



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: <u>IESO Staff</u>	
(if applicable) <i>Market Participant / Metering Service Provider</i> No. ¹ : <u>n/a</u>	<i>Market Participant Class</i> : <u>n/a</u>
Telephone: <u>905-855-6464</u>	Fax: <u>905-855-6371</u>
E-mail Address: _____	

PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: <u>Compliance</u>	
Title: <u>Technical Feasibility Exceptions</u>	
Nature of Request (please indicate with x)	
<input type="checkbox"/> Alteration	<input type="checkbox"/> Deletion <input checked="" type="checkbox"/> Addition <input type="checkbox"/> Clarification
Chapter: <u>5, 11</u>	Appendix: _____ Sections: <u>3.2A (new)</u>
Sub-sections proposed for amending/clarifying: _____	

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*.

The North American Electric Reliability Corporation's (NERC) Reliability Standards for Critical Infrastructure Protection (CIP-002 – CIP-009) specify mandatory requirements for the protection of critical cyber assets. Market participants that own critical assets identified by the IESO have the ability to request exceptions to these standards for equipment that is technically unable to meet the mandatory requirements. These exceptions are called Technical Feasibility Exceptions (TFE) and allow existing equipment to stay in service until replaced with equipment that complies with the new CIP standards.

In January 2008, the U.S. Federal Energy Regulatory Commission (FERC) approved the NERC CIP standards and directed NERC to develop a procedure for the submission, review and approval of TFEs. NERC's draft procedure was posted for comment in March 2009. NERC made a number of substantive revisions to the process as a result of stakeholder feedback, including a joint submission from the IESO and other Independent System Operators. The TFE process was approved by the NERC Board of Trustees in October 2009.

In Ontario, the IESO's Market Assessment and Compliance Division (MACD) is responsible for enforcing compliance with reliability standards¹. Therefore, MACD will be responsible for assessing and approving TFE requests from Ontario market participants. The IESO has adopted the NERC approved process with minor amendments to make it applicable to Ontario. The modified TFE process for Ontario can be found at: <http://www.ieso.ca/imoweb/marketComp/tfe.asp>

Market rule amendments are required to grant the IESO the authority to approve a TFE request and to permit market participants who own critical cyber assets to use the TFE process and to allow the IESO to recover the costs associated with assessing and processing a TFE request.

The IESO is also proposing to establish a separate charge for TFE requests which is consistent with the approach used for IESO connection assessment studies. The reasons for this proposed approach are as follows:

- **Cost Causality:** Market Participants are responsible for complying with NERC reliability standards and all associated costs for compliance. Those costs should be borne by the market participant benefitting from a TFE.
- **Scope:** The proposed cost recovery methodology ensures that market participants request approval only for those TFEs which are appropriate and require due consideration and do not unduly burden IESO resources. This would also encourage market participants to procure goods and services which are NERC CIP compliant.
- **Rate Stability:** The IESO is unable to determine the exact number of potential TFE requests it will receive and this cost recovery mechanism ensures that this uncertainty does not adversely affect the IESO's costs and associated fees.

¹ Refer to the Memorandum of Understanding between the IESO, NERC, and NPCC available at: <http://www.ieso.ca/imoweb/pubs/corp/MOU20061108-IESO-NERC-NPCC-CBRE-NPCC-INC.pdf>

PART 3 – DESCRIPTION OF THE ISSUE

The key elements of the proposed market rule amendments are as follows:

- The IESO would be granted authority to approve TFE's in Ontario;
- A market participant would be permitted to apply to the IESO for a TFE;
- The market participant shall sign an agreement agreeing to: pay the IESO the cost of the IESO's processing of the TFE request; submit a deposit with the IESO; and provide any additional supporting documentation as required;
- The IESO would be obligated to assess each application in accordance with NERC procedures as adapted for Ontario;
- The IESO would be permitted to use an independent third party to review a TFE request submitted by a market participant but would be obligated to do so if the TFE request was submitted by the IESO. The extent to which the technical expertise required to conduct a TFE assessment resides, or if resident is available, within the IESO is not yet known so this proposed permission provides flexibility within the market rules;
- The IESO would be granted permission to consult with NERC, NPCC or any other agency as required in its assessment of a TFE request;
- Failure by a market participant to meet any of the terms or conditions of an approved TFE shall be a breach of the market rules; and
- The IESO would be granted authority to approve, in whole or in part, or reject the TFE application including the period of time for which the TFE would apply following which compliance with the applicable NERC standard will be required.
- The IESO would be granted the authority to amend, transfer, and/or terminate an approved TFE.
- The IESO would be granted the authority to approve, under limited and justified circumstances, a TFE request without a specific expiration date subject to periodic review to verify continuing justification for the TFE in accordance with NERC TFE guidelines.

PART 4 – PROPOSAL (BY SUBMITTER)

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

It is proposed to modify the market rules in Chapter 5 by inserting a new section 3.2A. The section would incorporate the key elements set out in Part 3 above.

3.2A Technical Feasibility Exceptions

3.2A.1 The *IESO* is hereby authorized to grant a *Technical Feasibility Exception*.

3.2A.2 A *market participant* or the *IESO* may, in accordance with the applicable *market manual*, apply to the *IESO* for a *Technical Feasibility Exception*.

3.2A.3 The *market participant* or the *IESO*, shall, in accordance with the applicable *market*

PART 4 – PROPOSAL (BY SUBMITTER)

manual, at the time of the *Technical Feasibility Exception*:

- Sign an executed agreement to pay to the *IESO* an amount equal to all of the costs and expenses incurred by the *IESO* in assessing the *Technical Feasibility Exception*;
- Submit a deposit with the *IESO*; and
- Provide any supporting documentation to the *IESO*.

3.2A.4 The *IESO* shall assess such application in accordance with *NERC* guidelines and procedures.

3.2A.5 The *IESO* may utilize an independent third party to review a *Technical Feasibility Exception* request submitted by a *market participant* and shall utilize an independent third party to review the *Technical Feasibility Exception* request if the submitter is the *IESO*.

3.2A.6 The *IESO* may approve or reject the *Technical Feasibility Request* in accordance with *NERC* criteria.

3.2A.7 The *IESO* may amend, transfer, and/or terminate an approved *Technical Feasibility Exception* in accordance with *NERC* criteria

3.2A.8 The *IESO* may consult with *NERC* or *NPCC*, or any other agency, as required, in its assessment of a *Technical Feasibility Exception* request.

3.2A.9 A failure by a *market participant* or the *IESO* to meet any of the terms and conditions of an approved *Technical Feasibility Exception* request shall be a breach of the *market rules*.

3.2A.10 The *IESO* may grant the application, in whole or in part, subject to and including any terms and conditions, including the period of time for which the *Technical Feasibility Exception* is granted, as the *IESO* determines appropriate in accordance with *NERC Technical Feasibility Exception* guidelines.

3.2A.11 A granted exception applies for a specified period of time after which compliance with the applicable *NERC* standard is required.

3.2A.12 The *IESO* may under limited, justified circumstances, approve in whole or in part, a *Technical Feasibility Exception* request without a specific expiration date, subject to periodic review to verify continuing justification for the *Technical Feasibility Exception* and in accordance with *NERC Technical Feasibility Exception* guidelines.

Additional rule amendments will be required in Chapter 11 as follows:

PART 4 – PROPOSAL (BY SUBMITTER)

TFE definition

“Technical Feasibility Exception” is a temporary exemption from strict compliance with certain specific requirements of *NERC* reliability standards relating to critical infrastructure protection on grounds of technical infeasibility or technical limitations in accordance criteria established by *NERC*.”

reviewable decision means a decision of the *IESO* referred to in section 2.1.2, 4.4.3, 5.1.12, 5.3.9 or 6.1.5 of Chapter 6 and section (3.2A) of Chapter 5;

PART 5 – FOR IESO USE ONLY

Technical Panel Decision on Rule Amendment Submission: Warrants consideration.

MR Number: MR-00366

Date Submitted to *Technical Panel*: January 19, 2010

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

General Urgent Minor

Date:

January 26, 2010

Criteria for Acceptance: It identifies an error or inconsistency between the market rules and applicable laws, regulations, codes, OEB licences etc. Due to the reliability and compliance framework in place in Ontario, the IESO’s Market Assessment and Compliance Division (MACD), is responsible for implementing the North American Electric Reliability Corporation’s (NERC) TFE process. Market rules must be amended to implement the TFE process in Ontario and to provide the IESO the authority under the market rules to review and approve such TFE requests from market participants.

Priority: High

Criteria for Assigning Priority: Practical Consequences. Since November 24, 2009, the Ontario TFE process has been available for TFE submissions by Market Participants who are subject to these NERC standards. There is a need to provide the IESO with the necessary market rule authorities and permissions to approve or reject TFE submissions from these applicants.

Not Accepted (please indicate with x):

Clarification/Interpretation Required (please indicate with x):

Technical Panel Minutes Reference: 234-1

Technical Panel Comments: _____