



Market Rule Amendment Submission

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) <i>Market Participant / Metering Service Provider No.</i> ¹ :	Market Participant Class:
Telephone:	Fax:
Email Address:	

PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: IMO Administration / Panels		
Title: Bill 58 – Consequential Changes to the Powers of the Market Surveillance Panel		
Nature of request (please indicate with X): <u>X</u> Alteration ___ Deletion ___ Addition ___ Clarification		
Chapter: 3	Appendix:	Sections: 3
Sub-sections proposed for amending/clarifying : 3.3.2A, 3.4.7, 3.4.10, and 3.5.6(new)		

¹ This field is restricted to a maximum of 12 characters and does not allow 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.

Bill 58 was passed and received Royal Assent on June 27, 2002. Amongst other things it expands the powers of the Market Surveillance Panel. Section 37 of the Electricity Act, 1998 has been replaced with new sections 37, 37.1, 37.2 and 37.3. The proposed amendments contained herein are consequential to these changes resulting from the enactment of Bill 58. A summary of the proposed changes to the market rules, cross referenced to the legislation, are as follows:

- the Market Surveillance Panel’s rights to access information have been expanded from requesting to compelling market participants to produce information for the purposes of allowing the panel to carry out its duties [*section 37.1¹*] (Under the current market rules, the Market Surveillance Panel can only request market participants to provide information, and if participants refuse to provide the requested information, the Panel needs to appeal to the OEB in order to compel the participant.);
- the Market Surveillance Panel’s rights to access information needed to enable it to undertake investigations have been expanded from requesting to compelling market participants to produce information including search and seizure authorities [*section 37²*]; and
- the Market Surveillance Panel has been given the new authority to make disclosure of *confidential information* if it is of the opinion that disclosure is in the public interest [*section 37.3 (3)³*].

In addition, the rules governing the Market Surveillance Panel need to be reviewed to consider any further changes that may be appropriate to ensure consistency with the legislation. For example, section 3.4.6 compels the Market Assessment Unit to inform market participants when they are the subject of an investigation. However, this may not be appropriate in all circumstances if there is concern that such notification may provide opportunity for the market participant to impede or frustrate the investigation. Also, it is not consistent with the *ex parte* search and seizure warrant applications in Bill 58, sections 37 (2) and (9) in footnote 2 below.

¹ **Review of materials by Panel**

37.1 (1) Every market participant shall deliver to the Market Surveillance Panel, at any time required by the Panel, any books, records or documents that are required to be kept by the market participant under the market rules or Ontario law.

² **Right to examine**

(2) For the purposes of an investigation under this section, the Panel may examine any documents or other things, whether they are in the possession or control of the person whose activities are being investigated or any other person.

Authorization to search

(9) For the purposes of an investigation under this section, a person authorized in writing by the Panel may apply to a judge of the Ontario Court of Justice in the absence of the public and without notice for a warrant authorizing the person or persons named in the warrant to enter and search any building, receptacle or place specified and to seize anything described in the authorization...

³ **Disclosure by Panel**

(3) The Panel shall make an order permitting the disclosure of information or material obtained pursuant to section 37 or 37.1 if, after giving the person from whom the information or material was obtained and any other person who, in the opinion of the Panel, is an interested party an opportunity to be heard, the Panel is of the opinion that disclosure is in the public interest.

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.

PART 4 – PROPOSAL (BY SUBMITTER)

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

The proposal is to modify sections 3.3.2A and 3.4.7 to state that the Market Surveillance Panel has the power to compel the production of information and to enter premises. Sections that are inconsistent with the legislation are to be deleted (e.g. section 3.4.10), and a new section 3.5.6 is to be added identifying the Panels expanded power to disclose confidential information if it is of the opinion that disclosure is in the public interest.

PART 5 – FOR IMO USE ONLY

Technical Panel Decision on Rule Amendment Submission	
MR number: MR-00203-Q00	
Date submitted to Technical Panel: October 31, 2002	
Accepted by Technical Panel as: <input checked="" type="checkbox"/> General ___ Urgent ___ Minor (please indicate with X)	Date: November 5, 2002
Criteria for acceptance: Changes to the market rules are necessary to ensure they are properly aligned with the legislation, which is paramount to the market rules.	
Priority: Medium	

PART 5 – FOR *IMO* USE ONLY

<p>Criteria for assigning priority: Since legislation is paramount to the market rules, a high priority is unnecessary. Since the market rules and legislation should be consistent, neither would a low priority be appropriate. Hence, a medium priority is chosen.</p>
<p>Not accepted (please indicate with X):</p>
<p>Clarification/interpretation required (please indicate with X):</p>
<p>Technical Panel minutes reference: IMOTP-115-1</p>
<p>Technical Panel Comments: The Technical Panel accepted the submission as warranting further consideration.</p>