



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@theIMO.com

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 *IMO* 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 *IMO* 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: IMO Staff	
(if applicable) Market Participant / Metering Service Provider No. ¹:	Market Participant Class:
Telephone: (416) 506-2801	Fax: (416) 506-2847
Email Address: rule.amendments@theimo.com	

PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: Administration
Title: Impact of New Limitations Act
Nature of request (please indicate with X): <input checked="" type="checkbox"/> Alteration <input type="checkbox"/> Deletion <input type="checkbox"/> Addition <input type="checkbox"/> Clarification
Chapter: 3 Appendix: Sections: 2.4.2
Sub-sections proposed for amending/clarifying : 2.4.2.1 and 2.4.2.2

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 *IMO-administered markets*. Include the Chapter and Section number of the relevant market rules.

The existing market rules have several provisions that relate to market participants raising disputes or claiming compensation.

Section 2 of Chapter 3 of the market rules outlines the procedure through which disputes between the IMO and market participants are to be resolved. Section 2.4 of Chapter 3 specifies the time frame within which the good faith negotiation aimed at the resolution of a dispute must commence. Section 2.4.2.1 of Chapter 3 provides for a limitation period of six years from the receipt of an order, direction or instruction from the IMO. Section 2.4.2.2 also provides for a six-year limitation period, beginning on the date the subject-matter of the dispute occurred or the date on which the party initiating the negotiation became aware or ought, with the exercise of due diligence, to have become aware of the event that is the subject-matter of the dispute. This six-year limitation period applies to most types of disputes between the IMO and market participants as set out in Section 2 of Chapter 3.

Provisions that relate market participant claims for compensation include:

- Chapter 7, section 13.6.3. In the event of a temporary suspension of market operations, the market rules provide for administered prices to be used during the suspension. To the extent that the administrative prices do not adequately compensate a market participant for complying with dispatch instructions, the IMO shall provide compensation determined in accordance with section 13.6.3A.
- Chapter 5, section 6.7. The IMO compensates generators, distributors or wholesale consumers in the event that the IMO revokes advance approval of a planned outage or recalls a planned outage.
- Chapter 5, section 5.3.4. In certain situations, for system reliability reasons, the IMO may limit the amount of energy or ancillary services that a participant may supply into, or withdraw from, the Ontario grid. In instances where the IMO initiates the reduction, the IMO will compensate the participant for financial losses suffered as a result of the limitation being imposed.
- Chapter 4, sections 5.1.4, 5.2.3 and 5.3.4. In certain circumstances the IMO will compensate a market participant for unrecoverable costs it incurred when testing its systems at the IMO's request.
- Chapter 7, sections 9.4.3 (ancillary services), 9.4.4 (reactive support) and 9.5.2.1 (contracted ancillary services). These sections refer to payments to market participants for the provision of ancillary services to maintain the reliability of the IMO-controlled grid, including (but not limited to) reactive power (VARs) to support the necessary level of voltage.

The IMO has identified the following two issues with respect to the existing provisions related to market participants raising disputes or claiming compensation.

Firstly, Sections 2.4.2.1 and 2.4.2.2 of Chapter 3 were drafted to reflect the limitation period provided in the former Ontario *Limitations Act*, which, like the current market rules, required a party to bring a claim within six years of discovering that a cause for a claim existed. The new Ontario *Limitations Act, 2002*, which replaced the former Ontario *Limitations Act*, came into effect on January 1, 2004, and provides for a shorter limitation period of two years. This shorter period is intended to have general application to commercial transactions in Ontario.

PART 3 – DESCRIPTION OF THE ISSUE

A shorter limitation period of two years should still provide ample time within which to commence the negotiation of a dispute, but would provide some assurance that neither the IMO nor market participants would be required to negotiate or resolve the disputes referred to above after the two-year time period had elapsed.

The IMO believes that it is inappropriate and unnecessary to leave the marketplace exposed to effectively unknown financial liabilities for up to six years, given the shorter limitation period provided in the new legislation. Another factor that supports the shorter time period is that the longer the period of time since the triggering event, the greater the difficulty in ensuring the accuracy of the facts in question, supplying appropriate evidence and dealing with the outcome of the dispute.

Secondly, although not explicit in the market rules, the six-year limitation period also applies to market participant claims for compensation cited above.

To improve transparency of the market rules regarding such claims, and for consistency with the new Ontario *Limitations Act, 2002*, the market rules should explicitly indicate that such claims must be made within 2 years of the event.

PART 4 – PROPOSAL (BY SUBMITTER)

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

Amend the market rules to replace the reference to a six-year limitation period with a two-year limitation period with respect to the commencement of the negotiation of disputes (other than any possible disputes that would have the benefit of a longer limitation period under the new *Limitations Act, 2002*). The market rules should also clarify that market participants must also submit claims for compensation within this two-year period.

PART 5 – FOR IMO USE ONLY***Technical Panel Decision on Rule Amendment Submission***

MR number: MR-00259-Q00

Date submitted to *Technical Panel*: April 29, 2004

Accepted by *Technical Panel* as: **General** **Urgent** **Minor**
(please indicate with X)

Date: May 4, 2004

Criteria for acceptance:

- an error or inconsistency between the market rules and applicable laws (i.e. the new *Limitations Act*)
- clarifies an ambiguity or confusion within the market rules with respect to time limitations for market participant claims for compensation

PART 5 – FOR *IMO* USE ONLY

Priority: Medium
Criteria for assigning priority: <ul style="list-style-type: none">• pervasiveness of the risk of outstanding compensation claims and the lack of transparency with respect to same
Not accepted (please indicate with X):
Clarification/interpretation required (please indicate with X):
Technical Panel minutes reference: IMO TP 142-1
Technical Panel Comments: