exemption.

1. Addressing Market Surveillance Panel (MSP) recommendations

The concerns raised by the MSP relate to both compensation and reliability. Participants should not be compensated for OR that cannot be accessed by the IESO when requested. Additionally, inaccessible OR impedes the IESO’s ability to rebalance the system quickly following a contingency event. This may lead to the IESO being forced to activate more OR than would otherwise be necessary, which comes at an additional expense to ratepayers. In order to effectively address the MSP’s recommendations in a manner which aligns with the unique operating characteristics of an electric arc furnace, it is necessary to reconsider the existing exemption.

2. The Improving Accessibility of Operating Reserve initiative

The IESO is undertaking proposed market rule amendments as part of the Improving Accessibility of Operating Reserve Initiative to implement an inaccessible operating reserve settlement charge.

Since the proposed reconsidered exemption describes how Gerdau Whitby’s dispatchable load will offer into the operating reserve market in order to address the issue of inaccessible operating reserve, it is necessary for the reconsidered exemption to include specific terms and conditions which adequately address the application of the proposed inaccessible operating reserve settlement charge in the context of such an exemption.

The exemption review panel (“the Panel”) approved the commencement of the exemption reconsideration process in August 2021.

The terms and conditions of the proposed reconsidered exemption attempt to strike a balance between Gerdau’s participation in the OR market, reliable system operation and ratepayer value. They define the amount of energy and operating reserve that Gerdau can bid and offer, describe how Gerdau will operate in response to certain dispatch instructions and prescribe when Gerdau shall alter or remove

PART 2 – RECOMMENDATION

bids and offers in response to changes in their normal consumption pattern. Recognizing that the terms and conditions of the proposed reconsidered exemption defines the amount of operating reserve that Gerdau can offer, the proposed reconsidered exemptions also provides an exemption from the inaccessible operating reserve settlement charge. This exemption will hold so long as Gerdau complies with the terms and conditions within the reconsidered exemption.

PART 4 – TERMS AND CONDITIONS

Effective Date of Exemption (or event causing exemption to become effective)	<Insert effective date – date MR is effective>
Date of Expiration of Exemption <ul style="list-style-type: none"> - If greater than 5 years, the Panel must be satisfied that the circumstances justify a later date - Circumstances which will cause the exemption to immediately expire 	Exemption will be effective until: <ul style="list-style-type: none"> - Gerdau Whitby’s dispatchable load registration status changes to be non-<i>dispatchable</i> - Gerdau Whitby’s dispatchable load ceases utilizing electric arc furnaces in its operations - <i>IESO</i> implements necessary tool and/or <i>market rule</i> changes, as applicable, such that the <i>IESO</i> determines the Exemption is no longer required
Market Rule(s) or related Market Manual(s) from which the Exemption is granted	<ul style="list-style-type: none"> - Section 1.2.1 of Appendix 5.1; - Section 1.2.4 of Appendix 5.1; - Section 2.1.2 of Chapter 7; - Section 3.3.8 of Chapter 7; - Section 7.5.1 of Chapter 7; - Section 7.5.2 of Chapter 7; - Section 7.4.2 of Chapter 7; - Section 7.4.2.1 of Chapter 7; and - Section 3.4.2 of Chapter 9.
Restrictions on the manner of operation and/or additional obligations to be met during the term of the Exemption, if any	See Appendix A in regards to operational parameters for Gerdau Whitby’s dispatchable load
Monitoring information required	N/A
Payment of Costs <ul style="list-style-type: none"> - Processing costs (when introduced) - Incremental Exemption costs - Settlement amounts to be withheld or repaid 	N/A
Reconsideration/Removal	The Exemption may be reconsidered, at the sole discretion of the <i>IESO</i> , if:

<ul style="list-style-type: none"> - Date on which the Exemption will be reconsidered (if applicable) - Circumstances under which the Exemption will be reconsidered (if applicable) other than unforeseen future change in circumstances 	<ul style="list-style-type: none"> - the <i>dispatchable</i> consumption of Gerdau Whitby's dispatchable load deviates significantly from its Normal Consumption Pattern, including in the following circumstances: <ul style="list-style-type: none"> o the peak <i>dispatchable</i> consumption of Gerdau Whitby's dispatchable load exceeds the <insert value of maximum <i>dispatchable</i> consumption from NCP multiplied by 1.25> in 10% or more of peak <i>meter intervals</i> over any consecutive 6 month period, where peak <i>meter intervals</i> refers to the <i>meter interval</i> within each <i>settlement hour</i> during business hours where Gerdau Whitby's dispatchable load's consumption is the greatest. o the timing of the production cycle consistently deviates from its Normal Consumption Pattern, as determined by the <i>IESO</i> - the <i>IESO</i> determines that allowing Gerdau to continue to operate as specified in this Exemption would have a detrimental impact on the <i>IESO's</i> ability to maintain the <i>reliability</i> of the <i>IESO-controlled grid</i> - the <i>IESO</i> implements any market rule amendment which impacts this Exemption
<p>Transferability</p> <ul style="list-style-type: none"> - List the terms and conditions that need to be met to allow for a transfer of this exemption to be approved by IESO staff - Transferability in respect of a corporation, refers to a change of control of the corporation within the meaning of the Business Corporations Act (Ontario) 	<p>None</p>
<p>Other</p>	<p>Exemption only applies to Gerdau Whitby's dispatchable load</p>

Appendix A – Operating Parameters

- 1) For the purposes of this Exemption, the following terms shall have the following meanings:
 - (a) “Charge” means the non-accessibility charge specified in section 7.4.2.1 of Chapter 7 and calculated in accordance with section 3.4.2 of Chapter 9.
 - (b) “Historical Energy Consumption” means the amount determined in accordance with section 11 of this Appendix A.
 - (c) “Maximum OR Offer” means the amount determined in accordance with section 15 of this Appendix A.
 - (d) “Normal Consumption Pattern” means the repeated production cycles at Gerdau Whitby’s dispatchable load and consists of the following *dispatchable* consumption pattern in the following order with no delays between each step, and as further described in the load profile provided by the dispatchable load and determined to be confidential information for public posting:
 - (i) down time ranging from <insert value> minutes of *dispatchable* consumption of less than 1MW;
 - (ii) *dispatchable* consumption increase over a period of <insert value> minutes to within <insert value> of maximum *dispatchable* consumption of <insert value>;
 - (iii) continuous *dispatchable* consumption within <insert value> of maximum *dispatchable* consumption of <insert value> for a period of <insert value> minutes; and
 - (iv) *dispatchable* consumption decrease over a period of <insert value> minutes to *dispatchable* consumption of less than 1MW
- 2) For the purpose of this Exemption and understanding the *market rules* in context of this Exemption, the following references in the *market rules* and/or *market manuals* shall be deemed to be references to the following provisions of this Exemption:
 - (a) Section 1.2.1 of Appendix 5.1 shall be deemed to be a reference to section 3 of this Appendix A;
 - (b) Section 1.2.4 of Appendix 5.1 shall be deemed to be a reference to section 4 of this Appendix A;
 - (c) Section 2.1.2 of Chapter 7 shall be deemed to be a reference to section 5 of this Appendix A;
 - (d) Section 3.3.8 of Chapter 7 shall be deemed to be a reference to section 6 of this Appendix A;
 - (e) Section 7.5.1 of Chapter 7 shall be deemed to be a reference to section 7 of this Appendix A; and
 - (f) Section 7.5.2 of Chapter 7 shall be deemed to be a reference to section 8 of this Appendix A.
- 3) Gerdau offering *ten-minute operating reserve* shall ensure that Gerdau Whitby’s dispatchable load that is has scheduled to provide *ten-minute operating reserve* is available for *dispatch* as scheduled, in accordance with the terms of this Exemption;
- 4) Gerdau offering *thirty-minute operating reserve* shall ensure that Gerdau Whitby’s dispatchable load that is scheduled to provide *thirty-minute operating reserve* is available for *dispatch* as scheduled, in accordance with the terms of this Exemption;

- 5) Gerdau shall not submit, and the *IESO* shall not accept, any *dispatch data* with respect to Gerdau Whitby's dispatchable load unless:
 - (a) Gerdau Whitby's dispatchable load is a *registered facility* for the provision of the physical services(s) to which the *dispatch data* relate;
 - (b) Gerdau is the *registered market participant* for Gerdau Whitby's dispatchable load and
 - (c) the *dispatch data* are consistent with (i) the registration information defining the capabilities Gerdau Whitby's dispatchable load; (ii) Gerdau's reasonable expectations of the current actual capabilities of Gerdau Whitby's dispatchable load having regard to this Exemption and responding to *dispatches* in accordance with the Exemption, and (iii) any revision in registration information requested by the *IESO* under section 7.5.6.2 of Chapter 7 or other provisions of the *market rules*.
- 6) Notwithstanding any other provision of section 3.3 of Chapter 7 and with the exception of testing specified in section 6.6. of Chapter 5, Gerdau shall as soon as practicable remove its *offers* and *bids* for Gerdau Whitby's dispatchable load if, for any *dispatch hour* in the current *pre-dispatch schedule*:
 - (a) Gerdau does not reasonably expect Gerdau Whitby's dispatchable load to be able to go to or remain at or below 1MW of *dispatchable* consumption in accordance with sections 13(a) or (b) or section 18 of this Exemption; or
 - (b) Gerdau Whitby's dispatchable load goes or is anticipated to go offline, or is otherwise unavailable for *dispatch* for any reason, for greater than one hour.
- 7) Non-compliance with *dispatch instructions*, other than as specified in this Exemption and for the reasons referred to in section 7.5.3 of Chapter 7, shall be a breach of the *market rules* and may be sanctioned in accordance with section 6.2 of Chapter 3 and Section 7.5 of Chapter 7.
- 8) If Gerdau expects Gerdau Whitby's dispatchable load to operate in a manner that, for any reason, differs materially from the *dispatch instructions* and operating parameters outlined in this Exemption, it shall notify the *IESO* as soon as possible in accordance with the guidelines published pursuant to section 7.5.2 of Chapter 7.
- 9) If the *IESO* notifies Gerdau that Gerdau Whitby's dispatchable load is experiencing issues with its telemetry data, Gerdau shall as soon as practicable withdraw any *offers for operating reserve* and cease submitting *offers for operating reserve* until such time as the *IESO* advises that the telemetry data issue is resolved.

Participation in the energy market

- 10) Subject to the terms and conditions of this Exemption, Gerdau when participating in the *energy market* shall submit *energy bids* at its Historical Energy Consumption, as applicable, in respect of every *dispatch hour* during which it intends to consume *energy*;
- 11) Subject to section 12, the Historical Energy Consumption will be determined in accordance with the following:
 - (a) it shall be equal to Gerdau Whitby's dispatchable load's hourly average *dispatchable* consumption during *dispatch intervals* when *dispatchable* consumption exceeds 1MW during the applicable 6-month period. For greater certainty, Historical Energy Consumption is calculated as follows:

TC/TI * 12

Where:

- (i) TC = total *dispatchable* consumption, based on AQEW data, in all *dispatch intervals* during which *dispatchable* consumption exceeded 1MW during the applicable 6-month period
 - (ii) TI = the total number of *dispatch intervals* during which *dispatchable* consumption exceeded 1MW during the applicable 6-month period
- (b) the Historical Energy Consumption shall be calculated every 6 months starting on the effective date of this Exemption.
 - (c) the applicable 6-month period shall be the 6-month period commencing 7 months prior to the date on which the Historical Energy Consumption is calculated and ending 1 month prior to the date on which the Historical Energy Consumption is calculated.
 - (d) Historical Energy Consumption shall be rounded down to one decimal place.
- 12) If Gerdau reasonably expects consumption at Gerdau Whitby's dispatchable load to decrease by more than 10% from Normal Consumption Pattern, but will continue to consume in accordance with the timelines associated with its Normal Consumption Pattern, for a period of five hours or more, the Historical Energy Consumption value used for its *energy bids* shall decrease by the same percentage until such time as Gerdau Whitby's dispatchable load resumes its Normal Consumption Pattern, and Gerdau shall revise its *energy bids* accordingly. The IESO may at its sole discretion require the MP to calculate a new Historical Energy Consumption for any period if the existing value was calculated using data that is determined by the IESO to be invalid for any reason.
- 13) If Gerdau receives an *energy dispatch* it shall respond in the following manner:
- (a) if Gerdau Whitby's dispatchable load receives an *energy dispatch* to zero, it shall accept its *energy dispatch instruction* and within 5 minutes reduce, or maintain, its *dispatchable* consumption to be equal to or less than 1MW. It shall maintain its *dispatchable* consumption at equal to or less than 1MW until *dispatched* in a manner described in section 13 (c);
 - (b) if Gerdau Whitby's dispatchable load receives an *energy dispatch* to an amount greater than zero but less than 50% of its *energy bid*, it shall reduce, or maintain, its *dispatchable* consumption to be equal to or less than 1MW. It shall accept its *energy dispatch instruction* and maintain its *dispatchable* consumption at equal to or less than 1MW until *dispatched* in a manner described in section 13 (c);
 - (c) if Gerdau Whitby's dispatchable load receives an *energy dispatch* to an amount equal to or greater than 50% of its *energy bid*, it shall accept its *energy dispatch instruction* and shall as soon as practicable assume its Normal Consumption Pattern.

Participation in the Operating Reserve markets

- 14) Subject to the terms and conditions of this Exemption, Gerdau shall submit *operating reserve offers* up to its Maximum OR Offer in respect of every *dispatch hour* during which it intends to *offer operating reserve*.

- 15) Subject to section 16, the Maximum OR Offer will be determined in accordance with the following:
- (a) it shall be equal to Gerdau Whitby's dispatchable load's hourly average *dispatchable* consumption during all *settlement hours* in which Gerdau submitted an *offer* for *operating reserve* during the applicable 6-month period. For greater certainty, Maximum OR Offer is calculated as follows:

TC/TI

Where:

- (i) TC = total *dispatchable* consumption, based on AQEW data, in all *settlement hours* in relation to which Gerdau had submitted an *offer* for *operating reserve* during the applicable 6-month period
- (ii) TI = the total number of settlement hours in relation to which Gerdau had submitted an *offer* for *operating reserve* during the applicable 6-month period
- (b) the Maximum OR Offer shall be calculated every 6 months starting on the effective date of this Exemption.
- (c) the applicable 6-month period shall be the 6-month period commencing 7 months prior to the date on which the Maximum OR Offer is calculated and ending 1 month prior to the date on which the Maximum OR Offer is calculated.
- (d) Maximum OR Offer shall be rounded down to one decimal place.
- (e) the *IESO* may at its sole discretion require the MP to calculate a new Maximum OR Offer for any period if the existing value was calculated using data that is determined by the *IESO* to be invalid for any reason.
- 16) If Gerdau reasonably expects consumption at Gerdau Whitby's dispatchable load to decrease by more than 10% from Normal Consumption Pattern, but will continue to consume in accordance with the timelines associated with its Normal Consumption Pattern, for a period of five hours or more, the Maximum OR Offer used for its *operating reserve offers* shall decrease by the same percentage decrease until such time as Gerdau Whitby's dispatchable load resumes its Normal Consumption Pattern and Gerdau shall revise its *operating reserve offers* accordingly.
- 17) If Gerdau reasonably expects the time Gerdau Whitby's dispatchable load consumes less than 1MW to extend for four or more *dispatch intervals* longer than as set out in its Normal Consumption Pattern, Gerdau shall as soon as practicable withdraw its *operating reserve offers* and cease submitting *operating reserve offers* until such time as Gerdau Whitby's dispatchable load resumes its Normal Consumption Pattern.
- 18) If Gerdau receives an *operating reserve* activation (ORA) *dispatch instruction*, it shall respond in the following manner:
- (a) if Gerdau Whitby's dispatchable load is at or below *dispatchable* consumption of 1MW, it shall accept the ORA *dispatch instruction* and remain at or below *dispatchable* consumption of 1MW regardless of the value of the ORA *dispatch instruction* until OR is deactivated and an *energy dispatch* is received; or
- (b) if Gerdau Whitby's dispatchable load is above 1MW *dispatchable* consumption, it shall accept the ORA *dispatch instruction* and go to 1MW *dispatchable* consumption

or less regardless of the value of the ORA *dispatch instruction* until OR is deactivated and an *energy dispatch* is received.

Application of the Charge

- 19) In regards to the application of the Charge, Gerdau Whitby's dispatchable load shall be exempt from the Charge, subject to the following:
- (a) compliance with the terms and conditions of this Exemption. Where, in the *IESO's* sole determination, Gerdau does not comply with the terms and conditions of this Exemption, it shall be subject to the Charge, and any payments for inaccessible *operating reserve* will be recovered by the *IESO* in accordance with the terms of the Charge, for the *dispatch intervals* in which the *IESO* determined Gerdau failed to comply with the terms and conditions of this Exemption. For example, where Gerdau submits an *offer* for *operating reserve* in excess of its Maximum OR Offer for one or more *settlement hours*, it shall be subject to the Charge for all *dispatch intervals* in those *settlement hours*. The application of the Charge is separate and apart from any investigation or enforcement activity by the *IESO* in relation to any non-compliance with the terms and conditions of the Exemption, pursuant to section 6 of Chapter 3 of the market rules;
 - (b) the *IESO* may assess the application of the Charge at its sole discretion and may make the appropriate manual adjustments to a current *billing period* to reflect the application of the Charge in respect of the periods in which the *IESO* determined Gerdau failed to comply with the terms and conditions of this Exemption;
 - (c) if Gerdau Whitby's dispatchable load consumes less than 1MW for four or more *dispatch intervals* longer than as set out in its Normal Consumption Pattern, the *IESO* may apply the Charge to all such *settlement hours* in which the Gerdau Whitby's dispatchable load consumes less than 1MW for one or more *dispatch intervals* longer than as set out in its Normal Consumption Pattern; and
 - (d) for greater certainty, this Exemption, including the *IESO's* application of the Charge in accordance with the terms and conditions herein, shall not limit any right of the *IESO* under the *market rules*, or otherwise, to take action against Gerdau for failing to comply with the terms and conditions of the Exemption, including initiating a reconsideration of the Exemption. Any failure of the *IESO* to apply the Charge in accordance with this Section 19 shall not be construed as a waiver of the *IESO's* right to seek any remedy, including investigation and enforcement pursuant to section 6 of Chapter 3 in respect of non-compliance, for the failure to comply with the terms and conditions of the Exemption, nor will it be construed as a waiver of Gerdau's obligation to comply with the terms and conditions of this Exemption.