



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: RuleAmendments@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 : _____	<i>Market Participant Class</i> : _____
Telephone: <u>905-855-6464</u>	Fax: _____
E-mail Address: RuleAmendments@ieso.ca	

PART 2 – MARKET RULE AMENDMENT SUBMISSION INFORMATION

Subject: <u>Reliability Compliance</u>	
Title: <u>Include Reliability Impact as Criterion for Determining Financial Penalties</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>3, 5</u>	Appendix: _____ Sections: <u>Ch 3 (6.6.7, 6.6.13), Ch 5 (11.8.1)</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*.

Background:

Following the August 14, 2003 blackout, a joint U.S.-Canadian task force was established to determine the causes of the blackout and ways to reduce the possibility of future outages. The Task Force concluded that violations of NERC standards were among the most significant causes of the event. At the time of the blackout, compliance with NERC standards was voluntary. NERC members relied on self-regulation and peer pressure to ensure compliance. The Task Force recommended that to reduce the risk of future disruptions, reliability standards should be made mandatory and enforceable, with penalties for non-compliance.

In its submission to the Task Force, the IESO (then IMO) recommended that the electricity industry focus on a three part strategy: prevention, containment, and minimization of impact. The IMO stated that mandatory, enforceable reliability standards would contribute significantly to the prevention and containment of cascading outages, while effective restoration planning and emergency preparedness would minimize impacts.

In response to the Task Force's recommendations, the United States government enacted the Energy Policy Act of 2005, which authorized the creation of a self-regulatory electric reliability organization (ERO) spanning North America, with Federal Energy Regulatory Commission (FERC) oversight in the United States. The legislation makes compliance with North American Electric Reliability Council (NERC) and regional reliability standards mandatory and enforceable on U.S. entities. The legislation respects the international character of the bulk electric system by ensuring that the ERO applies for and receives comparable recognition and approvals from government and regulatory authorities in Canada. NERC has filed an application for recognition as the ERO with the Ontario Energy Board. In Ontario, compliance with reliability standards is already required under the IESO Market Rules.

In anticipation of becoming the ERO, NERC is in the process of revising and strengthening its existing reliability standards and is developing and implementing new standards. NERC has established a program to monitor and enforce compliance with NERC and regional reliability standards, and publicly discloses violations of those standards. NERC expects to assume the responsibilities of the ERO by January 1, 2007.

Discussion:

The IESO market rules obligate market participants to comply with NERC reliability standards. Breaches of the market rules can result in financial penalties. The existing market rules allow for financial penalties up to \$10,000 (Chapter 3, section 6.6.6), however this cap can be exceeded for severe violations. The market rules provide the criteria for determining the level of financial penalty imposed for breaches of the rules, as well as the circumstances which could lead to penalties in excess of the \$10,000 cap. The market rules do not specifically include reliability impacts among the criteria for determining these financial penalties.

The market rules obligate a market participant to operate in a manner consistent with its emergency preparedness plan and restoration attachment. However, the market rules do not explicitly state that

PART 3 – DESCRIPTION OF THE ISSUE

market participants must act in a manner consistent with the Ontario Power System Restoration Plan. This submission would address this shortcoming by explicitly including this requirement in the market rules.

NERC has proposed a standardized approach to the imposition of financial penalties against US entities for breaches of reliability standards. Similar to the IESO compliance model, NERC’s proposed approach would include monetary and non-monetary sanctions. Penalties for U.S. entities are still under discussion, and have not been finalized at this time. Few changes to the IESO penalties are anticipated at this time.

The present IESO compliance model is generally consistent with the approach proposed by NERC. Both models require mandatory, enforceable compliance. NERC’s proposal explicitly includes reliability compliance as a requirement. To ensure greater consistency with the NERC compliance model, the market rules should be amended to include reliability impacts among the criteria for determining financial penalties. Additionally, the market rules should be amended to obligate market participants to operate in a manner consistent with the Ontario Power System Restoration Plan.

By making the proposed changes, Ontario can demonstrate consistency with the NERC model, while maintaining independence from U.S. law.

PART 4 – PROPOSAL (BY SUBMITTER)

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

The market rules should be amended as follows:

Chapter 3, section 6.6.7 lists the criteria to be considered in fixing the amount of a financial penalty. An additional criterion should be added that explicitly refers to the impact of a breach on system and interconnection reliability.

Chapter 3, section 6.6.13 lists four situations when the IESO may impose on a market participant a financial penalty in excess of \$10,000. An additional criterion should be added that allows larger penalties in the event that a breach has a severe impact on reliability, including impeding system restoration.

Chapter 5, section 11.8.1 states that market participants who fail to operate in a manner that is consistent with their emergency preparedness plan or restoration plan attachment are in breach of the market rules. A requirement to operate in a manner consistent with the Ontario Power System Restoration Plan should be added.

The relevant cross-referenced sections are included below for reference:

Chapter 3:

6.6.7 In fixing the amount of the financial penalty within the ranges described in the table set forth in section 6.6.6, the *IESO* shall have regard to:

 6.6.7.1 the circumstances in which the breach occurred;

PART 4 – PROPOSAL (BY SUBMITTER)

- 6.6.7.2 the severity of the breach;
 - 6.6.7.3 the extent to which the breach was inadvertent, negligent, deliberate or otherwise;
 - 6.6.7.4 the length of time the breach remained unresolved;
 - 6.6.7.5 the actions of the *market participant* on becoming aware of the breach;
 - 6.6.7.6 whether the *market participant* disclosed the matter to the *IESO* on its own or whether it was prompted to do so;
 - 6.6.7.7 any benefit that the *market participant* obtained or expected to obtain as a result of the breach;
 - 6.6.7.8 any previous breach by the *market participant* of the *market rules* or of the conditions of its *licence*;
 - 6.6.7.9 the impact of the breach on other *market participants*;
 - 6.6.7.10 the impact of the breach on the *IESO-administered markets* as a whole;
 - 6.6.7.11 any sanctions that may be imposed on the *IESO* by a *standards authority* as a result of the breach; and
 - 6.6.7.12 such other matters as the *IESO* considers appropriate.
- 6.6.13 The *IESO* may impose on a *market participant* a financial penalty in excess of the amount otherwise provided for in section 6.6.6 where:
- 6.6.13.1 the *market participant* has breached a market rule while a declaration that the *IESO-controlled grid* is in an emergency operating state or a high-risk operating state was in effect;
 - 6.6.13.2 the *market participant* breached a *market rule* while a declaration that *market operations* have been suspended was in effect;
 - 6.6.13.3 the *IESO Board* determines that the impact of the *market participant's* breach on the *IESO-administered markets* is particularly severe; or
 - 6.6.13.4 the rate of recurrence of non-compliance by the *market participant* with the *market rules* is of such frequency or duration as to warrant the imposition of a higher financial penalty.

PART 4 – PROPOSAL (BY SUBMITTER)**Chapter 5:****11.8 Enforcement**

- 11.8.1 Failure by a *market participant* to take any action required to be taken in, or to act in a manner consistent with, its *emergency preparedness plan* or its *restoration participant attachment* shall be deemed to constitute a breach of the *market rules*.

PART 5 – FOR IESO USE ONLY

Technical Panel Decision on Rule Amendment Submission: Warrants Consideration

MR Number: MR-00284

Date Submitted to *Technical Panel*: 23 May 06

Accepted by *Technical Panel* as: (please indicate with x)

Date:

General Urgent Minor

23 May 06

Criteria for Acceptance:

1. It identifies an inconsistency between the market rules and the standards or criteria of a standards authority. NERC is expected to assume the responsibilities of the ERO beginning January 1, 2007. The IESO must ensure that its rules are consistent with the NERC compliance model prior to this transition.
2. It identifies ambiguity within the rules which could lead to poor coordination of implementation or to future disputes. The market rules provide the IESO with the authority to base financial penalties on such matters as the IESO considers appropriate (Chapter 3, 6.6.7). Although this provision provides the IESO the implicit authority to base fines on reliability impacts, the rules should be amended to explicitly include this provision to clearly demonstrate consistency with the NERC requirement.

Priority: Medium

PART 5 – FOR IESO USE ONLY

Criteria for Assigning Priority:

1. Pervasiveness: The transition to the ERO will affect many market participants. The IESO will be bound by NERC standards to have a compliance model that is consistent with NERC.
2. Practical Consequences: To comply with NERC standards, the IESO must ensure that its compliance model is consistent with NERC. The NERC transition to the ERO is expected to take place in January, 2007. This time allows the IESO to promote stakeholder awareness.

Not Accepted (please indicate with x):

Clarification/Interpretation Required (please indicate with x):

Technical Panel Minutes Reference: IESOTP 186-1

Technical Panel Comments: _____