



APPRO

ASSOCIATION OF
POWER PRODUCERS
OF ONTARIO

GCR Discussion with
Technical Panel, March 25,
2014



Outline

- Mandate of Technical Panel
- Areas of Divergence:
 - Legitimate Business Purpose Defence
 - Applicability of GCR to IESO
 - Limitations Period
 - Rule Language

Mandate of Technical Panel

- In formulating Market Rules, Technical Panel exercises an independent mandate; must consider the same objects as the IESO Board (Chapter 3, ss. 4.2.2).



Legitimate Business Purpose

- An important issue from the outset and one where clarity is essential
- IESO Report November 29, 2013 Stakeholder Meeting:
 - “Stakeholder comments indicated that a legitimate business purpose was an important element in a general conduct rule. Stakeholder comments differed on who the responsible entity is for proving the legitimate business purpose.”
 - “Market participants whose conduct is alleged to have breached the general conduct rule will be able to establish a legitimate business purpose defense for its conduct.”



IESO LBPD Versions

Version (date)	Rule Summary	Rule Language
December 3, 2013	“Allow market participants whose conduct is alleged to have breached the general conduct rule to establish a legitimate business purpose defense for its conduct. ”	“Where a <i>market participant</i> establishes that its conduct was carried out entirely or predominantly for a legitimate business purpose consistent with the efficient, fair, competitive and reliable operation of the <i>IESO-administered markets</i> and of the <i>IESO-controlled grid</i> , the conduct will be deemed to be consistent with the requirement set out in section 1.1”
February 19, 2014	“Allow market participants or the IESO, whose conduct is entirely or predominately connected to the provisions of a procurement contract as defined in the <i>Electricity Act, 1998</i>, or a regulation or order of the Ontario Energy Board made in accordance with s. 78.1 of the <i>Ontario Energy Board Act, 1998</i>, to provide a legitimate business purpose defense for conduct that is alleged to have breached the proposed general conduct rule.”	“10A.2 (new): In circumstances where a market participant or the IESO can establish that its conduct was carried out entirely or predominately for a legitimate business purpose connected to: <ul style="list-style-type: none">• 10A.2.1 : a procurement contract as defined in the <i>Electricity Act, 1998</i>; or• 10A.2.2 : a regulation or order of the Ontario Energy Board made in accordance with s. 78.1 of the <i>Ontario Energy Board Act, 1998</i>, the conduct will not constitute a breach under section 10A.1 ”



IESO LBPD Versions

Version (date)	Rule Summary	Rule Language
February 27, 2014	Same	“In circumstances where a market participant or the IESO can establish that its conduct was carried out entirely or predominantly for a legitimate business purpose caused by the following: ...
March 18, 2014	“Allow market participants whose conduct is entirely or predominately connected to the provisions of a procurement contract as defined in the Electricity Act, 1998, or an order of the Ontario Energy Board made in accordance with s. 78.1 of the Ontario Energy Board Act, 1998, to present a defence for conduct that is alleged to have breached the proposed general conduct rule.”	“Notwithstanding any other defence a market participant may raise with respect to conduct set out in section 10A.1, a market participant will not have violated section 10A.1 where it establishes that its conduct was entirely or predominantly caused by...



Applicability to IESO

- Every other conduct rule in North America is binding on ISOs.
- FERC oversees ISO compliance with conduct rule.
- Non-FERC regulated entities (AESO and ERCOT) expressly covered in their home jurisdictions' rules.

Limitations Period

- IESO proposal is too long in light of:
 - Nature of the GCR and evaluation of intention of conduct; and
 - 2 years is statutory standard in Ontario and applicable to the OEB.

Drafting Language

- Premium on clarity, e.g., manipulation of “price” versus manipulation of “IESO – administered markets”
- Also, APPrO rule addresses “unintended” gaps in rule so GCR not be used to effectively amend other market rules.



APPRO
ASSOCIATION OF
POWER PRODUCERS
OF ONTARIO

APPRO is a non-profit organization representing more than 100 companies involved in the generation of electricity in Ontario, including generators and suppliers of services, equipment and consulting services. APPRO members produce power from co-generation, hydro-electric, gas, coal, nuclear, wind energy, waste wood and other sources. APPRO's members currently produce over 95% of the electricity made in Ontario.

This presentation may contain information that is forward-looking and is subject to important risks and uncertainties. Readers are cautioned not to place undue reliance on this forward-looking information.

www.appro.org
416 322-6549