



Market Rule Amendment Submission

This form is used to request an amendment to, or clarification of, the *Market Rules*. Please complete the first four parts of this form and submit the completed form by email or fax to the following:

Email Address: Rule.Amendments@ieso.ca

Fax No.: (416) 506-2847 Attention: Market Rules Group

Subject: Market Rule Amendment Submission

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 *confidentiality classification* of “Public” upon receipt. You should be aware that the *IESO* will *publish this amendment submission* if the *Technical Panel* determines it warrants consideration and may invite public comment.

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

PART 1 – SUBMITTER’S INFORMATION

Please enter contact information in full.

Name: Greg Olsen - Ontario Power Generation Inc.

(if applicable) *Market Participant /
Metering Service Provider* No.¹: _____

Market Participant Class:
Generator

Telephone: 416-592-4401

Fax: 416-592-8519

E-mail Address: greg.olsen@opg.com

PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: Recourse Mechanisms for Market Manual Changes

Title: Dispute Resolution for Market Manuals

Nature of Request (please indicate with x)

Alteration Deletion Addition x Clarification

Chapter: 3 Appendix: _____ Sections: 2.2.

Sub-sections proposed for amending/clarifying: 2.2.1.1

¹ This number is a maximum of 12 characters and does not include any spaces or underscore.

PART 3 – DESCRIPTION OF THE ISSUE

Provide a brief description of the issue and reason for the proposed amendment. If possible, provide a qualitative and quantitative assessment of the impacts of the issue on you and the *IESO-administered markets*. Include the Chapter and Section number of the relevant *market rules*.

OPG believes that clarification is needed in the market rules to ensure that dispute resolution applies to disagreements regarding changes to market manuals.

On December 3, 2007, the IESO distributed IESOTP 196-4a (see Attachment A) in response to AI 206-2 in which the Technical Panel requested a listing of recourse mechanisms for market participants when they disagree with a market manual change. This document was discussed during the TP meeting on February 26, 2007 regarding market rules content policy. The minutes of that meeting state “It was also suggested that the market rules be amended to clarify the application of the exemption and dispute resolution provisions to market manuals.”

Part of the confusion with the exemption and dispute resolution processes may have been caused by errors in references to the Electricity Act on page 7 of IESOTP 196-4a. According to the document, section 36(1) of the Act relates to exemptions. This reference should have been to section 36.1. The appeal procedure under sections 36.1 and 36.1 differ. Section 36.1 allows an appeal to the OEB of an order made under the market rules, for example, a financial penalty (over \$10,000 by regulation). Section 36.2 states that the appeal cannot commence until the appellant uses the dispute resolution process in the rules.

Section 36.1, on the other hand, deals with exemptions from market rules. In accordance with section 36.1(11) an exemption decision from a panel of the IESO Board can be appealed to the OEB, but there is no requirement to use dispute resolution first.

IESOTP 196-4a also points out that the exemption process applies to both market rules and market manuals (Chapter 1, section 14.1.1). OPG agrees with this given the wording “pursuant to these market rules or to any standard, policy or procedure established by the IESO pursuant to these market rules”. We do not agree that Chapter 3 section 2.2.1.1 clearly allows dispute resolution to be used to resolve disagreements regarding market manual changes because there is reference in this section only to “market rules” and no mention of “any standard, policy or procedure” Consistent language should be used in both sections.

PART 4 – PROPOSAL (BY SUBMITTER)

Provide your proposed amendment. If possible, provide suggested wording of proposed amendment.

2.2 Application

2.2.1 Subject to sections 2.2.3 and 3.8 and to section 8.8.1 of Chapter 2, the dispute resolution regime provided for in this section 2 shall apply to:

2.2.1.1 any dispute between the IESO and any market participant which arises under the market rules or any standard, policy or procedure established by the IESO pursuant to these market rules, including with respect to any alleged violation or breach thereof, whether or not specifically identified in the market rules as a dispute to which this section 2 applies;

PART 5 – FOR IESO USE ONLY

Technical Panel Decision on Rule Amendment Submission: Warrants consideration

MR Number: MR-00343

Date Submitted to *Technical Panel*: April 15, 2008

Accepted by *Technical Panel* as: (please indicate with x)

Date:

General Urgent Minor

April 23, 2008

Criteria for Acceptance:

It identifies ambiguity or confusion within the rules that cause interpretation confusion.

Priority: Low

Criteria for Assigning Priority:

Practical consequences:

- The IESO has stated it's opinion that the existing dispute resolution market rule provisions already apply to market manuals; and
- The IESO is not aware of any issues where the existing market rules have frustrated market participants' ability to use the dispute resolution process for matters concerning market manuals.

Not Accepted (please indicate with x):

Clarification/Interpretation Required (please indicate with x):

Technical Panel Minutes Reference: IESOTP 214-1

Technical Panel Comments: None

Attachment A – Excerpt from IESOTP 196-4a

4. Recourse to Objectionable Provisions in Market Manuals

Issue	Some stakeholders have expressed concern that they will lose the ability to appeal or request exemptions if material is contained in the market manuals rather than the market rules.
-------	---

As provided in section 36(1) of the *Electricity Act, 1998*, market participants may apply to the IESO for an exemption from a provision of the market rules and may appeal an order made under the market rules to the Ontario Energy Board (OEB).

The market rules (Ch 1, sec 14.1.1) clearly indicate that the exemptions process applies to both market rules and market manuals:

As provided in the Electricity Act, 1998 an exemption applicant may apply to the IESO for an exemption from the application of any obligation or standard which is or may be imposed upon the exemption applicant or in respect of the exemption applicant’s facilities or equipment pursuant to these market rules or to any standard, policy or procedure established by the IESO pursuant to these market rules.

With respect to the appeals process, section 36 of the *Electricity Act, 1998*, indicates that an appeal cannot commence unless the applicant has made use of the market rules provisions relating to dispute resolution. Chapter 3, section 2.2.1.1 of the market rules indicates that the dispute resolution procedures apply to “any dispute between the IESO and any market participant which arises under the market rules”. This would include market manuals that result from the market rules.

Technical Panel Decision/Direction Required	4a) Do the mechanisms outlined above provide sufficient recourse for market participants to address objectionable provisions in market manuals? 4b) If not, please explain why.
---	--