



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00369		
Subject:	Dispute Resolution		
Title:	Changes to the Dispute Resolution Panel		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input type="checkbox"/> Addition
Chapter:	3	Appendix:	
Sections:	2.7.1, 2.7.1B, 2.7.40		
Sub-sections proposed for amending:			

PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review; Publish for Stakeholder Review and Comment	March 10, 2010
2.0	Recommended by Technical Panel; Submitted for IESO Board Approval	March 26, 2010
3.0	Approved by IESO Board	April 15, 2010
Approved Amendment Publication Date:	April 15, 2010	
Approved Amendment Effective Date:	May 8, 2010	

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

This amendment submission proposes changes to align the market rules with the IESO’s revised Governance and Structure By-Law (the “G&S By-law”).

Background

In September, 2009, the IESO Board approved a series of proposed amendments to the G&S By-law which came into force on November 30, 2009.

One of the amendments to section 7.3(a) of the G&S By-Law reduced the number of members of the dispute resolution panel (“DRP”) from “ten (10) or more” to “three (3) or more” – experience has shown that there was no need to have at least ten members on the DRP based on the number and types of formal disputes since market opening. It is the intent to have five members in total on the DRP going forward.

Discussion

Chapter 3 of the market rules currently requires the secretary of the DRP to provide a list containing the names of five members of the DRP that are available to arbitrate a dispute, from which one will be chosen as arbitrator. It is proposed to reduce the minimum number of members required to be available to arbitrate a dispute from five to three to align with the reduced DRP membership requirements of the G&S By-Law.

The proposed rule amendments will require a list of at least three names out of the total of five DRP members available to arbitrate a dispute – from the list of three, one member will be chosen as arbitrator.

PART 4 – PROPOSED AMENDMENT

2.7 Arbitration

2.7.1 Subject to section 2.7.1A, within five *business days* of:

- 2.7.1.1 the earlier of the filing of a *response* or of the expiry of the time for filing a *response* pursuant to section 2.5.4, where the dispute is one to which section 2.6.1A.1, 2.6.1A.2 or 2.6.1A.3 applies;

- 2.7.1.1A the filing of the request referred to in section 2.5.9.2, where the dispute is one to which that section applies;
- 2.7.1.2 the filing of a notice of intent to dispense with mediation pursuant to section 2.6.1B, where the dispute is one to which that section applies; or
- 2.7.1.3 the filing of the notice of termination referred to in section 2.6.13 or 2.6.16, in any other case,

the *secretary* shall in accordance with the *Governance and Structure By-law* provide the parties with a list of at least threefive names of members of the *dispute resolution panel* available to arbitrate the dispute. No person who acted as a *mediator* in respect of a dispute may be included on the list of members available to arbitrate the same dispute.

- 2.7.1B Within five *business days* of the filing of a *notice of dispute* in respect of an application to which section 2.6.1A.1 applies, the *secretary* shall in accordance with the *Governance and Structure By-law* provide the *applicant* with a list of at least threefive names of members of the *dispute resolution panel* available to determine the amount of any compensation payable to the *applicant*. Where the *applicant* fails to select an *arbitrator* within ten *business days* of receipt of such list, the *secretary* shall, in accordance with the *Governance and Structure By-law*, appoint one member of the *dispute resolution panel* to be the *arbitrator* in respect of the application and shall by written notice so advise the *applicant*. The *arbitrator* shall be deemed to have been appointed as of the date of such notice.
- 2.7.40 Where an *arbitrator* dies, resigns, is removed or otherwise becomes incapable of acting as an *arbitrator* in respect of a dispute prior to completion of the arbitration, a replacement shall, with the consent of all of the parties to the arbitration, be selected by the *secretary* from among the remaining members of the *dispute resolution panel* in accordance with the *Governance and Structure By-law*. In the absence of such consent, the *secretary* shall forthwith provide the parties with a revisedfurther list of at least threefive names of members of the *dispute resolution panel* available to fill the vacancy and the parties shall make good faith efforts to agree on the appointment of one of the members named in the list as the replacement *arbitrator*. Where the parties so agree, they shall so advise the *secretary*.

PART 5 – IESO BOARD DECISION RATIONALE

This amendment aligns the market rules with changes to the Governance and Structure By-law that were approved by the IESO Board in September 2009. The changes reflect the approved reduction in the required number of dispute resolution panel members.