



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00355-R00		
Subject:	Provision of Prudential Support		
Title:	Sales of Registered Facilities – Expiring Letters of Credit		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	2	Appendix:	2.3
Sections:	4.2, 5.3, 9.1 (Chapter 2) 1.6 (Appendix 2.3)		
Sub-sections proposed for amending:	4.2.4, 4.2.5, 5.3.1, 9.1.4.4, 9.1.4.5		

PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	For Technical Panel Review	December 10, 2008
2.0	Published for Stakeholder Review and Comments	December 18, 2008
Approved Amendment Publication Date:		
Approved Amendment Effective Date:		

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

It is proposed to modify Chapter 2 of the market rules to address financial risks to the IESO-administered markets from a) sales of registered facilities, and b) expiring letters of credit.

With the sale of a registered facility the new owner continues to draw electricity immediately from the date of sale while not yet posting prudential support with the IESO. Without prudential support the IESO market is exposed to financial risk should the new owner fail to pay for amounts consumed and related charges. Also, under the current market rules the new owner does not become an authorized market participant during the “interim period” until such time as it has fulfilled all the obligations necessary to become a market participant. The IESO is subject to risk of not being able to enforce or apply the market rules such as sanctioning the new owner, issuing a disconnection order or issuing a default levy for default amounts that originate during the “interim period”.

In regards to expiring letters of credit currently the IESO may only draw on the letter of credit for amounts owing up to and including the expiration date of the letter of credit. Any undrawn amounts would be forfeited at the expiry date. If the market participant is unable to secure replacement prudential support the market is exposed to financial risk since the market participant will continue to consume energy and incur related charges before the IESO is able to suspend or disconnect them.

Background

For further information please refer to MR-00355-Q00.

Discussion**MR-00355-R00****Sales of Registered Facilities**

To mitigate financial risks facing IESO-administered markets from the sales of registered facilities it is proposed to amend the market rules in Chapter 2 as follows:

Section 4 – Conditional Authorization

- To address the financial risk resulting from the sales of registered facilities it is proposed to insert a new section 4.2.5 in section 4.0 of Chapter 2 of the market rules. This new section would deem a person who had secured the transfer of a registered facility from an existing market participant to be a market participant on the first trading day following the completion of the transfer of the facility. Currently under the market rules a transferee of a registered facility is not a market participant and the market rules would not apply in the event the transferee defaults in its obligations. Obtaining all approvals necessary to become a fully authorized market participant takes some period of time and this rule would significantly reduce the financial risk associated with that time period.

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

- It is also proposed to eliminate section 4.2.4 of Chapter 2 and to leave it intentionally left blank because this section is redundant and makes references to other sections in the market rules that were removed in a previously. This section should have been removed at that time.

Section 5.3 – Calculation of Participant Trading Limit, Default Protection Amount and Maximum Net Exposure

- To address the financial risk from the sales of registered facilities there is, consequential to a proposed rule amendment set out in MR-00355-R02, a need to modify section 5.3.1 of Chapter 2 of the market rules. This amendment would obligate the IESO to include in its determination of a market participants' maximum net exposure any amounts for the cost of electricity withdrawn and associated charges for which the market participant is liable in respect of the transferee that has taken ownership of a registered facility. This obligation would remain until such time as the transferee of the registered facility has satisfied all of the prudential support obligations set out in the market rules. This would provide an incentive for the seller of the registered facility to ensure transferee satisfies as quickly as possible the prudential support obligations associated with their participation in the IESO-administered markets.

Section 9 – Withdrawal by a Market Participant

- To address the financial risk from the sales of registered facilities it is proposed to insert a new sub-section 9.1.4.5 in section 9 of Chapter 2. This rule amendment would ensure that a market participant could not simply withdraw from the IESO-administered markets without discharging its liabilities as set out in section 2.5.4 of Chapter 7 (please see MR-00352-R02). Otherwise, there is a possibility the IESO-administered markets would not be holding sufficient prudential support for the energy withdrawn at the registered facility that had been transferred since the existing market participant could request withdrawal prior to the transferee posting prudential support.

Expiring Letters of Credit

To mitigate financial risks facing IESO-administered markets from expiring letters of credit it is proposed to amend the market rules in Chapter 2 as follows:

Appendix 2.3 – Prudential Support

- To address the financial risks to the IESO-administered markets associated with the expiration of letters of credit it is proposed to amend section 1.6.3 of Appendix 2.3 as a consequential amendment to the amendment to section 6.3.3.2 of Chapter 3 (see MR-00355-R01). This amendment simplifies the terms of draw for letters of credit following an event of default and will further ensure the timely receipt of funds from the issuing bank.

PART 4 – PROPOSED AMENDMENT

4. Conditional Authorization

4.2 Effect and Term of Order

4.2.4 [Intentionally left blank – section deleted] ~~An order issued pursuant to section 4.1.1 shall be deemed to constitute the order authorizing the applicant to participate in the IESO-administered markets or to cause or permit electricity to be conveyed into, through or out of the IESO-controlled grid, on the terms and conditions noted in the order issued pursuant to section 4.1.1, as of the date referred to in section 4.2.3.1, 4.2.3.2, 4.2.3.3 or 4.2.3.4, as may be applicable.~~

4.2.5 A person to whom a registered facility is transferred as contemplated by section 2.5 of Chapter 7, shall be deemed to be a market participant as of the commencement of the first trading day following completion of the transfer and shall expeditiously pursue and complete the conditions precedent to becoming fully authorized as required by this Chapter.

5.3 Calculation of Participant Trading Limit, Default Protection Amount and Maximum Net Exposure

5.3.1 The IESO shall determine, for each market participant, subject to section 5.6.5, a maximum net exposure as the sum of the market participant's trading limit, ~~and~~ the market participant's default protection amount and amounts, if any, for which the market participant is liable under section 2.5.4 of Chapter 7.

9. Withdrawal by a Market Participant

9.1.4 A market participant which has given a notice under section 9.1.1 shall cease to be a market participant on the date:

9.1.4.1 specified in the notice referred to in section 9.1.1;

9.1.4.2 on which the last of the market participant's applicable registered facilities is de-registered by the IESO and, where applicable, disconnected from the IESO-controlled grid pursuant to section 2.4 of Chapter 7;

9.1.4.3 on which the registration for the last of the market participant's applicable registered facilities has been transferred by the IESO pursuant to section 2.5 of Chapter 7; ~~or~~

9.1.4.4 on which all payments due to be paid by it or to it under the market rules have been made; or

9.1.4.5 the market participant has no further liability under section 2.5.4 of Chapter 7,

whichever is the latest. Any *boundary entity* registered by such *market participant* shall be deemed to be de-registered by the *IESO* as of such date.

Appendix 2.3 – Prudential Support

1.6 Prudential Support by way of Letter of Credit

Where a portion of the *market participant's prudential support* is in the form of a letter of credit pursuant to section 5.7.2.1 of Chapter 2, the following provisions shall apply:

- 1.6.1 the letter of credit shall provide that it is issued subject to either The Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600 or The International Standby Practices 1998;
- 1.6.2 the ~~*IMO*~~*IESO* shall be named as beneficiary in each letter of credit, each letter of credit shall be irrevocable, partial draws on any letter of credit shall not be prohibited and the letter of credit or the aggregate amount of all letters of credit shall be in the face amount of at least the amount specified in its then current schedule;
- 1.6.3 the only conditions on the ability of the ~~*IMO*~~*IESO* to draw on the letter of credit shall be the occurrence of an event of default by or in respect of the market participant and a certificate of an officer of the IESO that the IESO is entitled to draw on the letter of credit in accordance with the provisions of the market rules in the amount specified in the certificate as at the date of delivery of the certificate; ~~delivery of copies of an unpaid invoice previously issued to the market participant and a certificate of an officer of the IMO that a specified amount is owing by the market participant to the IMO and that, in accordance with the provisions of the market rules, the IMO is entitled to payment of that specified amount as of the date of delivery of the certificate~~;
- 1.6.4 the letter of credit shall either provide for automatic renewal (unless the issuing bank advises the ~~*IESO*~~*IMO* at least thirty days prior to the renewal date that the letter of credit will not be renewed) or be for a term of at least one (1) year. In either case it is the responsibility of the *market participant* to maintain the requisite amount of *prudential support*. Where the ~~*IESO*~~*IMO* is advised that a letter of credit is not to be renewed or the term of the letter of credit is to expire, the *market participant* shall arrange for and deliver alternative *prudential support* within the time frame mandated by the *market rules* so as to enable the *market participant* to be in compliance with the *market rules*; and

1.6.5 | by including a letter of credit as part of its *prudential support*, the *market participant* represents and warrants to the ~~IESOMO~~ that the issuance of the letter of credit is not prohibited in any other agreement, including without limitation, a negative pledge given by or in respect of the *market participant*.

PART 5 – IESO BOARD DECISION RATIONALE

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Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00355-R01		
Subject:	Provision of Prudential Support		
Title:	Expiring Letters of Credit		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	3	Appendix:	
Sections:	6.3		
Sub-sections proposed for amending:	6.3.1.3, 6.3.3.2		

PART 2 – PROPOSAL HISTORY – PLEASE REFER TO MR-00355-R00

Version	Reason for Issuing	Version Date
Approved Amendment Publication Date:		
Approved Amendment Effective Date:		

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

It is proposed to modify Chapter 3 of the market rules to address financial risks to the IESO-administered markets from expiring letters of credit.

Background

For further information please refer to MR-00355-R00 .

Discussion

Expiring Letters of Credit

To mitigate financial risks facing IESO-administered markets from expiring letters of credit it is proposed to amend the market rules in Chapter 3 as follows:

- Amend section 6.3.1.3 of Chapter 3 to include as an event of default the failure by a market participant to maintain prudential support that had been required as a condition of participation in IESO-administered markets. This would apply in the case of a market participant not providing a replacement for a letter of credit that had been posted with the IESO as prudential support.
- Amend section 6.3.3.2 of Chapter 3 to permit the IESO to draw upon undrawn portions of an expiring letter of credit and to hold such undrawn portions until such time as the expiring letter of credit has been replaced. The IESO would hold the funds as prudential support (the market participant will not earn interest income on these funds) until the market participant replaces the prudential support and then return the funds to the market participant. Currently the market rules only permit the IESO to draw on a letter of credit for amounts owing up and including the expiration of the letter of credit. Any undrawn letter of credit amount will be forfeited at the expiry date. If the market participant is unable to secure replacement prudential support, the market may be exposed to financial risk since the market participant will continue to consume energy and incur related charges before the IESO is able to suspend/disconnect the market participant.

PART 4 – PROPOSED AMENDMENT

6.3 Events of Default

- 6.3.1 *An event of default occurs if a market participant or the person that has provided prudential support in relation to the market participant:*

- 6.3.1.1 does not make a payment in full required under the *market rules* when due;
- 6.3.1.2 fails to provide payment in full of any amount claimed by the *IESO* under any *prudential support*;
- 6.3.1.3 fails to provide **and maintain** *prudential support* required to be supplied under the *market rules* within the time required;

.....

6.3.3 Where a *market participant* or a person providing *prudential support* on behalf of that *market participant* commits an *event of default*, the *IESO* may:

- 6.3.3.1 issue to the *market participant* a *notice of intent to suspend* stating that the *market participant* will be suspended unless it remedies the *event of default* within 2 *business days* or such longer period as specified in the notice;
- 6.3.3.2 immediately draw upon part or all of the *market participant's prudential support* for **either** the amount of any money owing to the *IESO* under the *market rules* **or where the *market participant's prudential support* is due to expire or terminate and has not been replaced as required under section 5.2.5 of Chapter 2, the undrawn part of the *prudential support* notwithstanding the provisions of section 5.7.2.5 of Chapter 2 until such time as the *market participant* has replaced its *prudential support***; and

PART 5 – IESO BOARD DECISION RATIONALE

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Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00355-R02		
Subject:	Provision of Prudential Support		
Title:	Sales of Registered Facilities		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	7	Appendix:	
Sections:	2.4, 2.5		
Sub-sections proposed for amending:	2.5.1, 2.5.4 (new)		

PART 2 – PROPOSAL HISTORY – PLEASE REFER TO MR-00355-R00

Version	Reason for Issuing	Version Date
Approved Amendment Publication Date:		
Approved Amendment Effective Date:		

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

It is proposed to modify Chapter 7 of the market rules to address financial risk to IESO-administered markets created by the transfer of registered facilities.

Background

Please refer to MR-00355-R00.

Discussion**Sales of Registered Facilities**

To mitigate financial risks facing the IESO-administered markets that can occur with a registered facility has a transfer of ownership it is proposed to modify the market rules in Chapter 7 in the following fashions:

- Amend section 2.4.1 of Chapter 7 of the market rules to prevent a market participant from filing a request with the IESO to de-register a facility for which it is no longer the owner. This rule amendment is consequential to the one explained below and is necessary to prevent a market participant from eluding its obligations in the market rules as set out in the new proposed section 2.5.4 by simply de-registering the facility in order to escape outstanding financial obligations to the IESO-administered markets.
- Insert a new section 2.5.4 in section 2.5 of Chapter 7 of the market rules to obligate the market participant that is transferring a registered facility to another owner to remain financially liable for the consumption of energy and any associated charges until such time as the incoming owner of the registered facility has posted its prudential support with the IESO. This will better ensure that the IESO will be holding sufficient prudential support for the consumption of energy at the registered facility and thus reduce the risk to the market of an event of default. The IESO believes this will rule amendment will provide added incentive for the seller of the registered facility to ensure the buyer of the registered facility provides prudential support in accordance with the market rules as quickly as possible, ideally prior to and no later than the closing of the sale of the registered facility.

PART 4 – PROPOSED AMENDMENT**2.4 De-registration of Facilities**

- 2.4.1 *A market participant that wishes to de-register a registered facility, other than a boundary entity, which is being removed from service shall file with the IESO a*

notice of request to de-register in such form as may be specified by the *IESO*; provided, however, that a market participant shall not be entitled to file such a notice if it is no longer the beneficial owner of the registered facility.

2.5 Transfer of Registration of Facilities

2.5.1 A market participant that wishes to transfer the registration of a *registered facility*, other than a *boundary entity*, as a result of the proposed transfer of the *registered facility* to another person by sale, assignment, lease, transfer of control or other means of disposition shall, not less than 10 *business days* prior to the date on which the transfer is proposed to take effect, file with the *IESO* and the relevant *transmitter* or *distributor*, a notice of request to transfer the registration of the *registered facility* in such form as may be specified by the *IESO*. Such notice shall specify:

2.5.1.1 the identify of the transferee and whether the transferee is or intends to be a *market participant*; and

2.5.1.2 the date upon which the transfer is proposed to take effect,

and shall be accompanied by a written declaration by the proposed transferee that it is willing and able to assume control of the *registered facility* and to comply with all provisions of these *market rules* and of any *reliability must-run contract* or *contracted ancillary services* contract applicable to such *registered facility*.

2.5.2 If the proposed transferee satisfies or is capable of satisfying the requirements of section 2.2, the *IESO* shall approve a request to transfer the registration of a *registered facility* unless the proposed transferee is a *suspended market participant* or is otherwise ineligible under these *market rules* to be a *market participant*.

2.5.3 Where the *IESO* approves a request to transfer the registration of a *registered facility*, the *IESO* shall transfer the registration of the *registered facility* to the proposed transferee:

2.5.3.1 on the date referred to in section 2.5.1.2, provided that the proposed transferee was a *market participant* at the time of filing of the notice referred to in section 2.5.1 and remains a *market participant* on such date; or

2.5.3.2 on such later date as may reasonably be required to permit the *IESO* to effect the transfer following the later of the date of authorization of the proposed transferee as a *market participant* and the date on which the proposed transferee meets the requirements of section 2.2.

2.5.4 Upon completion of the transfer of the registered facility, the proposed transferee will

have to post with the IESO prudential support equal to the proposed transferee's prudential support obligation. Until the proposed transferee has done so, the transferring market participant shall continue to be liable for the obligations of the proposed transferee in the IESO-administered markets. Such obligations shall include, without limitation, the cost of electricity withdrawn from the IESO-controlled grid by the proposed transferee and related charges as determined by the IESO in accordance with Chapter 9. The prudential support obligation of the transferring market participant shall include all such amounts whether or not the transferring market participant has complied with the provisions of this section 2.5.

PART 5 – IESO BOARD DECISION RATIONALE

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Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00355-R03		
Subject:	Provision of Prudential Support		
Title:	Sales of Registered Facilities		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	11	Appendix:	
Sections:			
Sub-sections proposed for amending:			

PART 2 – PROPOSAL HISTORY – PLEASE REFER TO MR-00355-R00

Version	Reason for Issuing	Version Date
Approved Amendment Publication Date:		
Approved Amendment Effective Date:		

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Provide a brief description of the following:

- The reason for the proposed amendment and the impact on the *IESO-administered markets* if the amendment is not made.
- Alternative solutions considered.
- The proposed amendment, how the amendment addresses the above reason and impact of the proposed amendment on the *IESO-administered markets*.

Summary

It is proposed to broaden the definition of market participant in Chapter 11 as part of the rule amendments required to address financial risks to the IESO-administered markets from the sale of a registered facility.

Background

Please refer to MR-00355-R00.

Discussion

Sales of Registered Facilities

To mitigate financial risks facing IESO-administered markets it is proposed to modify the definition of a market participant. This modification would include as a market participant any person that receives or is deemed to have received conditional authorization from the IESO to participate in IESO-administered markets in accordance with section 4 of Chapter 2 of the market rules.

In MR-00355-R00 it is also proposed to insert a new section 4.25 in Chapter 2 to specifically address the concern about the transfer of registered facility. For more information on that proposed market rule amendment please refer to MR-00355-R00.

In the event of a sale of a registered facility the IESO has sufficient information to understand the nature of the facility and its operational relationship to the IESO-controlled grid, however, it is possible that the IESO has no knowledge of the new owner of the facility. The proposed change to the definition in Chapter 11 would prevent any argument that could be made that a conditionally authorized participant is not a full market participant and thus not subject to all of the rules. This rule amendment in Chapter 11 thus mitigates the financial risks to IESO-administered markets that could be created if a person who has received conditional authorization commits an event of default.

PART 4 – PROPOSED AMENDMENT

Chapter 11

market participant means a person who is authorized by the *market rules* to participate in the *IESO-administered* markets or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid* [and includes a person that has received conditional authorization under section 4 of Chapter 2](#) ;

PART 5 – IESO BOARD DECISION RATIONALE

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