



INDEPENDENT  
MARKET  
OPERATOR

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## Draft Rule Change Report

Title: Limits to early entry capacity payments

RC\_2012\_10

Standard Rule Change Process

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Date: 4 June 2013



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## Executive Summary

### ***Proposed amendments***

The Reserve Capacity Mechanism requires credited capacity to be available from the first day of the Capacity Year (1 October). To encourage the timely arrival of new capacity, Facilities may enter the market and begin receiving capacity payments at any time during the four month period leading up to this date (1 June to 30 September).

Synergy proposed amendments to clause 4.1.26 of the Market Rules to limit early capacity payments between 1 June and 30 September to Scheduled Generators and Non-Scheduled Generators only. Under Synergy's proposal other capacity types, such as Demand Side Programmes (DSPs), would only be entitled to capacity payments from 1 October.

### ***Consultation***

The Pre Rule Change Proposal was discussed by the Market Advisory Committee (MAC) at its 13 June 2012 meeting. MAC members agreed that the proposal should be submitted into the formal rule change process.

The Rule Change Proposal was submitted on 14 June 2012 and the Rule Change Notice published on 22 June 2012. In the Rule Change Notice, the IMO also sought the views of interested parties on the concept of removing early capacity payments for all capacity types, including generation.

The first submission period was held between 25 June 2012 and 3 August 2012. Submissions were received from APA Group, Community Electricity, EnerNOC, Griffin Power, Perth Energy, Synergy and Verve Energy. APA Group, Community Electricity, Perth Energy, Synergy and Verve Energy supported the Rule Change Proposal while EnerNOC and Griffin Power opposed it.

None of the submitting parties expressed support for the complete removal of early capacity payments, apart from Synergy who considered it one of a number of options worthy of further consideration. There was however wider support for changes to remove early capacity payments during times of excess capacity, while retaining the option to make these payments available at other times.

At the 8 August 2012 MAC meeting, Synergy presented a concept paper exploring further options for improving the cost-benefit trade-off of early capacity payments. During the discussion the Public Utilities Office (PUO) noted that the issue seemed to be a fundamental market policy issue rather than an operational issue. The PUO offered to consider the issue of incentivising early entry of capacity and provide the MAC with details on the next steps in the process for addressing the issue from a policy perspective at the next meeting.

During the 12 September 2012 MAC meeting, the PUO advised MAC members that it would be most appropriate to await the outcomes of the Reserve Capacity Mechanism Working Group (RCMWG) before providing any policy direction. The IMO extended the timeframes for the preparation of the Draft Rule Change Report accordingly.

The final meeting of the RCMWG was held on 28 February 2013. On 8 May 2013, the PUO confirmed that the IMO should continue to progress the proposal and its counter-proposals. The IMO received no policy direction in relation to the issue.

### ***Assessment against Wholesale Market Objectives***

The IMO considers that overall the proposed amendments are inconsistent with the Wholesale Market Objectives. While the removal of early capacity payments may reduce costs and so benefit Wholesale Market Objectives (a) and (d), in times where the market is in danger of not meeting its Reserve Capacity Target any potential savings may be outweighed by the associated risks to system reliability and the potential need to seek supplementary capacity.

On the other hand, in times of excess capacity the potential benefits of removing early capacity payments would appear to apply to all forms of capacity. The IMO is not convinced that under either scenario there is justification for allowing early capacity payments for generators only, and so considers that the proposal discriminates against demand side capacity and therefore has a strong negative impact on Wholesale Market Objective (c) which outweighs any potential benefits to other Wholesale Market Objectives.

### ***Practicality and cost of implementation***

The IMO has not identified any additional costs associated with the implementation of the Rule Change Proposal.

EnerNOC identified a significant negative financial impact, in excess of \$1 million, if the amendments were implemented as proposed and affected Reserve Capacity Cycles that were already underway. Verve Energy also considered that any amendments should not apply to Reserve Capacity Cycles where the certification process was complete.

No other issues with the practicality of implementation were identified.

### ***The IMO's proposed decision***

The IMO's proposed decision is to reject the Rule Change Proposal.

### ***Next steps***

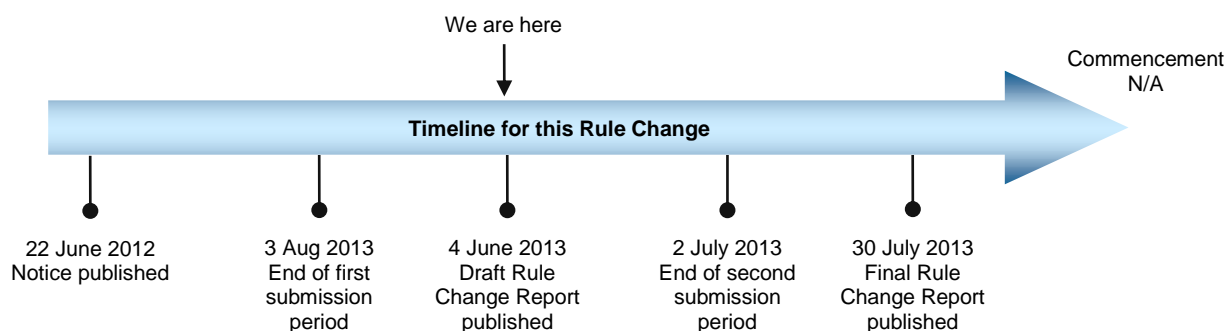
The IMO now invites interested stakeholders to make submissions on this Draft Rule Change Report by **5:00 pm, 2 July 2013**.

## 1. Rule Change Process and Timetable

On 14 June 2012 Synergy submitted a Rule Change Proposal regarding amendments to clause 4.1.26 of the Wholesale Electricity Market Rules (Market Rules).

This proposal is being processed using the Standard Rule Change Process, described in clause 2.7 of the Market Rules. In accordance with clause 2.5.10 of the Market Rules, the IMO decided to extend the timeframes for the preparation of the Draft Rule Change Report. Further details of the extensions are available on the Market Web Site: [http://imowa.com.au/RC\\_2012\\_10](http://imowa.com.au/RC_2012_10).

The key dates in processing this Rule Change Proposal, as amended in the extension notices, are:



## 2. Call for Second Round Submissions

The IMO invites interested stakeholders to make submissions on this Draft Rule Change Report. The submission period is 20 Business Days from the publication date of this report. Submissions must be delivered to the IMO by **5.00pm, 2 July 2013**.

The IMO prefers to receive submissions by email (using the submission form available on the Market Web Site: <http://www.imowa.com.au/rule-changes>) to: [market.development@imowa.com.au](mailto:market.development@imowa.com.au)

Submissions may also be sent to the IMO by fax or post, addressed to:

### Independent Market Operator

Attn: Group Manager, Development and Capacity  
PO Box 7096  
Cloisters Square, PERTH, WA 6850  
Fax: (08) 9254 4399

## 3. Proposed Amendments

### 3.1. The Rule Change Proposal

The Reserve Capacity Mechanism requires credited capacity to be available from the first day of the Capacity Year (1 October). To ensure that new capacity arrives prior to this date the window of

entry for new capacity was brought forward via the Rule Change Proposal: Changing the Window of Entry into the Reserve Capacity Mechanism (RC\_2009\_11<sup>1</sup>) from 1 August – 30 November to 1 June – 30 September. Synergy considered that, as a result of RC\_2009\_11, the market had recognised that conventional generation, as opposed to Demand Side Programmes (DSPs), was prone to being unreliable for several months after commissioning. The change in the timing for entering the market, which provided Market Participants with access to an earlier stream of Capacity Credit payment, was to reduce the risk that generation capability would be late entering the market and thus require the IMO to acquire supplementary capacity.

Synergy also considered that there is a technical difference between generation capacity and other forms of capacity such as DSPs and that this difference serves as a basis on which to differentiate access to early capacity payments. That is, access to the early capacity payments should only be available to conventional generators and not to forms of capacity which do not suffer extended periods of post commissioning remedial work which could materially affect their reliability.

Synergy consequently proposed amendments to clause 4.1.26 of the Market Rules to limit early capacity payments between 1 June and 30 September to Scheduled Generators and Non-Scheduled Generators only. Other capacity types, such as DSPs would only be entitled to capacity payments from 1 October when their Reserve Capacity Obligations begin to apply.

For full details of the Rule Change Proposal please refer to the Market Web Site: [http://www.imowa.com.au/RC\\_2012\\_10](http://www.imowa.com.au/RC_2012_10).

### **3.2. The IMO's Initial Assessment of the Rule Change Proposal**

The IMO decided to progress the Rule Change Proposal to allow interested parties an opportunity to provide submissions as part of the rule change process.

### **3.3. Request for views on complete removal of early capacity payments**

In the Rule Change Notice, the IMO considered that after two years of providing access to early capacity payments for new entrants it was now appropriate to reconsider the ongoing need for maintaining this incentive structure. The IMO noted that RC\_2009\_11 was implemented during a time of capacity shortage in the market, when the benefit of encouraging the timely delivery of capacity was considered likely to exceed any potential costs to the market. The IMO suggested that it was appropriate, now that better cost information was available, to review this assessment, particularly given the fact that other incentives exist or are currently under consideration.

On this basis the IMO sought the views of interested parties on extending the concept presented in the proposal to remove early capacity payments in their entirety, for both generation and demand side options.

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<sup>1</sup> Further details are available on the Market Web Site: [http://www.imowa.com.au/RC\\_2009\\_11](http://www.imowa.com.au/RC_2009_11).

## 4. Consultation

### 4.1. The Market Advisory Committee

#### June 2012 Meeting

The Pre Rule Change Proposal was discussed by the Market Advisory Committee (MAC) at the 13 June 2012 meeting. The following points were raised during the discussion:

- Mr Corey Dykstra noted his support for the proposal on its merits. He added that focusing on market outcomes would create a need to treat different types of capacity differently. He added that early capacity payments did not incentivise generators to be available early; instead the penalties associated with not being available early are the more significant incentive. Mr Wayne Trumble concurred that the other incentives in the market such as capacity refunds applying after 1 October will drive a generator to enter the market on time.
- Mr Michael Zammit said that the Rule Change Proposal would be more appropriate in the Reserve Capacity Mechanism Working Group (RCMWG) which is dealing with Demand Side Management (DSM) comprehensively. He added that DSPs should be given a chance to present their own analysis and point of view and that if early registration was removed universally, then their organisation might support it.
- The Chair noted that when a similar proposal from Alinta to remove the ability of DSM to get early entry capacity payments (PRC\_2010\_30) was considered by the MAC, the IMO had noted that approving the change would require clearly illustrating that the proposed change would not be discriminatory in nature (Wholesale Market Objective (c)). The Chair noted that it had sought advice on Alinta's proposed amendments and whether they would be discriminatory from Marchment Hill Consulting<sup>2</sup>.
- Discussion ensued on whether there were features of DSM that make them different from generators. The Chair noted that from a technical perspective there might be a difference but that should not translate to treating them different commercially. Mr Will Bargmann noted that Synergy had legal advice on the discriminatory nature of the proposed rule amendment and was happy to share it with the MAC. *Note: a copy of Synergy's legal advice dated 13 June 2012 was distributed to MAC members at the 11 July 2012 meeting and an electronic copy circulated by email on 26 July 2012.*

The MAC agreed that the Rule Change Proposal should be submitted into the formal process.

#### August 2012 Meeting

A Concept Paper from Synergy on the cost and benefit trade-offs of early capacity payments was presented at the 8 August 2012 MAC meeting<sup>3</sup>. The following points were raised during the discussion:

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<sup>2</sup> Marchment Hill Consulting's advice to the IMO is available in the papers for the December 2010 MAC meeting: [http://www.imowa.com.au/MAC\\_34](http://www.imowa.com.au/MAC_34)

<sup>3</sup> Synergy's Concept Paper (CP\_2012\_02) is available on the Market Web Site: <http://imowa.com.au/concept-papers>.

- Mr Stephen MacLean noted that there had been some discussion during the 13 June 2012 MAC meeting as to whether it might be appropriate to remove the early entry payments in their entirety. Mr MacLean noted that there were other options for consideration with respect to the wider question around the continued appropriateness of early entry capacity payments.
- The Chair noted that the need to incentivise the early entry of capacity can depend on the capacity situation in the market at that time. The original rule change that amended the entry period had been progressed when the market was experiencing a shortage of capacity and a potential supplementary capacity event. The capacity situation in the market is now markedly different.
- Mr MacLean advised that Synergy had identified option C<sup>4</sup> as the most likely to be agreeable to MAC members. Mr MacLean stipulated that option C entailed the IMO assessing and making the decision as to whether early capacity payments were required potentially a year before the capacity is required.
- Mr Ben Tan noted his concern that signaling the applicability of early capacity payments a year before would be too late for a Market Generator to adjust its commissioning schedule. The Chair noted that transparency of the criteria applied by the IMO would allow potential investors the relevant information to determine whether it was likely that early capacity payments would apply. Mr Tan indicated his support with installing some flexibility but noted that financiers like simple clear-cut concepts. Mr Tan indicated his support for a mechanism to be in place with which the IMO had the responsibility to make a decision, however, the decision needed to be made as soon as possible by the IMO so as to provide the appropriate signals to the market to bring forward the entry of capacity into the market.
- Mr Patrick Peake noted that the original concept of the window of entry had been included in the Market Rules to ensure that Commissioning Tests of various facilities were spread out; thereby ensuring System Management had the capacity to enable required testing prior to the hot season. Discussion ensued as to the complexities of commissioning various types of capacity and whether it would be more appropriate to target supplementary capacity costs specifically to a facility that causes the event that was late in undertaking commissioning.
- Mr David Murphy noted that this issue seemed to be a fundamental market policy issue rather than an operational issue and suggested that the Public Utilities Office (PUO) should further consider whether a policy direction would be appropriate. Mr Murphy noted that a robust long term solution was needed. The Chair acknowledged Mr Murphy's comment that the PUO had offered to take on this matter and suggested that the PUO report back to the MAC at the September 2012 meeting with some preliminary feedback and timelines for its consideration of the wider issue of incentivising early entry of capacity. Mr Murphy noted that the PUO would consult further with the MAC in determining a policy direction.

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<sup>4</sup> Option C gave the IMO the discretion to review the status of existing capacity and the need for new capacity in the coming Capacity Year and so determine whether there is sufficient value to the market in offering an early capacity payment or not.



### September 2012 Meeting

During the 12 September 2012 MAC meeting, the Chair noted that Mr Murphy had provided him with an update of the status of the PUO's consideration of the issue of incentivising early entry capacity. In particular, the PUO had determined it would be most appropriate to await the outcomes of the RCMWG. Mr Murphy noted that the PUO did not want to provide any sort of policy direction that could potentially be inconsistent with the outcomes of the RCMWG. Mr MacLean noted his concern with this approach.

Further details are available in the MAC meeting minutes available on the Market Web Site: <http://www.imowa.com.au/MAC>

### Update of events since the September 2012 MAC Meeting

The final meeting of the RCMWG was held on 28 February 2013 and the outcomes of its work reported to the MAC at its 20 March 2013 meeting. While the working group did not specifically consider options for early capacity payments its outcomes included general agreement to:

- continue to regard capacity in the WEM as being a single product, rather than develop a range of different capacity products; and
- progress a number of changes to the Market Rules to harmonise the treatment of DSM and generation capacity by increasing the availability and performance requirements for DSPs.

On 8 May 2013, the PUO confirmed that the IMO should continue to progress RC\_2012\_10 and its counter-proposals. The IMO received no policy direction in relation to the early entry of capacity into the WEM.

#### **4.2. Submissions received during the first submission period**

The first submission period for this Rule Change Proposal was held between 25 June 2012 and 3 August 2012. Submissions were received from APA Group, Community Electricity, EnerNOC, Griffin Energy, Perth Energy, Synergy and Verve Energy.

APA Group, Community Electricity, Perth Energy, Synergy and Verve Energy supported the Rule Change Proposal, agreeing with Synergy's view that DSPs did not have a summer peak period arrival risk due to their less complex commissioning requirements and therefore did not require a financial incentive to enter the market early. Community Electricity also suggested that unlike DSM capacity, generation capacity was capital intensive and developers needed to service their debt as soon as the station is commissioned. APA Group and Verve Energy reiterated Synergy's submission in its Rule Change Proposal that the amendments implemented by RC\_2009\_11 were aimed at generation capacity only and their application to DSM capacity was the result of an oversight.

Perth Energy further considered that there should be no payment to DSM capacity as "generation" capacity under any circumstances.

EnerNOC and Griffin Power did not support the Rule Change Proposal. EnerNOC considered the proposal is based on flawed assumptions and seeks a retroactive change which discriminates against one class of capacity provider. EnerNOC also questioned the relevance of Synergy's legal advice to the main technical arguments outlined by Synergy.

Griffin Power noted the RCMWG’s recent decision not to define “generation” capacity and “non-generation” capacity separately. As “Certified Capacity” had been broadly defined as any marginal MW of energy (produced or shed), Griffin would not support a proposition that one form of capacity be treated differently from another form, despite the legal interpretation supplied by Synergy.

None of the submitting parties expressed support for the complete removal of early capacity payments, apart from Synergy who considered it one of a number of options worthy of further consideration. There was however wider support for changes to remove early capacity payments during times of excess capacity, although specific details of the criteria for allowing the payments for a Reserve Capacity Cycle and the timeframe for making such decisions were not provided. EnerNOC recommended that the whole issue of the timing of entry of new Facilities be considered by the RCMWG as part of its holistic review.

Verve Energy and EnerNOC both considered that in order to avoid undue regulatory risk the proposed changes should not apply to Reserve Capacity Cycles for which the certification process is complete.

The assessment by submitting parties as to whether the proposal would better achieve the Wholesale Market Objectives is summarised below:

Submitter	Wholesale Market Objective Assessment
APA Group	The proposal will better facilitate Wholesale Market Objectives (a), (b) and (d) and on balance better achieves the Wholesale Market Objectives. Noted Synergy’s legal advice and considered that even if the proposed amendments contravene Wholesale Market Objective (c), this should not carry greater weight than the benefits it brings to the market through the effect on Wholesale Market Objectives (a), (b) and (d).
Community Electricity	Improves achievement of Wholesale Market Objective (d) and is consistent with the remaining Wholesale Market Objectives (even being “harmonious” with Wholesale Market Objective (c)).
EnerNOC	Slightly negatively impacts on Wholesale Market Objective (a), negatively impacts on Wholesale Market Objectives (b), (d) and (e) and strongly negatively impacts on Wholesale Market Objective (c).
Griffin Energy	No assessment provided.
Perth Energy	Better facilitates achievement of Wholesale Market Objectives (c) and (d). Any inconsistency that may be perceived with Wholesale Market Objective (c) would be far outweighed by the positive benefit flowing from Wholesale Market Objective (d). No other impacts on the remaining Wholesale Market Objectives identified.
Synergy	Supports Wholesale Market Objectives (a), (c) and (d) and is not inconsistent with Wholesale Market Objectives (b) and (e).
Verve Energy	Agreed with Synergy’s assessment of the impact on the Wholesale Market Objectives. Further considered that, should the IMO adopt Verve Energy’s suggestion for a more dynamic early entry capacity payment mechanism, the impact on the Wholesale Market Objectives, as outlined by Synergy, is further strengthened.

A copy of all submissions in full received during the first submission period is available on the Market Web Site: [http://www.imowa.com.au/RC\\_2012\\_10](http://www.imowa.com.au/RC_2012_10).

### 4.3. The IMO's response to submissions received during the first submission period

The IMO's response to each of the issues identified during the first submission period is presented in Appendix 1 of this report.

### 4.4. Public Forums and Workshops

No public forums or workshops were held with regard to this Rule Change Proposal.

## 5. The IMO's Draft Assessment

In preparing its Draft Rule Change Report, the IMO must assess the Rule Change Proposal in light of clauses 2.4.2 and 2.4.3 of the Market Rules.

Clause 2.4.2 outlines that the IMO *"must not make Amending Rules unless it is satisfied that the Market Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives"*.

Additionally, clause 2.4.3 states, when deciding whether to make Amending Rules, the IMO must have regard to the following:

- any applicable policy direction from the Minister regarding the development of the market;
- the practicality and cost of implementing the proposal;
- the views expressed in submissions and by the MAC; and
- any technical studies that the IMO considers necessary to assist in assessing the Rule Change Proposal.

The IMO notes that there has not been any applicable policy direction from the Minister or any technical studies commissioned in respect of this Rule Change Proposal. A summary of the views expressed in submissions and by the MAC is available in section 4 of this report.

### 5.1. Wholesale Market Objectives

The IMO considers that overall the proposed amendments are inconsistent with the Wholesale Market Objectives, with the potential benefits to Wholesale Market Objectives (a) and (d) outweighed by the negative impact on Wholesale Market Objective (c). The IMO is not convinced that the proposed cost and efficiency benefits could not be achieved without targeting a specific type of capacity.

The IMO's assessment is presented below.

- (a) *to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system.*

In times of excess capacity the removal of early capacity payments for DSM facilities would reduce the overall cost of these payments and so improve the economic efficiency of the market. However, in times where a capacity shortfall is possible any potential savings could be significantly outweighed by the associated risks to system reliability and the potential need to seek

supplementary capacity.

The IMO notes that there is no guarantee that a new DSP will enter the market in time for the start of the Hot Season. Historically, not all new DSPs have met the start date or even the end date of their relevant entry window (originally 1 August – 30 November and now 1 June – 30 September).

(b) *to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors.*

The proposed amendments may slightly discourage the entry of new DSM facilities, but no material impact would be expected.

(c) *to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions.*

In general, the IMO does not consider the different treatment of different facility types to be discriminatory (in the context of Wholesale Market Objective (c)) where it is *necessary* due to the technical characteristics of the facilities. Examples of this include the different methodologies needed to determine Certified Reserve Capacity for Scheduled Generators, Intermittent Generators and DSPs, and the different dispatch arrangements for Scheduled and Intermittent Generators.

There is however no evidence to suggest that the removal of early capacity payments for DSPs is *necessary* on technical grounds. Rather it has been suggested that it might be possible for the market to pay less for the timely entry of new DSPs into the market due to their lower capital costs and risk profiles, despite the value of the service provided (capacity) being the same as that provided by the timely entry of a new generator.

Even where the different treatment of facility types is not required on technical grounds, it may not be discriminatory if no facility type is disadvantaged or denied an opportunity as a result. An example of this is the restriction of early certification under clause 4.28C.1 to new generating systems. This restriction does not disadvantage other capacity types as they are extremely unlikely to have project lead times that cannot be accommodated within the normal Reserve Capacity Cycle timeframes, and so would gain little benefit from early certification. (The IMO notes that it has not received any applications for Early Certified Reserve Capacity to date.)

Again however this is not the case for the proposed amendments, which would clearly disadvantage providers of DSM capacity.

The IMO notes that Synergy's legal advice also lists a number of differences between DSPs and generators, for example in terms of licensing requirements, registration requirements and variations in the Market Rules around availability and dispatch obligations. The advice suggests that in the context of these differences the current capacity payment mechanism may amount to indirect discrimination, in that simply applying the same basis of compensation (capacity payments) does not take sufficient account of the significant differences between DSPs, Scheduled Generators and Non-Scheduled Generators.

The IMO agrees that the application of the same rules to different facility types may occasionally result in indirect discrimination. However, Synergy's legal advice does not explain how the differences listed create a difference in the value provided by a DSP or a generator in return for

early capacity payments, namely the timely provision of new capacity to prevent a capacity shortfall, which risks system reliability and creates a need to acquire supplementary capacity. It is difficult to see how a DSP receiving the same payment for providing the same service constitutes indirect discrimination against generators.

For these reasons the IMO considers that the proposed amendments discriminate against DSM technology options and so would have a strong negative impact on Wholesale Market Objective (c).

(d) *to minimise the long-term cost of electricity supplied to customers from the South West interconnected system.*

While the proposed amendments may reduce costs by avoiding early capacity payments for new DSM capacity, the potential savings would need to be balanced against the risk of increased costs due to the need to acquire supplementary capacity in the event of a capacity shortfall.

(e) *to encourage the taking of measures to manage the amount of electricity used and when it is used.*

The proposed amendments may slightly discourage the use of DSM technologies that work to reduce consumption at times of peak demand, but no material impact would be expected.

## **5.2. Practicality and cost of implementation**

The IMO has not identified any additional costs associated with the implementation of the Rule Change Proposal.

EnerNOC identified a significant negative financial impact, in excess of \$1 million, if the amendments were implemented as proposed and affected Reserve Capacity Cycles that were already underway. Verve Energy also considered that any amendments should not apply to Reserve Capacity Cycles where the certification process was complete.

No other issues with the practicality of implementation were identified.

## **6. The IMO's Proposed Decision**

The IMO's proposed decision is to reject the Rule Change Proposal.

### **6.1. Reasons for the decision**

The IMO made its proposed decision on the basis of its assessment that overall the proposed Amending Rules are inconsistent with the Wholesale Market Objectives.

### **6.2. Alternative changes to the incentives for early entry of new capacity**

Although the proposed decision is to reject this Rule Change Proposal, the IMO acknowledges the concerns raised by stakeholders around the costs of early capacity payments to the market. The IMO also notes that Synergy and other stakeholders have proposed a number of alternative options to provide for a better cost-benefit trade-off for early capacity payments.

The submissions received during the first submission period expressed little support for the

complete removal of early capacity payments. There was however much broader support for changes to remove capacity payments for all facility types during times of excess capacity, although specific details of the criteria for allowing the payments for a Reserve Capacity Cycle and the timeframe for making such decisions were not provided. Further work would be required to assess whether this option provided the best net benefit to the market, and if so to determine the appropriate decision criteria and timeframes, The IMO has accordingly included this issue in its Rules Issues Log for future consideration.

## Appendix 1. Responses to submissions received during the first submission period

	Submitter	Comment/Change Requested	IMO's Response
1.	EnerNOC	It is important to note that the original argument for making Reserve Capacity payments to facilities entering early was to reduce the risk of late arrival of new facilities. Neither "post-commissioning reliability problems" nor "post-commissioning remedial work", the issues highlighted in the current Rule Change Proposal, were considered as reasons for advancing the early entry window.	The IMO notes that two arguments for changing the entry window were given in RC_2009_11. The first was that the existing entry window might encourage a developer to take an unreasonably optimistic view when targeting the existing 30 November deadline, increasing the risk of the facility not being available at all by the start of the Hot Season. However, the proposal also noted that "by coming on no later than 1 October new plant will have a few months to fine-tune its operations before the summer peak demand period".
2.	Synergy	Synergy supports RC_2012_10 as it removes an unnecessary cost to the market by not making early arrival payments to new capacity of types which could not be considered to have a summer peak period arrival risk.	The IMO does not agree with Synergy that DSM capacity has no summer peak period arrival risk. While the commissioning of a DSP may be much simpler than the development of a baseload generator, it is still typically a multi-step process with numerous complexities and dependencies, particularly for programmes involving multiple loads. (The "harmonisation" changes proposed by the RCMWG are likely to further increase the commissioning requirements on DSPs.) The IMO notes that not all new DSPs have met the start date or even the end date of their relevant entry window (originally 1 August – 30 November and now 1 June – 30 September).  Further, the value to the market of timely capacity delivery (in terms of avoiding capacity shortfalls and the need for supplementary capacity) depends on the quantity of reliable capacity delivered, not the cost or complexity of its commissioning. For example, in times of tight supply the timely arrival of a 50 MW DSP will contribute to reducing the need for supplementary capacity no differently to the timely arrival of a 50 MW generator.
3.	Community Electricity	The construction of Generation capacity is more complex and uncertain than is DSM, with greater scope for delay	Please refer to the IMO's response to issue 2.

	Submitter	Comment/Change Requested	IMO's Response
		due to unavoidable contingency events.	
4.	Community Electricity	Large generation units necessitate scheduling additional Ancillary Services during and following commissioning, System security is enhanced and cost is reduced when this occurs during off peak times. Furthermore, extending the commissioning window allows System Management more scope to deny a commissioning request when system conditions are not ideal.	The IMO agrees that for large generation units there may be additional benefits to the market from early commissioning, for example in terms of managing the requirements for additional Ancillary Services to accommodate a large and initially unreliable unit. However, this does not mean that there are no benefits to be gained from the early commissioning of other facility types, including both DSPs and smaller, less complex generators.
5.	Verve Energy	Verve Energy considers that the risk profile associated with commissioning generators differs materially to that of DSM capacity. This is principally because DSM capacity is typically existing loads, and so would not be expected to require an extended period to ensure they are commissioned. Even if they were not existing loads, it is unlikely that capacity provided by such loads would represent a risk to system security and reliability over the Hot Season. While Verve Energy concedes that there are some "activities" that DSM facilities need to complete to ensure readiness Verve Energy does not consider these activities to be comparable to the activities required to commission thermal generation plant, for example.	Please refer to the IMO's response to issue 2.
6.	Perth Energy	Synergy has identified that the financial incentive to encourage early entry is only required for conventional generation capacity. For other "technologies" that provide capacity credits, such as DSPs, the capacity often already exists and no commissioning is necessary. The effect on system security of providing financial incentives to non-generation based capacity to be available early may therefore be limited as these providers do not typically have potential technical commissioning issues to sort out to guarantee the availability of their capacity credits.	Please refer to the IMO's response to issue 2.



	Submitter	Comment/Change Requested	IMO's Response
7.	EnerNOC	EnerNOC submits that the commissioning of a new DSP is a lengthy and complicated exercise (and describes the typical steps required). EnerNOC considers that while the steps in commissioning a new DSP may generally be simpler than some of those involved in commissioning a generation facility, the sheer number of requirements and the many external dependencies can lead to as much uncertainty in the project duration as is found in generation projects.	Please refer to the IMO's response to issue 2.
8.	EnerNOC	EnerNOC's own experience in the WEM provides a concrete example of this uncertainty in project delivery. EnerNOC has two new DSPs in the 2010 Reserve Capacity Cycle. Both were originally intended to be commissioned on 1 June 2012. While one DSP was fully commissioned and entered the market as planned, the other DSP, due to various delays, has not yet entered the market. It is currently running 10 weeks later than planned.	Please refer to the IMO's response to issue 2. The IMO notes that EnerNOC's second new DSP for the 2010 Reserve Capacity Cycle was eventually commissioned in September 2012.
9.	EnerNOC	Technologies that can be used to provide Reserve Capacity do not, as suggested in the Rule Change Proposal, fall neatly into two categories: one subject to delay and the other not. Rather, there is a spectrum. It seems likely that large baseload plant is at the high risk end of the "delay risk spectrum" and diesel peakers are at the low risk end, with other generation technologies and the various demand-side options, including DSPs, falling somewhere in between. If the size of the entry window should depend on the delay risk of the facility type, EnerNOC questions the justification for the choice of only two categories, generation and non-generation.	The IMO agrees that the typical delay risk levels of different capacity technologies form a continuum rather than two distinct categories. Even if there was justification to divide facility types into two groups on the basis of "summer peak arrival risk" (of which the IMO is not convinced), it is not clear that a division into "generation" and "non-generation" would be appropriate. For example, the risk levels associated with a small diesel peaker appear to be much closer to those of a DSP than to those of a large baseload plant.
10.	Community Electricity	Generators are capital-intensive and developers need to service the debt immediately the station is commissioned.	Although the IMO agrees that generators are likely to be more capital intensive than DSPs, both DSPs and generators (and in

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			particular peakers whose main income is from capacity payments) are likely to incur ongoing costs once they are commissioned and so are unlikely to enter the market before they are eligible for capacity payments. Further, it could be argued that the financial risks of not being ready for the Hot Season are sufficiently large for a capital intensive generator to encourage it to try to enter the market early, without requiring the additional incentive offered by early capacity payments.
11.	APA Group	In passing RC_2009_11, there was no discussion or thought of DSPs or other non-generating capacity providers taking advantage of this change to the window of entry. This appears to have been an oversight at the time and any early capacity payments made to non-generating facilities are an unintended consequence, equating to an additional cost to the market not commensurate with the risk that was being mitigated by RC_2009_11.	The IMO considers that although there was no specific discussion regarding DSM as part of RC_2009_11, this does not mean that the Amending Rules would have been different if such a discussion had taken place.  From market start all new Facilities were eligible for two months of early capacity payments (for August and September). RC_2009_11 was progressed in response to a capacity shortfall that resulted in the IMO needing to seek supplementary capacity. In this climate it is unlikely that the IMO would have chosen an option that actively discouraged any type of capacity (including DSM capacity) from aiming to enter the market early.
12.	Verve Energy	Verve Energy considers that Scheduled or Non-Scheduled Generators are the participants who face the risk of commissioning delays that may impact the security and reliability of the power system over the summer period, and therefore these are the participants to whom the original Amending Rules (from RC_2009_11) were intended to apply to.	Please refer to the IMO's response to issue 11.
13.	Community Electricity	The benefits to the market of early entry of DSM are insignificant compared to the costs in the prevailing condition of excess capacity and "pre-harmonised" DSM obligations.	In conditions of excess capacity the benefits to the market of the early entry of a generator (unless it fills some specific niche in the market) could also be insignificant compared to the costs.

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14.	Synergy	Harmonising is still a concept under discussion and development by the RCMWG, and at this time it is not known whether it will be adopted, and if so then in what form it will finally take and therefore it should not be taken into consideration in assessing this rule change.	The IMO notes that the RCMWG has now completed its work. The outcomes of the working group include a recommendation to progress a number of "harmonisation" changes to the Market Rules to increase DSP availability and dispatch obligations to more closely reflect those of generators.  While the outcomes of the working group do not directly affect the issue of early capacity payments, they did confirm the equivalent value of the capacity provided by generation and DSM facilities.
15.	Synergy	Harmonising, as being discussed by the RCMWG, is endeavouring to align the availability of the capacity types by increasing DSP availability and dispatch obligations to more closely reflect that of generators.  RC_2012_10 has a different focus to harmonising as being discussed by the RCMWG in that it identifies that the arrival risk applicable to new generators differs to that of DSPs in respect to potential impact on system reliability. Synergy therefore concludes that harmonising, if adopted, will not impact the relevant of this Rule Change Proposal.	The IMO agrees that the application of early capacity payments and the "harmonising" of DSP availability and dispatch obligations are separate issues.  Please refer to the IMO's response to issue 2.
16.	Community Electricity	The argument as to whether the proposed rule change is discriminatory, or alternatively that it removes an existing discrimination, is subjective and neither supports nor conflicts with the proposal. This uncertainty is aggravated by the absence in the Market Rules of a definition of discrimination, together with a culture within the rules of reasonable "differentiation" on various issues. (Other examples include Intermittent Generation, which the rules recognise as not being capable of being dispatched, and the Peak Intervals that apply in the capacity mechanism.)	The IMO does not agree that the question of discrimination is subjective or irrelevant to the consideration of the Rule Change Proposal. Please refer to the IMO's assessment against Wholesale Market Objective (c) in section 5.1 of this report.
17.	Community Electricity	Community Electricity also supports the proposition that the current set of DSM obligations needs to be adjusted	Please refer to the IMO's assessment against Wholesale

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		<p>via the "Harmonising" aspects of the Reserve Capacity Mechanism Review. Community Electricity perceives (without objection) "Harmonising" as being a euphemism for "fit-for-purpose discrimination" (as distinct from the avoidance of discrimination) that recognises that cost-effective value can be added to the market only by reasonably accommodating a technology's idiosyncrasies. Community Electricity perceives that the issue of early entry of capacity could, in principle, reasonably have been added to the issues considered under the Harmonising Work Package, and had it been included, "avoidance of discrimination" would not have been raised as an objection to the substance of the rule change now under consideration.</p>	<p>Market Objective (c) in section 5.1 of this report.</p>
18.	Synergy	<p>Lavan's advice demonstrated that a rule change of this nature cannot represent direct discrimination as had previously been suggested given that there are fair reasons for the market to treat DSP capacity differently to how it treats generator capacity. The Rule Change Proposal indicated a number of different treatment arrangements currently in the Market Rules as evidence that the outcome of this rule change is consistent with the application of the Market Rules. Another example of the different treatment of capacity types not included in this rule change but referred to in the legal advice, relates to limiting early certification of capacity to certain capacity types. Market Rule 4.28C.1(b) limits early certification to generating systems only, based on the understanding that other forms of capacity, such as DSPs, do not need the longer lead times for financial preparations. This example is closer fit to the current rule change in terms of how the Market Rules already allow differential treatment of different capacity types for reasons of practicality.</p>	<p>Please refer to the IMO's assessment against Wholesale Market Objective (c) in section 5.1 of this report.</p>

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19.	Perth Energy	<p>Understands there is some concern that the proposed amendments may be seen to be discriminating against certain technologies, such as DSM, and therefore may not be compatible with facilitating Wholesale Market Objective (c). Perth Energy notes that Synergy has obtained legal advice to support its position that the proposed amendments would be compatible with Wholesale Market Objective (c).</p> <p>Perth Energy is of the firm view that DSM is not a "generation technology" and therefore such concerns are baseless.</p>	<p>Please refer to the IMO's assessment against Wholesale Market Objective (c) in section 5.1 of this report.</p> <p>The IMO also notes that Wholesale Market Objective (c) refers to discrimination against "particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions", not just to "generation technologies".</p>
20.	EnerNOC	<p>Synergy's proposal asserts that, based on new legal advice, it is reasonable to discriminate against DSM capacity because of "a technical difference" from generation. However, Synergy's legal advice makes no mention of discrimination on the basis of technical differences, commissioning delays or reliability. Instead, the advice is based entirely on a rather ill-informed discussion of cost structures, a consideration which is not relevant to the rationale for early entry payments being made in the first place.</p> <p>Given this reliance on cost discrimination, it is not clear that the legal advice provided support the kind of technical discrimination proposed by Synergy. EnerNOC concludes that this new legal advice has no relevance to the debate, and should be ignored.</p>	<p>Please refer to the IMO's assessment against Wholesale Market Objective (c) in section 5.1 of this report.</p>
21.	Synergy	<p>This rule change supports Wholesale Market Objective (c) by removing any concerns of indirect discrimination currently applying against generators as highlighted in the Lavan legal advice recently circulated to MAC members.</p>	<p>Please refer to the IMO's assessment against Wholesale Market Objective (c) in section 5.1 of this report.</p>
22.	APA Group	<p>There are arguments (notably the legal advice provided by Synergy) that RC_2012_10 reverses an existing</p>	<p>Please refer to the IMO's assessment against Wholesale</p>

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		discrimination in the Market Rules, where DSM is given preferential treatment which is not commensurate with its characteristics – relative to the treatment of scheduled and non-scheduled generation.	Market Objective (c) in section 5.1 of this report.
23.	EnerNOC	<p>The “indirect discrimination” argument made in the Rule Change Proposal and outlined in the legal advice is curious and deserves comment. If EnerNOC has understood correctly, Synergy is asserting that technologies that suffer from reliability problems are being discriminated against because a mechanism that works to protect the market from the consequences of those reliability problems is not restricted to the exclusive use of those technologies with reliability problems.</p> <p>This proposition seems equivalent to arguing that, in a building with many wheelchair ramps, wheelchair users are discriminated against if any more able-bodied people are also allowed to use the ramps.</p>	Please refer to the IMO's assessment against Wholesale Market Objective (c) in section 5.1 of this report.
24.	Perth Energy	<p>Generation capacity does not have an alternative value to the value it can derive from supplying power to the South West interconnected system (SWIS). The market can therefore be absolutely certain that its owner will do everything to operate it to meet market demand, as long as operating it does not cause actual losses. DSM loads on the other hand have an alternative value in the economic products that the loads exist for. The only way to make it less uncertain that the DSM loads will respond when called is for System Management to be able to unilaterally curtail or interrupt those loads, which is not the case currently.</p>	<p>The IMO notes that the unilateral curtailment of Associated Loads would be inconsistent with the treatment of generators (which are not “forced” to run by System Management) and potentially very expensive to implement. There has been no material evidence in the WEM to date of DSPs failing to respond to Dispatch Instructions received from System Management.</p> <p>Further, it could be argued that the absence of an alternative value for a new generator provides it with sufficient incentive to enter the market in a timely manner, so that it requires the additional incentive of early capacity payments less than an Associated Load for which an alternative value exists.</p>
25.	Perth Energy	Under system emergencies System Management already has all the statutory powers to shed loads. Under its Frequency Load Shedding policy System Management	The RCM was designed to ensure that the SWIS has adequate capacity to avoid the need for load shedding in all but exceptional situations. Perth Energy's suggestion is in direct

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		<p>ranks customers in priority categories. Whether paid for curtailment or interruption or not, if a load is earmarked by System Management to be shed under system stress then that load will be shed.</p> <p>This means paying for some loads to be voluntarily shed the same value as generation capacity makes no sense and is discriminatory to all other loads. At the most, those voluntary loads should be paid a "thank-you" voucher for helping System Management re-arrange its load shedding policy, something that should be between those loads and System Management to work out. DSM, at the absolute best, could only be considered an ancillary service to System Management.</p>	<p>conflict with this policy and would threaten the current standards for system security and reliability in the SWIS.</p>
26.	Perth Energy	<p>The most critical fact is that the ultimate penalty imposed on a generation capacity investor is the full capital cost of that capacity. The ultimate penalty imposed on a DSM load aggregator is only the Capacity Credit refunds – that is, if the aggregator sticks around to pay them. A generation capacity owner who walks away from their obligations to the WEM will lose the power station. A DSM aggregator can walk away from their obligations with no skin left behind other than any deposit with the IMO.</p>	<p>The IMO notes that, from a market perspective, both forms of capacity face the same penalty for failing to deliver capacity for which Capacity Credits have been allocated.</p> <p>Please also refer to the IMO's response to issue 24.</p>
27.	Perth Energy	<p>Perth Energy would rather see DSM be classified an ancillary service whose price should be commercially determined between the DSM loads and their electricity supplier or System Management if either of the latter could see value in acquiring DSM loads. The IMO has no business in trying to secure DSM loads at all.</p> <p>Perth Energy's strong recommendation is for the IMO and RCMWG to prioritise the declassification of DSM loads as conventional capacity to improve the integrity of the WEM.</p>	<p>The IMO disagrees with Perth Energy's proposal and considers it inconsistent with the Wholesale Market Objectives. The IMO notes that DSM technology has proved to be a valuable source of capacity in both the WEM and other electricity markets, providing the same value in meeting peak demand as conventional generation technologies.</p>
28.	EnerNOC	<p>Proposing rule changes specifically to affect capacity</p>	<p>The IMO agrees that, consistent with the approach taken with</p>

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		<p>already certified and under development sets a dangerous precedent which is likely to spook future investors. Absent some compelling reason that a rule change should be retroactive, it should be made prospective. Synergy has demonstrated no such extraordinary need. Hence, if the RCMWG determines that changes are needed to the early entry mechanism, they should only affect capacity that is not yet certified.</p>	<p>the implementation of RC_2009_11, any future amendments to the Market Rules should not change the early capacity payment arrangements for a Reserve Capacity Cycle in which the certification process is complete.</p>
29.	Verve Energy	<p>Verve Energy considers that the proposal should apply from a later Reserve Capacity Cycle to what Synergy suggests. This is because the certification process for the 2011 Reserve Capacity Cycle is complete, and participants may already be contracting under the assumption that the early capacity payment would be available. Verve Energy considers that amending the rules to apply for the 2011 Reserve Capacity Cycle would add undue regulatory risk to those participants affected.</p>	<p>Please refer to the IMO's response to issue 28.</p>
30.	Synergy	<p>RC_2012_10 is not the only possible step available to improve the early capacity payments mechanism; although Synergy submits that it is a necessary step. To promote discussion on this topic Synergy has issued a concept paper which canvasses further considerations such as:</p> <ul style="list-style-type: none"> <li>• instead of early capacity payments being the default position, allow the IMO, as is the case with supplementary reserve capacity auctions, to determine for the Capacity Year whether early capacity payments are needed to avoid substantial new generation capacity missing the summer peak period and exposing the market to an unacceptable level of reliability risk; or</li> <li>• ascertain if early capacity payments make a material</li> </ul>	<p>Please refer to section 6.2 of this report.</p>



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		contribution to the more reliable arrival of new generation capacity or whether the existing refund penalty is the key driver in promoting arrival before summer, when reliability becomes a greater concern. If the latter turns out to be the important determinate of arrival time, then the market may consider, as suggested in the IMO's covering summary to this rule change, removing early capacity payments to all forms of capacity.	
31.	Griffin Power	Griffin proposes that the rule allowing early capacity payments remain in place but that early accreditation and payments are only available/accessible when the MT PASA analysis predicts a Reserve Margin falling below a pre-determined threshold. That threshold could be proposed by System Management's planning engineers as being a margin which puts the SWIS at some increased risk of capacity shortfall under certain conditions (for example, 1 in 10 year peak, major plant failure, no wind etc) - at the very least the margin should not be arbitrary, it should have some genuine method and meaning. In this way the flexibility the rule provides is preserved for a future time when the SWIS may experience a tightening of reserve margins (an additional incentive to bring capacity online sooner when needed) and provide no additional incentive when capacity on the SWIS is above a determined comfort zone.	Please refer to section 6.2 of this report.
32.	Perth Energy	Generators normally have much higher risks of experiencing technical issues that may impact on performance in the early period after commissioning has finished. Providing a financial incentive for early commissioning allows more time to sort these problems ahead of the start of the critical Hot Season and therefore will be of benefit to system security under normal	Please refer to section 6.2 of this report.

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		<p>conditions.</p> <p>While Perth Energy supports the continued provision of early capacity payments under balanced supply-demand conditions, it does not support early payments under excess capacity conditions.</p>	
33.	Community Electricity	<p>In response to the IMO's request for comment on the removal of all early entry requirements, Community Electricity suggests that new capacity (from whatever source) that is capital intensive, complex to construct, complex to commission and which is capable of compromising system security should be provided with flexible entry requirements. Community Electricity perceives that the experiences of the developers of Bluewaters, the Kwinana HEGTs and the Muja refurbishment would be important in this consideration.</p>	Please refer to section 6.2 of this report.
34.	Verve Energy	<p>Verve Energy does not support the IMO's counter proposal to remove the early entry capacity payments in their entirety. Verve Energy notes that while in a period of oversupply the drivers for the original Rule Change Proposal are somewhat diluted however there may come a time when such an incentive for early entry would be desirable again, i.e. should there be a shortfall in the future. As such, Verve Energy suggests that the IMO consider amending Synergy's proposal to only trigger the early entry capacity payments in times of tight supply. While this concept may seem complex at first, Verve Energy considers that it has merit and is worth investigating.</p>	Please refer to section 6.2 of this report.
35.	Verve Energy	<p>Clause 4.1.26 has been amended a number of times since market start and currently includes different rules for a number of Reserve Capacity Cycles. Verve Energy is concerned that regular amendments to this clause may</p>	<p>Please refer to section 6.2 of this report.</p> <p>The IMO agrees that any further amendments to clause 4.1.26 should represent a long term solution, which accounts for periods of capacity shortages as well as periods where an</p>

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		undermine the stability and integrity of the RCM. Therefore Verve Energy considers that any further amendments to this rule should be future proofed as much as possible, i.e. to enable the incentive mechanism when supply is tight, but not cost the market when the early entry is not required.	excess of capacity exists.
36.	EnerNOC	As discussed by Marchment Hill Consulting, one reason for paying for "Early Certified Capacity" is that "the risk to the market of late commissioning could be much higher than the penalty borne by the late-commissioning provider". Marchment Hill suggests that it does not necessarily follow from this higher market risk that the right level of compensation for Early Certified Capacity is the full Reserve Capacity Price. The issues raised by Marchment Hill have not yet been examined; they should be.	Please refer to section 6.2 of this report.
37.	Verve Energy	There are currently three separate pieces of work underway all of which are dealing with similar issues, these are: the RCMWG, this Rule Change Proposal and Synergy's concept paper on "Improving the cost-benefit trade-off of early capacity payments". Verve Energy suggests that it may be more effective to deal with these issues within a single work stream to ensure consistent outcomes.	The RCMWG has now completed its work and the IMO has proposed to reject this Rule Change Proposal. With regard to the suggestions raised in Synergy's concept paper please refer to section 6.2 of this report.
38.	EnerNOC	The IMO has questioned in the Rule Change Proposal whether early entry should be abolished altogether. EnerNOC recommends that the whole issue of the timing of entry of new facilities be considered by the RCMWG as part of its holistic review.	The RCMWG has now completed its work and the IMO considers that the timing of entry of new facilities and early capacity payments do not need to be considered directly in conjunction with the matters covered by the working group.