



Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

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| Identification No.: | MR-00262-R00 | | |
| Subject: | Settlement and Dispute Resolution | | |
| Title: | Revisions to Settlement Re-Calculation Obligations | | |
| Nature of Proposal: | <input checked="" type="checkbox"/> Alteration | <input type="checkbox"/> Deletion | <input type="checkbox"/> Addition |
| Chapter: | 9 | Appendix: | |
| Sections: | 6.8 | | |
| Sub-sections proposed for amending: | 6.8.1, 6.8.7, 6.8.6.1, 6.8.6.2; 6.8.3, 6.8.5, 6.8.6; 6.8.11 | | |

PART 2 – PROPOSAL HISTORY

| Version | Reason for Issuing | Version Date |
|--------------------------------------|--------------------------------------|--------------|
| 1.0 | Submitted for Technical Panel Review | 2 Sep 04 |
| 2.0 | Technical Panel Review | 7 Sep 04 |
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| 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 *IMO-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 *IMO-administered markets*.

Summary

This proposal puts forward amendments to section 6.8 of Chapter 9 (settlement statement re-calculation) and section 2.7 of Chapter 3 (dispute resolution and arbitration). The proposed amendments would remove certain IMO obligations to publish information that are not relevant to IMO current practices and other sections of the market rules, remove rules in section 6.8 of Chapter 9 which limit the decision-making scope of an arbitrator and replace them with arbitration guidelines under the dispute resolution section of Chapter 3.

These amendments are proposed in order to improve the transparency of the settlement statement re-calculation and dispute resolution processes.

Background and Discussion

Section 6.8 of Chapter 9 of the market rules specifies IMO obligations with respect to the publication of information relating to settlement statement re-calculations, the arbitrator's obligations with respect to settlement statement dispute decisions and permissions for the IMO to effect a settlement statement re-calculation. The IMO has identified the following two issues with respect to these market rules.

First, the IMO obligations to publish information contained in section 6.8 are no longer relevant or meaningful: (i) subsection 6.8.1 requires the IMO to publish a standard charge that it will levy for each settlement statement re-calculation; and (ii) subsection 6.8.7 requires that the IMO publish the designated adjustable billing range described in subsection 6.8.6.1 and the threshold amount described in subsection 6.8.6.2.

(i) The standard charge contemplated in subsection 6.8.1 was intended to ensure that market participants would not be required to bear the cost of unnecessary or unsubstantiated requests for settlement statement re-calculations through the notice of dispute process. Since market commencement, the IMO has not been asked to do a settlement statement re-calculation by a market participant or been ordered to do one by an arbitrator. Further, in circumstances where an arbitrator orders a settlement statement re-calculation, the IMO would not levy a charge to the market participant because a re-calculation would only be ordered if the arbitrator had determined that the market participant was justified in bringing forward the dispute. The current rules would allow the inappropriate leveling of a charge for a settlement statement re-calculation ordered by an arbitrator.

(ii) For the reasons noted below, IMO determination of an adjustable billing period and threshold amount is not appropriate and therefore publication of these quantities is also not appropriate.

Second, subsections 6.8.3 through 6.8.6 and 6.8.11 effectively and inappropriately allow the IMO to restrict an arbitrator's decision-making scope and second-guess an arbitrator's order regarding a settlement statement re-calculation. The purpose of subsections 6.8.6.1 and 6.8.6.2 was to provide a

PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

framework for when the IMO would perform a settlement statement re-calculation (ordered by an arbitrator). The IMO would do so provided that a calculation window referred to as an adjustable billing period had not lapsed and a threshold amount had not been exceeded. It is more appropriate that the considerations regarding the application of a settlement statement re-calculation be included as suggested guidelines that the arbitrator may consider in the dispute resolution section of the market rules (Chapter 3 section 2). Using guidelines would be consistent with the manner in which other aspects of the market rules are treated under the notice of dispute process (see section 2.7 of Chapter 3). These guidelines would include the dollar amount under dispute, the time elapsed since the dispute took place and the IMO's capability to re-calculate the settlement amounts.

Proposed Amendments

The following amendments to the market rules are proposed:

Remove the subsection 6.8.1 obligation to publish the standard charge. This standard charge and the corresponding obligation are not appropriate, as noted above.

Delete section 6.8.6, thereby removing the subsection 6.8.6.1, 6.8.6.2 and 6.8.7 obligations to designate and publish an adjustable billing range and a threshold amount. These elements and the corresponding obligations are not appropriate, as noted above, and without these elements, this section becomes a duplicate of section 6.8.5, and therefore can be deleted.

Delete subsection 6.8.3. This subsection is not appropriate, as noted above.

Move the elements of subsections 6.8.5 that refer to the scope of the arbitrator to a new section in section 2 of Chapter 3, and add guidelines for the arbitrator to consider before ordering the IMO to perform a settlement statement re-calculation. Specifically, in reaching such a decision, the arbitrator may consider the dollar amount that is the subject-matter of the dispute, the time elapsed since the event that is the subject-matter of the dispute took place and the IMO's ability to perform such a settlement statement re-calculation. The disputed dollar amount has been added to allow an arbitrator to consider that for a smaller dollar amount, it may be more cost effective to proceed using an estimate rather than performing a settlement statement re-calculation. The time elapsed since the event that is the subject-matter of the dispute took place has been added in order that the arbitrator might consider that a settlement statement re-calculation is less accurate once a certain amount of time has passed. The IMO's ability to perform such a settlement statement re-calculation has been added to permit the arbitrator to consider the limitations of the IMO settlement tools, i.e. a settlement statement re-calculation may not be possible to perform at a certain point or in certain circumstances.

Move subsection 6.8.11 to section 2 of Chapter 3. As this subsection refers to a power of an arbitrator of a dispute, it is more appropriate that this section be located in the arbitration section of the market rules.

PART 4 – PROPOSED AMENDMENT

6.8 Settlement Statement Recalculations

6.8.1 ~~[Intentionally left blank]The IMO shall publish each year the standard charge that it will levy for each settlement statement re-calculation it undertakes in respect of~~

- ~~a single trading day. The charge for each such settlement statement re-calculation shall be borne by the market participant requesting it unless an error in the disputed settlement statement is identified as a consequence of the settlement statement re-calculation, in which event the cost shall be recovered via the IMO administration charge.~~
- 6.8.2 [Intentionally left blank]
- 6.8.2A If a *market participant*, after having made reasonable efforts to resolve with the *IMO* any disagreement:
- 6.8.2A.1 relating to a *notice of disagreement* that complies with section 6.6.9; or
- 6.8.2A.2 referred to in section 6.7.5 or 6.7.6,
- requires a *settlement statement re-calculation*, it shall, subject to section 6.8.8, submit the matter to the dispute resolution process set forth in section 2 of Chapter 3 and shall request, in the *notice of dispute*, that the *arbitrator* order that the *IMO* effect a *settlement statement re-calculation*.
- 6.8.2B If a *market participant*, after having made reasonable efforts to resolve with the *IMO* any disagreement referred to in section 6.8.2A does not require a *settlement statement re-calculation*, it shall, subject to section 6.8.8, 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.
- 6.8.3 ~~[Intentionally left blank]The arbitrator shall, in considering whether to approve a request for a settlement statement re-calculation, determine in its reasonable discretion, whether there is good cause to justify the performance of a settlement statement re-calculation, potentially using modified data.~~
- 6.8.4 If a *settlement statement re-calculation* is ordered by the *arbitrator*, the *IMO* shall arrange to have the *settlement statement re-calculation* carried out as soon as is reasonably practicable following the *arbitrator's* order, subject to the availability of data and of the *IMO's* resources.
- 6.8.5 ~~If a settlement statement re-calculation is ordered by the arbitrator, Subject to section 6.8.6 where a settlement statement re-calculation indicates that the settlement accounts of market participants should be debited or credited to reflect alterations to payments due on a previous final settlement statement,~~ the *IMO* shall:
- 6.8.5.1 for the *market participant* that originally filed the *notice of dispute* that resulted in the *settlement statement re-calculation*, reflect the amounts to be debited or credited in a subsequent *preliminary settlement statement* issued for the *market participant* as soon as practicable after the *settlement statement re-calculation* has been effected. Any credit adjustment made to such *market participant*, being a refund of

payments already made, shall include interest at the *default interest rate* from the date the overpayment was received to the time that the repayment is credited to the relevant *market participant settlement account*;

- 6.8.5.2 arrange to have all net adjustments for each *market participant*, and any interest on such net adjustments, placed into the *IMO adjustment account*; and
- 6.8.5.3 for any other *market participant* affected by the *settlement statement re-calculation*, reflect the amounts to be debited or credited in a subsequent *preliminary settlement statement* issued for the *market participant* by means of applying the incremental dollar amount determined in section 6.8.5.1 as a *current period adjustment* to all such *preliminary settlement statements*.

6.8.6 ~~[Intentionally left blank]The IMO may, in lieu of the mechanism referred to in section 6.8.5, give effect to an order to conduct a settlement statement re-calculation referred to in section 2.7.27 of Chapter 3 by making a current period adjustment to a subsequent preliminary settlement statement belonging to the market participant that originally filed the notice of dispute and for any other market participant whose settlement amounts are affected by such action, if:~~

6.8.6.1 ~~[Intentionally left blank]any adjustments required to be made to give effect to the settlement statement re-calculation pertain to one or more billing periods falling within the time designated by the IMO as the adjustable billing period range for purposes of the application of a current period adjustment; or~~

6.8.6.2 ~~[Intentionally left blank]the total dollar value of any adjustments required to be made to give effect to the settlement statement re-calculation is less than the threshold amount prescribed by the IMO for purposes of the application of a current period adjustment;~~

6.8.6.3 [Intentionally left blank]

and the *IMO* shall arrange to have all net adjustments for each *market participant*, and any interest on such net adjustments, placed into the *IMO adjustment account*.

6.8.7 ~~[Intentionally left blank]The IMO shall publish the designated adjustable billing period range referred to in section 6.8.6.1 and the threshold amount referred to in section 6.8.6.2.~~

6.8.8 No *market participant* may submit, and the *secretary* shall not accept or take any action with respect to, a *notice of dispute* if:

6.8.8.1 the *notice of dispute* relates to a *notice of disagreement* in respect of a disagreement other than the one to which section 6.7.5 applies and

- more than twenty *business days* has elapsed since the date of issuance of the *final settlement statement* referred to in section 6.6.6.3;
- 6.8.8.2 the *notice of dispute* relates to a *notice of disagreement* in respect of a disagreement to which section 6.7.5 applies and more than twenty *business days* has elapsed since the date of issuance of the *final settlement statement* referred to in that section; or
- 6.8.8.3 the *notice of dispute* relates to a disagreement to which section 6.7.6 applies and more than twenty *business days* has elapsed since the date of issuance of the *final settlement statement* referred to in that section.
- 6.8.9 If a *market participant* wishes to dispute 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* shall not accept or take any action with respect to, a *notice of dispute* filed pursuant to section 6.8.9 if 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.
- 6.8.11 ~~[Intentionally left blank]Where a *notice of dispute* is one to which section 6.8.9 applies, the *arbitrator* shall dismiss the *notice of dispute* and shall not take any 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*.~~
- 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 applies.

PART 5 – IMO BOARD COMMENTS

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Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

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| Identification No.: | MR-00262-R01 | | |
| Subject: | Settlement and Dispute Resolution | | |
| Title: | Revisions to Settlement Re-Calculation Obligations | | |
| Nature of Proposal: | <input type="checkbox"/> Alteration | <input type="checkbox"/> Deletion | <input checked="" type="checkbox"/> Addition |
| Chapter: | 3 | Appendix: | |
| Sections: | 2.7 | | |
| Sub-sections proposed for amending: | 2.7.13.1 (new), 2.7.29B (new) | | |

PART 2 – PROPOSAL HISTORY – PLEASE REFER TO MR-00262-R00

| Version | Reason for Issuing | Version Date |
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| 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 *IMO-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 *IMO-administered markets*.

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| Please refer to MR-00262-R00 |
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PART 4 – PROPOSED AMENDMENT**2.7 Arbitration**

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2.7.13 The procedures governing the arbitration shall be determined by the *arbitrator*, except as provided for herein 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 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*.

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2.7.29 In the case of a dispute referred to in section 2.2.1.4:

2.7.29.1 where the dispute relates to the *reviewable decision* referred to in section 2.1.2 of Chapter 6, the *arbitrator* may confirm the order of the *IMO* or set aside the order of the *IMO* and order the *IMO* to authorize the person to participate in the *IMO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IMO-controlled grid* in respect of the relevant *connection point* on such terms and conditions, if any, which the *arbitrator* determines are just and reasonable, and such award of the *arbitrator* may include the direction to the *IMO* referred to in section 2.7.25 and shall be deemed to be a decision or order of the *IMO* for purposes of the *market rules*

and the application of the appeal provisions of section 36 of the *Electricity Act, 1998*;

- 2.7.29.2 where the dispute relates to the *reviewable decision* referred to in section 5.3.9 of Chapter 6, the *arbitrator* may confirm the order or decision of the *IMO* or set aside the order or decision of the *IMO* and order the *IMO* to reinstate the registration of the *metering service provider* on such terms and conditions, if any, which the *arbitrator* determines are just and reasonable and the award of the *arbitrator* may include the direction to the *IMO* referred to in section 2.7.25;
 - 2.7.29.3 where the dispute relates to the *reviewable decision* referred to in section 5.1.12 of Chapter 6, the *arbitrator* may confirm the order or decision of the *IMO* or set aside the order or decision of the *IMO* and order the *IMO* to register the person as a *metering service provider* on such terms and conditions, if any, which the *arbitrator* determines are just and reasonable, and such award of the *arbitrator* may include the direction to the *IMO* referred to in section 2.7.25; or
 - 2.7.29.4 where the dispute relates to the *reviewable decision* referred to in section 4.4.3, 4.4.12 or 6.1.5 of Chapter 6, the *arbitrator* may confirm the order or decision of the *IMO* or set aside the order or decision of the *IMO* and order the *IMO* to register the *metering installation* on such terms and conditions, if any, which the *arbitrator* determines are just and reasonable, and such award of the *arbitrator* may include the direction to the *IMO* referred to in section 2.7.25.
- 2.7.29A In the case of a dispute referred to in section 2.2.2.1, the *arbitrator* may:
- 2.7.29A.1 determine an alternative apportionment of the *energy* associated with *connection station service* and with site specific losses amongst all applicable *market participants*; and
 - 2.7.29A.2 determine whether, and the extent to which, any such alternative apportionment should be applied, by means of payments amongst the applicable *market participants*, to any period prior to the date on which the *IMO* gives effect to the proportions filed pursuant to section 2.1A.6B of Chapter 9.

2.7.29B In the case of a dispute referred to in section 6.8.2A or section 6.8.9 of Chapter 9, the *arbitrator* may, in considering whether to approve a request for a *settlement statement re-calculation*, take into account:

2.7.29B.1 the dollar amount that is the subject-matter of the dispute;

2.7.29B.2 the time elapsed since the event that is the subject-matter of the dispute took place; and

2.7.29B.3 the *IMO's* ability to perform such a *settlement statement re-calculation*.

PART 5 – IMO BOARD COMMENTS

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Market Rule Amendment Proposal

PART 1 – MARKET RULE INFORMATION

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|-------------------------------------|--|-----------------------------------|--|
| Identification No.: | MR-00262-R02 | | |
| Subject: | Settlement and Dispute Resolution | | |
| Title: | Revisions to Settlement Re-Calculation Obligations | | |
| Nature of Proposal: | <input type="checkbox"/> Alteration | <input type="checkbox"/> Deletion | <input checked="" type="checkbox"/> Addition |
| Chapter: | 3 | Appendix: | |
| Sections: | 2.2 | | |
| Sub-sections proposed for amending: | 2.2.1.5 | | |

PART 2 – PROPOSAL HISTORY – PLEASE REFER TO MR-00262-R00

| Version | Reason for Issuing | Version Date |
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PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

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| Amendment to insert a missing cross-reference. |
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PART 4 – PROPOSED AMENDMENT**2.2 Arbitration**

2.2.1 Subject to sections 2.2.3 and 3.8 and to section 8.8.1 of Chapter 2, the dispute resolution regime provided for in this section 2 shall apply to:

2.2.1.5 a request by a *market participant* for a *settlement statement re-calculation* pursuant to section 6.8.2A or section 6.8.9 of Chapter 9;