

Minutes of the IESO Technical Panel Meeting

Meeting date: 16/November/2021
Meeting time: 09:00 a.m.
Meeting location: Video conference

Chair/Sponsor: David Short (Acting)
Scribe: Mitchell Beer / Smarter Shift Inc.

Please report any suggested comments/edits by email to
engagement@ieso.ca.

Invitees	Representing	Attendance Status Attended, Regrets, Teleconference
David Brown	Ontario Energy Board (Observer)	Attended
Jason Chee-Aloy	Renewable Generators	Attended
Ron Collins	Energy Related Businesses and Services	Attended
Rob Coulbeck	Importers/Exporters	Attended
Emma Coyle	Market Participant Generators	Attended
Dave Forsyth	Market Participant Consumers	Attended
Sarah Griffiths	Demand Response	Attended
Jennifer Jayapalan	Energy Storage	Attended
Indra Maharjan	Market Participant Consumers	Attended
Nick Papanicolaou	Market Participant Consumers	Attended
Forrest Pengra	Residential Consumers	Attended

Invitees	Representing	Attendance Status Attended, Regrets, Teleconference
Robert Reinmuller	Transmitters	Attended
Joe Saunders	Distributors	Attended
Vlad Urukov	Market Participant Generators	Attended
David Short	Acting Chair / IESO	Attended
Secretariat		
Agatha Pyrka		Attended
IESO Presenters		
Tim Cary		
Jessica Tang		

Agenda Item 1: Introduction and Administration

Agatha Pyrka, IESO, welcomed participants and reminded everyone of the standard rules of participation for online meetings.

Chair's Remarks:

David Short, IESO, advised that he had been delegated to chair the meeting in Michael Lyle's absence and indicated that Item 4 on the meeting agenda, Technical Panel and Markets Committee, would be deferred to December.

The agenda was approved on a motion by Joe Saunders.

Vlad Urukov clarified his comments in the previous meeting's minutes, based on his understanding from the IESO Terms of Reference that proposed Market Rule amendments should come to the Technical Panel as a "warrants consideration" vote if they have not already been stakeholdered.

On a motion by Joe Saunders, the minutes were adopted with no further discussion.

The Acting Chair provided an update on the IESO's review of the market for errors and omissions insurance, in response to an item raised at the October Technical Panel meeting. After its latest market scan in June/July, he said, the IESO did enter into a one-year policy for gross negligence liability only, since no coverage was available for negligence. The Technical Panel had requested

additional information pursuant to a letter from the IESO regarding not having professional liability insurance coverage that meets the minimum requirements set out under the *Professional Engineers Act*¹. As an alternative to meeting those requirements, *Regulation 941* under the *Act* does permit² the holder of a certificate of authorization such as the IESO to notify counterparties of the situation and instead obtain the counterparty's authorization to provide professional engineering services without meeting the minimum insurance requirements. The Acting Chair said that letter had been sent, and that the IESO would continue scanning the market in search of professional liability insurance that meets the requirements of the *Act*.

Emma Coyle asked whether the IESO was in a position to provide liability coverage for staff performing engineering services. She also asked whether the IESO had failed to obtain simple negligence coverage due to its cost. The Acting Chair said he didn't have details on the cost of gross negligence coverage, but said the market scan was based on availability of insurance at any price. Regarding the policy costs, Victor Buza, IESO, confirmed that the cost of the gross negligence E&O insurance policy obtained was higher than the cost of the prior policy and referenced a challenging environment across insurance markets generally.

Ms. Coyle asked the IESO to report back to the Panel with additional detail on the cost of the policy, recalling that the Market Rule amendment authorizing the shift in coverage had been explained as a cost issue. She asked for confirmation that simple negligence insurance was not available³ and Mr. Buza confirmed that the gross negligence coverage was the policy available in the market that the IESO procured.

Ms. Coyle asked whether separate coverage was available for professional services. Mr. Buza said his understanding was that errors and omissions and professional liability coverage had been bundled together as part of the same coverage, with no opportunity to divide them, and that the IESO considered all options available to it.

Mr. Urukov asked for the policy's effective date. Mr. Buza said the IESO's insurance is renewed on July 1 each year.

Agenda Item 2: Engagement Update

Ms. Pyrka reviewed the Prospective Technical Panel Schedule and the Engagement Update in members' meeting packages. Mr. Urukov noted that some of the engagement summaries were misaligned with the latest timelines and status, and Ms. Pyrka confirmed there is a slight lag and said an updated engagement memo based on the October Technical Panel meeting would be published in the next week.

Agenda Item 3: Market Renewal Project - Market Power Mitigation Batch

Jessica Tang and Tim Cary, IESO, presented the batch of proposed Market Rule and Market Manual amendments on market power mitigation, explaining that the presentation had been scheduled to give Panel members more time for deliberation prior to a vote to post for stakeholder input. Ms. Tang

¹ Section 74(1) of Reg 941

² Section 74(2)(d) of Reg 941

³ Simple negligence insurance was not available. See the Technical Panel [memo](#) related to the amendment proposal (MR-00448-R00) as well as question two in the [summary of key information document](#) from the March 23, 2021 meeting.

said the IESO had a lot of confidence in the current versions of the various documents, adding that staff were in the midst of reviewing stakeholder feedback to date and foresaw no major changes to the drafts. She encouraged members to take the opportunity for review and discussion ahead of the proposed vote to post in January.

Mr. Cary referred to draft provisions on *ex ante* mitigation that had been moved to the calculation engines and left out of the market power mitigation batch to prevent redundancies that could produce confusion for some market participants. Mr. Urukov asked whether the IESO would clearly connect any future language pertaining to market power back to the MPM batch, so that Panel members can see and consider those linkages. Cary Ferguson, IESO, committed the IESO to highlighting such sections for the Panel when bringing forward the calculation engine batch of market rule amendments.

Mr. Cary explained the draft provisions on changes in reference levels, initiated either by market participants or the IESO. Ms. Coyle expressed concern that the change process would push excessive risk onto market participants during the review and dispute resolution process, adding that it wasn't correct to say that market participants would be free to challenge their reference levels with no risk. Mr. Cary said his reply was not meant to pre-empt the IESO's written responses to stakeholder feedback on this issue, but said the new market would begin with current data that had been vetted through the IESO's standard process.

Ms. Coyle said there was insufficient clarity on the exposure generators would face if they believed their registered reference levels fell short of their short-run marginal costs, but would be mitigated and unable to recover costs until the IESO's independent review process had run its course. To illustrate the concern, Jason Chee-Aloy suggested the case of a market participant who initiated dispute resolution, prompting the IESO to go to the market for a consultant or third-party validator to assess a change in reference level. In that scenario, he said it wasn't clear how or how quickly the IESO would make its decision if no consultant could be found, or if the market participant disagreed with the consultant's assessment. Mr. Cary said the IESO had heard similar feedback from stakeholders and would be responding in writing.

Mr. Cary reviewed draft provisions for designating narrow or dynamic constrained areas where participants might be able to exercise market power. Mr. Urukov asked why it was considered necessary to define both categories, since designation of dynamic constrained areas would not be expected to lag like designation of narrow ones. Mr. Cary replied that there might be shorter-term problems with significant, serious spikes in congestion in areas that had not been designated. But smaller systemic issues that conferred market power on a participant over a longer time span might still warrant intervention, based on a lower threshold than would apply for a transient problem.

In reply to a follow-up question from Mr. Urukov, Mr. Cary explained that dynamic constrained areas would be designated when potential constrained areas had not previously been designated as narrow constrained areas, and there would be no overlap between the two categories.

Mr. Cary added that the IESO would also test domestic suppliers of energy and operating reserve for global market power when the conditions were met. These conditions are that certain designated interties are import congested and the Ontario price was above a given threshold level. These Global Market Power Reference Intertie Zone designations are not to be expected to change frequently given the underlying criteria, which specify interties connected to other markets that are significant enough to affect competition. Once again, he said the IESO would be providing further clarity on this point in response to stakeholder feedback.

Mr. Chee-Aloy said he would look forward to the written response and asked whether interties to Manitoba and Quebec should have been designated as Uncompetitive Intertie Zones in the framework based on their history. He said this question had already been raised during the high-level and detailed design stages, and renewable generators were not entirely satisfied with the response.

Mr. Cary said he had not mentioned any specific designations for uncompetitive intertie zones, and Mr. Chee-Aloy said he was confused by the clarification, given that New York and Michigan had been designated as interties where the IESO would assess for global market power. Mr. Cary said the IESO had signalled that it would designate those two interties as Global Market Power Reference Intertie Zones, that are used as triggers for *ex-ante* testing of domestic resources, but that there had been no designation to date of uncompetitive intertie zones that are used to determine which intertie transactions are subject to after the fact testing for mitigation. He suggested the item might be best addressed through the IESO's written feedback, but explained that the designation of the New York and Michigan intertie zones as Global Market Power Reference Intertie Zones would have no impact on after-the-fact assessment of intertie transactions for market power mitigation.

Mr. Chee-Aloy asked whether the IESO would be able to designate any intertie as it sees fit within the mitigation framework. Mr. Cary said the uncompetitive intertie zone designation would apply wherever the criteria were met. The confusion, he added, was that he had been discussing two types of intertie designations back to back, when in fact the designation of uncompetitive intertie zones was totally divorced from the discussion of the designation of the New York and Michigan intertie zones as Global Market Power Reference Intertie Zones.

Mr. Chee-Aloy said that explanation had reinforced the value of detailed examples to help Panel members appreciate the specifics of proposed amendments.

Ms. Coyle asked whether the designation of uncompetitive intertie zones would be based on a numerical standard, such as the share of the tie, and whether the IESO would undertake assessments of participants that might be dominating a tie without surpassing the numerical threshold. Mr. Cary said assessments could be both quantitative and qualitative, with the qualitative criteria allowing for designations based on conditions related to market structure. Ms. Coyle asked whether the framework for the qualitative analysis was set out in the draft Market Rules package. Mr. Cary said the package included pertinent content and criteria, but not the detailed analytic steps the IESO would take.

Mr. Cary asked for further detail on the level of detail stakeholders might like to see. Ms. Coyle suggested the federal Competition Bureau's Merger Enforcement Guidelines and the Offer Behaviour Enforcement Guidelines in Alberta as examples of an appropriate level of detail.

Mr. Cary said the qualitative analysis would focus on market structure or the lack thereof, not on market data per se. Ms. Coyle asked how a market participant would avoid running afoul of the IESO's expectations. Mr. Cary said the focus when designating uncompetitive intertie zones would be on overarching structural conditions, such as the presence of a competitive market on the other side of the intertie.

In that case, Ms. Coyle said, it would be in the interest of market participants to understand what the IESO would be looking for in *ex-post* mitigation. Ms. Tang referred her to Section 3.5.1 of Market Manual 14.1.

Mr. Cary explained draft provisions dealing with *ex-post* mitigation in response to either physical withholding or intertie economic withholding. Dave Forsyth asked how the IESO would assess price impact on dispatchable load without making some subjective assessment of why a market participant was not offering on a certain day, or over certain hours. Mr. Cary said the IESO would be in communication with market participants to ensure the estimate of available supply was consistent with the conditions each day.

Mr. Urukov said it still wasn't clear how that system would work on a locational level. Mr. Cary said the IESO would simulate whether there was movement in the operating reserve price resulting from the behaviour of the resource and replicate the same optimization logic that occurred in the actual market.

Jennifer Jayapalan thanked Mr. Cary for the detail in his presentation, but said it still wasn't clear how energy storage would operate in the new market. Given multiple references to resources having to be mitigated, she said it would be useful to understand how storage would be brought back into the mix and reassessed, and the process for posing questions on the details. Mr. Cary said the current draft focused on the system as participants know it today, but definitions and participation models might still change and evolve post go-live.

Ms. Jayapalan encouraged the IESO to roll out a presentation on storage in the near future to give market participants more certainty, and asked whether those considerations would lead to changes in past or future batches of Market Rule amendments. Mr. Cary said the question was timely, since the IESO was just in the process of holding consultations with energy storage providers. He said that consultations with other market participants had historically generated useful clarifying questions and opportunities for further clarifications to the documentation regarding determination of reference levels and reference quantities.

Ms. Jayapalan cautioned, however, that the day's discussion of system resources had been based on the way the market operates now, and expressed concern about determining market power mitigation before understanding how the future market will work. Mr. Cary said he looked forward to working with energy storage participants to update and sharpen the draft amendments, just as the IESO market renewal team had done with representatives of other technology types. Ms. Tang added that the IESO would be presenting how storage will be integrated into MRP at the December engagement days.

Mr. Cary said he was pleased with the level of engagement the IESO had seen to date on the market power mitigation batch, a total of 132 comments and six submissions representing a broad range of stakeholders and technology types. He acknowledged that stakeholders were working with long, complicated documents and had devoted a lot of time and effort to their submissions, all of which were now posted on the IESO website. He said the IESO was in the midst of assessing the feedback and consulting internally on responses, and would publish responses and document updates in December.

Mr. Urukov asked about the timing for bringing the batch back to the Technical Panel, given the 63 clarifying questions and 22 proposed changes in approach the IESO would have to work through. He said Panel members' availability would inevitably be limited during the holiday period, after which the next opportunity to review drafts would be in mid-January. He expressed concern about a possible repeat of the outcome on Operating Reserve, where much of the participant feedback was received subsequent to the vote to post.

Mr. Cary said the document updates driven by the comments would be incremental, rather than fundamental. But Mr. Urukov said the large number of comments might still dictate a second round of stakeholder feedback after the revised drafts are posted.

Ms. Tang said the IESO did not consider the number of replies to be large given the amount of material involved. She reiterated that most of the issues would be addressed by adjusting language, rather than introducing significant changes. She added that market participants would still have a number of opportunities to comment, including the period following the vote to post in January. Mr. Urukov reiterated his concern that the tight timeline might necessitate a change in approach. Ms. Tang said the drafts had been in circulation since August and the time for review and feedback should be sufficient. Ms. Tang asked the panel to review the feedback and associated changes and proceed with the schedule as is for now and see how the process goes.

Ms. Coyle supported the request for more time and concurred with Mr. Urukov's concern about holiday timing and his call for more flexibility, noting that the amendments and incoming comments had to do with the overall governance framework for the Market Rules. She said the placement of content might be particularly meaningful depending on the comment, adding that it would be useful to see more detailed illustrations of how the amended rules would be applied: for example, she said the draft of Market Manual 14.1, section 3.1 contained a list of factors to be considered, not a full analytical framework.

Mr. Cary acknowledged that placement of content was an important topic. He said Market Manual 14.1, section 3.1 was meant to be descriptive, not to prescribe specific approaches, but thanked Ms. Coyle for her comments. He said the Market Renewal team was seeking a balance between the right amount of work for the right amount of clarity and cautioned that the IESO will need flexibility to remedy specific situations as they arise.

Ms. Coyle replied that it was also a matter of fairness, and that the ability to set a list of factors without first communicating how they'll be applied would not be a good outcome for any rule framework. She said market participants should know what they're striving for, and the IESO should be able to explain it. Ms. Tang said the IESO would consider the comments and come back with a full response.

Referring to the provisions on alternate reference levels, an observer asked whether there would be penalties or other consequences based on the number of unjustified fuel cost increases or uses of high reference levels for any market participant. Mr. Cary said the consequences were administrative in nature and built into the process, in the form of potential settlement charges and requirements for advance review and approval of future fuel cost change requests or use of high cost reference levels before data flows into the system. He also clarified that the administrative consequences built into the design did not prevent the IESO from assessing compliance with the market rules for the same behaviour.

The Acting Chair recapped next steps on the Market Power Mitigation batch, with the IESO due to post its responses to stakeholder feedback in December and the vote to post scheduled for the Technical Panel's January meeting. He encouraged members to reach out to staff with any questions or potential education items as soon as possible and thanked Mr. Cary, Ms. Tang, and the Market Power Mitigation team for the effort behind the day's presentation.

Agenda Item 4: Technical Panel and Markets Committee

This item was deferred pending the Chair's return at the Panel's next meeting.

Other Business

The Acting Chair said the Technical Panel's proposed meeting schedule for 2022 would be made available in the next few weeks.

The Acting Chair also reported that the IESO's contract with its minute-taking vendor will end March 31, prompting an in-house review of minute-taking procedures. He said the current thinking was to begin recording Technical Panel meetings and streamline the format of the minutes to focus on action items, decisions, and voting outcomes. Ms. Griffiths said the current format made it easy to look back on past deliberations without having to restream. Ms. Coyle agreed the current format was useful and suggested more time may be needed to think about this, adding that any consideration of audio recording should be guided by the material difference between a stakeholder engagement and an adjudicative body like the Technical Panel.

The Acting Chair noted silent agreement from other Panel members and invited further comments on the matter in advance of the Panel's December meeting.

Nick Papanicolaou reiterated earlier discussion on the value of examples to illustrate the impact of specific Market Rule amendment proposals from a consumer perspective. The Acting Chair invited input on specific questions that would benefit from examples and encouraged members to share those requests as early in the process as possible.

The meeting adjourned at 11:03 AM. The next meeting will be held on December 14, 2021.

Action Item Summary

Date	Action	Status	Comments
October 5, 2021	In relation to MR-00468 – Intertie Scheduling Limit, specify if the proposed amendments refer back to the appendix rather than the equation governing intertie limits.	Open	Update to be provided after the stakeholder engagement process.
March 23, 2021	In relation to MR-0448-R00 market rule amendments, the IESO will periodically review the availability of error and omissions insurance for negligence.	Open	Update provided during November 2021 TP meeting.