



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>Settlements</u>	
Title: <u>Maximum Adjustment Period</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>1,3,6,7, 9, 11</u> Appendix: _____	Sections: <u>13.2.5A (Chapter 1), 2.5.1/2.7.13/2.7.27.2 (Chapter 3), 10.4.2/10.4.4 (Chapter 6), 7.6.3 (Chapter 7), 6.8.9/6.8.10/6.8.12 (Chapter 9)</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*.

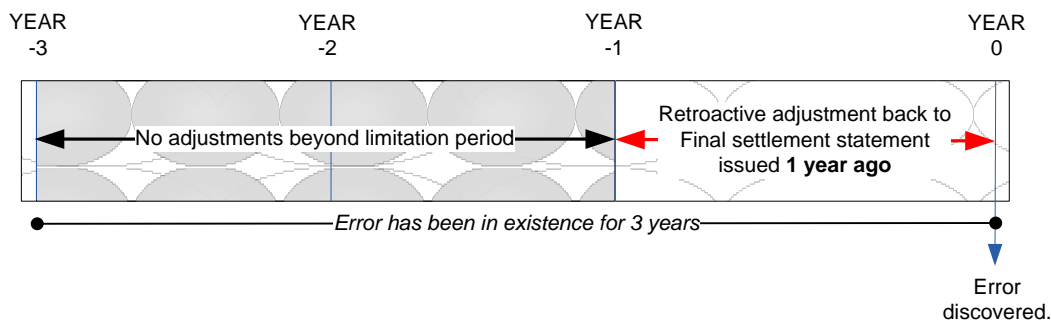
Summary

The IESO proposes to establish a maximum adjustment period for settlement adjustments. These adjustments would take the form of a settlement statement re-calculation. Under the current framework, settlement adjustments may apply to transactions that date back to market opening.

The introduction of a maximum adjustment period will result in greater certainty to market participants and permit efficiencies in the IESO’s existing settlement processes. The IESO is proposing that the earliest trading day for which any settlement statement re-calculation could be applied would be either one year from the final settlement statement for the relevant trading day or from when the claim was first made known to the IESO. Settlement statement re-calculations would be retroactive to the final settlement statement issued up to a maximum of 1 year from the date of discovery of the error.

For example, an error discovered on March 19, 2011 would be corrected retroactive to the final settlement statement issued for March 19, 2010. On calendar day March 19, 2010, the final settlement statement issued (20 business days after a trade day) was for trading day February 19, 2010. Therefore, trading days that would be subject to retroactive settlement recalculation will include February 19, 2010 to March 19, 2011.

A visual representation of a maximum adjustment period of one year is provided below:



Market participants have expressed concern with open-ended periods for settlement adjustments because it creates uncertainty with respect to the finality of their financial statements. Market participants are exposed to the risk that a retroactive settlement adjustment spanning several years will result in unbudgeted amounts to their current year’s financial statement. The introduction of a

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maximum adjustment period of one year will eliminate uncertainty about the period for settlement adjustments. The correction of the error may take a period of time before any required settlement statement re-calculation could occur, however, the period of time for which the adjustment would be applied would be certain. Market participants may also realize cost savings as they will not be required to have the necessary tools, processes, and support to verify these types of long duration settlement adjustments.

Within IESO’s current settlement system, cost savings will be realized with the amount of time IESO staff must spend to retrieve, verify, calculate and process long duration settlement adjustments. These costs increase with the duration of the re-calculation required.

The IESO discussed the concept of a maximum adjustment period at the October 22, 2009 Stakeholder Advisory Committee (SAC). The SAC was generally supportive of the initiative, posed a number of questions in respect of the conditions under which the need for a re-calculation might occur and made some recommendations to the IESO with respect to implementation issues that would require further thought and resolution. For further information on that discussion please refer to the meeting minutes: http://www.ieso.ca/imoweb/consult/stakeholder_ac_meetings.asp

Background

The IESO settlement cycle allows twenty business days past a trading day to review and adjust all settlement data. After this point, the settlement statement related to that trading day is considered final and no further adjustments are considered, within that cycle. There is a dispute process that allows for adjustments to be applied after final settlement, provided the participant meets the dispute submission deadline of twenty business days past the final statement along with other criteria.

In addition to the resolution of disputes, in certain instances the IESO will process other post final settlement adjustments. These adjustments fall into 5 main categories:

- Meter registration (such as errors in wiring or meter multipliers)
- Meter data processing
- Amounts calculated under ancillary contracts
- Missing data submissions by the market participant
- IESO process error.

It has been the IESO’s experience that errors with meter registration and amounts calculated under ancillary contracts can be of longer duration. The other three categories are typically discovered and corrected within a few months of the relevant trading day(s).

The errors are investigated and an adjustment is made, where appropriate, in accordance with the market rules. These adjustments are calculated back to the first date the error occurred, which could date back to market opening. Once calculated, an adjustment is applied to a market participant’s settlement statement, and the offsetting balance is either charged or credited to the rest of the market.

With respect to metering issues, Measurement Canada has the authority to investigate and resolve complaints regarding metering. Since market opening in 2001, the federal authority has not been involved in wholesale metering issues. Measurement Canada’s process is limited to correcting inaccurate data and the consequences of the inaccuracy (i.e., financial compensation) are left to the parties. For example, if a market participant became aware of a potential metering error, they could

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request that Measurement Canada investigate and determine if the meter is accurate. The Market Rules would determine whether a party is entitled to compensation for any error and how much.

For a description of the Measurement Canada process please refer to:

http://www.ic.gc.ca/eic/site/mc-mc.nsf/eng/h_lm00007.html

Highlights of Proposed Changes

Chapter 1

- Insert a new section 13.2.5A to specify that the IESO would not be limited in seeking remedy when a market participant or the IESO breaches sections 11.2.1 or 11.3.1 of Chapter 1 or otherwise engages in fraudulent conduct. This will ensure there is an exception to the limitation periods for a breach of sections 11.2.1 (No Misleading or Deceptive Information) and 11.3.1 (Correction of Incorrect Information). These exceptions will permit the pursuit of a remedy that could result from a breach of these sections of the market rules without being constrained by the maximum adjustment period timelines.

Chapter 3

- Modify section 2.5.1 to make the language consistent with similar provisions in the *Limitations Act, 2002*.
- Modify section 2.5.1A by making it subject to a new sub-section 2.5.1C. Additionally, sections 2.5.1A.4B and 2.5.1A.4C would be deleted and section 2.5.1A.5 would specify the time period for which a notice of dispute could be undertaken. These modifications will reduce the residual limitation period for disputes not covered by sections 2.5.1A.1 to 2.5.1A.4A from 2 years to 1 year. The *Limitations Act, 2002* currently provides for a two year time period and these modifications will put into effect a one year time period in the market rules.
- Insert a new section 2.5.1C to specify that the dispute process would apply and that the time restrictions specified in section 2.5.1A would not apply when there is an allegation that the respondent has breached sections 11.2.1 or 11.3.1 of Chapter 1 or engaged in fraudulent conduct (see above for further information).
- Modify the language of section 2.7.13 and delete section 2.7.13.1. Section 2.7.13.1 will be replaced by a new section 6.8.10.1 in Chapter 9 (Settlement Statement Recalculations).
- Modify section 2.7.27.2 to specify the time period for which an arbitrator can order the IESO to conduct a settlement statement re-calculation. In the context of a dispute, this will restrict the ability of the IESO (in the event of a settlement) and the arbitrator to require a settlement statement re-calculation and any adjustment to the market to one year from the date of the claim was first made known to the IESO.

Chapter 6

- Modify section 10.4.2 to specify the time period for which it can apply appropriate corrections for a metering error.
- Modify section 10.4.4 to specify the time period for which the IESO shall apply substitute

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meter readings to effect a correction for an error.

Both these modifications will limit adjustments where metering errors are detected to a period of time retroactive to the final settlement statement issued up to a maximum of 1 year from the date of which the error is first made known to the IESO.

Chapter 7

- Modify section 7.6.3 to specify the time period for which a market participant may claim compensation for a dispatch scheduling error. Additionally, some minor grammatical adjustments are proposed for sections 7.6.3.1 and 7.6.3.2.

Chapter 9

- Modify section 6.8.9 to capture the notion of a market participant disputing “any matter related to or arising from” a final settlement statement. This would clarify in the market rules that the 20-business day limit applies to all disputes that may result in a settlement statement re-calculation.
- Modify section 6.8.10 to:
 - replace the ‘due diligence’ provision for filing a notice of disagreement with the concept of ‘discoverability’, which is a well-known legal concept and is used in the *Limitations Act, 2002* (6.8.10.1);
 - align the rule to IESO practice by including an explicit exception to the twenty business day limit for serving a notice of dispute for matters that were not discoverable (6.8.10.2); and
 - limit the ability of a market participant to request a settlement statement re-calculation to one year from the date of the settlement statement regardless of when the matter was discoverable (6.8.10.2).
- Modify section 6.8.12 to limit the time period during which a settlement statement re-calculation may be applied in response to a filed notice of dispute to one year. The time during which the IESO would re-settle the market (either a current period adjustment or an adjustment period allocation) is similarly limited.

Chapter 11

- Modify the definition of a settlement statement re-calculation. The current definition does not contemplate the possibility that a settlement statement re-calculation may happen for reasons other than a settlement dispute (i.e., the IESO making a metering correction that requires a settlement statement re-calculation) therefore the definition requires modification.

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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 as follows:

Chapter 1

13.2 Liability of Market Participants

13.2.5 Nothing in this section 13.2 shall be read as limiting the right of the *IESO* to impose a financial penalty or other sanction including, but not limited to, the issuance of a *suspension order*, a *disconnection order* or a *termination order*, on a *market participant* in accordance with the provisions of these *market rules*.

13.2.5A Nothing in the *market rules* shall be read as restricting or limiting any remedy that would otherwise be available where a *market participant* or the *IESO* breaches section 11.2.1. or 11.3.1 or otherwise engages in fraudulent conduct.

To assist the reader please find below sections 11.2.1 and 11.3.1 of Chapter 1.

11.2 No Misleading or Deceptive Information

11.2.1 Information disclosed or provided by a *market participant* to the *IESO* and/or to other *market participants* or by the *IESO* to *market participants* pursuant to the *market rules* shall be, to the best of the disclosing person’s knowledge, true, correct and complete at the time at which such disclosure or provision is made. Neither the *IESO* nor *market participants* shall knowingly or recklessly disclose or provide information pursuant to the *market rules* that, at the time and in light of the circumstances in which such disclosure or provision is made, is misleading or deceptive or does not state a fact that is required to be stated or that is necessary to make the statement not misleading or deceptive.

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11.3 Correction of Incorrect Information

- 11.3.1 Where a *market participant* or the *IESO* discovers that any information previously disclosed or provided by it to any person pursuant to the *market rules* was, at the time at which it was disclosed or provided, or becomes untrue, incorrect, incomplete, misleading or deceptive, the disclosing person shall immediately rectify the situation and disclose or provide the true, correct, complete, not misleading or not deceptive information to the person to whom the original or currently untrue, incorrect, incomplete, misleading or deceptive information had been disclosed or provided.

Chapter 3

2.5 Notice of Dispute, Negotiation and Response

- 2.5.1 ~~No proceeding shall be commenced in respect of a claim unless the complaining person (the “applicant”) shall, within the time specified in section 2.5.1A, serve a written notice of the dispute (the “notice of dispute”) on any respondent within the time specified in section 2.5.1A.~~
- 2.5.1A ~~Subject to 2.5.1C, A~~ notice of dispute shall be served:
- 2.5.1A.1 in the case of an application referred to in section 2.2.1.3, within 20 *business days* of the date of receipt of notice by the *generator* of rejection by the *IESO* of the *outage* in respect of which compensation is claimed pursuant to section 6.7.5 of Chapter 5;
- 2.5.1A.2 in the case of a dispute that involves a *reviewable decision* referred to in section 5.3.9 of Chapter 6, within 20 *business days* of the date of receipt by the *metering service provider* of notice of the revocation of its registration by the *IESO*;
- 2.5.1A.3 in the case of a request or dispute referred to in section 6.8.2A or 6.8.2B of Chapter 9, within the time specified in section 6.8.8 of Chapter 9;
- 2.5.1A.4 in the case of a dispute referred to in section 6.8.9 of Chapter 9, within the time specified in section 6.8.10 of Chapter 9;
- 2.5.1A.4A in the case of a dispute referred to in section 2.1A.6A of Chapter 9, within 20 *business days* of the date of receipt of the first *invoice* that reflects the apportionment that is the subject-matter of the dispute; ~~and~~
- 2.5.1A.4B ~~[Intentionally left blank – section deleted] in the case of a dispute involving an order, direction, instruction or decision of the IESO issued prior to January 1, 2004 not otherwise addressed by subsections 2.5.1A.1 to 2.5.1A.4A, within six years of the date of receipt of the order, direction, instruction or decision;~~

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2.5.1A.4C ~~[Intentionally left blank – section deleted]~~

~~in the case of a dispute involving an order, direction, instruction or decision of the IESO issued on or after January 1, 2004 not otherwise addressed by subsections 2.5.1A.1 to 2.5.1A.4A, within two years of the date of receipt of the order, direction, instruction or decision; and~~

2.5.1A.5 in all other cases, ~~within the applicable limitation period set out in the Limitations Act, 2002.~~ within one year of the date on which the act or omission on which the dispute is based took place.

2.5.1B [Intentionally left blank – section deleted]

2.5.1C Section 2.5.1A does not apply to allegations that the respondent has breached sections 11.2.1 or 11.3.1 of Chapter 1 or engaged in fraudulent conduct.

2.7 Arbitration

2.7.13 The procedures governing the arbitration shall be determined by the *arbitrator*, except as provided for ~~herein in the market rules~~ and by sections 19 to 22, 25 (other than 25(3) to 25(5)) to 33, 36, 36 and 40 to 44 of the *Arbitration Act, 1991*.

2.7.13.1 ~~[Intentionally left blank – section deleted] In the case of a dispute referred to in section 6.8.9 of Chapter 9, the arbitrator shall dismiss the notice of dispute and take no further action with respect to the notice of dispute if the element of the final settlement statement that is the subject matter of the notice of dispute is identical to the same element in the corresponding preliminary settlement statement unless the market participant demonstrates that it could not, with the exercise of due diligence, have filed a notice of disagreement in respect of that preliminary settlement statement.~~

2.7.27 The *arbitrator* may:

2.7.27.1 in the case of a dispute referred to in section 2.2.1.2, confirm the order of the *IESO* or set aside the order of the *IESO* and order the *IESO* to authorize the person 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 such terms and conditions, if any, which the *arbitrator* determines are just and reasonable;

2.7.27.2 in the case of a dispute referred to in section 2.2.1.5, confirm that no *settlement statement re-calculation* is required or order the *IESO* to

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effect a *settlement statement re-calculation of any final settlement statement issued less than one year prior to the date on which the claim was first made known to the IESO*; or

2.7.27.3 in the case of a dispute referred to in section 2.2.1.6, make such orders or directions as the *arbitrator* considers just and reasonable,

and an award of the *arbitrator* under this section 2.7.27 may include the direction to the *IESO* referred to in section 2.7.25 and shall be deemed to be a decision or order of the *IESO* for purposes of the *market rules* and the application of the appeal provisions of section 36 of the *Electricity Act, 1998*.

Chapter 6**10.4 Errors Found in Metering Tests, Inspections or Audits**

10.4.1 If a test, inspection or audit of a *metering installation* or of *metering data* carried out in accordance with section 7 demonstrates errors in excess of those prescribed in this Chapter or in any policy or standard established by the *IESO* pursuant to this Chapter and the *IESO* is not aware of the time at which that error arose, the error shall be deemed to have occurred at a time which is half way between (i) the time of the most recent test, inspection or audit which demonstrated that the *metering installation* complied with the relevant measurement standard and (ii) the time when the error was detected.

10.4.2 The *IESO* may make appropriate corrections to *metering data* contained in the *metering database* to account for an error of measurement revealed pursuant to a test, inspection or audit referred to in section 10.4.1. The correction period will be retroactive to the final settlement statement issued up to a maximum of 1 year from the date of which the error was first made known to the IESO.

10.4.3 If the error of measurement referred to in section 10.4.1 is less than the error permitted by this Chapter or by any policy or standard established by the *IESO* pursuant to this Chapter, no substitution of readings shall be required unless, in the *IESO's* opinion, the *metered market participant* for the *metering installation* or any person referred to in sections 8.1.5.1 to 8.1.5.3, other than an authorized agent, would be significantly affected if no substitution were made.

10.4.4 If substitution of readings is required under section 10.4.3, the *IESO* shall provide substitute readings to effect a correction for that error ~~in respect of the period since the error occurred or was deemed to have occurred in accordance with section 10.4.1.~~ for a period that is retroactive to the final settlement statement issued up to a maximum of 1 year from the date of which the error was first made known to the IESO.

Chapter 7**7.7.6 Dispatch Scheduling Errors**

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- 7.6.1 A *dispatch scheduling error* shall be deemed to have occurred if either:
- 7.6.1.1 an *arbitrator* determines that the *IESO* has made a *dispatch scheduling error*; or
 - 7.6.1.2 the *IESO* declares that it has made a *dispatch scheduling error*, on its own initiative or further to a *notice of disagreement* filed or other *settlement* dispute initiated by a *market participant* pursuant to section 6.6, 6.7 or 6.8 of Chapter 9.
- 7.6.2 When a *dispatch scheduling error* has occurred, the *IESO* shall not adjust *market prices* but shall, subject to section 7.6.3 and notwithstanding section 13.1.2 of Chapter 1, be strictly liable to compensate a *market participant* for damages suffered by the *market participant* as a result of the *dispatch scheduling error*, assessed in accordance with section 13.1.4 of Chapter 1.
- 7.6.3 A *market participant* that wishes to claim compensation pursuant to section 7.6.2 shall, within one year of the date of issuance of the final settlement statement for the trading day on which the dispatch scheduling error took place:
- 7.6.3.1 ~~where the dispatch scheduling error was determined to have been made pursuant to section 7.6.1.1,~~ request the *arbitrator* to determine the *market participant's* entitlement to and amount of, if any, such compensation where the dispatch scheduling error was determined to have been made pursuant to section 7.6.1.1; and
 - 7.6.3.2 ~~where the dispatch scheduling error was determined to have been made pursuant to section 7.6.1.2,~~ request that the *IESO* determine the *market participant's* entitlement to and amount of, if any, such compensation where the dispatch scheduling error was determined to have been made pursuant to section 7.6.1.2,
- with the amount, if any, in either case being determined in accordance with section 7.6.4.
- 7.6.4 Any amount determined by an *arbitrator* or by the *IESO*, as the case may be, pursuant to section 7.6.3 or 7.6.5 shall be assessed in accordance with section 13.1.4 of Chapter 1 and shall exclude such amount as may be required to account for any *congestion management settlement credit* triggered by the relevant *dispatch scheduling error* and already credited to the *market participant*.
- 7.6.5 If a *market participant* wishes to dispute a determination made by the *IESO* pursuant to section 7.6.3.2, it shall submit the matter to the dispute resolution process set forth in section 2 of Chapter 3 and shall, if the good faith negotiations referred to in section 2.4 of that Chapter fail to resolve the matter, request in the *notice of dispute* that the *arbitrator* determine the *market participant's* entitlement to the compensation referred to in section

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7.6.2, the amount, if any, of such compensation or both, as the case may be.

Chapter 9**6.8 Settlement Statement Recalculations**

6.8.9 If a *market participant* wishes to dispute any matter related to or arising from a *final settlement statement* referred to in section 6.7.7, it shall submit the matter to the dispute resolution process set forth in section 2 of Chapter 3 and shall indicate, in the *notice of dispute*, the contested amount and whether a *settlement statement re-calculation* is requested.

6.8.10 No *market participant* may submit, and the ~~secretary~~ *arbitrator* shall ~~not dismiss and accept~~ ~~or~~ take no further any action with respect to, a *notice of dispute* ~~filed served~~ pursuant to section 6.8.9 if any of the following three conditions exist:

6.8.10.1 the element of the *final settlement statement* that is the subject-matter of the *notice of dispute* is identical to the same element in the corresponding *preliminary settlement statement* unless the *market participant* demonstrates that a reasonable person could not have discovered the subject-matter of the dispute in the time required to file a *notice of disagreement* in respect of the *preliminary settlement statement*; or

6.8.10.2 more than twenty *business days* has elapsed since the date on which the *final settlement statement* to which the *notice of dispute* relates was issued unless the *market participant* demonstrates that a reasonable person could not have discovered the subject-matter of the dispute in the time required to serve a *notice of dispute*; or-

6.8.10.3 more than one year has elapsed since the date on which the *final settlement statement* to which the *notice of dispute* relates was issued.

6.8.11 [Intentionally left blank]

6.8.12 Sections 6.8.3 to 6.8.7 apply in respect of any *settlement statement re-calculation* requested in or ordered in response to a *notice of dispute* to which section 6.8.9 or 6.8.10 applies: provided that the arbitrator shall not order and the IESO shall not carry out a *settlement statement re-calculation, current period adjustment or adjustment period allocation* in respect of a *final settlement statement* that was issued more than one year prior to the date on which the error was first made known to the IESO.

Chapter 11

settlement statement re-calculation means the re-calculation of a *final settlement statement* during the attempted resolution of a *settlement dispute*;

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PART 5 – FOR IESO USE ONLY

<i>Technical Panel</i> Decision on Rule Amendment Submission: <u>Warrants consideration.</u>	
MR Number: <u>MR-00367</u>	
Date Submitted to <i>Technical Panel</i> : <u>May 4, 2010</u>	
Accepted by <i>Technical Panel</i> as: (please indicate with x)	Date:
<input checked="" type="checkbox"/> General <input type="checkbox"/> Urgent <input type="checkbox"/> Minor	<u>May 11, 2010</u>
Criteria for Acceptance: <u>It identifies ways to simplify the market and/or reduce participant or IESO costs.</u>	
Priority: <u>Medium</u>	
Criteria for Assigning Priority: <u>Pervasiveness. Settlement statement re-calculations are pervasive and when they occur they impact all market participants.</u>	
Not Accepted (please indicate with x): <input type="checkbox"/>	
Clarification/Interpretation Required (please indicate with x): <input type="checkbox"/>	
<i>Technical Panel</i> Minutes Reference: <u>IESOTP 237-1</u>	
<i>Technical Panel</i> Comments: _____	