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## Market Rule Amendment Proposal

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### PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00366-R00		
Subject:	Compliance		
Title:	Technical Feasibility Exceptions		
Nature of Proposal:	<input type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Addition
Chapter:	5	Appendix:	
Sections:	3.2A (new)		
Sub-sections proposed for amending:			

### PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review	February 16, 2010
2.0	Publish for Stakeholder Review and Comment	February 25, 2010
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 insert a new section 3.2A into Chapter 5 of the market rules for the following reasons:

- Permit market participants who own critical cyber assets to use the Technical Feasibility Exceptions (TFE) process to gain exceptions from Critical Infrastructure Protection reliability standards for equipment that is technically unable to meet certain requirements;
- Provide the IESO with the authority to approve a request for a Technical Feasibility Exception;
- Allow the IESO to recover costs associated with assessing and processing these requests; and,
- Provide TFE applicants access to the dispute resolution process.

#### Background

Please refer to MR-00366-Q00 which can be found at: <http://www.ieso.ca/imoweb/pubs/mr2010/MR-00366-Q00.pdf>

The modified TFE process for Ontario can be found at: <http://www.ieso.ca/imoweb/marketComp/tfe.asp>

#### Discussion

The key elements of the proposed market rule amendments are described below.

- **Section 3.2A.1** - The processing of TFE requests has two distinct phases, initial screening and substantive review. An invalid request is “rejected”. A valid request is “accepted” and proceeds to substantive review where it can later be approved or disapproved. The IESO would be granted authority to approve or disapprove and to accept or reject TFE applications. When the TFE expires, compliance with the applicable NERC standard will be required. The IESO would also be granted the authority to amend or terminate an approved TFE. Applications that are approved, amended, or transferred, in whole or in part, will be subject to and including any terms and conditions the IESO determines appropriate.
- **Section 3.2A.2** - A market participant would be permitted to request a TFE or request changes to an approved TFE.
- **Section 3.2A.3** - The market participant shall provide to the IESO in accordance with the applicable market manual: a deposit; any additional supporting documentation as required; and a signed agreement to pay the IESO the reasonable costs of the IESO’s processing of the TFE request.
- **Section 3.2A.4** - The IESO shall assess a TFE application in accordance with Ontario-adapted NERC procedures for processing TFE applications.
- **Section 3.2A.5** - The IESO shall establish a cost threshold for a TFE application and when that

**PART 3 – EXPLANATION FOR PROPOSED AMENDMENT**

threshold is reached, the IESO shall advise the TFE applicant of the work and associated costs incurred to date and provide an estimate of the further work and associated costs necessary to complete the processing of the TFE request. The TFE applicant may either choose to continue with the processing of the request or discontinue the processing of the request and remit to the IESO reimbursement for the reasonable costs incurred by the IESO to that point.

- **Section 3.2A.6** - The IESO would be permitted to use an independent third party to review a TFE request submitted by a market participant. Initially, it is anticipated that MACD would hire a third party to assist in assessing the TFE request. Under the existing corporate governance of the IESO, MACD is “ring-fenced” entity within the IESO and therefore, it is possible in future that MACD may retain those services within MACD itself as means of reducing the costs of the assessment process.
- **Section 3.2A.7** - The IESO would be granted permission to consult with NERC or NPCC as required in its assessment of a TFE request;
- **Section 3.2A.8** - 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 may terminate the approved TFE and require the TFE applicant to become compliant with the applicable NERC reliability standard. If the IESO uses this permission to terminate the approved TFE as the result of a compliance action there would be no costs assigned to the TFE applicant;
- **Section 3.2A.9** - All approved TFEs are subject to periodic review to verify continuing justification for the TFE in accordance with the Ontario TFE process.
- **Section 3.2A.10** – The IESO would be obligated to submit an invoice to the TFE applicant upon completion of the processing of their TFE application for all the IESO’s costs and expenses relating to the processing of the application minus any deposits paid to date by the applicant.
- **Section 3.2A.11** – The TFE applicant shall within thirty days of the invoice issued pursuant to sections 3.2A.5.3 or 3.2A.11 pay to the IESO the amount owing.

**PART 4 – PROPOSED AMENDMENT****3.2A Technical Feasibility Exceptions**

3.2A.1 Subject to section 3.2A.4 the *IESO* may:

3.2A.1.1 approve, terminate, amend or transfer a *TFE application*, in whole or in part, subject to and including any terms and conditions the *IESO* determines appropriate or disapprove a *TFE application*, in whole or in part;

3.2A.1.2 reject or accept a *TFE application* in whole or in part; or

3.2A.1.3 terminate or amend an approved *TFE*, in whole or in part, subject to any terms and conditions the *IESO* determines appropriate.

- 3.2A.2 A *TFE applicant* may, in accordance with the applicable *market manual*, request the *IESO* approve, amend, transfer, or terminate one or more *TFEs* by filing with the *IESO* a *TFE application* for each required *TFE*. A *TFE applicant* may withdraw a *TFE application* at any time.
- 3.2A.3 Subject to section 3.2A.4, a *TFE applicant* shall provide to the *IESO*:
- 3.2A.3.1 a deposit amount;
  - 3.2A.3.2 any supporting documentation; and
  - 3.2A.3.3 an executed agreement pursuant to which the *TFE applicant* agrees to pay to the *IESO* an amount equal to all of the reasonable costs incurred by the *IESO* in assessing the *TFE application*.
- 3.2A.4 The *IESO* shall assess a *TFE application* in accordance with Ontario-adapted *NERC* procedures for processing *TFE applications* as set out in the applicable *market manual*.
- 3.2A.5 Subject to section 3.2A.4 the *IESO* shall establish a cost threshold or subsequent cost thresholds which it considers to be reasonable and will monitor expenditures against the assessment costs of a *TFE application* and where that threshold is reached:
- 3.2A.5.1 the *IESO* shall advise the *TFE applicant* of the work and costs incurred to date;
  - 3.2A.5.2 the *IESO* shall provide an estimate to the *TFE applicant* of the further work and costs necessary to complete the assessment of the *TFE application*; and
  - 3.2A.5.3 the *TFE applicant* may choose to continue with the assessment of the *TFE application* or discontinue the assessment of the *TFE application*. In the event that the *TFE applicant* chooses to discontinue the assessment by withdrawing the *TFE application*, the *IESO* shall issue an *invoice* to the *TFE applicant* for the reasonable costs incurred by the *IESO* to that point.
- 3.2A.6 The *IESO* may utilize an independent third party to review a *TFE application* submitted by a *TFE applicant*.
- 3.2A.7 The *IESO* may consult with *NERC* or *NPCC* in its assessment of a *TFE application*.
- 3.2A.8 A failure by a *market participant* or the *IESO* to meet any of the terms and conditions of an approved *TFE* shall be a breach of the *market rules* and the *IESO* may terminate the approved *TFE* and require the *TFE applicant* to become compliant with the applicable *NERC* reliability standard.

- 3.2A.9 Subject to section 3.2A.4, all *TFEs* which remain in effect are subject to periodic review, in accordance with the applicable *market manual*, to verify continuing justification for the *TFE*.
- 3.2A.10 The *IESO* shall submit an *invoice* to a *TFE applicant* upon completion of the processing of that applicant's *TFE application* in an amount equal to all of the *IESO's* costs and expenses relating to the processing of the *TFE applicant's TFE application* less the amount of any deposit paid pursuant to section 3.2A.3.1.
- 3.2A.11 A *TFE applicant* shall, within thirty days of the date of an *invoice* referred to in section 3.2A.5.3 or 3.2A.10, pay to the *IESO* the amount owing.

**PART 5 – IESO BOARD DECISION RATIONALE**

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## Market Rule Amendment Proposal

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### PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00366-R01		
Subject:	Compliance		
Title:	Technical Feasibility Exceptions		
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 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:

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- 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**

Consequential to MR-00366-R00 it is proposed to insert new defined terms in Chapter 11 of the market rules

**Background**

Please refer to MR-00366-R00.

**Discussion**

3 new defined terms are required in Chapter 11 of the market rules with respect to the introduction of a new section 3.2A in Chapter 5 as described in MR-00366-R00. Specifically they are as follows:

- TFE applicant;
- TFE application; and
- Technical Feasibility Exception or TFE.

Additionally, in order to permit TFE applicants access to the dispute resolution process it is necessary to modify the defined term “reviewable decision”.

**PART 4 – PROPOSED AMENDMENT**

*TFE applicant* means:

- (i) a *market participant* who applies to the *IESO* for a *TFE*; or
- (ii) a person applying to become a *market participant*; or
- (iii) the *IESO*, in the event the *IESO* requires a *TFE*.

*TFE application* means an application for the approval, amendment, termination, or transfer of a *TFE* pursuant to section 3.2A of Chapter 5;

“*technical feasibility exception*” or *TFE* is a temporary exception from compliance with certain requirements of *NERC* reliability standards relating to critical infrastructure protection on grounds of technical infeasibility or technical limitations in accordance with Ontario adapted *NERC* procedures for processing *TFEs*.”

*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 sections 3.2A.1, 3.2A.5.3, 3.2A.10 of Chapter 5](#);

**PART 5 – IESO BOARD DECISION RATIONALE**

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