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August 7, 2019

**VIA EMAIL, RESS AND COURIER**

Ontario Energy Board  
2300 Yonge Street  
P.O. Box 2319  
Suite 2700  
Toronto, ON M4P 1E4

**Attention: Ms Kirsten Walli**  
**Board Secretary**

Dear Ms. Walli:

**Re: PF Resolute Canada Inc.**  
**Application pursuant to Section 35 of the *Electricity Act, 1998***

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We are counsel to PF Resolute Canada Inc. Please find enclosed an application pursuant to section 35 of the Electricity Act, 1998.

Sincerely,

*signed in the original*

George Vegh  
Encls.

c. Jacques Vachon, Senior VP, Corporate Affairs and Chief Legal Officer, PF Resolute Canada Inc.  
Michael Lyle, Vice President, Legal Resources and Corporate Governance, IESO

## ONTARIO ENERGY BOARD

**IN THE MATTER OF** the *Electricity Act*, 1998, s. 35;

**AND IN THE MATTER OF** an application by PF Resolute Canada Inc. for an order amending the Demand Response Qualification Rules passed by the Independent Electricity System Operator (“**IESO**”) on August 26, 2015.

### APPLICATION

#### I. INTRODUCTION

1. The Applicant PF Resolute Canada Inc. (“**Resolute**”) hereby applies to the Ontario Energy Board (the “**OEB**” or the “**Board**”) for an order:
  - a) Directing the IESO to amend Chapter 7, section 18.2.1 and 19.2.1 of the Market Rules, which established the qualifications to participate in the IESO’s Demand Response Market (the “**DR Qualification Rules**”) so that these are applied by the IESO to reflect the original intention of the DR Qualification Rules, namely, that these not disqualify configurations that were reviewed and approved under demand response programs existing at the time the DR Qualification Rules came into effect;
  - b) That the Board provide directions for documentary production;
  - c) That Resolute is eligible for its costs in this application; and
  - d) Providing such further and other relief as Resolute requests and that this Board considers appropriate.
2. The grounds for this application are set out below.

#### **The Statutory and Legal Context**

3. Section 35 of the *Electricity Act*, 1998 (“*EA*”) provides in relevant part as follows:

35 (1) On application by a person who is directly affected by a provision of the market rules, the Board may review the provision.

...

(4) An application shall not be made under this section by a market participant unless the applicant has made use of the provisions of the market rules relating to the review of market rules.

...

(6) If, on completion of a review under this section, the Board finds that the provision is inconsistent with the purposes of this Act or unjustly discriminates against or in favour of a market participant or class of market participants, the Board shall make an order directing the IESO to amend the market rules in a manner and within the time specified by the Board.

4. The Board has held that interpreting s. 33 of the *EA* involves a consideration of the “impact or effect” of the market rules.<sup>1</sup> This approach is particularly important here because it is the impact and effect of the DR Qualification Rules that is inconsistent with the purposes of the *EA* and discriminates against Resolute. The text of the DR Qualification Rules is, itself, not inconsistent with these requirements (see paragraph 16, below).
5. Indeed, on its face, and as originally developed in the IESO stakeholdering process and approved by the Technical Panel and the IESO Board of Directors, the DR Qualification Rules continued to permit the configuration used by Resolute since 2013 (as described in paragraphs 9-12 below). However, the IESO effectively changed the DR Qualification Rules by retroactively disqualifying Resolute’s approved configuration. This change was not brought about by an amendment to the DR Qualification Rules. As is set out below, the text of the Market Rule that the IESO relied upon to revoke its approval of Resolute’s configuration is essentially the same as the text that authorized Resolute’s configuration.
6. This is an essential point: the text of the DR Qualification Rules always permitted Resolute’s configuration. The subsequent disqualification came, not from a Market Rule change, but, instead, from a unilateral and retroactive change in qualification requirements made outside of the Market Rule amendment process. As one of the Technical Panel members noted in the review of this rule that was pursued in accordance with ss. 35(4) of the *EA*:

The subsequent disqualification of Resolute’s already approved, offered and cleared capacity amounted to retroactive rulemaking. Mr. Wu [of Brookfield Power] said he couldn’t support retroactive rulemaking as a market participant.<sup>2</sup>

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<sup>1</sup> See the “Ramp Rate Appeal”, April 10, 2007 (EB-2007-0040), p. 9.

<sup>2</sup> Technical Panel Vote and Rationale on MR-00437 (Resolute), May 2, 2019 (Julien Wu), see Schedule “B”.

7. The impact and effect of the IESO's change was to deprive Resolute of its entitlement to participate in the DR market in a way that is inconsistent with the purposes of the *EA* and discriminates against Resolute.
8. Specifically, Resolute submits that the DR Qualifications Rules (as applied by the IESO) are discriminatory and inconsistent with the following three purposes of the *EA*:
  - “to ensure the adequacy, safety and reliability of electricity supply in Ontario through responsible planning and management of electricity resources, supply and demand”<sup>3</sup> (the “Responsible Management Purpose”);
  - “to facilitate load management in a manner consistent with the policies of the Government of Ontario”<sup>4</sup> (the “Load Management Purpose”); and
  - “to facilitate the maintenance of a financially viable electricity industry” (the “Financial Viability Purpose”)<sup>5</sup>.

## II. FACTS

### **Resolute's Participation in the DR Market**

9. Resolute is a market participant that operates a pulp and paper mill (the “**Mill**”) and a generating facility in Thunder Bay. Resolute's load varies from 70-110 MW, based on production. The load is supplied through a combination of electricity withdrawn from the grid and Resolute's 62.4 MW of self-generation.
10. Resolute's Mill qualified as a demand response provider under the OPA's DR2 and DR3 programs, as well as the IESO's Capacity Based Demand Response (“**CBDR**”) and Demand Response Auction (“**DRA**”) program (collectively, the “**DR Programs**”). In establishing its participation in the DR Programs, Resolute worked with the Ontario Power Authority (“**OPA**”) (the predecessor to the IESO) and the IESO (collectively the “**Agencies**”) and followed the Agencies' directions on the appropriate metering configurations.
11. The metering configuration adopted by Resolute was designed by the OPA and approved by the IESO so that, when the IESO signals the need for Resolute to reduce its load, Resolute does so and its load reduction is metered and verified by the IESO. At all times, Resolute's load and generator are metered separately so that the IESO has visibility into Resolute's load reduction. This metering configuration was designed by the OPA to ensure that the Mill actually reduces its load and does not rely on self-generated electricity to serve the Mill.
12. A diagram of the configuration is attached as Schedule “A”.

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<sup>3</sup> *EA*, ss.1(a).

<sup>4</sup> *EA*, ss. 1(c).

<sup>5</sup> *EA*, ss. 1(i).

### Context for the Transition from CBDR to DRA

13. The government's policy respecting the transition from CBDR to DRA was addressed in the government's 2013 Long Term Energy Plan, which included the following direction respecting demand response:<sup>6</sup>

"To encourage further development of DR in Ontario, the IESO will evolve existing programs and introduce new initiatives. This will allow the IESO to work directly with large electricity consumers such as commercial and industrial facilities, and other large facilities that can reduce their electrical consumption on demand in response to system need."

14. The government's policy was thus to expand opportunities for load customers to participate in demand response. This expansion of opportunities was to extend to the CBDR and the DRA. The IESO initially recognized and followed this mandate in designing the DR Qualification Rules under the CBDR and the DRA.

15. Accordingly, during the consultations that led to the DRA, the IESO represented that the DRA would *increase* DR participation, not disqualify approved configurations. For example, in February, 2015, in response to a stakeholder question on the difference between DR under the OPA programs and DR under the CBDR and the DRA, the IESO stated the following:

"The IESO's definition of demand response is inclusive of the demand response definition used by the Ministry of Energy and the OPA. However, the IESO's definition is **intentionally broader to allow the utilization of DR to provide a wide range of services to the electricity market over time.**

This is reflective of the IESO's mandate in the LTEP to 'evolve existing DR programs and introduce new DR initiatives.'"<sup>7</sup>

16. The similar treatment for DR qualifications under the CBDR and the DRA is reflected in the text of the Market Rules under each program. The text of the qualification rules under the CBDR and the DRA are set out below:

Chapter 7, section 17.2.1.2 (CBDR)	Chapter 7, section 19.2.1.2 (DRA)
17.2.1 A demand response market participant is eligible to participate in the capacity based demand response program provided that the demand response market participant:	19.2.1: A demand response market participant is eligible to participate as an hourly demand response resource provided that the demand response market participant:
17.2.1.2 operates, maintains,	19.2.1.2 registers its facilities and demand

<sup>6</sup> Long Term Energy Plan, 2013, p. 23.

<sup>7</sup> DR Auction Market Design, Stakeholder Feedback, February 12, 2015, p. 1, see Schedule "C".

and has submitted to the IESO a measurement and verification plan, at the demand response market participant's own expense, in accordance with the applicable market manual and the IESO has approved the plan. The demand response market participant shall not modify, vary or amend in any material respect any of the features or specifications of any project without first requesting IESO authorization and approval in accordance with the applicable market.	response contributors as applicable, to the satisfaction of the IESO, in accordance with the applicable market manual. The demand response market participant shall not modify, vary or amend in any material respect any of the features or specifications of any resource without first requesting IESO authorization and approval in accordance with the applicable market manual
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17. As appears from the above, the qualification rules under the DRA were not changed in any material way from the CBDR. There is no reference in the amendment to a required change in metering configurations or to any requirement that the measurement of demand reduction must be measured only as a reduction of demand withdrawn from the IESO-controlled grid, as opposed to a reduction of demand response where the demand had been served by self-generation.
18. During this entire period, neither the OPA nor the IESO ever identified any issues with the configuration and, did not raise any concerns based on reliability or any other issue. The IESO's representations during this period are set out below.

**Representations by the IESO on the Transition from CBDR to DRA**

19. The market rules for the transition from the DR2, DR3 and CBDR programs to the DRA was the subject of stakeholder consultation and Technical Panel meetings from late 2014 to the summer of 2015.
20. The two Technical Panel members who participated in the consultation on the transition to the DRA agreed that the IESO's current position was not put forward in that process.
21. The Technical Panel member representing large customers stated the following:

“As an active participant in the Demand Response Working Group during the evolution of the demand response program, Mr. Forsyth said he represented a large industrial user's interest by ensuring the rules and procedures were

compatible with its operating characteristics and ability to participate after the transition was complete. He recalled a process that included many new and amended rules that would have material effects on DR participants, all of them debated and discussed at length. **But he said he had no recollection and could find no record of discussions about existing DR metering configurations that would be disallowed under the Demand Response Auction.**<sup>8</sup>

22. Similarly, the Technical Panel member representing Demand Response providers stated that “she supported Mr. Forsyth’s comments on IESO’s intent, and agreed with his recollection of the DR transition process, in which she was also a participant.”<sup>9</sup>
23. Not only was there no suggestion that existing configurations would be disallowed in the consultations, IESO staff represented that, under the DRA, existing DR resources would continue to be recognized, provided, of course, that they were in merit in the DR auction.
24. Staff’s representations in its market rule amendment submission for the DRA was that the purpose of the transition was **“to facilitate participation by current demand response providers**, potential new participants and new technologies.”<sup>10</sup>
25. In its January 20, 2015 presentation to the technical panel on the proposed amendment, IESO staff stated that “the IESO’s goal for demand response” was to:

**“Achieve greater value and economic use of DR through improved integration of existing DR contracts in the IESO-administered energy market and dispatch process, and over the longer term through the expansion of DR market participant categories.”**<sup>11</sup>
26. In the same presentation, IESO staff stated that transitioning to the DRA would involve “implement[ing] market rules to **transition DR3 contractual terms to a market structure** (capacity based demand response)”<sup>12</sup>
27. Similarly, in a June 2, 2015 presentation to the technical panel, IESO staff stated:

**“In order to attract the broadest range of potential DR providers, including current demand response providers as well as new entrants and new technologies, we have sought to reduce the requirements for participation in the auction.”**<sup>13</sup>

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<sup>8</sup> Technical Panel Vote and Rationale on MR-00437 (Resolute), May 2, 2019 (David Forsyth), see Schedule “B”.

<sup>9</sup> Technical Panel Vote and Rationale on MR-00437 (Resolute), May 2, 2019 (Sarah Griffiths), see Schedule “B”.

<sup>10</sup> IESO, Market Rule Submission, Demand Response Auctions – Participant Authorization & Facility Registration, Version 5, p. 2 (MR-00416-R00), see Schedule “D”.

<sup>11</sup> Demand Response Auctions – Overview, Presentation to Technical Panel, January 20, 2015, p. 2, see Schedule “E”.

<sup>12</sup> Demand Response Auctions – Overview, Presentation to Technical Panel, January 20, 2015, p. 3, see Schedule “E”.

<sup>13</sup> Demand Response Auction – Participant Authorization and Facility Registration, Presentation to Technical Panel, June 2, 2015, p. 8, see Schedule “F”.

28. Based on these representations, the Technical Panel approved the DR Qualifications Rule on July 7, 2015.<sup>14</sup> The IESO Board approved the DR Qualifications Rule on the basis of the Technical Panel's recommendations on August 26, 2015. As appears from the text of the DR Qualifications Rules in the CBDR and the DRA (set out at paragraph 16, above), there is nothing in the rule to suggest a change to a previously approved configuration.
29. Consistent with the IESO representations in the stakeholder engagement process, and to the Technical Panel and the IESO Board, in November, 2015, IESO staff advised Resolute that the IESO was "okay with using the existing CBDR metering setup for the new DR Auction."<sup>15</sup>

### **IESO's *De Facto* Rule Amendment**

30. It is not clear exactly when or why the IESO changed its position on configurations permitted under the DR Qualification Rules. There was certainly no market rule amendment to reflect a change in qualification requirements. Whatever the reason, the change in position was done surreptitiously, with no public deliberation or transparency.
31. Resolute first became aware of the IESO's new position on June 14, 2017, when, without notice or explanation, the IESO issued a preliminary settlement statement to Resolute alleging that Resolute failed a Demand Response activation. That statement contained a 'claw back' of capacity payments based on the alleged activation failure. After numerous enquiries by Resolute, the IESO advised that the reason for the failure is that the configuration that Resolute had used since 2013 and that the IESO approved as recently as November, 2016 was not acceptable because some of the load that was reduced had been previously served by self-generation and not the IESO-administered grid. This was the same configuration that Resolute had used since 2013 and was approved by the Agencies for all of the DR Programs.
32. This new approach was not accompanied by a change in the market rules that would disqualify this configuration. As a result, there was no opportunity for a public and transparent consideration of the costs and benefits of the IESO's new approach.
33. After being informed of the IESO's change in approach, Resolute commenced a notice of dispute and advised the IESO that it intended to appeal the IESO's application of the DR Qualification Amendment to the Ontario Energy Board. A mandatory part of the OEB market rule review process is an applicant must make use of the provisions of the market rules relating to the review of market rules.<sup>16</sup>

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<sup>14</sup> See Market Rule Amendment Proposal MR-00416-R00 Recommended by Technical Panel and Submitted for IESO Board Approval on July 7, 2015, see Schedule "G".

<sup>15</sup> Emails from Jason Grbavac (IESO) to Cara Degelman (Resolute), November 5, 2015, and from Cara Degelman to Tony Ruberto (Resolute) November 17, 2015, see Schedule "H".

<sup>16</sup> EA, ss. 35(4).



34. Upon being advised that Resolute would bring this review, staff responded that it controlled the market rule amendment process and that it will ensure that Resolute's attempt to amend the rule would not succeed.<sup>17</sup>
35. Staff followed through on its threat.

### **The Review of the Market Rule**

36. On October 11, 2018, Resolute filed a proposed market rule amendment (the "Proposed Amendment") whose purpose was to restore the *status quo* that was approved in the all of the DR Programs before the IESO's new approach. The Proposed Amendment would change the DR Qualification Rule by adding the following statement "nothing in this Rule shall disqualify demand response metering configurations previously approved under the DR2, DR3 or CBDR programs."
37. In other words, the only proposed change to the DR Qualification Rules in the Proposed Amendment was to confirm that the transition from the CBDR to DRA was not meant to disqualify demand response metering configurations previously approved under the DR2, DR3 or CBDR programs. Given that there was never any suggestion in the consultation process, the Technical Panel process, or the physical registration process for the DRA, that these metering configurations would be disqualified, the extent of resistance to this proposal expressed by staff in the market rule amendment process was unexpected. Staff's resistance also further re-enforced how the IESO's application of the DR Qualification Rule is inconsistent with the purposes of the *EA* and discriminates against Resolute.
38. One of the Technical Panel members who considered the proposed rule "expressed concern about the IESO's handling of the process." He said "it is evident that the IESO delayed in providing the Technical Panel information when the issue first emerged. Further, the IESO did not provide responses to Resolute in a timely manner in all circumstances. Finally, the IESO appeared to be reluctant at times to disclose information throughout the process to all parties."<sup>18</sup>
39. There are a number areas of specific concerns with the market rule review process in this case. These concerns are relevant because they shed light on the discriminatory impact of the IESO's application of the DR Qualification Rules as they relate to Resolute. Essentially, staff treated its role with the Technical Panel as a means to frustrate Resolute's ability to present the Proposed Amendment to the Technical Panel.
40. First, IESO staff withheld any information about the Proposed Amendment from the Technical Panel for over a month. At that time, without advising the Technical Panel of the requirements to consider the submission under the Market Rules, IESO staff advised that it had diverted the proposed amendment to the Demand Response Working Group

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<sup>17</sup> Letter from counsel for Resolute to IESO, December 4, 2018, see Schedule "T".

<sup>18</sup> Technical Panel Vote and Rationale on MR-00437 (Resolute), May 2, 2019 (Ron Collins), see Schedule "B".

(“**DRWG**”) for its consideration.<sup>19</sup> The Market Rules respecting market rule amendments do not permit staff to do this. Proposed rules are to go to the Technical Panel.

41. In response to concerns raised by Resolute that the proposal was being kept from the Technical Panel, IESO staff advised Resolute that “The IESO has not received any objection to date from any [Technical] Panel members on the proposed approach.” When Technical Panel members later found out about staff’s tactics, one member stated that “Had Panel members known of McCarthy’s [i.e., Resolute’s] concerns, TP members may have had an issue had they known all the facts.”<sup>20</sup>
42. Second, instead of providing the materials to the Technical Panel in a neutral way, IESO staff’s practice when forwarding Resolute’s materials to the Technical Panel was to gratuitously criticize Resolute’s positions. Resolute’s submissions to the Technical Panel would be forwarded by staff under cover of notes that contained statements such as “The amendment submission represents the views of Resolute and in no way reflects the views of the IESO, nor does the submission reflect the IESO’s agreement with any representations made within the submission”<sup>21</sup> and staff “does not agree with Resolute’s characterization of staff’s conduct nor some of the correspondence referred to therein.”<sup>22</sup> However, in no case did staff identify a specific statement that it believed to be incorrect.
43. By way of analogy, OEB staff both facilitates the OEB’s decision-making process and makes submissions that often disagree with other parties, but it would be surprising to see correspondence with the Board where OEB staff makes vague and unsubstantiated allegations against a party’s submissions. That type of conduct is inappropriate and would not be tolerated by the OEB.
44. In contrast to OEB staff, as indicated, IESO staff said it would defeat the Proposed Amendment and acted consistently with that objective, even to the point of deliberately misleading the Technical Panel respecting its role in the rule-making process.
45. In addition to diverting the Proposed Amendment from the Technical Panel in a way that was inconsistent with the Market Rules, IESO staff then misled the Technical Panel on how it can communicate with a Market Rule proponent. For example, when asked by a Technical Panel member whether it can communicate with Resolute off-line, staff’s response suggested that this was somehow inappropriate: “The IESO does not take a position on the appropriateness of panel members privately discussing the amendment submission with Resolute. However, in the further interest of transparency, the IESO will not be contacting panel members individually on this matter.”<sup>23</sup>

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<sup>19</sup> The DRWG is an IESO-run discussion group where market participants may discuss issues under IESO supervision, but have no participatory rights.

<sup>20</sup> Minutes of Technical Panel Meeting, January 29, 2019, p. 6, see Schedule “J”.

<sup>21</sup> Memorandum from Josh Duru to the Technical Panel, November 28, 2018 Re: MR-00437: Demand Response – Registration and Metering Requirements, see Schedule “K”.

<sup>22</sup> Email from Jason Grbavac to Technical Panel, April 2, 2019, see Schedule “L”.

<sup>23</sup> Email from Jason Grbavac to Technical Panel, April 17, 2019, see Schedule “M”.

46. Staff is aware that there is no rule or practice against these kind of discussions. Further, many IESO staff members worked very closely with the Technical Panel Chair and the IESO's Technical Panel member to orchestrate the IESO's opposition to the Proposed Amendment.<sup>24</sup> The suggestion that off-line conversations are inappropriate was nothing less than deliberately misleading the Technical Panel on how to carry out its decision-making responsibilities. Resolute reminded staff and the Technical Panel that these communications were consistent with the market rules and past practice and asked staff to advise if it was "aware of any rule that does not permit this." Staff did not identify and such rule.
47. When the proposed amendment was finally voted on, Technical Panel members representing commercial market participants voted overwhelmingly in favour of Resolute's proposed amendment. In all, 80% of the Technical Panel Members who are unregulated commercial market participants supported the Proposed Amendment. This consisted of representatives of directly connected large customers, demand response providers, and wholesalers.
48. As was stated by Brookfield Energy Marketing, representing wholesale customers:
- "As a market participant, Resolute can only rely on the IESO's approval to make business and investment decisions. And fact of the matter was that the IESO approved Resolute's offer configuration in more than one auction. If Resolute's configuration was deemed unsatisfactory after the fact, he said, the IESO could have used rules, processes, and notification bulletins to correct the gap between the Market Rules and its original intent, and disqualify Resolute and other similar participants from future auctions. The failure to pursue those processes might have explained the lack of feedback from other DRA participants. **Again, if Resolute's configuration was approved by the IESO and discovered to be problematic after the fact, the IESO has processes for changing and correcting market rules going forward. The subsequent disqualification of Resolute's already approved, offered and cleared capacity amounted to retroactive rulemaking. Mr. Wu said he couldn't support retroactive rulemaking as a market participant.**"<sup>25</sup>
49. Despite this overwhelming support by competitive market participants, the IESO's technical panel is largely made up of IESO-appointed members that neither participate in

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<sup>24</sup> Given Resolute's concerns with IESO staff's handling of the market rule amendment process, Resolute filed a request under the *Freedom of Information and Protection of Privacy Act* ("FIPPA") regarding its proposed market rule amendment. In the IESO's materials responding to Resolute's FIPPA request (in regards to which Resolute has had to file an appeal as the responding materials do not meet the requirements of the FIPPA), it is evident that the Technical Panel member representing the IESO attended at least 7 meetings with staff regarding Resolute's amendment. The title of some of these meetings indicate a need to develop a "strategy" in regards to Resolute's proposed amendment: for example, meetings which took place on October 19, 2018 and 23, 2018 entitled "TP Strategy Discussion re: Resolute MR Amendment Submission" at which both IESO Technical Panel member Jessica Savage and IESO Technical Panel Chair Michael Lyle are listed as meeting attendees. Another example is a December 7, 2018 meeting at which both IESO Technical Panel member Jessica Savage and IESO Technical Panel Chair Michael Lyle are listed as attendees where the meeting objective is to "continue the discussion on how we manage the Resolute MR Submission".

<sup>25</sup> Technical Panel Vote and Rationale on MR-00437 (Resolute), May 2, 2019 (Julien Wu), see Schedule "B".

the market nor represent constituents that participate in the market. These technical panel members voted against the proposed amendment.

50. Following the technical panel vote, the matter went to the IESO Board for consideration. Resolute requested the opportunity to attend at the Board meeting. The IESO Board refused this request. Instead, it invited the IESO staff members who were the most aggressive in the opposition to the Resolute proposal to attend. The IESO Board refused to provide information on what was said to the Board by IESO staff.
51. The IESO Board rejected the proposed amendment. It refused to provide any information on the how the Board members individually voted.

### III. APPLICATION OF THE FACTS TO THE GROUNDS OF APPEAL

52. As indicated,, the Applicants submit that the DR Qualifications Rule are inconsistent with three purposes of the *EA*:

“to ensure the adequacy, safety and reliability of electricity supply in Ontario through responsible planning and management of electricity resources, supply and demand”<sup>26</sup> (the “Responsible Management Purpose”);

“to facilitate load management in a manner consistent with the policies of the Government of Ontario”<sup>27</sup> (the “Load Management Purpose”); and

“to facilitate the maintenance of a financially viable electricity industry” (the “Financial Viability Purpose”)<sup>28</sup>.

53. With respect to the Responsible Management Purpose, responsible management of resources requires that proposed market rule changes be proposed and deliberated upon transparently. This is the opposite of what happened here. The IESO imposed a change in the market rule through bureaucratic fiat. Its approach resulted in a *de facto* amendment of the rule. It is inconsistent with responsible management of electricity resources (of which demand response is one) to allow unilateral and retroactive changes that adversely impact entitlements protected under the Market Rules.
54. With respect to the Load Management Purpose, as indicated, the government’s policy at the time the DR Qualifications Rule was put in place was expressed in the in the 2013 LTEP as follows:

“To encourage further development of DR in Ontario, the IESO will evolve existing programs and introduce new initiatives. This will allow the IESO to work directly with large electricity consumers such as commercial and industrial facilities, and other large facilities that can reduce their electrical consumption on demand in response to system need.”

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<sup>26</sup> *EA*, ss.1(a).

<sup>27</sup> *EA*, ss. 1(c).

<sup>28</sup> *EA*, ss. 1(i).

55. The text of the DR Qualification Rules was consistent with this policy. However, the IESO's change in position effectively disqualified Resolute from participating in the DR market. This was not supported by a change in government policy, let alone a change in the market rules.
56. Finally, with respect to the Financial Viability Purpose, it should go without saying that retroactive rule-making is inconsistent with the goal of facilitating a financially viable sector. Such an approach increases regulatory risk and makes the sector financially unviable.
57. The IESO's willingness to unilaterally change rules and then prevent any attempt to restore rules to their original purpose provides no confidence for any market participant to invest in a market. This is why it is not surprising that the overwhelming majority of competitive market participants supported Resolute's proposed market rule. Again, as the Brookfield representative of the Technical Panel stated:

“if Resolute's configuration was approved by the IESO and discovered to be problematic after the fact, the IESO has processes for changing and correcting market rules going forward. The subsequent disqualification of Resolute's already approved, offered and cleared capacity amounted to retroactive rulemaking. Mr. Wu said he **couldn't support retroactive rulemaking as a market participant.**”<sup>29</sup>

### **Discrimination Against Resolute**

58. Resolute is not aware of any other market participants whose previously approved DR configurations were disqualified by the IESO. It is not important to speculate on the IESO's motivations in light of the fact that the Board's focus on a market rule review is on the impact and effect of the Rule on a market participant.
59. However, it is clear that, for whatever reason, the IESO singled out Resolute for harsh treatment. This occurred both in its application of the DR Qualification Rule and its conduct during the Review Process. While Resolute acknowledges that the Board does not impose the rules of natural justice in the market rule amendment process, that does not grant *carte blanche* to the IESO to have absolute discretion in applying the market rules or, when its application is questioned, to run the market rule amendment process in a manner that was designed to, and in fact did, make it impossible for a market participant to fairly propose and pursue a market rule amendment that the IESO disagrees with.
60. The IESO's used its control over the amendment process -- including its control over information that goes to the Technical Panel and its control over the IESO Board meetings -- in a way that harmed the position of Resolute as a market participant while benefitting staff's position. Nothing can be more discriminatory.

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<sup>29</sup> Technical Panel Vote and Rationale on MR-00437 (Resolute), May 2, 2019 (Julien Wu), see Schedule “B”.

#### **IV. FURTHER DOCUMENTARY PRODUCTION**

61. This application is drafted on the basis of public information that is available to Resolute.
62. Resolute has repeatedly requested the IESO to provide documentary production in order to facilitate the orderly resolution of this application. The IESO has refused to so and, instead, Resolute has had to make use of the Freedom of Information process to obtain materials. That process is ongoing because the IESO has redacted from hundreds of pages of documents and has refused to provide almost one thousand (956) documents in their entirety.

#### **V. COSTS**

63. Resolute respectfully requests that it be eligible for the costs of this appeal.
64. In the Ramp Rate Appeal<sup>30</sup> and the RES Generators' Appeal<sup>31</sup>, the Board held that it was appropriate that the IESO be responsible for the costs of the appeal under s. 33 of the *EA*.

#### **VI. CONCLUSION**

65. Resolute submits that the impact and effect of the DR Qualifications Rules, as applied by the IESO, is inconsistent with the purposes of the *EA* and discriminates against Resolute.
66. Resolute therefore respectfully requests that this Board refer the DR Qualification Rules back to the IESO for further consideration.

#### **ALL OF WHICH IS RESPECTFULLY SUBMITTED**

Dated: August 7, 2019

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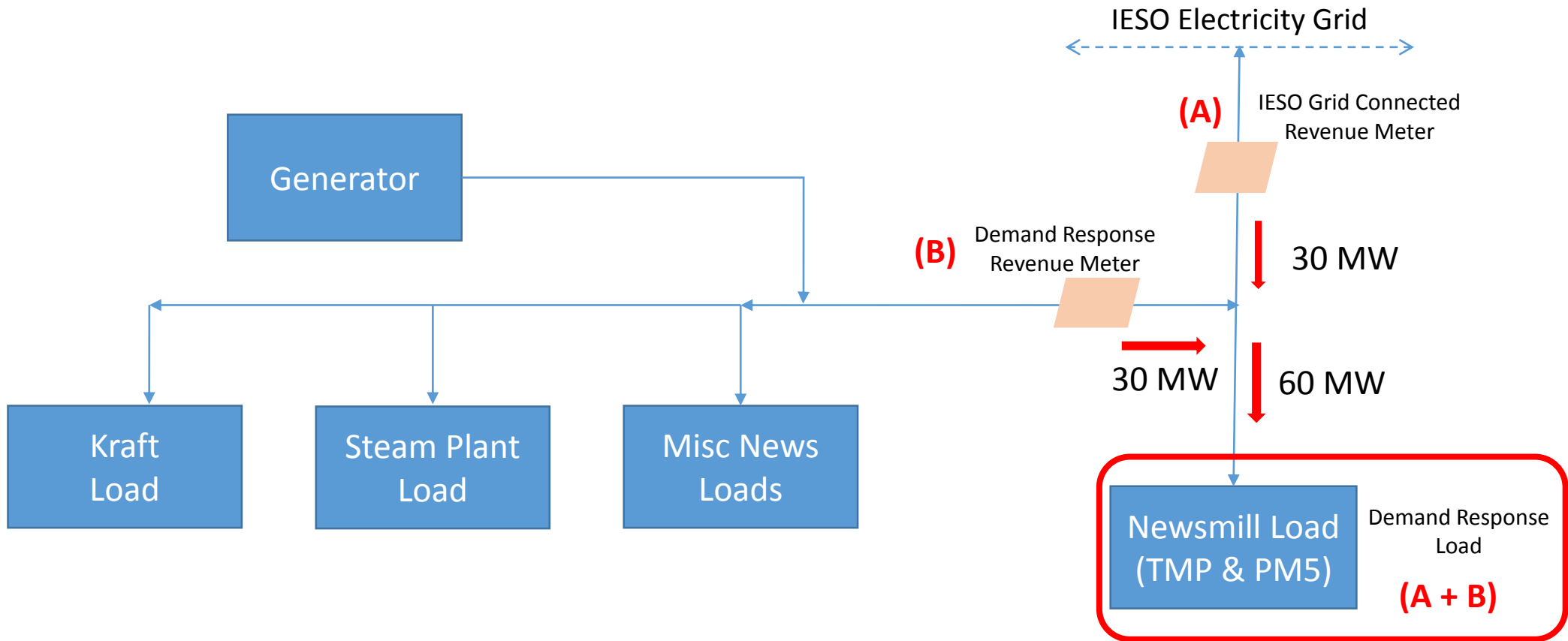
<sup>30</sup> Ramp Rate Appeal, April 10, 2007 (EB-2007-0040), Procedural Order No. 2.

<sup>31</sup> Renewable Energy Suppliers' Appeal, February 28, 2013 (EB-2013-0010/EB-2013-0029), Procedural Order No. 4.

# **SCHEDULE A**

# SIMPLIFIED OVERVIEW OF RESOLUTE ELECTRICAL DISTRIBUTION

## Normal Operation

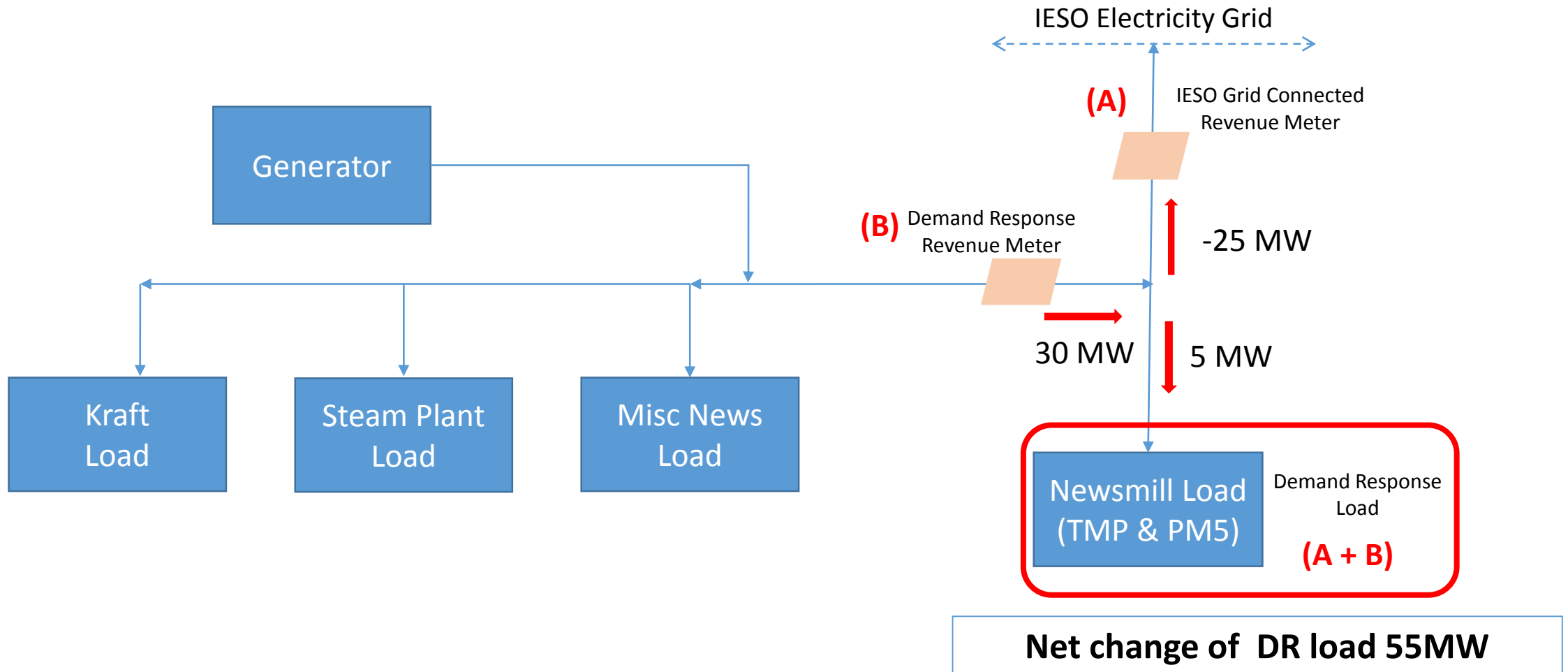


**Demand Response (DR) Baseline load: 60 MW**



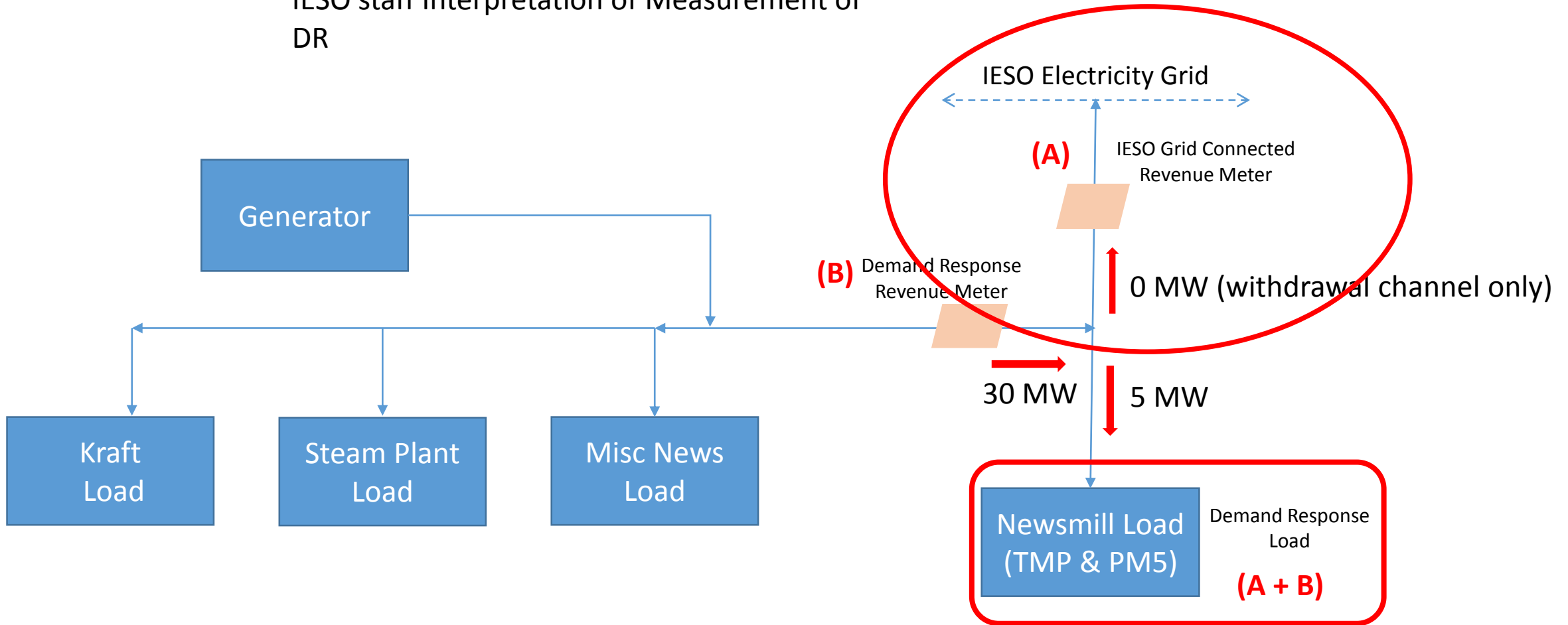
# SIMPLIFIED OVERVIEW OF RESOLUTE ELECTRICAL DISTRIBUTION

After DR Activation: Actual



# SIMPLIFIED OVERVIEW OF RESOLUTE ELECTRICAL DISTRIBUTION

IESO staff Interpretation of Measurement of  
DR



**Actual change of DR load: 55 MW**  
**IESO's Measurement of change of load: 30 MW**

## **SCHEDULE B**

**Technical Panel Vote and Rationale on MR-00437 (Resolute)**  
**May 2, 2019**

TP Member	Vote (In Favour)	Supportive Rationale
Robert Bieler	No	<p>Mr. Bieler thanked all participants for a lively deliberation, but indicated that he had put much of that discussion aside to look at the merits and implications of the proposed Market Rule amendment in its own right. He said he'd understood that Resolute's configuration could deliver a certain amount of capacity reduction at the IESO revenue meter, and that's what consumers and ratepayers should be paying for. With its own generation facility, Resolute would have the opportunity to sell power into the grid under other programs if it wished to do so, he said, but the objective and intent of the demand response program is to measure demand reductions at the IESO-controlled grid.</p> <p>While he agreed with Mr. Vegh that that expectation was not stated explicitly, Mr. Bieler said it was self-evident that that's what the IESO cares about and sees. On that basis, any past oversights or errors should not outweigh the spirit and intent of the way the program was designed to operate.</p>
Robert Reinmuller	No	<p>Mr. Reinmuller stated that, with all due sympathy to Resolute for the history leading up the proposed amendment, those matters did not reflect in his vote. He said the fundamental goal of managing the grid and controlling capacity and reliability dictated a clear, unambiguous, unique measurement point. Grid actions rely more and more on fast responses occurring in seconds or minutes, 365 days a year, he added, and grid automation requires clean data, based on clear measurements of load and generation. On that basis, he said he supported a unique measurement point that does not introduce any questions about the quantities required or received, and therefore opposed the proposed Market Rule amendment.</p>
David Forsyth	Yes	<p>Mr. Forsyth commended the IESO for strictly upholding and vigorously defending the Market Rules as staff interpret them, but said his vote turned on intent, not interpretation. As an active participant in the Demand Response Working Group during the evolution of the demand response program, Mr. Forsyth said he represented a large industrial user's interest by ensuring the rules and procedures were compatible with its operating characteristics and ability to participate after the transition was complete. He</p>

		<p>recalled a process that included many new and amended rules that would have material effects on DR participants, all of them debated and discussed at length. But he said he had no recollection and could find no record of discussions about existing DR metering configurations that would be disallowed under the Demand Response Auction.</p> <p>As a party to the CBDR contracts, Mr. Forsyth said the IESO would have had access to all the relevant details, including metering configurations. To its credit, since market opening, he said the IESO has always made him aware of any changes that might have a negative impact on his company's participation in markets or programs, and provided opportunities for input and comment. But in this case, neither Resolute nor the IESO indicated that any of that interaction had occurred. He said the proposed Market Rule amendment would prevent Resolute's continued participation with its pre-existing metering configuration.</p>
Joe Saunders	No	<p>After tracing the history of the proposed Market Rule amendment, Mr. Saunders said the overarching issue was that the IESO's demand response programs do transition over time, and facilitating participation does not mean the rules never change, or that a participant in a past program automatically qualifies for the current one. The Technical Panel gave careful consideration to the unintended consequences that could arise from the assumption of an automatic transition for Resolute or any other market participant, and Mr. Saunders cited the possibility of other market participants entering the program with similar meter configurations as problematic and potentially harmful. He cited other technical concerns that had arisen, as well, including the bi-directional flow of energy onto the IESO-controlled grid.</p> <p>Mr. Saunders said the IESO should give consideration to the way new programs are rolled out, particularly with market participants that are not primarily focused on energy, and should provide better support to help those clients understand the applicable programs and navigate the regulatory process. But in this instance, he said he could not support the Market Rule amendment.</p>
Julien Wu	Yes	<p>Mr. Wu said he had not been a part of the stakeholdering process during the transition to the Demand Response Auction, so he couldn't weigh in on the past. He said he was inclined to accept the IESO's judgement and expertise if staff advised that a proposal was</p>

		<p>not satisfactory from a reliability and rate-payer benefit's perspective. He adds that the Technical Panel's mandate was to safeguard the rulemaking process, not to engage in dispute resolution. Yet he feels that the debate has been on a dispute regarding market process and outcome, and thus is outside the Technical Panel's mandate and expertise.</p> <p>But he explained that he had two reasons to vote in favour of the proposed amendment—so that it could be considered by the Board. First, given that the IESO designed and had complete oversight of the DR Auction process, and because the IESO approved auction participants' configurations in the qualifying process, the onus was on the IESO to assess the suitability of Resolute's meter configuration before allowing Resolute to participate in the auction. As a market participant, Resolute can only rely on the IESO's approval to make business and investment decisions. And fact of the matter was that the IESO approved Resolute's offer configuration in more than one auction. If Resolute's configuration was deemed unsatisfactory after the fact, he said, the IESO could have used rules, processes, and notification bulletins to correct the gap between the Market Rules and its original intent, and disqualify Resolute and other similar participants from future auctions. The failure to pursue those processes might have explained the lack of feedback from other DRA participants. Again, if Resolute's configuration was approved by the IESO and discovered to be problematic after the fact, the IESO has processes for changing and correcting market rules going forward. The subsequent disqualification of Resolute's already approved, offered and cleared capacity amounted to retroactive rulemaking. Mr. Wu said he couldn't support retroactive rulemaking as a market participant.</p> <p>He added that, from experience buying and selling capacity within his sector, most of the work and business decisions come at the qualification stage. So it would be troubling for a market participant to bid successfully, receive a capacity obligation, deliver the product, then be penalized because the qualification process it followed and relied on to make business decisions were inaccurate.</p> <p>Noting that this was the first time a market participant had ever brought forward a proposed Market Rule amendment, Mr. Wu said he hoped there would be lessons learned from the process.</p>
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Phil Lasek	Yes	<p>Mr. Lasek agreed with the rationale noted by Mr. Forsyth and Ms. Griffiths. He also stated that legacy installations should be able to continue with their current meter installations.</p> <p>For plants to change to meet the new rules, existing electrical switchgear changes would be expensive and sometimes difficult. IESO should provide assistance in providing options to meet the intent of the DRA.</p>
Robert Lake	No	<p>Mr. Lake said he had hoped consideration of the proposed amendment would point toward an opportunity to bring more participants into the demand response market. He said that ultimately demand response is just one aspect of reliability. Mr. Lake noted that we use 3% or 5% voltage cuts, spinning reserve, imports, over and under voltage protections and incremental capacity. Demand response is a tool that must be available. He said he accepted the position of the staff, who manage the system every day, and have better knowledge than us, that the proposed amendment could have a negative impact on system reliability, efficiency, and cost.</p>
Ron Collins	No	<p>Mr. Collins said he saw no evidence that the IESO had explicitly accepted Resolute's metering configuration, and no evidence of an actual or implied warranty that participants in past demand response programs would automatically be accepted into a new program. He expressed concern that the proposed amendment would introduce the potential for market participants to use a combination of reductions at the IESO-controlled grid and behind-the-meter activities to satisfy their DR capacity obligation, therefore not realizing the expected DR capacity contribution being realized at the ICG as intended by the DR programs, while potentially introducing inconsistency in the treatment of participants in the IESO-administered markets.</p> <p>Mr. Collins expressed concern about the IESO's handling of the process. He said it is evident that the IESO delayed in providing the Technical Panel information when the issue first emerged. Further, the IESO did not provide responses to Resolute in a timely manner in all circumstances. Finally, the IESO appeared to be reluctant at times to disclose information throughout the process to all parties. I therefore would recommend the IESO undertake a review of the process in aim to improve the transparency, efficiency and effectiveness of the process.</p>

Sushil Samant	No	<p>Mr. Samant said he agreed with Mr. Urukov’s comments, adding that:</p> <ul style="list-style-type: none"> <li>• a market participant shouldn’t expect to apply the rules from a past program after a new one is introduced,</li> <li>• the current program has no ambiguity in specifying load reductions at the IESO-controlled grid (<i>Demand Response Capacity</i> is a defined term),</li> <li>• he had based his vote on issues of fairness to ratepayers, grid reliability and unintended consequences, and stated that the events that occurred in the past are beyond the scope of the TP. “The past is the past”. He finds it encouraging that RFP is pursuing another “process” with the IESO over their past interactions and hopes them success - because at the end of the day, “we’re all loads. We all pay.”</li> </ul>
Vlad Urukov	No	<p>Mr. Urukov acknowledged that a transition from a program to a market-based solution could create tensions between new restrictions imposed by the market construct and the goal of retaining and expanding participation. Detailed stakeholdering should flesh out and resolve those issues. After reviewing the historical documentation, he said he concluded that the unique configuration of Resolute’s Thunder Bay facility was not subject to specific, dedicated stakeholder review, and that based on their interpretation of information available at the time Resolute understood that the DR Auction would not introduce any changes that would apply to that facility—the unique configuration at the facility was only flagged during the failed activation in 2017.</p> <p>Mr. Urukov said his duty as a Technical Panel member was to evaluate the proposed Market Rule based on his understanding of its intent, as laid out in Chapter 17, 18.1.1 and Chapter 11 of the Market Rules, and Market Manual 12, Section 6.3.2, which he said contained no explicit language covering Resolute’s specific case. But he expressed concern about whether Resolute’s proposal to allow “any metering configuration that was approved under DR1, DR2, DR3 or CBDR”, absent additional limitations, may allow behaviour that is contrary to the intent of the demand response program. While Resolute’s utilization might not change, nothing would prevent some other market participant from applying the DR1, DR2, DR3 or CBDR enabled configuration in a different way and producing unintended consequences.</p> <p>Allowing for use of two channels of two meters where one meter is</p>



		<p>embedded, without additional details, is insufficient to prevent such unintended outcomes, Mr. Urukov concluded. He said the IESO should craft rules that contemplate all configurations and applications, even if they don't exist at the time of crafting, and therefore he could not support the rule amendment as proposed.</p>
Sarah Griffiths	Yes	<p>Ms. Griffiths said the question to be settled was how the Resolute configuration failed to translate into the Demand Response Auction, especially when only three direct contact customers and three aggregators were involved in the transition. On that issue, she said she supported Mr. Forsyth's comments on IESO's intent, and agreed with his recollection of the DR transition process, in which she was also a participant. She noted that the IESO's current capacity qualification process for the DRA was a best practice among electricity markets, and said it should remain in spite of the issue currently before the Panel.</p> <p>Ms. Griffiths supported the proposed Market Rule amendment, arguing that it would have limited impact on other resources and avert an approximately 50% de-rate of a market participant—an outcome that she said was not a business signal the IESO should want to send.</p> <p>She added that the IESO had an opportunity to put forward clear market rules on how resources would be measured in the change from the DRA to the TCA, and again during the development of the ICA, and had acknowledged the potential value in different metering configurations. How to create and gain access to that value should be a topic for discussion during upcoming consultations on competitive auction design, she said.</p>
Jessica Savage	No	<p>Ms. Savage reiterated the IESO's position that the proposed amendment would have an adverse impact on the reliable, efficient operation of the IESO grid and introduce inconsistency in the treatment of participants in IESO-administered markets.</p>

## **SCHEDULE C**

DR Auction Market Design  
Stakeholder Feedback  
February 12, 2015



Market Design Section	Stakeholder Name	Question/Comment	IESO Response
1.0 Introduction	City of Toronto	<p><b>IESO:</b> "Demand response, which is the changing of electricity consumption by end-use customers in response to market prices or to maintain system reliability,"</p> <p><b>Comment:</b> The Ministry of Energy and the OPA refer to Demand Response as: "Demand Response (DR) occurs when people and businesses shift electricity use from periods of peak demand to periods of lower demand, or reduce use during peak periods. Customers could be responding to changes in the price of electricity during the day, incentive payments and/or other mechanisms."</p> <p><b>Recommendation:</b> In an effort to keep definitions standardized; would the IESO consider using the definition provided by the Ministry of Energy and included in the Long Term Energy Plan? Source: <a href="http://powerauthority.on.ca/sites/default/files/planning/LTEP-2013-Module-2-Conservation.pdf">http://powerauthority.on.ca/sites/default/files/planning/LTEP-2013-Module-2-Conservation.pdf</a> And <a href="http://www.powerauthority.on.ca/sites/default/files/planning/LTEP_2013_English_WEB.pdf">http://www.powerauthority.on.ca/sites/default/files/planning/LTEP_2013_English_WEB.pdf</a></p>	<p>The IESO's definition of demand response is inclusive of the demand response definition used by the Ministry of Energy and OPA. However, the IESO's definition is intentionally broader to allow the utilization of DR to provide a wider range of services to the electricity market over time.</p> <p>This is reflective of the IESO's mandate in the LTEP to "...evolve existing DR programs and introduce new DR initiatives."</p>
	City of Toronto	<p><b>IESO:</b> "North American electricity markets that make use of capacity markets to meet their resource adequacy needs have been able to attract significant volumes of new demand response resources."</p> <p><b>Comment:</b> The IESO statements of "North American Markets" can be inadvertently read to include Canadian Markets, and not the PJM market that has benefited from Demand Response. Canada is a different market and has not proven the same results as the PJM market.</p> <p><b>Recommendation:</b> Would the IESO amend the term "North American Markets" to state PJM market?</p>	<p>The term "North American Markets" was meant to reflect a number of jurisdictions including but not limited to PJM. In addition to PJM, other markets such as NYISO and ISO-NE have also attracted new Demand Response resources through their respective capacity markets.</p>
	City of Toronto	<p><b>IESO:</b> "Through this competitive process, these markets have been able to attract demand response resources at prices for Availability Payments which are significantly</p>	<p>The IESO understands that there are inherent regional, resource and program differences between neighbouring electricity</p>

## **SCHEDULE D**



## Market Rule Amendment Proposal

### PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00416-R00		
Subject:	Demand Response Auctions		
Title:	Demand Response Auctions – Participant Authorization & Facility Registration		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Addition
Chapters:	2, 7 & 11	Appendix:	2.2
Sections:	Chapter 2, section 2, 3, Chapter 7 section 18 (new), 19 (new), Chapter 11 definitions		
Sub-sections proposed for amending:			

### PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review	May 26, 2015
2.0	Publish for Stakeholder Review and Comment	June 4, 2015
3.0	Submitted for Technical Panel Vote	June 30, 2015
4.0	Recommended by Technical Panel; Submitted for IESO Board Approval	July 7, 2015
5.0	Approved by IESO Board	August 26, 2015
Approved Amendment Publication Date:		August 27, 2015
Approved Amendment Effective Date:		September 18, 2015

### 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

The IESO proposes to amend the market rules in order to implement a Demand Response Auction to allow for the future competitive procurement and development of demand response in Ontario.

Specifically, this amendment proposal will:

- Create a new market participant class, “demand response auction participant;”
- Specify the requirements to participate in a demand response auction, which include providing a demand response auction deposit;
- Specify that demand response auction participants who obtain a demand response capacity obligation through an auction, must become a demand response market participant;
- Provide details and eligibility for the delivery of demand response capacity obligations; and
- Specify that in order to deliver on a demand response capacity obligation, demand response market participants must satisfy the registration requirements as either a dispatchable load, or the requirements of an hourly demand response resource.

This proposal is based on the Demand Response Auction stakeholder engagement.

Further information on the Demand Response Auction stakeholder engagement can be found on the IESO’s website at:

<http://www.ieso.ca/Pages/Participate/Stakeholder-Engagement/Demand-Response-Auction.aspx>

#### Background

In order to participate in a demand response auction, existing market participants or new applicants must become authorized as a demand response auction participant. This market participant type will allow organizations to become authorized with the IESO for the purposes of participating in the auction and to be bound by the applicable IESO market rules. There are additional authorization and facility registration requirements for the IESO physical market for those auction participants that obtain a demand response capacity obligation from the auction.

In developing the demand response auction, the approach has been to facilitate participation by current demand response providers, potential new participants and new technologies. Authorization for demand response auctions is similar to the authorization for the transmission rights markets where a financial market participant is only required to execute a participation agreement and file a deposit with the IESO prior to auction participation.

Participants that are successful through a demand response auction (i.e. receive a demand response capacity obligation) will be required to register their facilities with the IESO and deliver the demand

## PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

response capacity obligation as an hourly demand response resource or as a dispatchable load.

### Discussion

#### Chapter 2 – New Class of Market Participant

It is proposed to add a new class of market participant in the market rules solely for participation in demand response auctions. This addition includes:

- Chapter 2, section 2.1.1.10: New market participant class – “demand response auction participant”;
- Chapter 11, definitions: A new defined term for “demand response auction participant,” which means a person authorized to participate only in a demand response auction;
  - A new defined term for “demand response auction” will also be included in Chapter 11 to mean the auction operated by the IESO to procure demand response capacity.

A person wishing to submit offers into a demand response auction would apply to be authorized as a “demand response auction participant.” This would require application and authorization through the IESO’s market registration process and payment of the applicable application fees. The proposed definition of demand response auction participant will allow facilities able to provide demand response capacity to take part in the auction prior to completing facility registration with the IESO.

Further to the application for authorization of demand response auction participants, the IESO proposes to exclude the obligation under section 3.1.2.2 for applicants to submit either the federal harmonized value-added tax system registration number or proof of their exemption to the payment. This exclusion further aligns a demand response auction participant with the obligations of financial market participants.

#### Appendix 2.2 –Communication Requirements

In the Capacity Based Demand Response market rule amendments (MR-00408-R00), the IESO obligated demand response market participants to maintain a telephone and email address in order to ensure communication is maintained between the IESO and those participating in the capacity based demand response program. With the expansion of the definition a demand response market participant to include a market participant with a demand response capacity obligation, the IESO proposes to amend section 1.1.6A of Appendix 2.2 to limit the applicability of the section to demand response market participants that are only participating in the capacity based demand response program.

The IESO proposes the following amendments to sections 1.3.1 and 1.4.1 of Appendix 2.2 which details the obligations to install and maintain a dispatch workstation and a participant workstation.

Dispatch Workstations (section 1.3.1):

- Clarify that demand response market participants participating only in the capacity based demand response program or having a demand response capacity obligation delivered through an hourly demand response resource will be excluded from the obligation to install and maintain a dispatch workstation; and
- Exclude the obligation to install and maintain a dispatch workstation for demand response auction participants.

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Participant Workstation (section 1.4.1):

- Clarify that demand response market participants participating only in the capacity based demand response program will be excluded from the obligation to install and maintain a participant workstation.

Demand response auction participants will be required to install and maintain a participant workstation in accordance with section 1.4.1 of Appendix 2.2 in order to communicate with the IESO and submit offers during their participation in a demand response auction. The details and requirements for participant workstations are outlined in the [Participant Technical Reference Manual](#).

#### Chapter 7

It is proposed to insert new section 18, “Demand Response Auctions” into chapter 7 of the market rules as follows:

#### Section 18.1 – Purpose of Demand Response Auctions

- Insert section 18.1.1 to specify that demand response auctions will be for the purpose of procuring demand response capacity in Ontario through a competitive auction process.
- Insert section 18.1.2 to obligate the IESO to publish the target amount of demand response capacity that will be procured through each demand response auction, the process will be detailed in the applicable market manual.

#### Section 18.2 – Participation in Demand Response Auctions

- Insert section 18.2.1 to specify that prerequisites for participation in a demand response auction are to become authorized as a demand response auction participant, submit to the IESO the amount of demand response capacity a participant is willing to provide and no less than five business days prior to the date which a demand response auction is to be conducted a participant must provide the IESO with a demand response auction deposit.
- Insert section 18.2.2 to specify chapters of the market rules that will **not** apply to demand response auction participants in order to avoid obligations in the market rules which should not be applicable to those participating only in a demand response auction:
  - Chapters 4, 5, and 6,
  - Chapter 7, other than this section 18
  - Chapters 8 and 10

All other market rules will apply to demand response auction participants unless explicitly identified in this section 18.2.2. This provision is similar to existing section 4.8.5 of Chapter 8, which specifies the market rules that are not applicable to financial market participants.

- Insert section 18.2.3 to obligate demand response auction participants that have successfully obtained a demand response capacity obligation through the demand response auction to become authorized as a demand response market participant.



## PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

### Section 18.3 – Calculation of Demand Response Auction Deposits

Section 18.3.1 specifies that the IESO will calculate a demand response auction participant's demand response auction deposit, based on the amount of demand response capacity the demand response auction participant specifies they intend to offer in the demand response auction.

### Section 18.4 – Demand Response Auction Deposits

This section specifies the manner in which demand response market participants may satisfy their deposit obligation, and is consistent with the acceptable forms for letters of credit allowable under the existing demand response security requirements in section 5A of Chapter 2, as well as the allowable forms for TR's (i.e. letters of credit or cash deposits) under section 4.8 of Chapter 8.

- Inset section 18.4.1 to specify that a demand response auction deposit must be submitted as either an irrevocable commercial letter of credit or a cash deposit.
- Insert section 18.4.2 to specify that the standard and IESO required provisions for letters of credit in the IESO markets:
  - Must be issued subject to either The Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600 or The International Standby Practices 1998;
  - The IESO shall be named as beneficiary in each letter of credit, each letter of credit shall be irrevocable, and partial draws on any letter of credit shall not be prohibited;
  - The only conditions for the IESO to draw on the letter of credit shall be the delivery of a certificate of an officer of the IESO that the IESO is entitled to draw on the letter of credit the amount owing to the IESO as specified in the certificate, as of the date of delivery of the certificate;
  - The letter of credit shall either provide for automatic renewal (unless the issuing bank advises the IESO at least thirty days prior to the renewal date that the letter of credit will not be renewed) or be for a term of at least one year. If the demand response deposit is not renewed ten (10) business days before the expiry of the letter of credit the IESO is entitled at that time to payment of the full amount of the letter of credit, once drawn upon it will be treated as a demand response deposit in the form of cash; and
  - The demand response auction participant represents and warrants to the IESO that the issuance of the letter of credit is not prohibited in any other agreement, including without limitation, a negative pledge given by or in respect of the demand response auction participant.
- Insert section 18.4.3 to specify that authorization for a demand response auction participant will be limited to the requirements outlined in this section 18.2.1.1 to 18.2.1.3 if the applicant has not applied or is not participating in any other IESO administered market.

### Section 19 – Demand Response Market Participants with Demand Response Capacity Obligations

This section will introduce the ways in which a demand response market participant can fulfill a demand response capacity obligation and will include the applicable eligibility requirements. It is proposed to insert new section 19 "Demand Response Market Participants with Demand Response

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Capacity Obligations” into Chapter 7 as follows:

#### Section 19.1 – Purpose

- Insert section 19.1.1 to detail the purpose of section 19, which is to provide the details on the delivery of demand response capacity obligations.
- Insert section 19.1.2 to allow the delivery of a demand response capacity obligation through participation as an hourly demand response resource or as a dispatchable load.

#### Section 19.2 – Eligibility Requirements for Hourly Demand Response with a Demand Response Capacity Obligation

- Insert section 19.2.1 to specify that a demand response market participant will be eligible to participate as an hourly demand response resource, provided that the participant:
  - 19.2.1.1 – Demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation, as specified in the applicable market manual;
  - 19.2.1.2 – Registers its facilities and demand response contributors in accordance with the applicable market manual. The participant shall not make subsequent changes to that facility without pre-authorization from the IESO;
  - 19.2.1.3 – Satisfies the connection assessment requirements in section 6 of Chapter 4, if a connection assessment is required by the IESO in accordance with the applicable market manual;
  - 19.2.1.4 – Provides the appropriate prudential support in accordance with section 5 of Chapter 2.
- Insert section 19.2.2 and 19.2.3 to specify that the IESO may refuse or remove a demand response market participant, temporarily or permanently, if its resource’s continued participation would negatively impact the reliable operation of the IESO-controlled grid.
- Insert section 19.2.4 to specify chapters of the market rules that will **not** apply to demand response market participants that are authorized to participate only with an hourly demand response resource, in order to avoid obligations in the market rules which should not be applicable:
  - Chapter 2, sections 5A and 8;
  - Chapters 5, 6, 8, 10;
  - Chapter 7, section 7.

All other market rules will apply to demand response market participants participating only in the hourly demand response program unless explicitly identified in this section 19.2.4. For clarity, on a resource basis, a demand response market participant that is participating both as an hourly demand response resource and as a wholesale consumer that is a non-dispatchable load, must continue to meet the obligations throughout the market rules for non-dispatchable loads. The above market rule “carve-outs” are similar to existing section 17.2.4 of Chapter 7, which specifies the Chapters and sections not applicable to demand response market participants who participate only in the capacity based demand response program.

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

- Insert section 19.2.5 to allow non-dispatchable loads with a demand response capacity obligation to participate as an hourly demand response resource, if the non-dispatchable load meets the eligibility requirements of proposed section 19.2, as well as continuing to meet the requirements of a wholesale consumer that is a non-dispatchable load.

#### Section 19.3 – Eligibility Requirements for Dispatchable Loads with a Demand Response Capacity Obligation

- Insert section 19.3.1 to specify that a demand response market participant will be eligible to participate as a dispatchable load to fulfill a demand response capacity obligation, provided that the participant:
  - 19.3.1.1 – Demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation, as specified in the applicable market manual;
  - 19.3.1.2 – is authorized as a wholesale consumer;
  - 19.3.1.3 – Registers its facilities in accordance with the wholesale consumer registration requirements for dispatchable loads. The participant shall not make subsequent changes to that facility without pre-authorization from the IESO;
  - 19.3.1.4 – Satisfies the connection assessment requirements in section 6 of Chapter 4, if a connection assessment is required by the IESO in accordance with the applicable market manual;
  - 19.3.1.5 – Provides the appropriate prudential support in accordance with section 5 of Chapter 2.
- Insert section 19.3.2 and 19.3.3 to specify that the IESO may refuse or remove a demand response market participant, temporarily or permanently, if its resource's continued participation would negatively impact the reliable operation of the IESO-controlled grid.

#### Chapter 11 – Defined Terms:

In addition to the new defined term “demand response auction participant,” the following new defined terms are required for the implementation of a demand response auction and for the delivery of a demand response capacity obligation:

- “demand response auction” means the auction operated by the IESO to procure demand response capacity, pursuant to section 18 of Chapter 7.
- “demand response auction deposit” means the deposit required to be made by a demand response auction participant pursuant to section 18 of Chapter 7 as a condition of participating in a demand response auction.
- “demand response capacity” means the expected quantity of load reduction a demand resource can provide during a specified availability window and commitment period of a demand response auction, and excludes energy transacted through the energy market.
- “demand response capacity obligation” means the amount of demand response capacity that a demand response market participant is obligated to provide during the applicable availability

**PART 3 – EXPLANATION FOR PROPOSED AMENDMENT**

window and commitment period after the completion of a demand response auction.

- “hourly demand response” means the proposed resource type described in section 19 of Chapter 7 for the delivery, on an hourly basis, of a demand response capacity obligation obtained through a demand response auction.

The IESO proposes to amend the definition of “demand response contributor” to include the delivery of a demand response capacity obligation with an hourly demand response resource. The current definition relates only to the delivery of a contracted monthly MW under the capacity based demand response program.

Furthermore the IESO proposes to amend the definition of “demand response market participant” in order to incorporate the delivery of demand response capacity obligations. In addition, the IESO will remove the obligation for a demand response market participant to be either a demand response aggregator or demand response direct participant which is not a requirement for all existing types of demand response participation.

**PART 4 – PROPOSED AMENDMENT****Chapter 2****2. Classes of Market Participants**

2.1.1 The following classes of persons may apply for authorization to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*:

2.1.1.1 *generators;*

2.1.1.2 *distributors;*

2.1.1.3 *wholesale sellers;*

2.1.1.4 *wholesale consumers;*

2.1.1.5 *retailers;*

2.1.1.6 *transmitters;*

2.1.1.7 *financial market participants; and*

2.1.1.8 [Intentionally left blank – section deleted]

2.1.1.9 *demand response market participants; and:*

2.1.1.10 *demand response auction participants.*

### 3. Application for Authorization

- 3.1.1 A person who wishes to be authorized by the *IESO* to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid* must file a completed *application for authorization to participate*.
- 3.1.2 The application for authorization to participate shall be accompanied by:
- 3.1.2.1 the non-refundable application fee established from time to time by the *IESO* to defray the costs of processing the application; and
  - 3.1.2.2 unless the *application for authorization to participate* is submitted in respect of an applicant that is applying for authorization to participate in the *IESO-administered markets* solely as a *financial market participant* or a demand response auction participant, either:
    - a. the federal harmonized value-added tax system registration number issued to the applicant by the Canada Customs and Revenue Agency; or
    - b. where the applicant is resident in Canada and is, by virtue of *applicable law*, not liable to pay the federal harmonized value-added tax under Part IX of the *Excise Tax Act* (Canada), such documentation as may be prescribed in the *Excise Tax Act* (Canada) or described in the policies of the Canada Customs and Revenue Agency to support the exemption from such liability to pay.

## Appendix 2.2 – Technical Requirements: Voice Communication, Monitoring and Control, Workstations and Re-Classification of Facilities

- 1.1.6A Each *demand response market participant* participating in the capacity based demand response program shall provide to the *IESO* and maintain one commercially available telephone and electronic mail address for the purposes of communicating with the *IESO*.

### 1.3 Dispatch Workstations

- 1.3.1 Each *market participant* other than a *boundary entity* ~~or~~, a demand response auction participant, or a demand response market participant participating in either the capacity based demand response program or with a demand response

capacity obligation through an hourly demand response resource shall, for the purposes of:

- 1.3.1.1 the provision to the *IESO* of real-time information required by the *IESO* to direct the operations of the *IESO-controlled grid*;
- 1.3.1.2 if the person is or will be subject to dispatch by the *IESO*, the receipt of *dispatch instructions*; and
- 1.3.1.3 the exchange with the *IESO* of other information required to be submitted or received pursuant to Chapter 7 or Chapter 8, other than the submission, receipt of confirmation of and validation of *dispatch data*, *TR bids* or *TR offers* in the *TR market* and *physical bilateral contract data*,

provide, install and maintain a *dispatch workstation* that meets the specifications and other requirements set forth in the *participant technical reference manual* and that is configured to support communication with the real-time communication network channel or channels provided by the *IESO* in the manner described in the *participant technical reference manual*.

.....

## 1.4 Participant Workstations

- 1.4.1 Subject to section 1.6, each *market participant* other than a *demand response market participant* participating only in the capacity based demand response program shall, for the purposes of conducting secure communications or transactions with the *IESO* using *IESO*-supplied or approved software, provide, install and maintain a *participant workstation* that meets the specifications, definitions and other requirements set forth in the *participant technical reference manual*.
- 

## Chapter 7

### 18. Demand Response Auctions

#### 18.1 Purpose of Demand Response Auctions

- 18.1.1 The demand response auction will procure demand response capacity through a competitive auction.

18.1.2 The *IESO* shall specify and *publish* a target capacity amount to be procured in each *demand response auction*, as specified in the applicable *market manual*.

## **18.2 Participation in Demand Response Auctions**

18.2.1 No person may participate in a *demand response auction* nor receive a *demand response capacity obligation* unless that person has:

18.2.1.1 been authorized by the *IESO* as a *demand response auction participant* in accordance with section 3 of Chapter 2;

18.2.1.2 submitted **and has been approved by** the *IESO*, using forms and procedures as may be established by the *IESO* in the applicable *market manual*, the amount of *demand response capacity* that the *demand response auction participant* is willing to provide; and

18.2.1.3 no less than five *business days* prior to the date on which a *demand response auction* is to be conducted, provided to the *IESO* a *demand response auction deposit*, in one or both of the forms set forth in section 18.4.

18.2.2 The following provisions of the *market rules* shall not apply to a *demand response auction participant* that is authorized by the *IESO* to participate only in a *demand response auction*:

18.2.3.1 Chapters 4, 5, and 6;

18.2.3.2 Chapter 7 other than this section 18; and

18.2.3.3 Chapters 8 and 10.

18.2.3 A *demand response auction participant* who obtains a *demand response capacity obligation* through a *demand response auction* shall apply to become authorized by the *IESO* as a *demand response market participant* in accordance with section 3 of Chapter 2.

## **18.3 Calculation of Demand Response Auction Deposits**

18.3.1 Upon receipt of a *demand response auction participant's demand response capacity* under section 18.2.1.2, the *IESO* shall determine for each *demand response auction participant*, a *demand response auction deposit* for a *demand response auction* as specified in the applicable *market manual*.

## **18.4 Demand Response Auction Deposits**

18.4.1 A *demand response auction deposit* shall be in one or both of the following forms:

18.4.1.1 an irrevocable commercial letter of credit provided by a bank named in a Schedule to the *Bank Act*, S.C. 1991, c. 46; or

18.4.1.2 a cash deposit made with the *IESO* by or on behalf of the *demand response auction participant*.

18.4.2 Where all or part of a *demand response auction deposit* is in the form of a standby letter of credit, the following provisions shall apply:

18.4.2.1 the letter of credit shall provide that it is issued subject to either The Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICE Publication No. 500 or The International Standby Practices 1998;

18.4.2.2 the *IESO* shall be named as beneficiary in the letter of credit, the letter of credit shall be irrevocable and partial draws on the letter of credit shall not be prohibited;

18.4.2.3 the only condition on the ability of the *IESO* to draw on the letter of credit shall be the delivery of a certificate of an officer of the *IESO* that a specified amount is owing by the *demand response auction participant* to the *IESO* and that, in accordance with the provisions of the *market rules*, the *IESO* is entitled to payment of that specified amount as of the date of delivery of the certificate;

18.4.2.4 the letter of credit shall either provide for automatic renewal (unless the issuing bank advises the *IESO* at least thirty days prior to the renewal date that the letter of credit will not be renewed) or be for a term of at least one (1) year. Where the *IESO* is advised that a letter of credit is not to be renewed or the term of the letter of credit is to expire, the *demand response auction participant* shall arrange for and deliver additional *demand response auction deposits* if the *demand response auction participant* intends to continue to participate in a *demand response auction*. If such additional *demand response auction deposits* are not received by the *IESO* ten (10) *business days* before the expiry of a letter of credit, the *IESO* shall be entitled as of that time to payment of the full face amount of the letter of credit which amount,



once drawn by the IESO, shall be treated as a demand response auction deposit in the form of cash; and

18.4.2.5 by including a letter of credit as part of a demand response auction deposit, the demand response auction participant represents and warrants to the IESO that the issuance of the letter of credit is not prohibited in any other agreement, including without limitation, a negative pledge given by or in respect of the demand response auction participant.

18.4.3 Notwithstanding any other provision of these market rules, a person that applies for authorization to participate in the demand response auction and that has not applied for authorization to participate, or is not participating, in any other IESO-administered market shall not be required to comply with any requirements for authorization other than those set forth in sections 18.2.1.1 to 18.2.1.3.

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## **19. Demand Response Market Participants with Demand Response Capacity Obligations**

### **19.1 Purpose**

19.1.1 This section details the delivery of a demand response capacity obligation obtained through a demand response auction.

19.1.2 A demand response market participant who receives a demand response capacity obligation obtained through a demand response auction shall deliver into the IESO-administered market via resources registered as:

19.1.2.1 hourly demand response; or

19.1.2.2 a dispatchable load.

### **19.2 Eligibility Requirements for Hourly Demand Response Resources with Demand Response Capacity Obligations**

19.2.1 A demand response market participant is eligible to participate as an hourly demand response resource provided that the demand response market participant:

19.2.1.1 demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation obtained through a demand response auction, as specified in the applicable market manual;

- 19.2.1.2 registers its *facilities* and *demand response contributors* as applicable, to the satisfaction of the *IESO*, in accordance with the applicable *market manual*. The *demand response market participant* shall not modify, vary or amend in any material respect any of the features or specifications of any resource without first requesting *IESO* authorization and approval in accordance with the applicable *market manual*;
- 19.2.1.3 satisfies the *connection assessment* requirements in accordance with section 6 of Chapter 4, if required by the *IESO*, in accordance with the *applicable market manual*;
- 19.2.1.4 has provided *prudential support* in accordance with section 5 of Chapter 2.
- 19.2.2 The *IESO* may refuse participation of an *hourly demand response* resource by a *demand response market participant* if the resource's participation would negatively impact the *reliable* operation of the *IESO-controlled grid*.
- 19.2.3 The *IESO* may remove a *demand response market participant's hourly demand response* resource from market participation if the resource's continued participation would negatively impact the *reliable* operation of the *IESO-controlled grid*. The *IESO* may temporarily remove a *demand response market participant's hourly demand response* resource from market participation if the conditions on the *IESO-controlled grid* are such that the resource's participation would negatively impact the *reliable* operation of the *IESO-controlled grid*.
- 19.2.4 The following provisions of the *market rules* shall not apply to a *demand response market participant* that is authorized by the *IESO* to participate only with an *hourly demand response* resource and is not a *wholesale consumer* that is a *non-dispatchable load*:
  - 19.2.4.1 Chapter 2, sections 5A and 8;
  - 19.2.4.2 Chapters 5, 6, 8, 10; and
  - 19.2.4.3 Chapter 7 section 7.
- 19.2.5 A *wholesale consumer* that is a *non-dispatchable load* may participate as an *hourly demand response* resource to fulfill a *demand response capacity obligation*, provided that the *non-dispatchable load* meets all the applicable eligibility requirements of this section 19.2, and the requirements in the *market rules* that are applicable to a *wholesale consumer* that is a *non-dispatchable load*.

## **19.3 Eligibility Requirements for Dispatchable Loads with a Demand Response Capacity Obligation**

- 19.3.1 A demand response market participant is eligible to participate as a dispatchable load in satisfying its demand response capacity obligation, provided that the demand response market participant:
- 19.3.1.1 demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation obtained through a demand response auction, as specified in the applicable market manual;
  - 19.3.1.2 is authorized as a wholesale consumer;
  - 19.3.1.3 registers its facilities in accordance with the registration requirements for wholesale consumers that are dispatchable loads. The demand response market participant shall not modify, vary or amend in any material respect any of the features or specifications of any resource without first requesting IESO authorization and approval in accordance with the applicable market manual;
  - 19.3.1.4 satisfies the connection assessment requirements in accordance with section 6 of Chapter 4, if required by the IESO in accordance with the applicable market manual;
  - 19.3.1.5 has provided prudential support in accordance with section 5 of Chapter 2.
- 19.3.2 The IESO may refuse participation of a dispatchable load's resource by a demand response market participant if the resource's participation would negatively impact the reliable operation of the IESO-controlled grid.
- 19.3.3 The IESO may remove a demand response market participant's dispatchable load resource if the resource's continued participation would negatively impact the reliable operation of the IESO-controlled grid. The IESO may temporarily remove a demand response market participant's dispatchable load resource if the conditions on the IESO-controlled grid are such that the resource's participation would negatively impact the reliable operation of the IESO-controlled grid.

## **Chapter 11**

demand response auction means the auction operated by the IESO to procure demand response capacity, in accordance with section 18 of Chapter 7;

demand response auction participant means a person who is a market participant

that is authorized to participate only in a demand response auction;

demand response auction deposit means the deposit required to be made by a demand response auction participant in accordance with section 18 of Chapter 7, as a condition of participating in a demand response auction;

demand response capacity means the expected quantity of load reduction a demand resource can provide during a specified availability window and commitment period for a demand response auction, and excludes energy transacted through the energy market;

demand response capacity obligation means the amount of demand response capacity that a demand response market participant is obligated to provide during the applicable availability window and commitment period, following a demand response auction;

*demand response contributor* means an interruptible load or behind the meter generator that is owned by a demand response direct participant, or with whom a demand response aggregator has enforceable rights, and in either case, who will provide a portion of the monthly contracted MW for the contracted dispatch period as outlined in the demand response schedule. A demand response contributor also means the delivery of a demand response capacity obligation with an hourly demand response resource, in which case a monthly contracted MW is replaced by a demand response capacity obligation;

*demand response market participant* means a person who is a market participant ~~that is a demand response aggregator or demand response direct participant~~ that participates only in the capacity based demand response program, ~~or the demand response pilot program,~~ or is a person with a demand response capacity obligation;

hourly demand response means the resource type described in section 19 of Chapter 7, that is used by the IESO as a delivery type, on an hourly basis, for a demand response capacity obligation obtained through a demand response auction;

## PART 5 – IESO BOARD DECISION RATIONALE

The amendments enable the participant authorization and facility registration requirements for Demand Response Auctions, which will allow for the future competitive procurement and development of demand response in Ontario.

## **SCHEDULE E**

# DEMAND RESPONSE AUCTIONS – OVERVIEW

Technical Panel  
January 20<sup>th</sup>, 2015

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# INTRODUCTION

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What is the IESO's goal for demand response?

- “Achieve greater value and economic use of DR through improved integration of existing DR contracts in the IESO-administered energy market and dispatch process, and over the longer term through the expansion of DR market participant categories.”

# DEMAND RESPONSE PROGRESS TO DATE

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- IESO is transitioning wholesale DR from a program approach to a market approach
- Three streams of work will be undertaken to enable this:
  1. Implement market rules to transition DR3 contractual terms to a market structure (capacity-based demand response)
    - In-service March 4, 2015
  2. Implement a DR Auction mechanism to replace expiring OPA DR contracts, plus any additional needs identified
    - Target in service late 2015, for first capacity delivery in 2016
  3. Develop pilot programs to demonstrate capabilities of demand response to meet system needs (Load Following, Unit Commitment)
    - Target RFP released for submissions by end of February



# BENEFITS OF A DR AUCTION

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- An auction provides a competitive platform to allow for the selection of demand response resources
  - Allows for the entry of new, cost-competitive providers
- Provides flexibility to respond to changing conditions
- A stable transition provides learning opportunity for DR providers to be able to successfully compete in a full capacity auction

# STAKEHOLDER CONSULTATION

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- IESO has met with stakeholders throughout Q4 2014, holding four stakeholder engagement meetings and two webinars
- DR Auction Market Design proposal was developed with consideration for stakeholder feedback and Ontario's needs
- Market Design was published for stakeholder feedback in December, with comments due on January 15<sup>th</sup>

# AUCTION DESIGN ELEMENTS

<b>Eligibility</b>	Market Participant Authorization
	Capacity Qualification
	Registration Requirements
<b>Auction Parameters</b>	Length of Forward Period
	Commitment Period
	Demand Curve
	Target Capacity Requirement
	Reference Price
	Maximum Auction Clearing Price
	Min/Max Cleared Capacity Limits
	Auction Mechanics
<b>Performance</b>	Resource Obligation
	Measurement & Verification
	Non-Performance Penalties and Set-offs
<b>Settlements</b>	Prudential Support
	Cost Recovery
	Payments

# AUCTION DESIGN PROPOSAL HIGHLIGHTS

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## ***IESO will maintain ~500 MW of wholesale demand response***

- Target MW requirement for each auction determined by IESO based on quantity of DR expiring from CBDR to maintain 500 MW target
- If additional needs identified through IESO forecasting and reliability studies then the target capacity will reflect this update

## ***A Qualified Capacity (QCAP) calculation will value MW capacity contribution of different providers***

- DR Auction targets demand-side MW that have an incremental impact on system needs

# AUCTION DESIGN PROPOSAL HIGHLIGHTS

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## ***Forward period of five months***

- Balance between greater business certainty and increased opportunities for new entrants

## ***Seasonal commitment period***

- Will provide greater flexibility for resources to offer into an auction in manner most consistent with capability
- Two seasons will be defined as:
  - Summer – May 1 to October 31
  - Winter – November 1 to April 30
- Auction for both seasons will be held at the same time
- Two separate clearing prices

# AUCTION DESIGN PROPOSAL HIGHLIGHTS

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*MW will be procured in the Auction through the use of a downward-sloping demand curve.*



# AUCTION DESIGN PROPOSAL HIGHLIGHTS

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***DR resources with a DR auction obligation must participate in the energy market over the Availability Window.***

- Must-Bid Requirement in Day-Ahead Commitment Process and real-time energy market
- Availability Window to be determined in detailed design

***Cost recovery for the DR Auction is proposed to be allocated to consumers as a monthly uplift charge based on demand at system peak.***

# NEXT STEPS

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- The Market Design will be finalized in February
- Stakeholders will be involved in detailed design discussions through Q1 and Q2 of 2015
- February 24<sup>th</sup> Technical Panel:
  - Request vote that ‘high level’ amendment submission warrants consideration for market rule changes to enable DR auctions
  - In coordination with stakeholdering efforts, more details on expected timing of draft market rule amendments for the various auction design elements
- Registration and Qualification for the Auction to begin in the fall
- Auction to take place in late November/early December for delivery in the first commitment period of May 2016



## **SCHEDULE F**

# Demand Response Auction

## Participant Authorization and Facility Registration

Technical Panel  
June 2, 2015

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Jason Kwok, IESO

# Agenda

- Overview
  - Objectives of a DR Auction
  - Stakeholder Engagement
  - Market Rule Timelines
- Market Rule Proposals
  - Participant Authorization and Facility Registration
- Next Steps

# Overview

- The IESO is proposing market rule amendments in order to implement a Demand Response (DR) Auction
  - The Demand Response Auction is an enduring competitive procurement mechanism for capacity that will replace expiring demand response contracts and support the future development of economic demand response in Ontario
- The first DR Auction will be held in December 2015 for delivery in May 2016.

# Overview: Objectives

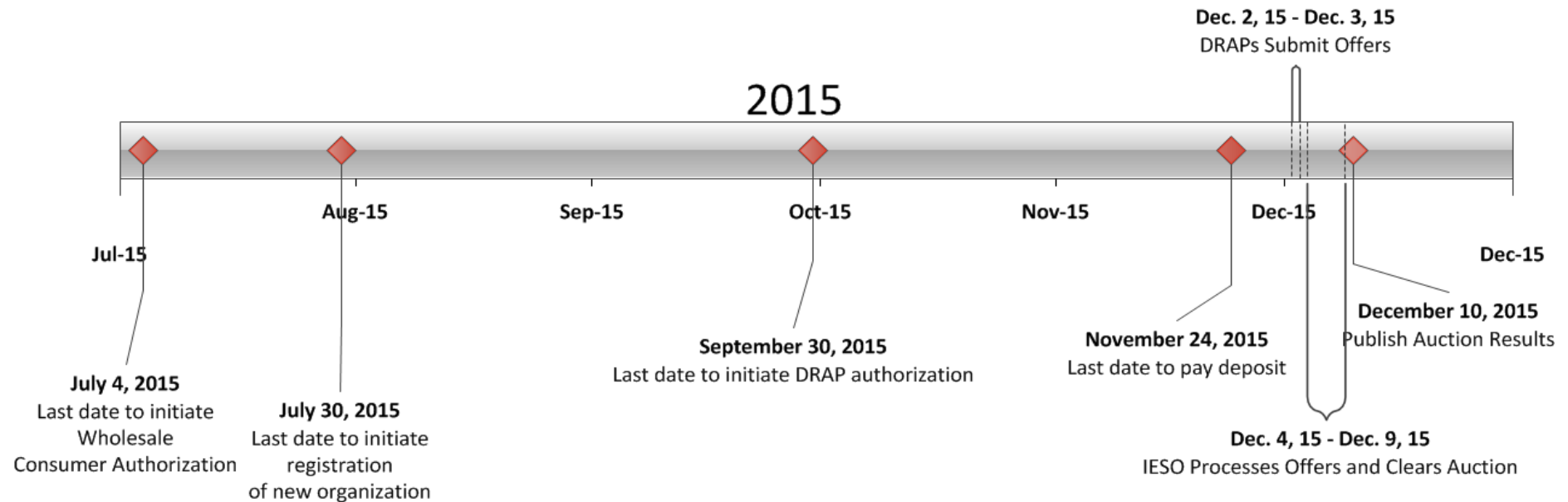
## Key objectives for the DR Auction:

- Instituting a competitive, transparent platform that will allow for the selection of demand response resources based on price – securing DR at the lowest cost – and ability to grow and evolve to meet future system needs;
- Supporting the entry of new, cost-competitive providers;
- Driving innovation in a dynamic and growing sector;
- Providing flexibility to respond to changing market conditions;
- Creating a learning opportunity for demand response providers to be able to successfully compete in a full Capacity Auction.

# Overview: Stakeholders

- DR Auction design has been developed in the context of an IESO Stakeholder Engagement:
  - IESO continues to work closely with stakeholders on all elements of the auction development, design and implementation
  - Further information on the engagement is available at the following link [www.ieso.ca/sedrauction](http://www.ieso.ca/sedrauction)

# Timeline



# Market Rule Amendment Timelines

	<i>Participant Authorization Facility Registration</i>	<i>Auction Parameters Energy Market Participation</i>	<i>Settlements</i>
First redlined version of Market Rules presented to Technical Panel  Vote to Post for Stakeholder Comment	June 2	July 7	August 11
Technical Panel Votes on a Recommendation to the IESO Board of Directors	July 7	August 11	September 22
Board of Directors Approve Proposed Market Rules	August 26	August 26	October 22
Effective dates	September 17	September 17	November 13



# Participant Authorization and Facility Registration

- In order to attract the broadest range of potential DR providers, including current demand response providers as well as new entrants and new technologies, we have sought to reduce the requirements for participation in the auction
- Participants will be authorized to participate in the auction, and those that are successful will register facilities to meet their capacity obligations through participation in the energy market

# Authorization and Registration Overview

- Three stages of market registration for the DR Auction:
  1. **Pre-Auction Authorization:** prospective auction participants will register to take part in the auction
  2. **Post-Auction Authorization:** auction participants who have successfully cleared in the auction will register to participate in the physical markets
  3. **Post- Auction Facility Registration:** physical market participants will register facilities in order to meet their auction obligations through the physical markets

# Pre-Auction

## Authorization as a Demand Response Market Participant

- Demand Response Auction Participant (Ch.2, s.2)
  - New market participant type will allow organizations to be able to participate in the DR Auction
  - Similar to TR authorization –required to execute a participation agreement and file a deposit with IESO prior to participation in the DR Auction

# Post-Auction

## Energy Market Authorization and Facility Registration

- Post-Auction requirements for participants who are successful in the auction
  - Become authorized as Demand Response Market Participant
    - Will be required to post Prudential Security and get access to IESO systems
  - Register facilities
    - Requirements will depend on the way in which an organization plans to deliver its DR Capacity Obligation

# Post-Auction

## Facility Registration

- A Demand Response Market Participant can deliver their capacity obligation in two ways:
  - 5-minute Dispatchable Load
  - Hourly Demand Response
    - Will allow for participation by directly-connected non-dispatchable loads, aggregated and/or embedded loads
- Future proposed market rule amendments will outline other requirements (ex. energy market participation, settlement) for dispatchable load and Hourly DR respectively

# Next Steps

- DR Auction stakeholder engagement initiative is in detailed design development phase
  - Final stakeholder meeting is expected on June 18
- IESO will bring two further submissions of market rule amendments that have been informed by stakeholder feedback
  - Auction Parameters and Energy Market Participation
  - Settlements

## **SCHEDULE G**



## Market Rule Amendment Proposal

### PART 1 – MARKET RULE INFORMATION

Identification No.:	MR-00416-R00		
Subject:	Demand Response Auctions		
Title:	Demand Response Auctions – Participant Authorization & Facility Registration		
Nature of Proposal:	<input checked="" type="checkbox"/> Alteration	<input type="checkbox"/> Deletion	<input checked="" type="checkbox"/> Addition
Chapters:	2, 7 & 11	Appendix:	2.2
Sections:	Chapter 2, section 2, 3, Chapter 7 section 18 (new), 19 (new), Chapter 11 definitions		
Sub-sections proposed for amending:			

### PART 2 – PROPOSAL HISTORY

Version	Reason for Issuing	Version Date
1.0	Draft for Technical Panel Review	May 26, 2015
2.0	Publish for Stakeholder Review and Comment	June 4, 2015
3.0	Submitted for Technical Panel Vote	June 30, 2015
4.0	Recommended by Technical Panel; Submitted for IESO Board Approval	July 7, 2015
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 *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

The IESO proposes to amend the market rules in order to implement a Demand Response Auction to allow for the future competitive procurement and development of demand response in Ontario.

Specifically, this amendment proposal will:

- Create a new market participant class, “demand response auction participant;”
- Specify the requirements to participate in a demand response auction, which include providing a demand response auction deposit;
- Specify that demand response auction participants who obtain a demand response capacity obligation through an auction, must become a demand response market participant;
- Provide details and eligibility for the delivery of demand response capacity obligations; and
- Specify that in order to deliver on a demand response capacity obligation, demand response market participants must satisfy the registration requirements as either a dispatchable load, or the requirements of an hourly demand response resource.

This proposal is based on the Demand Response Auction stakeholder engagement.

Further information on the Demand Response Auction stakeholder engagement can be found on the IESO’s website at:

<http://www.ieso.ca/Pages/Participate/Stakeholder-Engagement/Demand-Response-Auction.aspx>

#### Background

In order to participate in a demand response auction, existing market participants or new applicants must become authorized as a demand response auction participant. This market participant type will allow organizations to become authorized with the IESO for the purposes of participating in the auction and to be bound by the applicable IESO market rules. There are additional authorization and facility registration requirements for the IESO physical market for those auction participants that obtain a demand response capacity obligation from the auction.

In developing the demand response auction, the approach has been to facilitate participation by current demand response providers, potential new participants and new technologies. Authorization for demand response auctions is similar to the authorization for the transmission rights markets where a financial market participant is only required to execute a participation agreement and file a deposit with the IESO prior to auction participation.

Participants that are successful through a demand response auction (i.e. receive a demand response capacity obligation) will be required to register their facilities with the IESO and deliver the demand

## PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

response capacity obligation as an hourly demand response resource or as a dispatchable load.

### Discussion

#### Chapter 2 – New Class of Market Participant

It is proposed to add a new class of market participant in the market rules solely for participation in demand response auctions. This addition includes:

- Chapter 2, section 2.1.1.10: New market participant class – “demand response auction participant”;
- Chapter 11, definitions: A new defined term for “demand response auction participant,” which means a person authorized to participate only in a demand response auction;
  - A new defined term for “demand response auction” will also be included in Chapter 11 to mean the auction operated by the IESO to procure demand response capacity.

A person wishing to submit offers into a demand response auction would apply to be authorized as a “demand response auction participant.” This would require application and authorization through the IESO’s market registration process and payment of the applicable application fees. The proposed definition of demand response auction participant will allow facilities able to provide demand response capacity to take part in the auction prior to completing facility registration with the IESO.

Further to the application for authorization of demand response auction participants, the IESO proposes to exclude the obligation under section 3.1.2.2 for applicants to submit either the federal harmonized value-added tax system registration number or proof of their exemption to the payment. This exclusion further aligns a demand response auction participant with the obligations of financial market participants.

#### Appendix 2.2 –Communication Requirements

In the Capacity Based Demand Response market rule amendments (MR-00408-R00), the IESO obligated demand response market participants to maintain a telephone and email address in order to ensure communication is maintained between the IESO and those participating in the capacity based demand response program. With the expansion of the definition a demand response market participant to include a market participant with a demand response capacity obligation, the IESO proposes to amend section 1.1.6A of Appendix 2.2 to limit the applicability of the section to demand response market participants that are only participating in the capacity based demand response program.

The IESO proposes the following amendments to sections 1.3.1 and 1.4.1 of Appendix 2.2 which details the obligations to install and maintain a dispatch workstation and a participant workstation.

Dispatch Workstations (section 1.3.1):

- Clarify that demand response market participants participating only in the capacity based demand response program or having a demand response capacity obligation delivered through an hourly demand response resource will be excluded from the obligation to install and maintain a dispatch workstation; and
- Exclude the obligation to install and maintain a dispatch workstation for demand response auction participants.

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Participant Workstation (section 1.4.1):

- Clarify that demand response market participants participating only in the capacity based demand response program will be excluded from the obligation to install and maintain a participant workstation.

Demand response auction participants will be required to install and maintain a participant workstation in accordance with section 1.4.1 of Appendix 2.2 in order to communicate with the IESO and submit offers during their participation in a demand response auction. The details and requirements for participant workstations are outlined in the [Participant Technical Reference Manual](#).

#### Chapter 7

It is proposed to insert new section 18, “Demand Response Auctions” into chapter 7 of the market rules as follows:

#### Section 18.1 – Purpose of Demand Response Auctions

- Insert section 18.1.1 to specify that demand response auctions will be for the purpose of procuring demand response capacity in Ontario through a competitive auction process.
- Insert section 18.1.2 to obligate the IESO to publish the target amount of demand response capacity that will be procured through each demand response auction, the process will be detailed in the applicable market manual.

#### Section 18.2 – Participation in Demand Response Auctions

- Insert section 18.2.1 to specify that prerequisites for participation in a demand response auction are to become authorized as a demand response auction participant, submit to the IESO the amount of demand response capacity a participant is willing to provide and no less than five business days prior to the date which a demand response auction is to be conducted a participant must provide the IESO with a demand response auction deposit.
- Insert section 18.2.2 to specify chapters of the market rules that will **not** apply to demand response auction participants in order to avoid obligations in the market rules which should not be applicable to those participating only in a demand response auction:
  - Chapters 4, 5, and 6,
  - Chapter 7, other than this section 18
  - Chapters 8 and 10

All other market rules will apply to demand response auction participants unless explicitly identified in this section 18.2.2. This provision is similar to existing section 4.8.5 of Chapter 8, which specifies the market rules that are not applicable to financial market participants.

- Insert section 18.2.3 to obligate demand response auction participants that have successfully obtained a demand response capacity obligation through the demand response auction to become authorized as a demand response market participant.

## PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

### Section 18.3 – Calculation of Demand Response Auction Deposits

Section 18.3.1 specifies that the IESO will calculate a demand response auction participant's demand response auction deposit, based on the amount of demand response capacity the demand response auction participant specifies they intend to offer in the demand response auction.

### Section 18.4 – Demand Response Auction Deposits

This section specifies the manner in which demand response market participants may satisfy their deposit obligation, and is consistent with the acceptable forms for letters of credit allowable under the existing demand response security requirements in section 5A of Chapter 2, as well as the allowable forms for TR's (i.e. letters of credit or cash deposits) under section 4.8 of Chapter 8.

- Inset section 18.4.1 to specify that a demand response auction deposit must be submitted as either an irrevocable commercial letter of credit or a cash deposit.
- Insert section 18.4.2 to specify that the standard and IESO required provisions for letters of credit in the IESO markets:
  - Must be issued subject to either The Uniform Customs and Practice for Documentary Credits, 2007 Revision, ICC Publication No. 600 or The International Standby Practices 1998;
  - The IESO shall be named as beneficiary in each letter of credit, each letter of credit shall be irrevocable, and partial draws on any letter of credit shall not be prohibited;
  - The only conditions for the IESO to draw on the letter of credit shall be the delivery of a certificate of an officer of the IESO that the IESO is entitled to draw on the letter of credit the amount owing to the IESO as specified in the certificate, as of the date of delivery of the certificate;
  - The letter of credit shall either provide for automatic renewal (unless the issuing bank advises the IESO at least thirty days prior to the renewal date that the letter of credit will not be renewed) or be for a term of at least one year. If the demand response deposit is not renewed ten (10) business days before the expiry of the letter of credit the IESO is entitled at that time to payment of the full amount of the letter of credit, once drawn upon it will be treated as a demand response deposit in the form of cash; and
  - The demand response auction participant represents and warrants to the IESO that the issuance of the letter of credit is not prohibited in any other agreement, including without limitation, a negative pledge given by or in respect of the demand response auction participant.
- Insert section 18.4.3 to specify that authorization for a demand response auction participant will be limited to the requirements outlined in this section 18.2.1.1 to 18.2.1.3 if the applicant has not applied or is not participating in any other IESO administered market.

### Section 19 – Demand Response Market Participants with Demand Response Capacity Obligations

This section will introduce the ways in which a demand response market participant can fulfill a demand response capacity obligation and will include the applicable eligibility requirements. It is proposed to insert new section 19 "Demand Response Market Participants with Demand Response

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

Capacity Obligations” into Chapter 7 as follows:

#### Section 19.1 – Purpose

- Insert section 19.1.1 to detail the purpose of section 19, which is to provide the details on the delivery of demand response capacity obligations.
- Insert section 19.1.2 to allow the delivery of a demand response capacity obligation through participation as an hourly demand response resource or as a dispatchable load.

#### Section 19.2 – Eligibility Requirements for Hourly Demand Response with a Demand Response Capacity Obligation

- Insert section 19.2.1 to specify that a demand response market participant will be eligible to participate as an hourly demand response resource, provided that the participant:
  - 19.2.1.1 – Demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation, as specified in the applicable market manual;
  - 19.2.1.2 – Registers its facilities and demand response contributors in accordance with the applicable market manual. The participant shall not make subsequent changes to that facility without pre-authorization from the IESO;
  - 19.2.1.3 – Satisfies the connection assessment requirements in section 6 of Chapter 4, if a connection assessment is required by the IESO in accordance with the applicable market manual;
  - 19.2.1.4 – Provides the appropriate prudential support in accordance with section 5 of Chapter 2.
- Insert section 19.2.2 and 19.2.3 to specify that the IESO may refuse or remove a demand response market participant, temporarily or permanently, if its resource’s continued participation would negatively impact the reliable operation of the IESO-controlled grid.
- Insert section 19.2.4 to specify chapters of the market rules that will **not** apply to demand response market participants that are authorized to participate only with an hourly demand response resource, in order to avoid obligations in the market rules which should not be applicable:
  - Chapter 2, sections 5A and 8;
  - Chapters 5, 6, 8, 10;
  - Chapter 7, section 7.

All other market rules will apply to demand response market participants participating only in the hourly demand response program unless explicitly identified in this section 19.2.4. For clarity, on a resource basis, a demand response market participant that is participating both as an hourly demand response resource and as a wholesale consumer that is a non-dispatchable load, must continue to meet the obligations throughout the market rules for non-dispatchable loads. The above market rule “carve-outs” are similar to existing section 17.2.4 of Chapter 7, which specifies the Chapters and sections not applicable to demand response market participants who participate only in the capacity based demand response program.

### PART 3 – EXPLANATION FOR PROPOSED AMENDMENT

- Insert section 19.2.5 to allow non-dispatchable loads with a demand response capacity obligation to participate as an hourly demand response resource, if the non-dispatchable load meets the eligibility requirements of proposed section 19.2, as well as continuing to meet the requirements of a wholesale consumer that is a non-dispatchable load.

#### Section 19.3 – Eligibility Requirements for Dispatchable Loads with a Demand Response Capacity Obligation

- Insert section 19.3.1 to specify that a demand response market participant will be eligible to participate as a dispatchable load to fulfill a demand response capacity obligation, provided that the participant:
  - 19.3.1.1 – Demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation, as specified in the applicable market manual;
  - 19.3.1.2 – is authorized as a wholesale consumer;
  - 19.3.1.3 – Registers its facilities in accordance with the wholesale consumer registration requirements for dispatchable loads. The participant shall not make subsequent changes to that facility without pre-authorization from the IESO;
  - 19.3.1.4 – Satisfies the connection assessment requirements in section 6 of Chapter 4, if a connection assessment is required by the IESO in accordance with the applicable market manual;
  - 19.3.1.5 – Provides the appropriate prudential support in accordance with section 5 of Chapter 2.
- Insert section 19.3.2 and 19.3.3 to specify that the IESO may refuse or remove a demand response market participant, temporarily or permanently, if its resource's continued participation would negatively impact the reliable operation of the IESO-controlled grid.

#### Chapter 11 – Defined Terms:

In addition to the new defined term “demand response auction participant,” the following new defined terms are required for the implementation of a demand response auction and for the delivery of a demand response capacity obligation:

- “demand response auction” means the auction operated by the IESO to procure demand response capacity, pursuant to section 18 of Chapter 7.
- “demand response auction deposit” means the deposit required to be made by a demand response auction participant pursuant to section 18 of Chapter 7 as a condition of participating in a demand response auction.
- “demand response capacity” means the expected quantity of load reduction a demand resource can provide during a specified availability window and commitment period of a demand response auction, and excludes energy transacted through the energy market.
- “demand response capacity obligation” means the amount of demand response capacity that a demand response market participant is obligated to provide during the applicable availability

**PART 3 – EXPLANATION FOR PROPOSED AMENDMENT**

window and commitment period after the completion of a demand response auction.

- “hourly demand response” means the proposed resource type described in section 19 of Chapter 7 for the delivery, on an hourly basis, of a demand response capacity obligation obtained through a demand response auction.

The IESO proposes to amend the definition of “demand response contributor” to include the delivery of a demand response capacity obligation with an hourly demand response resource. The current definition relates only to the delivery of a contracted monthly MW under the capacity based demand response program.

Furthermore the IESO proposes to amend the definition of “demand response market participant” in order to incorporate the delivery of demand response capacity obligations. In addition, the IESO will remove the obligation for a demand response market participant to be either a demand response aggregator or demand response direct participant which is not a requirement for all existing types of demand response participation.

**PART 4 – PROPOSED AMENDMENT****Chapter 2****2. Classes of Market Participants**

2.1.1 The following classes of persons may apply for authorization to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid*:

2.1.1.1 *generators;*

2.1.1.2 *distributors;*

2.1.1.3 *wholesale sellers;*

2.1.1.4 *wholesale consumers;*

2.1.1.5 *retailers;*

2.1.1.6 *transmitters;*

2.1.1.7 *financial market participants; and*

2.1.1.8 [Intentionally left blank – section deleted]

2.1.1.9 *demand response market participants; and:*

2.1.1.10 *demand response auction participants.*

### 3. Application for Authorization

- 3.1.1 A person who wishes to be authorized by the *IESO* to participate in the *IESO-administered markets* or to cause or permit electricity to be conveyed into, through or out of the *IESO-controlled grid* must file a completed *application for authorization to participate*.
- 3.1.2 The application for authorization to participate shall be accompanied by:
- 3.1.2.1 the non-refundable application fee established from time to time by the *IESO* to defray the costs of processing the application; and
  - 3.1.2.2 unless the *application for authorization to participate* is submitted in respect of an applicant that is applying for authorization to participate in the *IESO-administered markets* solely as a *financial market participant* or a demand response auction participant, either:
    - a. the federal harmonized value-added tax system registration number issued to the applicant by the Canada Customs and Revenue Agency; or
    - b. where the applicant is resident in Canada and is, by virtue of *applicable law*, not liable to pay the federal harmonized value-added tax under Part IX of the *Excise Tax Act* (Canada), such documentation as may be prescribed in the *Excise Tax Act* (Canada) or described in the policies of the Canada Customs and Revenue Agency to support the exemption from such liability to pay.

## Appendix 2.2 – Technical Requirements: Voice Communication, Monitoring and Control, Workstations and Re-Classification of Facilities

- 1.1.6A Each *demand response market participant* participating in the capacity based demand response program shall provide to the *IESO* and maintain one commercially available telephone and electronic mail address for the purposes of communicating with the *IESO*.

### 1.3 Dispatch Workstations

- 1.3.1 Each *market participant* other than a *boundary entity* ~~or~~, a demand response auction participant, or a demand response market participant participating in either the capacity based demand response program or with a demand response



capacity obligation through an hourly demand response resource shall, for the purposes of:

- 1.3.1.1 the provision to the *IESO* of real-time information required by the *IESO* to direct the operations of the *IESO-controlled grid*;
- 1.3.1.2 if the person is or will be subject to dispatch by the *IESO*, the receipt of *dispatch instructions*; and
- 1.3.1.3 the exchange with the *IESO* of other information required to be submitted or received pursuant to Chapter 7 or Chapter 8, other than the submission, receipt of confirmation of and validation of *dispatch data*, *TR bids* or *TR offers* in the *TR market* and *physical bilateral contract data*,

provide, install and maintain a *dispatch workstation* that meets the specifications and other requirements set forth in the *participant technical reference manual* and that is configured to support communication with the real-time communication network channel or channels provided by the *IESO* in the manner described in the *participant technical reference manual*.

.....

## 1.4 Participant Workstations

- 1.4.1 Subject to section 1.6, each *market participant* other than a *demand response market participant* participating only in the capacity based demand response program shall, for the purposes of conducting secure communications or transactions with the *IESO* using *IESO*-supplied or approved software, provide, install and maintain a *participant workstation* that meets the specifications, definitions and other requirements set forth in the *participant technical reference manual*.
- 

## Chapter 7

### 18. Demand Response Auctions

#### 18.1 Purpose of Demand Response Auctions

- 18.1.1 The demand response auction will procure demand response capacity through a competitive auction.

18.1.2 The *IESO* shall specify and *publish* a target capacity amount to be procured in each *demand response auction*, as specified in the applicable *market manual*.

## **18.2 Participation in Demand Response Auctions**

18.2.1 No person may participate in a *demand response auction* nor receive a *demand response capacity obligation* unless that person has:

18.2.1.1 been authorized by the *IESO* as a *demand response auction participant* in accordance with section 3 of Chapter 2;

18.2.1.2 submitted **and has been approved by** the *IESO*, using forms and procedures as may be established by the *IESO* in the applicable *market manual*, the amount of *demand response capacity* that the *demand response auction participant* is willing to provide; and

18.2.1.3 no less than five *business days* prior to the date on which a *demand response auction* is to be conducted, provided to the *IESO* a *demand response auction deposit*, in one or both of the forms set forth in section 18.4.

18.2.2 The following provisions of the *market rules* shall not apply to a *demand response auction participant* that is authorized by the *IESO* to participate only in a *demand response auction*:

18.2.3.1 Chapters 4, 5, and 6;

18.2.3.2 Chapter 7 other than this section 18; and

18.2.3.3 Chapters 8 and 10.

18.2.3 A *demand response auction participant* who obtains a *demand response capacity obligation* through a *demand response auction* shall apply to become authorized by the *IESO* as a *demand response market participant* in accordance with section 3 of Chapter 2.

## **18.3 Calculation of Demand Response Auction Deposits**

18.3.1 Upon receipt of a *demand response auction participant's demand response capacity* under section 18.2.1.2, the *IESO* shall determine for each *demand response auction participant*, a *demand response auction deposit* for a *demand response auction* as specified in the applicable *market manual*.

## **18.4 Demand Response Auction Deposits**

18.4.1 A *demand response auction deposit* shall be in one or both of the following forms:

18.4.1.1 an irrevocable commercial letter of credit provided by a bank named in a Schedule to the *Bank Act*, S.C. 1991, c. 46; or

18.4.1.2 a cash deposit made with the *IESO* by or on behalf of the *demand response auction participant*.

18.4.2 Where all or part of a *demand response auction deposit* is in the form of a standby letter of credit, the following provisions shall apply:

18.4.2.1 the letter of credit shall provide that it is issued subject to either The Uniform Customs and Practice for Documentary Credits, 1993 Revision, ICE Publication No. 500 or The International Standby Practices 1998;

18.4.2.2 the *IESO* shall be named as beneficiary in the letter of credit, the letter of credit shall be irrevocable and partial draws on the letter of credit shall not be prohibited;

18.4.2.3 the only condition on the ability of the *IESO* to draw on the letter of credit shall be the delivery of a certificate of an officer of the *IESO* that a specified amount is owing by the *demand response auction participant* to the *IESO* and that, in accordance with the provisions of the *market rules*, the *IESO* is entitled to payment of that specified amount as of the date of delivery of the certificate;

18.4.2.4 the letter of credit shall either provide for automatic renewal (unless the issuing bank advises the *IESO* at least thirty days prior to the renewal date that the letter of credit will not be renewed) or be for a term of at least one (1) year. Where the *IESO* is advised that a letter of credit is not to be renewed or the term of the letter of credit is to expire, the *demand response auction participant* shall arrange for and deliver additional *demand response auction deposits* if the *demand response auction participant* intends to continue to participate in a *demand response auction*. If such additional *demand response auction deposits* are not received by the *IESO* ten (10) *business days* before the expiry of a letter of credit, the *IESO* shall be entitled as of that time to payment of the full face amount of the letter of credit which amount,

once drawn by the IESO, shall be treated as a demand response auction deposit in the form of cash; and

18.4.2.5 by including a letter of credit as part of a demand response auction deposit, the demand response auction participant represents and warrants to the IESO that the issuance of the letter of credit is not prohibited in any other agreement, including without limitation, a negative pledge given by or in respect of the demand response auction participant.

18.4.3 Notwithstanding any other provision of these market rules, a person that applies for authorization to participate in the demand response auction and that has not applied for authorization to participate, or is not participating, in any other IESO-administered market shall not be required to comply with any requirements for authorization other than those set forth in sections 18.2.1.1 to 18.2.1.3.

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## **19. Demand Response Market Participants with Demand Response Capacity Obligations**

### **19.1 Purpose**

19.1.1 This section details the delivery of a demand response capacity obligation obtained through a demand response auction.

19.1.2 A demand response market participant who receives a demand response capacity obligation obtained through a demand response auction shall deliver into the IESO-administered market via resources registered as:

19.1.2.1 hourly demand response; or

19.1.2.2 a dispatchable load.

### **19.2 Eligibility Requirements for Hourly Demand Response Resources with Demand Response Capacity Obligations**

19.2.1 A demand response market participant is eligible to participate as an hourly demand response resource provided that the demand response market participant:

19.2.1.1 demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation obtained through a demand response auction, as specified in the applicable market manual;

- 19.2.1.2 registers its *facilities* and *demand response contributors* as applicable, to the satisfaction of the *IESO*, in accordance with the applicable *market manual*. The *demand response market participant* shall not modify, vary or amend in any material respect any of the features or specifications of any resource without first requesting *IESO* authorization and approval in accordance with the applicable *market manual*;
- 19.2.1.3 satisfies the *connection assessment* requirements in accordance with section 6 of Chapter 4, if required by the *IESO*, in accordance with the *applicable market manual*;
- 19.2.1.4 has provided *prudential support* in accordance with section 5 of Chapter 2.
- 19.2.2 The *IESO* may refuse participation of an *hourly demand response* resource by a *demand response market participant* if the resource's participation would negatively impact the *reliable* operation of the *IESO-controlled grid*.
- 19.2.3 The *IESO* may remove a *demand response market participant's hourly demand response* resource from market participation if the resource's continued participation would negatively impact the *reliable* operation of the *IESO-controlled grid*. The *IESO* may temporarily remove a *demand response market participant's hourly demand response* resource from market participation if the conditions on the *IESO-controlled grid* are such that the resource's participation would negatively impact the *reliable* operation of the *IESO-controlled grid*.
- 19.2.4 The following provisions of the *market rules* shall not apply to a *demand response market participant* that is authorized by the *IESO* to participate only with an *hourly demand response* resource and is not a *wholesale consumer* that is a *non-dispatchable load*;
- 19.2.4.1 Chapter 2, sections 5A and 8;
- 19.2.4.2 Chapters 5, 6, 8, 10; and
- 19.2.4.3 Chapter 7 section 7.
- 19.2.5 A *wholesale consumer* that is a *non-dispatchable load* may participate as an *hourly demand response* resource to fulfill a *demand response capacity obligation*, provided that the *non-dispatchable load* meets all the applicable eligibility requirements of this section 19.2, and the requirements in the *market rules* that are applicable to a *wholesale consumer* that is a *non-dispatchable load*.

## **19.3 Eligibility Requirements for Dispatchable Loads with a Demand Response Capacity Obligation**

- 19.3.1 A demand response market participant is eligible to participate as a dispatchable load in satisfying its demand response capacity obligation, provided that the demand response market participant:
- 19.3.1.1 demonstrates to the satisfaction of the IESO that it can provide the demand response capacity obligation obtained through a demand response auction, as specified in the applicable market manual;
  - 19.3.1.2 is authorized as a wholesale consumer;
  - 19.3.1.3 registers its facilities in accordance with the registration requirements for wholesale consumers that are dispatchable loads. The demand response market participant shall not modify, vary or amend in any material respect any of the features or specifications of any resource without first requesting IESO authorization and approval in accordance with the applicable market manual;
  - 19.3.1.4 satisfies the connection assessment requirements in accordance with section 6 of Chapter 4, if required by the IESO in accordance with the applicable market manual;
  - 19.3.1.5 has provided prudential support in accordance with section 5 of Chapter 2.
- 19.3.2 The IESO may refuse participation of a dispatchable load's resource by a demand response market participant if the resource's participation would negatively impact the reliable operation of the IESO-controlled grid.
- 19.3.3 The IESO may remove a demand response market participant's dispatchable load resource if the resource's continued participation would negatively impact the reliable operation of the IESO-controlled grid. The IESO may temporarily remove a demand response market participant's dispatchable load resource if the conditions on the IESO-controlled grid are such that the resource's participation would negatively impact the reliable operation of the IESO-controlled grid.

## **Chapter 11**

demand response auction means the auction operated by the IESO to procure demand response capacity, in accordance with section 18 of Chapter 7;

demand response auction participant means a person who is a market participant

that is authorized to participate only in a demand response auction;

demand response auction deposit means the deposit required to be made by a demand response auction participant in accordance with section 18 of Chapter 7, as a condition of participating in a demand response auction;

demand response capacity means the expected quantity of load reduction a demand resource can provide during a specified availability window and commitment period for a demand response auction, and excludes energy transacted through the energy market;

demand response capacity obligation means the amount of demand response capacity that a demand response market participant is obligated to provide during the applicable availability window and commitment period, following a demand response auction;

*demand response contributor* means an interruptible load or behind the meter generator that is owned by a demand response direct participant, or with whom a demand response aggregator has enforceable rights, and in either case, who will provide a portion of the monthly contracted MW for the contracted dispatch period as outlined in the demand response schedule. A demand response contributor also means the delivery of a demand response capacity obligation with an hourly demand response resource, in which case a monthly contracted MW is replaced by a demand response capacity obligation;

*demand response market participant* means a person who is a market participant ~~that is a demand response aggregator or demand response direct participant~~ that participates only in the capacity based demand response program, ~~or the demand response pilot program,~~ or is a person with a demand response capacity obligation;

hourly demand response means the resource type described in section 19 of Chapter 7, that is used by the IESO as a delivery type, on an hourly basis, for a demand response capacity obligation obtained through a demand response auction;

## PART 5 – IESO BOARD DECISION RATIONALE

## **SCHEDULE H**



From: "Grbavac, Jason" <[Jason.Grbavac@ieso.ca](mailto:Jason.Grbavac@ieso.ca)>  
To: "Cara Degelman (Resolute FP)" <[cara.degelman@resolutefp.com](mailto:cara.degelman@resolutefp.com)>,  
Cc: "[tony.ruberto@resolutefp.com](mailto:tony.ruberto@resolutefp.com)" <[tony.ruberto@resolutefp.com](mailto:tony.ruberto@resolutefp.com)>, "[peter.giardetti@resolutefp.com](mailto:peter.giardetti@resolutefp.com)" <[peter.giardetti@resolutefp.com](mailto:peter.giardetti@resolutefp.com)>,  
"[alain.bourdages@resolutefp.com](mailto:alain.bourdages@resolutefp.com)" <[alain.bourdages@resolutefp.com](mailto:alain.bourdages@resolutefp.com)>  
Date: 11/05/2015 04:30 PM  
Subject: RE: Info on Ref and Max price

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Quick Update - I need more time to have the right people review and confirm the metering configuration question, I hope to be in touch tomorrow or Monday.

**Jason Grbavac** | Account Manager, Customer & Stakeholder Relations

Independent Electricity System Operator (IESO) | T: (905) 855-6155 | C: (905) 466-6154

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**DR Auction - Metering**  
**Cara Degelman** to: Tony Ruberto  
Cc: Alain Bourdages

11/17/2015 03:02 PM

Jason gave me a quick call to let us know metering is okay with using the existing CBDR metering setup for the new DR Auction. Scheduling the resource in real time will be addressed in training being offered in Jan/Feb. An official email to follow.

Cara

Cara Degelman | Senior Analyst - Energy  
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# **SCHEDULE I**



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December 4, 2018

**VIA EMAIL**

Jo Chung  
Supervisor – Market Rules, Legal Resources and Corporate Governance  
Independent Electricity System Operator  
1600 – 120 Adelaide Street West  
Toronto, ON M5H 1T1

Dear Mr. Chung:

**Re: MR-00437-Q00: Resolute FP Canada (“Resolute”) Rule Amendment Submission – Demand Response Registration and Metering Requirements (the “Rule Amendment Submission”)**

I am in receipt of your email of November 29, 2018, attaching a Memo from Josh Duru to the Technical Panel, dated November 28, 2018, in respect of the Rule Amendment Submission. The memo proposes that the issues raised in the Rule Amendment Submission be first referred to the Demand Response Working Group (“**DRWG**”) and that “A discussion about the DRWG feedback would be tabled with the Technical Panel following discussions at the DRWG.”

Respectfully, proceeding in such a manner is improper. We are very concerned that IESO staff has interjected itself into the market rule amendment process in a way that is in violation of the Market Rules, and is aimed at preventing an independent consideration of the proposed rule amendment.

**Market Rules Requirements**

On October 11, 2018, Resolute filed the Rule Amendment Submission in accordance with Section 4.2 of Chapter 3 of the Market Rules.<sup>1</sup>

Pursuant to Article 6.1 of IESO Governance and Structure By-Law, and Section 3.1 of Technical Panel Terms of Reference, the Technical Panel “shall comply with all applicable provisions of the market rules”.

Section 4.3.2 of the Market Rules provides that, “Upon receipt of the amendment submission, the **Technical Panel** may request that the person submitting the amendment submission provide further particulars with respect to the amendment submission.” After the **Technical Panel** considers the submission, pursuant to section 4.3.5.1, the **Technical Panel** is required to

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<sup>1</sup> All reference to Market Rule sections are with respect to Chapter 3.

report to the IESO Board, with notice to the person submitting the request, and if the **Technical Panel** is of the opinion that consideration of the amendment submission is warranted, the report is to set out the extent of the consultation that the **Technical Panel** intends to take with market participants and other persons in consideration of the amendment.

Similarly, section 4.3.7 provides for the posting of public notice where the **Technical Panel** has confirmed that a rule amendment request is being considered, and gives the **Technical Panel** the discretion to seek written submissions from market participants and other interested persons in respect of the amendment submission.

The Market Rules thus impose an obligation on the Technical Panel to consider the proposed rule amendment. It is the Technical Panel who determines what further consultation it may require. The Market Rules do not provide that IESO staff may intervene in the market rule amendment process to prevent or delay the consideration of an amendment.

IESO staff's intervention is particularly concerning since it has advised that it will ensure that any Market Rule amendment will reflect staff's interpretation of the Market Rule, which, as IESO staff's memo indicates, is disputed. The improper interference by staff in the mandatory process established by the Market Rules is further heightened as the parties are currently engaged in formal dispute resolution on related issues. The IESO's attempt to interfere in the rule amendment process has the appearance of the IESO looking to use this process to garner support for its position in the on-going dispute.

### **The DRWG**

Even apart from the binding Market Rule requirements, IESO staff's proposal to have this matter transferred to the DRWG for preliminary consideration is inappropriate. The DRWG is run by IESO staff. We have no confidence that IESO staff will be impartial in any DRWG review. Indeed, to reiterate, IESO staff has already made its intentions clear to rewrite the Market Rules to support its own interpretation. Given IESO staff's stated position on this matter, we do not believe that a process run by IESO staff can address the issues raised in the Rule Amendment Submission in a credible and independent manner.

Further, the basis supporting the Rule Amendment Application is that the IESO's stated interpretation discriminates against a Market Participant, namely Resolute. The DRWG is comprised of other Market Participants, who are competitors to Resolute, not similarly situated to Resolute in respect of the discrimination at issue, and are therefore self-interested. It is to avoid such conflicts, that the Market Rules provide for a mandatory, independent process led by the Technical Panel.

In sum, the Market Rules clearly provide that the Technical Panel may conduct any consultation that it considers appropriate so that it hears from all interested parties. That discretion is to be exercised by the Technical Panel in its review of the Rule Amendment Submission, in accordance with the Market Rules. It is not open to IESO staff to insert themselves into the process, invite parties who may be in conflict to weigh in on the Rule Amendment Submission, and colour the Technical Panel's review.

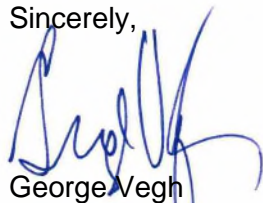
**Conclusion and Next Steps**

In light of the legally binding requirements of the Market Rules, and given IESO staff's stated position, we request that this matter be forwarded to the Technical Panel for its independent determination, without further delay.

In addition, to ensure that this issue is addressed transparently and to establish necessary safeguards to confirm that the Technical Panel is proceeding in a manner that is not impeded by IESO staff's self-interested position, we request that the IESO produce all internal correspondence, memos, and notes relating to its consideration of the Rule Amendment Submission, including all communications with the Technical Panel. Going forward we ask that all communications regarding consideration of the Rule Amendment Submission be documented in writing, with copy to Resolute, including all communications with or by the Technical Panel.

I look forward to receiving your confirmation that the Rule Amendment Submission has been put before the Technical Panel, and your anticipated timing for production of the requested documents.

Sincerely,



George Vegh

cc: Julie Parla, McCarthy Tétrault

## **SCHEDULE J**

# IESO Technical Panel Meeting

## Minutes of Meeting

<b>Date held:</b> January 29, 2019		<b>Time held:</b> 10:00 am	<b>Location held:</b> Teleconference
<b>Invited/Attended</b>	<b>Sector Representation</b>		<b>Attended/Regrets</b>
Robert Bieler	Consumer		Present
David Brown	Ontario Energy Board		Present
Ron Collins	Energy-Related Businesses and Services		Present
David Dent	Other Market Participant		Present
Sarah Griffiths	Other Market Participant		Present
Robert Lake	Residential Consumer		Present
Phil Lasek	Industrial Consumer		Present
Dave Forsyth	Consumer		Present
Sushil Samant	Generator		Present
Joe Saunders	Distributor		Present
Jessica Savage	IESO		Present
Vlad Urukov	Generator		Present
Julien Wu	Wholesaler		Present
Michael Lyle	Chair		Present
<b>Observers / Presenters</b>			
Jo Chung	IESO		Present
Josh Duru	IESO		Present
George Vegh	McCarthy Tétrault LLP		Present
<b>Secretariat</b>			
Reena Goyal	IESO		Present
Jason Grbavac	IESO		Present
Prepared by: Kathy Pearsall / Smarter Shift Inc.			

January 29, 2019

### IESO Technical Panel

Please report any suggested comments/edits by email to [engagement@ieso.ca](mailto:engagement@ieso.ca).



## **Agenda Item 1: Introduction and Administration**

### Agenda

The meeting agenda was approved with no comments, questions, or additions.

### Minutes and Action Items

The minutes of the August 14, 2018, meeting were approved unanimously.

## **Agenda Item 2: Stakeholder Engagement Update**

Jason Grbavac, IESO, provided an update on current engagements.

With respect to Market Renewal, high-level designs (HLDs) for the Single Schedule Market (SSM), the Day-Ahead Market (DAM), and the Enhanced Real-Time Unit Commitment (ERUC) are nearing the detailed design phase. The DAM and ERUC HLDs are still under review and comments are due by February 28. Stakeholders will be invited to participate in the detailed design engagement to address specific design elements.

A kick-off meeting tentatively planned for March will walk stakeholders through the various design elements of the Energy stream. The Technical Panel is encouraged to continue participating in MRP engagement opportunities.

The HLD for the Incremental Capacity Auction will be released in March. Stakeholder review and a detailed design engagement will follow.

The IESO will provide regular updates on market renewal and non-market renewal engagement activities in 2019.

### Questions

Mr. Urukov said a handy document on active engagements was last published in November 2018. He asked whether an update is coming. Mr. Grbavac said the engagement report was paused late last year, and the IESO is looking at reviving it before the Panel meeting in March.

Mr. Dent asked when market rule amendments driven by Market Renewal detailed design work might start rolling out. Mr. Grbavac said design forum conversations would begin after the March kick-off meeting. Mr. Chung said the Market Renewal amendments might be published for stakeholder comment by the fourth quarter of 2019.

January 29, 2019

### **IESO Technical Panel**

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<b>Agenda Item 3: Market Rule Amendment Submission</b>	
IESO Support Staff	Josh Duru
Stakeholder Plan	MR-0437-Q00: Resolute FP Canada (“Resolute”) Market Rule Amendment Submission – Demand Response Registration and Metering Requirements

The Chair said the purpose of the discussion was to seek the Panel’s recommendation on processing a market rule amendment submission from Resolute FP Canada. Josh Duru, IESO, will deliver an overview of the submission. George Vegh, McCarthy Tétrault LLP (“McCarthy’s), will describe the amendment and provide context.

Mr. Duru said that on October 11, 2018, McCarthy’s filed an amendment submission with the IESO on behalf of Resolute. It claims the demand response (DR) market rule unjustly discriminates against market participants, or a class of market participants. The IESO sent the amendment submission to the Panel on November 28, 2018. At that time, the IESO proposed that the submission be referred to the Demand Response Working Group (DRWG) at its first meeting in 2019. In response to the IESO’s November 28 memo to the Panel, McCarthy’s raised concerns that were documented in letters to the IESO which have been published on the Panel’s web page, along with the IESO’s response. The IESO requests that the Panel support the proposal that the submission be referred to the DRWG in order to inform future Panel discussions.

#### Questions for IESO Staff

Mr. Samant asked whether there was a DRWG meeting after the amendment submission proposal. Mr. Duru said the letter was sent to the Panel in advance of the joint IESO Board/Panel meeting on December 4. The last DRWG meeting of 2018 was before the submission was received and the next DRWG was scheduled for February 2019.

Ms. Griffiths asked for confirmation that the first time the Panel knew of McCarthy’s concerns noted in their December 4<sup>th</sup> letter was in January when it received material that included the McCarthy’s letters. Mr. Duru said the Panel was first informed of the concerns in January.

Mr. Bieler said Mr. Grbavac circulated the amendment submission proposal to the Panel on November 28, but no formal Panel meeting was held at the time. Mr. Duru confirmed. Mr. Grbavac indicated that the annual joint IESO Board/Panel meeting is an opportunity to connect the two groups on broader perspectives, with the Resolute submission sent to the Panel with proposed next steps indicated in the November cover memo. Mr. Bieler noted that today is the first Panel meeting where the amendment submission is being discussed. Mr. Duru confirmed.

Mr. Urukov said some of language around next steps was expanded after the November memorandum. He asked whether this was done in response to further comments made by Resolute or to clarify the IESO’s original intent. He asked whether the Panel was to have provided an opinion. Mr. Duru said that at this time the IESO is seeking explicit endorsement of

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#### **IESO Technical Panel**

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the proposal put forward in November and that the IESO's proposed course of action indicated in the November cover memo has not changed.

Ms. Griffiths asked whether there are examples of amendment requests from other market participants that were sent to an established working group. Ms. Savage said amendment submissions driven by market participants are rare and the IESO has only received one or two in recent history.

Mr. Bieler said he supported the amendment submission going first to the DRWG because it is a technical matter concerning the configuration of meters. The DRWG discussion would inform the Panel discussion.

Mr. Forsyth asked what the alternatives are if the submission does not go to the DRWG. The Chair indicated that the Panel could vote that the amendment warrants consideration and determine what process or forum would best assist the Panel.

Mr. Saunders said it was mentioned in the documentation that the arrangement with the revenue meters and grid meters has been accepted in previous programs, and that the IESO has changed its position. He asked the IESO to explain further. Mr. Grbavac said previous DR opportunities were provided in contracts from the former Ontario Power Authority. The IESO worked with stakeholders to transition to a market-based mechanism that brought changes to older, contract-based opportunities. Changes were made to DR2 and DR3 program rules and requirements.

Mr. Collins asked how many other entities could be affected by the submission. Mr. Grbavac said only one participant has been heard from.

The Chair turned the discussion over to Mr. Vegh and invited the Panel to ask questions.

Mr. Vegh provided the details of the amendment. Resolute is asking that the Panel follow the market rules. The rules demonstrate the need for the Panel to act independently and not be managed by IESO staff. There is concern regarding the role of the IESO in managing the DRWG process in this matter.

In November, Resolute proposed a simple market rule amendment to the IESO with respect to the DR program. Resolute does not see the market rule itself as discriminatory. Rather, it is Resolute's position that the interpretation of the rule by staff is discriminatory. The amendment seeks a clarification of the market rule that the measurement of DR includes demand served by the grid as well as by self-generation. The market rules do not differentiate, and Resolute's position is that there should be no differentiation. The IESO's interpretation is that self-generation counts toward DR behind the distribution meter but does not count if the customer is directly connected. Resolute does not agree with the IESO's interpretation and asks for clarification from within the market rules.

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## **IESO Technical Panel**

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Furthermore, if the IESO's interpretation of the market rule stands, the rule will be seen as discriminatory under the *Electricity Act*, and this would provide grounds for the Ontario Energy Board to overturn it.

Resolute raised concerns that the amendment submission should not be administered through the DRWG, but the IESO has not addressed the concern. Resolute claimed that IESO staff said that they control the market rule amendment process and that this particular amendment will not pass. Under the market rules, IESO staff do not control the amendments. The Panel has an independent mandate to consider the rules and their merits. The Panel's terms of reference differentiate between rules brought forward by IESO staff and those that are not. The role of the Panel is limited to considering whether the language of the rule meets the goal of the proposed amendment.

Resolute filed the amendment in November, and it has been difficult to get the amendment to the Panel. Three letters were provided (two in December, one in January), and it has been difficult to get a response. Resolute stated that the position of staff that the amendment should not go forward is central to the Panel's consideration and that market participants must get a fair hearing.

The rules being discussed are in Chapter 3, Section 4 of the market rule amendment process. The rules set up a requirement for the Panel to undertake a specific, transparent process in making determinations regarding proposed rules.

Resolute went on to describe the following sections of the Market Rules:

- Section 4.2.4 requires that amendment submissions be put forward. Resolute put forward its submission in November.
- Section 4.3.2 states that the Panel may request that the submitter provide further particulars. The Panel has not made a request.
- Section 4.3.5 states that the Panel shall report to the board and give notice to market participants or other interested persons as to whether the request for amendment is, in the opinion of the Panel, of such a nature that consideration is warranted as well as the extent of the consultation. There is no prescribed step stating that it should be left up to IESO staff to consult with others and report back to the Panel.

Mr. Samant asked whether the Panel would be following Section 4.3.2 by asking the submitter whether stakeholders were consulted regarding the amendment submission. Mr. Vegh said the Panel could request that the person submitting the amendment provide further particulars. Section 4.3.5.1 addresses the consultation. Mr. Samant said he wants to know whether the participant has consulted stakeholders. Mr. Vegh said he does not believe so. It is not that Resolute is opposed to stakeholder consultation; rather, Resolute wants the matter to be managed by the Panel.

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Mr. Vegh continued, section 4.3.7 states that if the Panel decides consideration is warranted, the Panel can publish the rule, seek comments, and set the time of submission. It is a very transparent process.

Mr. Bieler said it appears the cart is being placed before the horse. The IESO is saying that it is referring the submission to the DRWG to assist and inform the Panel. The Panel has not discussed or debated the submission yet because it has only just been circulated to the Panel. Whether or not the IESO should have first gone to the DRWG is up for debate. The normal Panel process has not yet begun. The Panel now awaits comments from the DRWG, and the Panel will debate the rule amendment. Mr. Vegh said that short-circuiting the submission process through the DRWG is not consistent with what the rules require.

Mr. Samant asked whether Resolute would take issue if the Panel wants to solicit input on the submission from the community at large. Mr. Vegh said it is fine if the Panel wants to directly solicit input from outside the DRWG.

Mr. Bieler said the DRWG is just one source of input.

Mr. Vegh said the submission process must be carried out in a formal and transparent way, not under the auspices of the DRWG.

The Chair noted that the one-hour time allotment for today's meeting was coming to an end and asked whether Panel members would like to continue past the hour. All Panel members agreed to stay.

Ms. Griffiths said today's discussion is a significant issue that requires more than an hour conference call. It is the first participant-driven submission in recent history, and it is precedent setting. Secondly, in the IESO's January 18<sup>th</sup> response memo to McCarthy's concerns, Ms. Griffiths indicated she has an issue with the statement that "the IESO has not received any objection to date from any Panel members on the proposed approach noted in the November 28<sup>th</sup> cover letter." Had Panel members known of McCarthy's concerns, TP members may have had an issue had they known all the facts.

Mr. Wu suggested that an in-camera session would be helpful to continue this discussion.

Mr. Urukov requested clarification of the rule amendment submission. Mr. Vegh said the rule does not need an amendment because it does not differentiate between DR behind the meter and DR that is directly connected. However, because IESO staff are not reading it this way, Resolute is proposing an amendment for clarification. Mr. Urukov asked whether Resolute is looking for further clarification from the IESO. Mr. Vegh said Resolute is looking for an amendment of the rule to provide clarification.

Mr. Vegh added that section 4.9.3 states that the Panel can establish working groups to assist it. It can set the terms of reference, the questions, and the mandate of a working group. The Panel must notify the IESO Board of its intention to set up a group, and the IESO must give notice to

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all market participants and other interested parties. It is a formal process. He requested that the Panel follow the process to the letter of the law.

### IESO Staff Remarks

Ms. Goyal said different IESO staff are involved in the Panel and in dispute resolution, which operates on a confidential, without-prejudice basis. Any representations that IESO staff may have made about the market rule amendment were made in the context of a without-prejudice process, not within the Panel process. As Mr. Vegh said Section 4.9.3 states that the Panel can refer the matter for further consultation. The IESO had suggested that the matter be referred to the DRWG because that group was already established and has expertise in dealing with these issues. The Panel can establish a working group or strike a subgroup of the DRWG to consider specifically mandated items. The DRWG is a public forum. It is not necessarily the DRWG's mandate to provide opinions and guidance to the IESO. The IESO merely facilitates the forum and administers the meetings. The DRWG is an appropriate and transparent forum to assist the Panel in making a determination.

Responding to Mr. Forsyth's earlier question about alternatives to the process, Ms. Goyal said if the Panel determines that the DRWG is not the correct forum, it is within the purview of the Panel to direct the IESO toward an appropriate forum.

Mr. Vegh said it is not accurate to state that the comment by IESO staff that the market rule amendment would not pass was made without prejudice. Resolute asked three times for correspondence to determine who within the IESO has been communicating with whom about the submission. Given the lack of response, Resolute filed a Freedom of Information request. The IESO will need to demonstrate that there is a separate group that does not communicate with the Panel. The terms of reference state that the DRWG was established to advise and assist the IESO, and not the Panel, which is independent.

The Chair said it was the view of IESO staff that the DRWG would be of assistance to the Panel in making a determination, just as other working groups and/or committees have supported the Technical Panel's review of recent amendments, e.g. Capacity Exports. It is a decision for the Panel to make.

Ms. Griffiths said the letter from the IESO to McCarthy Tétrault made her uncomfortable. It stated that the IESO had heard no objections from Panel members concerning the proposed approach. However, the Panel did not have enough information to provide any response.

The Chair suggested that it appears that Panel members would like time to deliberate without IESO staff and legal counsel present. Panel members confirmed and agreed to attend an in-camera meeting on Thursday, January 31, at 4 p.m. The purpose of that meeting will be to discuss the process going forward, not to make a decision on the rule amendment.

January 29, 2019

### **IESO Technical Panel**

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It was agreed that Ms. Savage, who is both a Panel member and IESO staff, would be invited to attend the in-camera meeting. It was agreed that there is no conflict if a Panel member in attendance is also part of the DRWG.

The meeting adjourned at 11:20 a.m.

Action Item Summary			
Date	Action	Status	Comments
Jan. 29, 2019	In camera meeting to discuss the process for the market rule amendment proposed by Resolute.	Closed	In-camera session occurred on January 31, 2019.

January 29, 2019

**IESO Technical Panel**

Please report any suggested comments/edits by email to [engagement@ieso.ca](mailto:engagement@ieso.ca).

# **SCHEDULE K**



# Memorandum

To: Technical Panel

From: Josh Duru

Date: November 28, 2018

Re: MR-00437: Demand Response – Registration and Metering Requirements

Attached for Technical Panel information is amendment submission MR-00437-Q00, submitted by Resolute FP Canada (“Resolute”), a demand response market participant. The amendment submission represents the views of Resolute and in no way reflects the views of the IESO, nor does the submission reflect the IESO’s agreement with any representations made within the submission.

In the submission, Resolute proposes that an amendment or review of the market rules is necessary to change the registration and metering requirements for market participants that provide demand response. Resolute claims that the current market rules unjustly discriminate against demand response market participants who rely on self-generation to meet their own consumption, and that the IESO’s assessment of available DR capacity should be independent of any behind-the-meter generation.

Since 2014, demand response-related design decisions have been informed by the Demand Response Working Group (DRWG). The DRWG is an open membership forum to support the effective participation and engagement of demand resources in the IESO-administered markets in general, and the Demand Response Auction in particular. All Demand Response related market rule amendments have been informed by the discussions at the DRWG and with Demand Response stakeholders.

## Next Steps

The IESO is proposing that the issues raised in Resolute’s submission be referred to the DRWG, consistent with the IESO’s practice of engaging in an open dialogue with impacted stakeholders in order to inform subsequent discussion at the Technical Panel. Resolute’s amendment submission will be discussed at the DRWG as early as its next scheduled meeting on February 12. A discussion about the DRWG feedback would be tabled with the Technical Panel following discussions at the DRWG.

## Notice of Dispute

Resolute has commenced a dispute under the market rules with respect to the interpretation of the market rules that relate to their participation in the IESO’s demand response auction. Arbitration of this dispute is scheduled to take place in February 2019.

Yours truly,

Josh Duru

Attach.

## **SCHEDULE L**

## Jason Grbavac

---

**From:** Jason Grbavac  
**Sent:** April 02, 2019 5:44 PM  
**To:** bob@bieler.ca; david.brown@oeb.ca; rcollins@sinopa.ca; Griffiths Sarah (EnerNOC); rglake@nexicom.net; phil.lasek@shell.com; jsaunders@burlingtonhydro.com; sushil.samant@northlandpower.ca; julien.wu@brookfieldrenewable.com; Jessica Savage; vlad.urukov@opg.com; Dave Forsyth; Michael Lyle  
**Cc:** Reena Goyal; Robert Doyle  
**Subject:** FW: MR-00437 Technical Panel Questions Update  
**Attachments:** Update to Enel X Question #1.pdf

Technical Panel,

Please see the following email and attachment, which we received from Resolute this afternoon and were asked to forward to the panel by today for your information. Although the IESO is still reviewing the attached document, please note that it does not agree with Resolute's characterization of IESO staff's conduct nor some of the correspondence referred to therein. The IESO will address any questions you may have about the attached correspondence between Resolute and IESO at the Technical Panel meeting on April 16.

Let me know if you have any questions.

Thanks - Jason

**Jason Grbavac** | Senior Advisor, Stakeholder Engagement - Policy, Engagement, Innovation  
Independent Electricity System Operator (IESO) | T: (905) 855-6155 | C: (905) 466-6154  
Station A, Box 4474, Toronto, ON M5W 4E5  
Web: [www.ieso.ca](http://www.ieso.ca) | Twitter: [IESO Tweets](#) | LinkedIn: [IESO](#)  
Conservation: [www.saveONenergy.ca](http://www.saveONenergy.ca) | Twitter: [saveONenergyOnt](#) | LinkedIn: [saveONenergy](#)

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**From:** Vegh, George [<mailto:gvegh@mccarthy.ca>]  
**Sent:** April 02, 2019 1:58 PM  
**To:** Jason Grbavac  
**Subject:** MR-00437 Technical Panel Questions Update

**CAUTION:** This email originated from outside of the organization. Exercise caution when clicking on links or opening attachments even if you recognize the sender.

Jason, in response to Enel X Question 1, Resolute provided e-mail correspondence with IESO staff up to that date respecting Resolute's revised proposed amendment to the Market Rule Submission. An update of that correspondence is attached. Please provide it to the Technical Panel.



**George Vegh**  
Counsel | Conseil  
Business | Affaires  
T: 416 601-7709  
C: 647-287-8344  
F: 416-868-0673  
E: [gvegh@mccarthy.ca](mailto:gvegh@mccarthy.ca)  
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## **SCHEDULE M**

## Jason Grbavac

---

**From:** Jason Grbavac  
**Sent:** April 18, 2019 3:48 PM  
**To:** bob@bieler.ca; david.brown@oeb.ca; rcollins@sinopa.ca; Griffiths Sarah (EnerNOC); rglake@nexicom.net; phil.lasek@shell.com; jsaunders@burlingtonhydro.com; sushil.samant@northlandpower.ca; julien.wu@brookfieldrenewable.com; Jessica Savage; vlad.urukov@opg.com; Dave Forsyth; Robert Reinmuller, P.Eng. (Robert.Reinmuller@HydroOne.com); Michael Lyle  
**Cc:** Reena Goyal; Robert Doyle  
**Subject:** FW: Private Discussions - Resolute's rule amendment submission

Good Afternoon Technical Panel,

Mr. Vegh has asked the IESO to forward you his response to this email.

I would like to wish you all a safe and enjoyable long weekend.

Thanks,  
Jason

**Jason Grbavac** | Senior Advisor, Stakeholder Engagement - Policy, Engagement, Innovation  
Independent Electricity System Operator (IESO) | T: (905) 855-6155 | C: (905) 466-6154  
Station A, Box 4474, Toronto, ON M5W 4E5  
Web: [www.ieso.ca](http://www.ieso.ca) | Twitter: [IESO Tweets](#) | LinkedIn: [IESO](#)  
Conservation: [www.saveONenergy.ca](http://www.saveONenergy.ca) | Twitter: [saveONenergyOnt](#) | LinkedIn: [saveONenergy](#)

-----Original Message-----

From: Vegh, George <gvegh@mccarthy.ca>  
Sent: April 18, 2019 11:48 AM  
To: Robert Doyle <robert.doyle@ieso.ca>  
Cc: Thomas, Michelle <MTHOMAS@MCCARTHY.CA>  
Subject: Re: Private Discussions - Resolute's rule amendment submission

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Robert,

Thank you for your note. I can confirm that I have contacted some technical panel members to see if they have any further questions or concerns respecting resolute's proposed amendment. I have also advised that any further information provided by resolute will go to all of the members via ieso staff.

As you are aware, technical panel members are not sequestered or otherwise precluded from discussing proposed market rule amendments with anyone, including the proponent. This is also consistent with past practice. If you are aware of any rule that does not permit this please advise.

Please forward this to technical panel members.

Sent from my iPhone

On Apr 18, 2019, at 9:08 AM, Robert Doyle <robert.doyle@ieso.ca<mailto:robert.doyle@ieso.ca>> wrote:

Hi George –

Below is a communication sent to TP members yesterday evening.

I wanted to say thank you again for changing your schedule for May 2. I confirm that the meeting will start at 9am. It will be held at the IESO's 120 Adelaide Street West office on the 16th floor.

Lastly, Resolute's rule amendment proposal has been posted<<https://can01.safelinks.protection.outlook.com/?url=http%3A%2F%2Fwww.ieso.ca%2F%2Fmedia%2FFiles%2FIESO%2FDocument-Library%2Fmr-amendments%2Fmr2019%2FMR-00437-R00-v-3.pdf%3F%3Den&data=01%7C01%7CRobert.doyle%40ieso.ca%7C3be11fd3a0884e7765dc08d6c41549ac%7C7cd55abd63f243c58f4bd38ea458add8%7C0&data=gkmybz3enJQ4YAoxAPLK1ggjvPxmrZgtwQInCwUBSkk%3D&reserved=0>> for stakeholder review and comment with comments due by April 26. A communication will be included in today's IESO Bulletin.

Thanks – Rob

From: Jason Grbavac <Jason.Grbavac@ieso.ca<mailto:Jason.Grbavac@ieso.ca>>  
Sent: April 17, 2019 6:40 PM  
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Cc: Reena Goyal <reena.goyal@ieso.ca<mailto:reena.goyal@ieso.ca>>; Robert Doyle <robert.doyle@ieso.ca<mailto:robert.doyle@ieso.ca>>  
Subject: Private Discussions - Resolute's rule amendment submission

Good afternoon,

A member of the Technical Panel has notified the IESO that counsel for Resolute has contacted them directly, requesting a private discussion regarding Resolute's rule amendment submission. The member has asked the IESO whether such a private discussion is appropriate. In the interest of transparency, the IESO has elected to direct its answer to the entire Technical Panel.

The IESO does not take a position on the appropriateness of panel members privately discussing the amendment submission with Resolute. However, in the further interest of transparency, the IESO will not be contacting panel members individually on this matter. The panel has already been presented with a substantial amount of information on this issue. If there is a need or request for further clarification or supplementation, the IESO will direct communications on its position to the entire panel and to Resolute, giving all parties an opportunity to respond.

Let me know if you have any questions.