

Independent Market Operator



## **Final Market Rule Change Report**

### **Title: Economic Regulation Authority's Budget**

Ref: RC 2008 13

Fast Track Rule Change Process

Date: 15 April 2008

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## 1. INTRODUCTION

### **1.1. General Information about Rule Changes**

Clause 2.5.1 of the Wholesale Electricity Market Rules (Market Rules) provides that any person (including the Independent Market Operator) may make a Rule Change Proposal by completing a Rule Change Proposal form and submitting this to the Independent Market Operator (IMO).

In order for the proposal to be progressed, the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the Wholesale Market Objectives. The Market Objectives are:

- (a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system
- (b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors
- (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
- (d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used

A Rule Change Proposal can be processed using a Standard Rule Change Process or a Fast Track Rule Change Process. The standard process involves a combined 10 weeks public submission period. Under the shorter fast track process the IMO consults either with Rule Participants who advise the IMO that they wish to be consulted or whom the IMO considers have an interest in the change.

### **1.2. About this Rule Change**

On 5 March 2008, the Economic Regulation Authority (ERA) submitted a Rule Change Proposal titled "Energy Regulation Authority's Budget".

The proposal was processed using the Fast Track Rule Change Process, described in section 2.6 of the Market Rules. The fast track process was used as the proposal satisfied the requirements of clause 2.5.9 (a) of the Market Rules.

The fast track process adheres to the following timelines, outlined in section 2.6 of the Market Rules:

- Within 5 Business Days of a Rule Change Notice being published, the IMO must notify any Rule Participants that the IMO intends to consult regarding the Rule Change.
- Within 5 Business Days of the Rule Change Notice being published, any Rule Participant wishing to be consulted may contact the IMO to request consultation on the Rule Change.

- Within 15 Business Days of the Rule Change Notice being published, all consultations must be concluded.
- Within 20 Business Days of the Rule Change Notice being published, the IMO must publish a Final Rule Change Report and, when the change relates to a protected provision, provide the Final Report to the Minister for approval.
- The Minister must consider the Rule Change Proposal within 20 Business Days and decide whether the Market Rules, as amended or replaced by the proposed Amending Rules, are consistent with the Wholesale Market Objectives.

The key dates in processing this Rule Change Proposal were:

- The Rule Change Notice for this Proposal was published on the IMO website on 14 March 2008.
- On 14 March 2008, the IMO notified interested parties that it wished to consult regarding the Rule Change.
- Consultations on the Rule Change Proposal were completed on 8 April 2008.
- This Final Rule Change Report was published on 15 April 2008.
- The Minister's decision on the Final Rule Change Report and the Market Rule Change Proposal is expected to be available by 14 May 2008.

This Final Rule Change Report on the Rule Change Proposal has been prepared by the IMO in accordance with clause 2.6.4 of the Market Rules.

Based on its analysis against the Market Objectives and the responses received from interested parties, the IMO's decision is to implement the Rule Change Proposal in the form outlined in section 5 of this Final Rule Change Report.

## 2. THE RULE CHANGE PROPOSAL

### 2.1. The Submission

The ERA proposed changes to clause 2.24.5 and the addition of new clause 2.24.5A of the Wholesale Electricity Market Rules (Market Rules).

#### 2.1.1. Submission details

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Organisation:	Economic Regulation Authority
Address:	Level 6, 197 St Georges Terrace, PERTH WA 6000
Date submitted:	5 March 2008
Urgency:	3-high – Fast Track
Change Proposal title:	Economic Regulation Authority's Budget

### 2.2. The Proposal

The ERA submitted that the Market Rules make provision for the ERA to recover Regulator Fees for its monitoring and regulation services under clauses 2.24.5 and 2.24.6. The text of those rules reads as follows:

*“2.24.5 The Economic Regulation Authority may recover a portion of its budget determined by the Minister responsible for the Economic Regulation Authority which corresponds to the costs incurred by the Economic Regulation Authority in undertaking its Wholesale Electricity Market Related functions and other functions under these Market Rules from the collection of Regulator Fees under these Market Rules.*

*2.24.6 By the date which is five Business Days prior to 30 June each year, the Economic Regulation Authority must notify the IMO of the dollar amount that the Economic Regulation Authority may recover under 2.24.5.”*

The ERA submitted that there is currently no provision in the rules for an adjustment of costs to be made from one year to another. The ERA also submitted that the requirement of clause 2.24.6 to provide the IMO with the dollar amount that the ERA can recover, five business days prior to 30 June, without the ability to adjust that figure, creates a risk that the Market could be over-charged or under-charged for the Regulator Fees.

The ERA further submitted that in May 2006 the words “costs incurred” were not taken into account and the Regulator Fees for 2006/07 reflected the full amount of the estimated costs of the ERA’s Market functions related to that year. However, during 2006/07 the ERA became aware that “costs incurred” had been interpreted to mean the costs of the previous year (past tense) and as a result the ERA could only recover cost in arrears.

According to the ERA submission, in May 2006 an estimate of \$311,416 for 2006/07 was provided to the IMO to form the basis of the Regulator Fees. In June 2007, the ERA

advised the IMO that the actual costs incurred in relation to 2006/07 was \$586,848 and the ERA only sought to recover the difference between the estimated and actual costs for 2006/07, of \$275,432, in 2007/08.

In other words, in the 2007/08 budget the ERA sought to recover only the amount by which actual costs in the previous year had exceeded the estimate. The ERA recovered none of its costs for the year ahead and has operated in deficit ever since. Therefore the ERA proposes to amend the rules to allow for the funding of the Regulator Fees in the financial year they relate to, and to ensure that the Market is informed of the expected cost associated with Regulator Fees in advance of such costs being incurred.

The ERA submitted that if the rule change proposal is approved, the ERA will advise the IMO that its estimate of Regulator Fees in 2008/09 will consist of \$1,322,884 (being \$665,388 resulting from the under charge in 2007/08 for the period July 2007 – March 2008) and \$657,496 (being the ERA's current anticipated costs for April 2008 – March 2009).

### ***2.3. Amending Rules Proposed by the ERA***

The amendment to the Market Rules proposed by the ERA is presented in section 5 of this paper.

### ***2.4. The IMO's Initial Assessment of the Proposal***

The IMO has decided to proceed with the Rule Change Proposal on the basis of its preliminary assessment, which indicated that the proposal was consistent with the Market Objectives.

The proposal was processed using the Fast Track Rule Change Process described in section 2.6 of the Wholesale Electricity Market Rules. The fast track process was used as the proposal satisfied the requirements of clause 2.5.9 (a) of the Market Rules. The IMO considered that that the change was of a procedural nature and it should be progressed using the Fast Track Rule Change Process.

Section 2.5.9 states:

*The IMO may subject a Rule Change Proposal to the Fast Track Rule Change Process if, in its opinion, the Rule Change Proposal:*

- (a) is of a minor or procedural nature; or*
- (b) is required to correct a manifest error; or*
- (c) is urgently required and is essential for the safe, effective and reliable operation of the market or the SWIS.*

### 3. RULE PARTICIPANTS CONSULTED

For this Rule Change, the IMO notified the following interested parties of its intention to consult:

- Alcoa World Alumina Australia
- Alinta Sales Pty Ltd
- Barrick (Kanowna) Limited
- Bioenergy Limited
- Economic Regulation Authority
- Eneabba Gas Pty Ltd
- Griffin Energy
- Karara Energy
- Landfill Gas and Power Pty Ltd
- Mount Herron Engineering
- NewGen Neerabup Pty Ltd
- NewGen Power Kwinana Pty Ltd
- Newmont Asia Pacific
- Office of Energy
- Perth Energy Pty Ltd
- Premier Power Sales Pty Ltd
- Skyfarming Pty Ltd
- Synergy
- System Management
- TransAlta Energy
- Verve Energy
- Wambo Power Ventures
- Waste Gas Resources Pty Ltd
- Water Corporation
- Western Australia Biomass Pty Ltd (Babcock and Brown)
- Western Power Corporation

The IMO requested interested parties to provide their views on the Rule Change Proposal in writing.

In addition, an invitation for all Rule Participants to contact the IMO, should they wish to be consulted on this Rule Change, was published on the IMO website on 14 March 2008, together with the Rule Change Notice.

The IMO received one written submission from Landfill Gas and Power.

A summary of the submission is shown below. The submission is published in full on the IMO website, together with this Final Rule Change Report.

### **3.1. Market Advisory Committee**

The Market Advisory Committee (MAC) was invited to have preliminary discussions on the Proposal at its meeting on 13 February 2008, before it was formally submitted by the ERA.

MAC considered the Proposal again at its meeting on 12 March 2008.

MAC expressed general support for the Rule Change Proposal. No MAC member expressed any concerns regarding the Proposal.

### **3.2. Landfill Gas and Power (LGP)**

LGP supported the proposed Rule Change on the grounds that the regulatory overview provided by the ERA is vital for the proper functioning of the WEM. LPG submitted that therefore the ERA must be properly resourced and should recover its costs via the market in full in a timely manner, and allowing for an annual correction for forecasting errors.



## 4. THE IMO'S ASSESSMENT AND DECISION

### 4.1. Assessment

#### 4.1.1. Consultations

In its submission, Landfill Gas and Power expressed its support for the proposal as drafted by the ERA.

#### 4.1.2. The IMO's Assessment

According to clauses 2.4.2 of the Market Rules *"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"*.

The IMO' assessment against each of the Market Objectives is as follows:

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

The IMO considers that the proposal supports market objective (a) by providing for the ERA to receive adequate funding to enable it to perform its functions under the Market Rules more effectively. In its submission Landfill Gas and Power supported this assessment.

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

The IMO considers that the proposed changes do not impact on, and therefore are consistent with, the operation of market objective (b).

- (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.*

The IMO considers that the proposed changes do not impact on, and therefore are consistent with, the operation of market objective (c).

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

The IMO considers that the proposal supports market objective (d) by ensuring the adequacy of resourcing for the ERA, which is crucial to the ERA's ability to monitor the behaviour of Market Participants in the Wholesale Electricity Market and to investigate inappropriate behaviour. This change will therefore contribute to minimising the long term cost of electricity supplied to customers in the SWIS. In its submission, Landfill Gas and Power supported this assessment.

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

The IMO considers that the proposed changes do not impact on, and therefore are consistent with, the operation of market objective (e).

In accordance with Clause 2.4.3(b) of the Market Rules, in deciding whether or not to make Amending Rules, the IMO must also have regard to the practicality and cost of implementing the amendments.

No costs have been identified in relation to this change during the consultation process.

#### ***4.2. The IMO's Decision***

The IMO's decision is to:

- Accept the amendments to clause 2.24.5 of the Wholesale Electricity Market Rules as proposed by the ERA in its Rule Change Proposal.
- Accept the new clause 2.24.5A of the Wholesale Electricity Market Rules as proposed by the ERA in its Rule Change Proposal.

The IMO has made its decision on the basis that the resulting Amending Rules are consistent with the Wholesale Market Objectives.

The wording of the relevant Amending Rules is presented in Section 5 of this Report.

#### ***4.3. Minister Approval***

Clause 2.24 of the Market Rules is a Protected Provision, as specified in clause 2.8.13 of the Market Rules. Amendments to Protected Provisions require approval from the Minister for Energy. As required under clause 2.8.3 of the Market Rules, the IMO will submit this Final Rule Change Report to the Minister for Energy for his consideration. The Minister's decision is expected to be available by 14 May 2008.

#### ***4.4. Amending Rules Commencement***

Subject to receipt of the Minister's approval, the amendments to the Wholesale Electricity Market Rules will commence at 08.00am on 15 May 2008.

## 5. AMENDING RULES

The following clauses are amended as follows (~~deleted wording~~, new wording):

### **Clause 2.24.5**

2.24.5 The Economic Regulation Authority may recover a portion of its budget determined by the Minister responsible for the Economic Regulation Authority which corresponds to the costs ~~incurred by~~ of the Economic Regulation Authority in undertaking its Wholesale Electricity Market related functions and other functions under these Market Rules from the collection of Regulator Fees under these Market Rules.

2.24.5A Where the revenue earned via Regulator Fees in the previous Financial Year is greater than or less than the Economic Regulation Authority expenditure related to the functions described in clause 2.24.5 for that Financial Year, the current year's budget must take this into account by decreasing the budgeted revenue by the amount of the surplus or adding to the budgeted revenue the amount of any shortfall, as the case may be.