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ENERGY MARKETING INC.

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Market Participant ID No.: 102349

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Subject: ***CMSC – Issues related to Constrained Off Payments***

Dear Sir or Madam:

Reference: Discussion Paper prepared by the Market Surveillance Panel dated February 2003

Thank you for providing the opportunity to comment on reference discussion paper. The following comments are offered on the two defined causes of constrained off payments - Transmission and Non-Transmission related.

As a general comment, BEMI strongly suggests that the IMO take a non-disruptive, predictable and well planned approach to any change in the market rules.

Such changes, especially when piecemeal and arbitrarily targeted at specific issues, increase the perceived uncertainty of the market, thus increasing transaction risk, reducing market liquidity, and adversely affecting long-term investments and contract making in the Ontario market.

In our view, the elimination of constrained off payments in the current market will only mask the problem of transmission capability. The real problem would be better dealt with within the full scope of the market evolution plan and specifically under the locational pricing initiative. This will enable the congestion issue to be properly assessed with the existing adjacent markets and provide consistency with the FERC Standard Market Design.

Constrained Off Payments to hydroelectric power plants

The original rationale used to justify constrained off payment is still considered valid under certain circumstances in the existing market. The blanket presumption made in the discussion paper that - when a hydro unit is constrained off, the hydro unit will still have the water available to offer energy in the market at another time - is not valid. In fact, the opposite may be true:

- The plant may be a run-of-the-river station without storage capability;
- The plant's storage may be at near-full and any additional water will be spilled;
- The water may have to flow for environment or other reasons.

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The energy is offered under legitimate intentions as part of the entity's responsibility for managing the water system. In this case, the constrained off payment is valid and compensates the hydro unit for the lost opportunity costs. In addition, significantly negative offers may be offered to reflect the high cost of not running plants during winter, with the associated risk of freezing gate mechanisms. The difference of the market price with the (negative) offer price may truly reflect the economic opportunity cost of not dispatching the plant.

Furthermore, the presumption made in the discussion paper that the IMO will constrain off a hydro unit to preserve water is not understood. The management of water resources is the responsibility of the entity in charge of the water system. If this presumption was correct, then the IMO's action to preserve water could be in conflict with the entity's effort to efficiently manage the water system.

Artificially low bids

It is inferred in the discussion paper that all market participants are intentionally offering energy at artificially low prices to maximize constrained off payments. It is also inferred that participants can be "relatively certain" that their energy cannot get to market. This essentially is the core of the argument used to substantiate eliminating constrained off payments caused by transmission. It is also recognized in the paper that this type of offer strategy is not compliant with the market rules and subject to penalty. However, it should not be assumed that all participants receiving constrained off payments are involved in non-compliant activity or that they know their energy cannot reach the market. What is certain is that the elimination of constrained off payments will equally affect those participants with legitimate offers and risk.

Non-Transmission Related Causes of Constrained Off Payments

Unlike transmission related constrained off payments, the non-transmission caused constrained off payment are clearly erroneous. It is agreed that the DSO should be modified to correctly handle non-transmission related constrained payments. Modifying the DSO will solve the problem and is the preferred option over the complete elimination constrained off payments.

It is also considered that the process for handling imports between the IMO NYISO, which account for a significant amount of constrained off payments, should be reviewed (i.e. – Reducing the notification window with New York of unscheduled transactions to 75 minutes from 2 hours ahead of the dispatch hour).

Correcting the non-transmission related constrained off payments should also be pursued as a short-term initiative.

Truly yours,

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