

## **6.22        Schedule 22 – Implementing Federal Duties on Imports of Electrical Energy from Canada**

### **6.22.1        Authorization to Collect and Remit Federal Duties**

The ISO is authorized to collect any rate of duty (or other any other form of duty or charge) that may be assessed on imports of electrical energy from Canada if the ISO determines in good faith that it is lawfully obliged to remit such duties or charges to the appropriate federal revenue authority under the February 1, 2025 Executive Order “Imposing Duties to Address the Flow of Illicit Drugs Across Our Northern Border,” as it may be amended, or under any other Executive Order, federal law, or other legally binding directive, that imposes a rate of duty (or any other form of duty or charge) on such imports.

### **6.22.2        Assignment of Duty-Related Costs to Subject Transaction Financially Responsible Parties**

The Subject Transaction Financially Responsible Party for each Subject Transaction shall pay the ISO the full amount of any duty or related charge applicable to a Subject Transaction. The amount of the payment shall be the product of: (a) the Subject Transaction MWh; (b) the applicable Day-Ahead LBMP at the relevant Duty Eligible Proxy Generator Bus; and (c) the rate of duty specified by federal law as interpreted by the relevant federal revenue authority. The ISO shall remit all charges collected to the appropriate federal revenue authorities. Nothing in this Schedule 22 shall result in a payment to a Subject Transaction Financially Responsible Party if the Day-Ahead LBMP at the relevant Duty Eligible Proxy Generator Bus is negative.

### **6.22.3        Emergency Energy Purchases by the ISO**

Notwithstanding Section 6.22.2 above, if the ISO makes an Emergency Energy purchase from the Ontario Independent Electricity System Operator or from Hydro-Québec or their

successors, then the ISO shall collect an amount that shall be the product of: (a) the purchased Emergency Energy (MWh), (b) the Energy cost paid by the ISO (\$/MWh), and (c) the rate of duty specified by federal law as interpreted by the relevant federal revenue authority. The ISO shall allocate this amount using the same method used to allocate the cost of the underlying Emergency Energy purchase under the applicable tariff provision or coordination agreement. The ISO shall remit all charges collected to the appropriate federal revenue authorities.

#### **6.22.4 Alternative Cost Recovery Methodology**

To the extent that the ISO is not authorized by the Commission to recover costs identified under Section 6.22.1 through the procedure described in Section 6.22.2, the ISO shall charge, and Transmission Customers taking service under the Tariff shall pay, the full amount of any duty-related costs that are calculated but not recoverable under those sections. Duty-related costs that fall under this section shall be allocated on a pro rata basis based on each Transmission Customer's Withdrawal Billing Units, including Withdrawals Billing Units to supply Station Power, for the relevant Billing Period. The ISO shall remit all charges collected to the appropriate federal revenue authorities.

#### **6.22.5 Addressing the Potential Imposition of Duties on Products Other than Energy**

If federal rates of duty (or any other form of duty or charge) applicable to imports of electrical energy from Canada are deemed by the relevant federal revenue authorities to apply to products that are sold in the ISO Administered Markets other than Energy, then the ISO may address such duties or charges: (a) through the ISO Procedures; (ii) or by asking the Commission to accept revisions to this Schedule 22 that may be made retroactively effective in accordance with the notice provided below in Section 6.22.6.

**6.22.6 Notice that Provisions of this Schedule Are Potentially Subject to Retroactive Modification**

This Section provides express notice that all of the provisions of this Schedule 22 are tentative, subject to adjustment, and intended to be eligible for retroactive adjustment to the maximum extent permitted by law under the judicially recognized “notice exception” to the filed rate doctrine and the rule against retroactive ratemaking.