

Final Minutes of Meeting

Date held: May 5, 2014	Time held: 9:00 am	Location held: Minto Boardroom
Invited/Attended:	Constituency Represented or Company Name:	Attendance Status: (A)ttended; (R)egrets
Panel Members		
Edith Chin	Natural Gas Industry Rep.	A
Shelley Cunningham	Distributor Representative	A
David Curtis	Transmitter Representative	A
Paul Huebener	Financial Services Representative	A
Brian Kelly	Generator Representative	A
Robert Lake	Residential Consumers Rep.	A
Martin Longlade	Industrial Consumers Rep.	A
Kazi Marouf	Distributor Representative	R
Brian Rivard	IESO Representative	A
Peter Rowles	Commercial Consumers Rep.	A
Yannick Vennes	Retailers and Wholesalers Rep.	A
Bill Wilbur	Generator Representative	A
Mark Wilson	Chair	A
Stakeholder Observers		
Muhammed Ali	Hydro One	A
Martine Band	Ontario Energy Board	A
Jeanette Briggs	IESO	A
Dave Brown	Ontario Energy Board	A
Gordon Drake	IESO	A
Joe Ferhervari	Ontario Power Generation	A
Susan Harrison	IESO	A
Margaret Kuntz	TransCanada	A
Dawn Marinelli	TransCanada	A
Emanuel Movchovitch	Ontario Power Authority	A
David Peterson	OPG	A
Jonathan Scratch	IESO	A
Nick Shkordoff	IESO	A
Candice Trickey	IESO	A
Mark Tinkler	Customized Energy Solutions	A

Gabriel Villegas	Bruce Power	A
Secretariat		
Jo Chung	IESO	A
John Rattray	IESO	A

All meeting material will be posted on the IESO web site at:

http://www.ieso.ca/imoweb/amendments/tp_meetings.asp

Agenda Item 1 – Administration

Agenda: The agenda was approved.

Minutes and Action Items: The Chair asked the Panel for any comments on the draft meeting minutes of the February 25, 2014, TP 276 meeting. The Panel unanimously approved the draft minutes of the TP 276 meeting.

The Chair asked the Panel for any comments on the draft meeting minutes of the TP 277 meeting.

The industrial consumer representative noted that on page 15, he did not ask if the IESO had sought a third party legal opinion, but rather if the IESO had sought a formal legal opinion with respect to the need for the GCR. The Chair noted that the IESO would include this edit in the final version.

The generator representative requested that the IESO remove the phrase, “will not have those needs addressed” from the 2nd paragraph on page 17. The Chair responded that the IESO would remove the phrase from the final version of the minutes.

With the above changes, the Panel unanimously approved the draft minutes of the TP 277 meeting.

The Chair provided an update on the IESO action items indicating that:

- AI-274-2 related to the IESO updating the Panel on the ongoing discussions of the governance issues surrounding the General Conduct Rule (GCR), will remain open.
- AI-274-3 was closed during IESOTP 277 and will be removed.
- AI-277-1 related to the IESO informing the Panel if observers would be allowed to attend the Demand Response working group sessions, will be closed following the determination that the Demand Response working group will accept observers upon request.

Chair Remarks: The Chair provided the Panel with a brief update on the recent Technical Panel and IESO Board luncheon. The Chair noted the two main themes that were discussed with the IESO Board:

- market development activities to ensure that the IESO was prepared for the future; and
- the technical panel process in which some Panel members would like to see enhanced transparency.

Following the discussion at the luncheon, the IESO Board requested the IESO conduct a review of the Technical Panel process within the context of the stakeholder engagement process.

The retailer and wholesaler representative asked if there were any timelines associated with the Technical Panel review requested by the Board. The Chair responded that no timelines have been established.

A generator representative noted that there was also extensive discussion regarding the GCR with the IESO Board and thought that the overall discussion was positive and appreciated the opportunity.

Agenda Item 2: Stakeholder Engagement Update

The purpose of this discussion was to inform the Panel of any status updates to the current IESO stakeholder engagements.

The IESO representative provided the following updates:

- Capacity Market Information Day – the IESO hosted an information session on April 8th to provide stakeholders with an understanding of how capacity markets work in other jurisdictions. The session discussed the benefits and challenges associated with existing capacity markets.
- SE-109: Outage Management Redesign invited stakeholders to provide feedback on the proposed solution capabilities and project plan for the final redesign during its latest meeting on April 23rd. Market rules for the final redesign are expected to return to the Technical Panel in 2015.
- SE-110: Transmission Rights Review – on May 6th the IESO will present the findings of the Phase 1 analysis along with the IESO’s recommended plan for achieving the revised transmission rights confidence level approved by the IESO Board in September 2013. The IESO will respond to feedback by the end of May and Phase 2 will involve a comprehensive review of the transmission rights market design fundamentals. No timeline has been set.
- SE-111: Review of Generation Cost Guarantees – the IESO hosted a webinar on March 31st to discuss the results of the analysis which looked for evidence of the real-time generation cost guarantee program overcommitting generators. The IESO recommended closing a number of the real-time and day-ahead issues identified through SE-111. In the coming months, the IESO will be conducting further analysis on the efficiency of the RT-GCG program.
- Review of Ontario’s Interties – the IESO has launched an initiative to help identify any impacts and opportunities that might exist within Ontario interties to support the demand and reliability requirements of the power system. Input is requested by May 23rd, 2014 to help inform a report that the IESO will provide to the Ministry of Energy.
- The natural gas representative requested that the IESO provide an update on the discussion at the March 26, 2014 Stakeholder Advisory Committee (SAC) related to the harsh winter and the impact of gas on electricity and reliability. The IESO representative informed the Panel that during the SAC meeting, a consumer representative noted that FERC was conducting an information session about the events of this past winter and requested that the IESO conduct a similar inquiry for Ontario to understand any implications stemming from the winter and potential impacts on reliability and gas adequacy. The IESO will be reviewing SAC priorities and will formally respond to the SAC member’s request.

The natural gas representative noted that during the SAC meeting, it was mentioned that there was a lack of transparency in the gas sector but wanted to point out that as part of the FERC study there was a great deal of information published within the public domain. The IESO representative responded that the information published as part of the FERC study was important to note.

A generator representative asked what message experts from other jurisdictions brought to the capacity market information day, and if they brought input of how a capacity market would work within the Ontario market construct. The IESO representative responded that the discussion was centered on design elements and different design options for capacity markets. The experts discussed the benefits of capacity markets, design elements, challenges experienced, and the timelines for implementation in their market.

A generator representative asked about the initial results from SE-111 (Review of Generation Cost Guarantees). The IESO representative responded that the initial assessment looked at the materiality of the issues and the next step will be to assess the impact of exports. IESO staff added that the assumption during the initial analysis was to keep exports fixed, and now the analysis will set variable levels of exports to gauge impact.

The industrial consumer representative asked if there were any outstanding issues brought forward during the SE-109 (Outage Management) session. IESO staff responded that the latest session of SE-109 was an introduction to the final redesign, an introduction to the selected vendor and their solution/tool capabilities, and the timelines for development of the final redesign.

A generator representative asked what was involved in the work that the IESO was conducting with the OPA on the interties. The IESO representative responded that it was still initial exploratory work with the OPA to identify impacts and opportunities that might exist on the interties to support the demand and reliability requirements of the power system

Agenda Item 3: Expected Rule Amendments for 2014

IESO staff walked the Technical Panel through the Expected Rule Amendments – 2014 (IESOTP 276-5).

Agenda Item 4: Demand Response Work Plan and Technical Panel Timelines

IESO staff walked the Technical Panel through the Demand Response Work Plan and Technical Panel Timelines presentation (IESOTP 278-4b).

A generator representative asked what the Panel could expect for market rule amendments associated with Demand Response (DR). IESO staff responded that the IESO is currently doing an impact assessment but noted that market rules with respect to registration, operation, notification, activation and settlement of DR would be required.

The retailers and wholesalers representative asked, with respect to the transitional market rules, if the IESO was only integrating the current program as it exists today into the market rules, or if the IESO was trying to make changes to improve upon the current program. IESO staff responded that the integration will mainly be a copy over from the current obligations in the contracts and program rules. Any identified improvement areas, such as changes to baseline methodology or performance penalties, will be discussed with the working group.

A generator representative asked what the structure for the program would be, whether it would be a voluntary program, or if it will be something that can be expected to be in the market and relied upon when called. IESO staff responded that if DR resources are called upon for dispatch, the expectation will be that they will be available, and if they are not available, there will be a financial penalty.

A generator representative asked how much load is expected to take part in the DR program. IESO staff responded that there is nearly 500 MW that have been procured through the current DR3 and DR2 programs and that the integration into the IESO market could increase that value from a different number of providers.

A generator representative asked if the IESO had any idea on how long the period would be for those resources obtained through a DR auction (months versus years). IESO staff responded that this was still an open design choice as the first auction is targeted for 2015 with a 2016 delivery. The discussion will be brought back to the working group for consideration.

The retailers and wholesalers representative asked how the IESO would recover costs from the market for a DR program and auction. IESO staff responded that the recovery of costs back through the market for an availability payment would be via an uplift charge, versus the current mechanism of recovering costs through the Global Adjustment.

The industrial consumer representative asked if demand response could be used for contingency events and if any conditional contracts, to that extent, would be considered for demand response. IESO staff responded that dispatchable loads are currently available for contingency events and are utilized to bring the system back into balance. Barriers to participating in the energy market are something that will be explored through demand response pilots. If there are opportunities through the DR auction to make DR available in the energy market that will be worth discussing, but at this time there is no specific plan to use DR for contingency events.

The transmitter representative asked if pilot programs were aimed specifically at the stream of work related to the DR auctions. IESO staff responded that the pilot programs are a different stream of work in comparison to the DR auction, and that the pilot programs will be looking at other opportunities for DR to participate in the energy market to meet specific system needs.

The retailer and wholesaler representative asked if there would be associated market rules with the pilot programs. IESO staff confirmed there would be associated market rules with all three streams or DR related work.

The transmitter representative asked if there would be refinements to the market rules following the pilots. IESO staff confirmed that this would be the case and stated that the pilot programs will provide the IESO an opportunity to assess the ability of DR to participate in other areas of the energy market and to identify barriers to that participation. Successful pilots and lessons learned from the pilot programs have the potential to become enduring solutions that would require further market rule amendments.

Agenda Item 5:

MR-00407: General Conduct Rule	
IESO Support Staff	Jo Chung, Devon Huber, Glenn McDonald, and Neil Campbell (McMillan LLP)
Stakeholder Plan	SE-112

The purpose of this discussion was to review the draft amendment proposals, stakeholder comments and IESO responses related to MR-00407-R00 & R01: General Conduct Rule (GCR), (refer to documents IESOTP 278-5a – q) and to request that the Panel vote to recommend the draft amendment proposals to the IESO Board for approval.

The Chair noted that he had received emails from a few Panel members to delay the vote to recommend MR-00407-R00 & R01 to the IESO Board. The Panel members were of the view that differences of opinion regarding the rule language could be bridged, and that the IESO and stakeholders should work together to resolve their differences. The Chair proposed that the Panel review the amendment proposals, stakeholder comments and IESO responses. Once the material has been reviewed, the Panel can discuss how best to move forward.

The Chair noted that Neil Campbell, a partner at McMillan and former chair of the Market Surveillance Panel (MSP) may be joining the discussion. IESO staff clarified that Neil’s advice has been sought, on occasion, to supplement IESO staff views on the GCR.

IESO staff highlighted for the Panel the subsequent changes that have been made to the GCR relative to the versions posted for stakeholder comment:

- 10A.1.4 – the IESO has replaced “and” with “or” as suggested by the wholesalers;
- 10A.2 – Suggestions were made by APPrO, and echoed by stakeholders that supported APPrO’s position to include the words “legitimate business purpose” in this section without any further modifying language. This issue was discussed at length at the last Panel meeting. An alternative option was also put forth by APPrO which did not include the phrase “legitimate business purpose”. The IESO has accepted the majority of the language from this suggestion and has modified the language within section 10A.2.
- 10A.3 – the inclusion of the term “policy” raised questions as to what exactly ‘policy’ defined. The IESO has attempted to more crisply capture what conduct would fall under policy, and has specified two forms: (1) government policy, and (2) policies, guidelines and other documents referenced in Chapter 1 section 7.7 of the market rules. Documents in section 7.7 require approval by the IESO Board and are made publically available.

IESO Exclusions:

The natural gas representative noted that she understood that some parties are still uncomfortable with IESO rule-making not being subject to the GCR. The representative asked if other parties would be more comfortable if the formal market rule review process available through the *Electricity Act, 1998*, was described in the GCR. A generator representative responded that he was not sure if the revised wording would bridge the differences, and noted his concern with the carve-out of market manuals,

policy and guidelines. He is of the opinion that the wording is at least as broad as the previous version, and includes most activities of the IESO. The representative did note that the revised wording does at least provide a description of what policy is in reference to.

The natural gas representative asked, if market manuals flow from the market rules, why would the IESO need a specific exclusion for market manuals from the GCR. IESO staff responded that market manuals can be viewed as part of the rule-making process and the revised language helps to provide clarity regarding IESO activities that are not within the scope of 'conduct' with respect to the GCR.

The natural gas representative asked if the parties thought this language could be improved, or if all members were entrenched in their positions. A generator representative responded that although several items have now been articulated in the revised rule, the 'carve-out' for particular IESO activities still appears quite broad. The generator representative asked if other sectors were concerned as well. The industrial consumer representative also stated his concern with the breadth of the 'carve-out' for particular IESO activities.

The Chair asked if the distributor representatives were also concerned with the IESO carve-outs/exemptions from the GCR. A distributor representative indicated that she is interested in examples of IESO conduct that other stakeholders wish to be included under the GCR.

The transmitter representative asked, within the context of the IESO 'carve-out', whether there was now more comfort for certain parties, given that the policies and guidelines referred to in the section are publically documented and available to stakeholders. He noted that these were not areas where the IESO could implement and execute policy on its own. IESO staff responded that if the IESO is being investigated by MACD for actions that have harmed the market, particularly based on the section 10A.1.5, and those actions are not pursuant to a transparent market manual or guideline, then this could be conduct that MACD may be interested in examining. For example, if the IESO control room took action that suppressed market prices, MACD would look to confirm whether that action followed a documented policy or guideline. IESO staff noted that the IESO is not a typical market participant as it has the role of the market and system operator, a role which has been prescribed by the government. There is already an institutional design for challenging market rules and manuals. The MSP looks at IESO policies, manuals and procedures, examining the potential impact of actions on market price and questions the IESO on its reasoning for particular policies. This is perhaps a more appropriate method by which to examine market rules and policies.

The IESO representative noted an example of over-forecasting demand during peak hours, where having more resources available could lower market prices. If the IESO decides on that policy, stakeholders would then have the opportunity to comment. If the MSP or another party were to detect a similar practice which was not part of a documented policy, the GCR could then conceivably be applied subsequent to an investigation to determine if the facts merit a finding of breach. A generator representative responded that in the primary demand forecast example, the concern is where policy or guidelines allow for discretion and the extent to which the IESO uses that discretion. The IESO representative stated that if the primary demand forecast was consistently biased, then someone, such as the MSP, may look into that type of conduct. Unless there is a documented policy in place prescribing an official bias, the IESO should not be consistently biasing its forecasts.

A distributor representative asked if the MSP had a specific mandate to examine IESO rules and policies. IESO staff responded that By-Law #3 sets out the MSP's mandate as it pertains to IESO activities that have an impact on competition and market efficiency. Neil Campbell, former Chair of the MSP, added that the MSP monitors market activity and noted that a large number of MSP recommendations to the IESO have been related to the efficient operation of the market. The MSP has provided several recommendations to the IESO concerning IESO rules and policies. The practice has been that the IESO then responds back to the MSP regarding those recommendations. MSP recommendations and IESO responses are publically available. He noted that in the example provided, if the MSP observed a systematic bias regarding the primary demand forecast resulting in over-forecasting, the MSP could bring forward a recommendation that would require the process to be looked at in more detail. If the conduct is not set out in a market manual, market rule or policy document, it could be referenced to MACD for possible market rule breaches, including a possible breach of the GCR.

The IESO representative stated that it made sense to have market manuals included in the IESO conduct exemptions. If a policy is in place and stakeholders wish that policy to be reconsidered, there exist appropriate recourse mechanisms. If there is a practice in place that is not documented, that is when the IESO could be subject to the GCR.

A generator representative stated that the IESO has a tremendous amount of responsibility and also has a tremendous amount of power. He added that there is a limited amount of visibility surrounding much of IESO related conduct and decision making. The proposed GCR provides a remarkably broad swath of IESO activities that would fall underneath the 'carve-outs'. The generator representative noted that he would like to think the differences could be bridged, but did not know what that language might look like.

Neil Campbell noted that if a market participant is unhappy with an IESO policy or market manual, there are mechanisms for those concerned, such as requesting an amendment to the market rules. The IESO is tasked with market design as well as other operational and internal practices that may not be readily visible to market participants. The proposed language in 10A.3, with the phrase "implementation of government policy," and reference to section 7.7 clearly delineates the scope of IESO conduct that is exempt from the GCR. If conduct does not fall within one of those buckets, as in the example of a bias in implementing primary demand forecasts, the conduct could fall under the GCR.

A generator representative stated that the process of stakeholdering market manuals and other documents referred to in section 7.7 is not the same as the market rule amendment process. Neil Campbell responded that although it is not the same process, the market rules provide guidance to those documents and that this is a judgment call for the IESO. He noted the level of stakeholdering at the IESO was remarkable compared to other similar contexts. The generator representative stated that from the perspective of market participants, the market rule amendment process is very transparent and stakeholders can review the market rules as they are being developed, but noted that the same rigor may not be applied to the creation of other documents. Neil Campbell responded that although the process may be different, each has its own stakeholdering process. Any issues with a market

manual for example could be brought forth through a market rule amendment submission request versus having an enforcement proceeding through the GCR. IESO staff asked if it would make sense to financially penalize the IESO if they were found in violation of the GCR due to the implementation of something like a market rule amendment. This does not seem to be sound institutional design. IESO staff noted that in brief conversation with staff at the Federal Energy Regulatory Commission (FERC), FERC staff was of the opinion that using anti-manipulation rules against ISO rule making would be highly unusual.

In reference to the natural gas representative's question as to whether differences could be bridged on the outstanding issues, IESO staff responded that from his point of view, the outstanding issues may be based on philosophical differences, and that he is not necessarily hearing new points that would warrant further discussion.

A generator representative asked how market participants would be aware that a policy has changed, excluding changes to government policy. The Chair responded that market rule and market manual changes are very transparent and provide stakeholders with the opportunity to provide comment. The IESO representative also noted that the documents outlined in section 7.7 need to be reviewed and approved by the IESO Board after which public notice is then provided.

The natural gas representative asked if there was a way to make those members who are uncomfortable with the level of transparency related to IESO policy changes more comfortable. An IESO secretary responded that section 7.7 states that these documents must be published and notice provided to market participants. He indicated that the IESO could not rely on policy within a document that is outside of those parameters to avoid MACD review.

A generator representative asked if 'policy' was defined in the market rules. An IESO secretary responded that it has not been defined in the market rules but would not be classified as a policy until it passed through the process detailed in section 7.7.

A generator representative agreed that there is a philosophical divide regarding 'carve-outs' for specific IESO conduct. The current view from the generator community is that the 'carve-outs' for IESO conduct from the GCR are unacceptable.

The financial services representative stated that there have been lengthy discussions on the GCR but those discussions have been outside the Technical Panel forum and the rule language has not yet been put to a vote. The representative indicated that if the Panel does not agree to the positions put on the table, the Panel can direct market participants and the IESO to find a solution or middle ground through negotiations.

IESO staff noted his fundamental disagreement with the way in which discussions have been characterized as two sides negotiating. It was not the intent of the IESO to enter into negotiations with the stakeholder community or the Technical Panel. He noted that the nature of the GCR would make any market participant more uncomfortable than they would be absent the presence of the rule, and reminded the Panel that every other North American electricity market has a rule of this nature and that the Ontario electricity market requires a similar rule. The IESO is the market designer and holds statutory authority to create market rules and this rule needs to be put in place for the public interest.

Due consideration regarding the opinions and viewpoints of stakeholders has been taken into account throughout the market rule amendment process, most recently exemplified by IESO reflection and additional details provided on the term 'policy'.

The residential consumer representative noted the fact that four Panel members had sent emails to the Technical Panel distribution list indicating that they were of the view that the IESO and stakeholders could bridge the differences of the two sides. He noted that in his experience of negotiating with unions, there may be negotiations in which no middle ground can be found, even in good faith negotiations where two parties respect each other. The representative asked the Panel if they had reached the point of no return on their efforts, and questioned what has made the distributor representatives change their minds to now believe there is a need for further discussion. A distributor representative responded that after today's discussions she was more comfortable with the GCR. She indicated that she would still like to hear further discussions on the limitations period.

The Chair stated the remaining areas of concern: the legitimate business purpose defence, the limitation period and list of specific prohibitions. The Chair asked the Panel if there was a need for further discussions on IESO exclusions.

The natural gas representative commented that she has heard that some Panel members do not agree with the current IESO conduct exemptions. She asked members whether they do agree that for example, IESO conduct related to market rule making should be addressed via mechanisms other than the GCR, or whether rule making should be subject to investigations under the GCR. If Panel members think rule making should be subject to the GCR, she said that it would be very difficult to bridge differences. A generator representative responded that the IESO 'carve-out' started with government policy, agreeing that this item was beyond the IESO's control, and stated that he was unsure of what else would be acceptable beyond government policy.

IESO staff stated that IESO rule-making was never in consideration for inclusion of the GCR, as the market rules already dictate that the market rule amendment process is not subject to dispute resolution (chapter 3 section 2.2.3), and that this established principle has been in the market rules for years.

Limitations Period:

The transmitter representative noted that in reading stakeholder comments, it appeared market participants were uncomfortable with a six year limitation period. He thought the IESO's response was informative, and stated that he now understands that under proposed section 6.2.2, a notice of intention (NOI) is issued at the completion of the IESO's investigation and after the market participant has already received a notice of alleged breach (NAB). The representative asked whether this fact gave stakeholders more comfort, noting the market participant will know well before six years whether they are under investigation for an alleged violation. Neil Campbell noted that there should be a significant amount of time between a notice of alleged breach and notice of an actual breach of the GCR.

A distributor representative commented that she understood why the IESO was proposing a six year limitations period also noting that six years could be viewed as a long time for market participants. She asked if there was room to put in language that would place a time limit on the issuance of the

NAB. IESO staff responded that it was a productive suggestion, and reminded the Panel that the IESO acknowledged a limitations period as fundamental in the next round of enforcement related stakeholdering during the comprehensive look at Chapter 3 (Administration, Supervision, and Enforcement) of the Market Rules. Until that stakeholdering takes place, stakeholders asked for a transitional limitations period for the GCR which the IESO agreed to. The IESO thinks that six years to complete the investigation is appropriate. IESO staff added that he may be open to clarifying in Technical Panel supporting material that notices regarding the status of an investigation could be provided.

A generator representative stated that this was still not ideal and noted his interest in a hard cap for a limitations period. IESO staff responded that the IESO reviewed many examples of limitation periods such as those found in Sarbanes Oxley and the *Securities Act, 1990*.

A generator representative gave the example whereby a market participant may participate in conduct today that breaches the GCR, but the IESO does not discover the conduct until five years later. The IESO would then have six years under the limitations period to conclude its investigation. In this case, there is no hard cap. He added that the wholesalers raised this subject in their stakeholder comments, and in the IESO's response, they provided areas of record retention existing in the market rules which were for six or seven years. The generator representative suggested a hard cap of seven years. Neil Campbell responded that a hard cap would be different than a records retention issue, which is a big issue for companies. The issue of records retention may be addressed as part of the Chapter 3 rewrite. Neil Campbell noted that practically speaking, when a market participant is being investigated, if records are missing, it is more of an issue for the IESO than the market participant due to the lack of evidence.

The financial services representative commented that companies keep records for their own purposes, and not for the IESO. Records are kept for a company's own benefit.

The retailers and wholesalers representative stated that it would not make sense to keep the limitations period if there is not a practical manner in which the IESO would be able to make their case, and noted that one should not confuse a retention period with a limitations period. Neil Campbell responded that due to the complexities of the electricity market, and from a public policy point of view, a non-trivial limitations period makes sense.

The natural gas representative asked if the six years was from the day of discovery by the IESO, and whether there were any limits on this period of discovery. If the IESO discovered inappropriate conduct after ten years, could this result in a sixteen year period with no limitations after the initial discovery? Neil Campbell responded that the time of discovery is the core issue. In the Limitations Act, there is a concept in the limitations period which is linked to when the IESO is in a position to do an investigation. He appreciated that this could lead to a long timeframe. IESO staff noted that the Limitations Act had a hard cap of fifteen years.

A generator representative referenced the OEB cap of two years. Neil Campbell responded that for the model APPrO asked the IESO to consider, that this was not a fair comparison for the type of reviews done at the OEB versus GCR investigations which would be conducted by the IESO. Neil Campbell

noted that the IESO has considered the OEB and Limitations Act examples carefully and has declined to implement either period.

The natural gas representative asked if the limitations period is kept at six years, whether a cap could be put on when the IESO may commence an investigation. IESO staff responded that the IESO would like to stick to a normal limitations period definition, noting that the concept of 'discovery' is common place.

A generator representative asked why the IESO declined to adopt the OEB's limitations period. IESO staff indicated that the limitation period used by the Ontario Securities Commission (OSC) was more reflective of what the IESO does from an enforcement perspective. IESO staff asked the generator representative why he was of the opinion that the OSC was not the proper limitation period to reference. The generator representative argued that conduct investigated by the OSC is more complicated than conduct investigated by the IESO and that the OEB limitation period is a better analogy because similarly to the IESO, the OEB acts within the electricity sector. IESO staff disagreed with the generator representative's statement.

A distributor representative asked how the OSC limitation period treats discovery. IESO staff responded that this was not readily available but indicated that the information would be brought back to the Panel.

The industrial consumer representative asked why OPA procurement contracts are provided special treatment in the language of the GCR. He asked if having an OPA procurement contract gave market participants carte blanche to take advantage of the market based on the terms of their contract. IESO staff responded that having a procurement contract is not a carte blanche defence, in order to provide a defence under the GCR the provisions of the contract must be the predominant cause of behavior that is in breach of 10A.1. Stakeholders had indicated to the IESO that OPA procurement contracts had the distinct characteristic of being vehicles which may implement government policy. Neil Campbell added that if a market participant relies on the procurement contract provisions as a defence, that they must prove that the procurement contracts entirely or predominantly caused their conduct.

Next Steps:

The Chair commented on the option suggested by a few Panel members to delay the vote to recommend for Board approval in order to allow for further discussions between the IESO and market participants. He indicated that the IESO is of the opinion that it has listened to stakeholder input, that input has resulted in substantial changes to the proposed rule language, and that the current rule language is appropriate. He added that the IESO would like to move forward in the process. The Chair reminded the Panel of its obligation to provide the IESO Board with information as it relates to the development of the GCR. Originally, the target date to provide a recommendation to the Board was in April, and it was agreed to move this date to June.

The transmitter representative noted that he was not proposing to avoid the June Board meeting, but wondered whether there were opportunities for further discussions. He noted that there had been considerable stakeholdering and change/modifications throughout the process, and that the current

timeline still allows an opportunity for further convergence on the substantive issues without jeopardizing the expectation of delivering rule language for the June Board meeting.

A distributor representative supported the position of the transmitter representative and said that before a vote takes place she felt that further discussions between the IESO and APPrO should occur in order to resolve some of the substantive issues. The Chair responded that given the conversations that have taken place to date, that he wasn't sure whether additional conversations would get the sides closer on the proposed rule language.

A generator representative noted the extensive stakeholder comments and IESO responses, and indicated that from his organization's point of view, he would like more dialogue with the IESO on its responses provided.

The Chair stated that there are remaining areas which still need to be discussed: legitimate business purpose and section 10A.1. Recognizing that the time scheduled for this meeting had nearly run out, he indicated it would not be appropriate to have a vote at this time. He added that the Panel still had the obligation to bring material/information forward so that the Board could make a decision on the proposed market rules.

The financial services representative asked what material/information needed to be provided to the IESO Board. The Chair responded that the Panel has an obligation to provide the IESO Board with information so it may make a decision on the proposed market rule amendment. The IESO Board may then direct the IESO to continue to develop the GCR with stakeholders, create its own market rules, or amend the proposed market rules.

A generator asked why there was tremendous pressure to get the GCR to the June Board meeting. The Chair responded that this was the directive provided by the IESO Board.

The natural gas representative stated that there was enough time to explore the GCR issues further based on the quality of discussions today, and encouraged the IESO to continue the dialogue with stakeholders.

The Chair noted that there are areas that still need to be discussed (legitimate business purpose and 10A.1, the specific prohibitions) and stated that the IESO will arrange for another Panel meeting within the next week to continue discussions. At the end of those discussions, the IESO will suggest that the Panel vote to recommend the proposed market rules for IESO Board approval. Regardless of the outcome of that vote, information will be sent to the Board for review. The Chair asked if this approach was acceptable, and hearing no objections, he closed the meeting.

IESO Staff Note: Supplemental Technical Panel meeting to take place on May 14, 2014.

Next Panel meeting: June 17, 2014

Action Items

Action Item Summary				
#	Date	Action	Status	Comments
AI 274-2	03-Dec-13	The IESO will provide an update of any ongoing discussions related to the governance concerns that surround the General Conduct Rule.	Open	
AI-277-1	03-Mar-25	The IESO will inform the Panel if observers will be allowed to attend the Demand Response working group sessions.	Closed	The IESO will hold public sessions for all interested stakeholders and the DR working group will accept observers upon request.