



**Draft Rule Change Report**  
**Title: Compliance Standard of**  
**Performance and Reporting**

Ref: RC\_2008\_33

Standard Rule Change Process

Date: 21 November 2008

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## Independent Market Operator

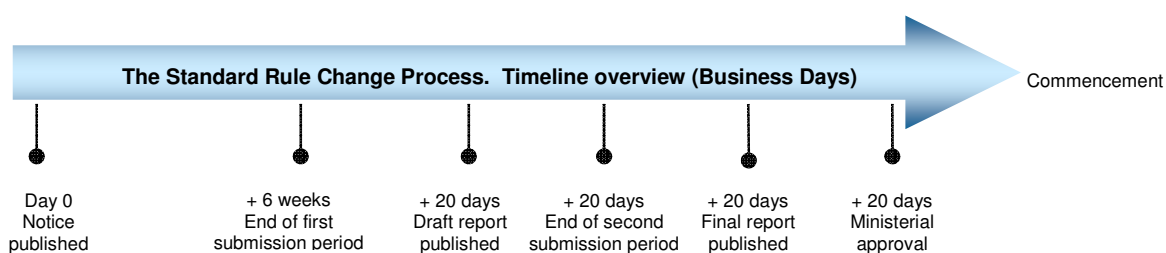
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## 1. INTRODUCTION

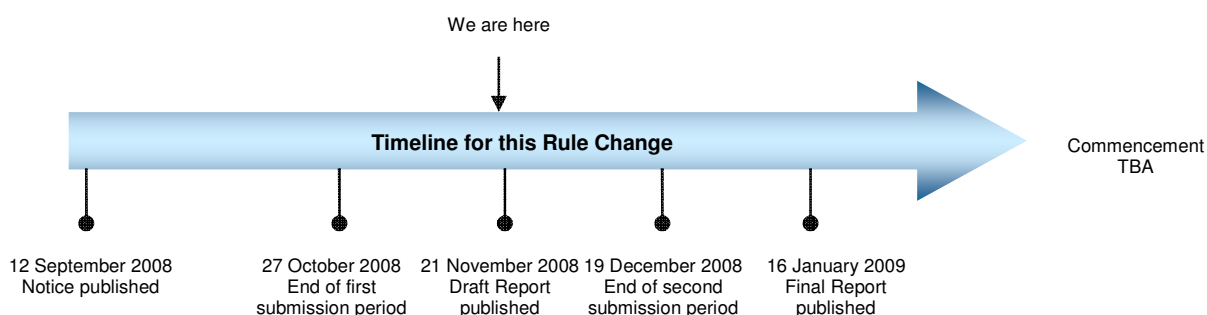
On 11 September 2008 the Independent Market Operator (IMO) submitted a Rule Change Proposal regarding a change to clauses 2.12 and 2.14 of the Wholesale Electricity Market Rules (Market Rules).

This Proposal is being processed using the Standard Rule Change Process, described in section 2.7 of the Market Rules.

The standard process adheres to the following timelines, outlined in section 2.7 of the Market Rules:



The key dates in processing this Rule Change Proposal are:



Based on the submissions received, the IMO's draft decision is to implement the Rule Change Proposal in the form outlined in section 6 of this Report.

This Draft Rule Change Report on the Rule Change Proposal has been prepared by the IMO in accordance with clause 2.7.6 of the Market Rules.

Interested parties are invited to provide further submissions in relation to this Draft Rule Change Report. In accordance with the Market Rules timelines, the deadline for submissions is 19 December 2008.

## 2. THE RULE CHANGE PROPOSAL

### 2.1. Submission Details

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<b>Address:</b>	Level 3, Governor Stirling Tower, 197 St George's Terrace
<b>Date submitted:</b>	<i>11 September 2008</i>
<b>Urgency:</b>	<i>Medium</i>
<b>Change Proposal title:</b>	Compliance Standard of Performance and Reporting

### 2.2. Details of the Proposal

Results from compliance audits conducted on the IMO and System Management are currently not treated equivalently under the Market Rules:

- System Management does not have a formal right of reply to any Market Audit. The IMO has this right;
- The IMO provides a report to the Minister on the compliance of System Management. System Management does not have a formal right of reply to this report; and
- The Market rules do not explicitly provide for the Minister to be provided with a report on the compliance of the IMO, only a report on System Management's compliance.

The IMO submitted that although it provides a report to the Minister on its own compliance, the Market Rules should be amended to address the above issues in a formal manner.

Secondly, the IMO submitted that at present the standard of performance expected of System Management and the IMO is different from the standard of performance expected of other participants.

The IMO noted that where System Management or the IMO has an obligation under the rules, if they use reasonable endeavours to comply with that obligation then they are not to be taken as having breached the obligation, even if they would otherwise fail to comply.

The IMO submitted that the standard of performance for all Participants should be the same, and accordingly it is proposed that the rules that provide the 'reasonable endeavour' exemption for System Management and the IMO should be deleted.

### 2.3. The Proposal and the Wholesale Market Objectives

The IMO's assessment on how these amendments will allow the Market Rules to better address the market objectives is contained in section 4.1.2 of this Report.

**2.4. Amending Rules proposed by the IMO**

The amendments to the Market Rules proposed by the IMO are outlined in section 6 of this report.

**2.5. The IMO's Initial Assessment of the Proposal**

The IMO decided to proceed with the proposal on the basis of its preliminary assessment, which indicated that the proposal was consistent with the Wholesale Market Objectives. This preliminary assessment was published in a Rule Change Notice on 12 September 2008.

### 3. SUBMISSIONS

During the first public submission period the IMO received a submission from Landfill Power & Gas Pty Ltd (LGP), Synergy and System Management. The submissions are summarised below, and the full text is available on the IMO web site.

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

The Market Advisory Committee (MAC) was first advised of the proposed rule change at its meeting on 10 September 2008, before it was formally submitted by the IMO. At the meeting, MAC was in general support of the proposal and of the IMO submitting it as a formal Rule Change Proposal.

MAC members were also invited to discuss the proposal at the MAC meeting on 8 October 2008, after the proposal had been published on the IMO web site. MAC supported the rule change as proposed and agreed that it should continue to be progressed.

#### **3.2. Submission from LGP**

LGP supported the proposed Rule Change on the grounds that:

- Both System Management and the IMO should be obliged to comply with their obligations rather than use reasonable endeavours to comply;
- System Management should have a right of reply to the compliance report compiled on it; and
- The compliance report on the IMO should be provided to the Minister.

#### **3.3. Submission from Synergy**

Synergy supported the position put forward by the IMO that changes are required to the Market Rules to recognise the current obligations and powers associated with the IMO and System Management's compliance activities. Synergy supports the rule change proposal, as drafted, as correctly reflecting the actual obligations and powers of these parties.

#### **3.4. Submission from System Management**

System Management fully supported the intention of the proposal and the drafting of the Rule amendments. The clarification of System Management's requirements in terms of compliance and the increased reporting requirements can only benefit the SWIS and support the Market Objectives.

#### **3.5. Public Forums and Workshops**

No public forums or workshops were held in relation to this Rule Change.

## 4. THE IMO'S ASSESSMENT AND DECISION

### 4.1. Assessment

#### 4.1.1. Submissions

All parties responding within the prescribed submission period expressed support for the Rule Change Proposal. No party proposed any changes to the proposed amendments to the Market Rules.

#### 4.1.2. The IMO's Assessment

According to clause 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 considers that the proposed Amending Rules will have the following impact on how the Market Rules address the Wholesale Market Objectives:

Impact	Wholesale Market Objectives
Allow the Market Rules to better address objective	a,
Consistent with objective	b, c, d, and e
Inconsistent with objective	-

The IMO's assessment against market objectives (a) and (e) 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 proposed amendments will promote economic efficiency in the Wholesale Electricity Market. This will be achieved by ensuring equality in the compliance regimes applying to the IMO and System Management, as well as equality in the compliance regimes applying to the IMO, System Management, and all other Rule Participants.

The IMO submits that the proposal is consistent with the remaining market objectives.

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 amending rules.

The proposed changes do not require any change to the Wholesale Electricity Market Systems operated by the IMO. No other costs have been identified in relation to the implementation of the proposed change.

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

The IMO's draft decision is to implement the proposed amendments to address the apparent inequitable treatment of compliance audits of the IMO and System Management as outlined in the Market Rules.

The IMO has made its draft decision on the basis that the resulting Amending Rules will allow the Market Rules to better address the Wholesale Market Objectives.

The wording of the relevant Amending Rules is presented in section 6 of this Report.



## 5. CALL FOR SUBMISSIONS

The IMO invites Market Participants to make submissions on this Draft Rule Change Report and proposed Rule Change. The submission period is 20 Business Days from the publication date of this Report.

Submissions must be delivered to the IMO by close of business on Friday 19 December 2008.

The IMO prefers to receive submissions by email to [marketadmin@imowa.com.au](mailto:marketadmin@imowa.com.au) using the submission form available on the IMO website:

[http://www.imowa.com.au/10\\_5\\_1\\_b\\_rule\\_change\\_proposal.htm](http://www.imowa.com.au/10_5_1_b_rule_change_proposal.htm)

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

**Independent Market Operator**  
Attn: Manager Market Administration  
PO Box 7096  
Cloisters Square, Perth, WA 6850  
Fax: (08) 9254 4399

## 6. PROPOSED AMENDING RULES

The IMO proposes to implement the following amendments to the Market Rules (added words are underlined and deletions are shown with a ~~strikethrough~~):

### 2.12 [Blank] **Standard of Performance**

~~2.12.1. With the exception of the obligations listed in clause 2.12.2, where the IMO has an obligation under these Market Rules to do something:~~

- ~~(a) that obligation is limited to a requirement for the IMO to use reasonable endeavours consistent with these Market Rules, including to give such directions or instructions as are within its power, to comply with that obligation; and~~
- ~~(b) if the IMO fails to do that thing notwithstanding the use of the IMO's reasonable endeavours, the IMO will be taken not to have breached the obligation.~~

~~2.12.2. Clause 2.12.1 does not apply to:~~

- ~~(a) the obligations of the IMO under clauses 2.18 to 2.20;~~
- ~~(b) the obligations of the IMO in relation to the registration of Rule Participants and Facilities in clauses 2.28 to 2.32;~~
- ~~(c) subject to clause 9.24, any payment obligations of the IMO under these Market Rules.~~

~~2.12.3. With the exception of the obligations listed in clause 2.12.4, where System Management has an obligation under these Market Rules to do something:~~

- ~~(a) that obligation is limited to a requirement for System Management to use reasonable endeavours consistent with these Market Rules, including to give such directions or instructions as are within its power, to comply with that obligation; and~~
- ~~(b) if System Management fails to do that thing notwithstanding the use of System Management's reasonable endeavours, System Management will be taken not to have breached the obligation.~~

~~2.12.4. Clause 2.12.3 does not apply to the obligations of System Management under clauses 2.18 to 2.20.~~

~~2.12.5. A reference in this clause 2.12 to an obligation to do something includes an obligation to do or not do any act, matter or thing, to achieve any outcome, to maintain any state of affairs or to ensure that any other person does or does not do any act, matter or thing.~~

- 2.14.5A. The IMO must annually provide to the Minister a report on the IMO's compliance with the Market Rules and Market Procedures. The report must contain:
- (a) the reports published in clause 2.14.5; and
  - (b) the results of any investigations of the IMO's compliance with the Market Rules and Market Procedures carried out by the person appointed under clause 2.13.1.
- 2.14.6A. Where System Management is subject to an audit in accordance with clause 2.14.6 (b), the IMO must provide System Management with a copy of the report, and System Management must within 20 Business Days of receiving the report either:
- (a) accept the report and any recommendations contained in it; or
  - (b) provide the IMO with a separate report setting out the matters raised in the Market Auditor's report which System Management accepts and those which it does not accept and setting out System Management's reasons for that view.
- 2.14.6B. Where System Management is subject to an audit in accordance with clause 2.14.6 (b), the IMO must publish the Market Auditor's report and any report provided by System Management under clause 2.14.6A(b) within 30 Business Days of System Management receiving the Market Auditor's report.
- 2.14.7. ~~The IMO must annually provide to the Minister~~ prepare a report for the Minister on System Management's compliance with the Market Rules and Market Procedures. The report must contain:
- ~~a) the results of audits performed under clause 2.14.6(b) reports published in clause 2.14.6B; and~~
  - .....
- 2.14.8. The IMO must provide System Management with the report prepared in accordance with clause 2.14.7, and System Management must within 20 Business Days of receiving the report either:
- (a) accept the report and any recommendations contained in it; or
  - (b) prepare a separate report setting out the matters raised in the report which System Management accepts and those which it does not accept and setting out System Management's reasons for that view.
- 2.14.9. The IMO must, within 10 Business Days following the date specified in clause 2.14.8, provide to the Minister the report prepared in accordance with clause 2.14.7 and any report prepared by System Management under clause 2.14.8(b).

## 7. GENERAL INFORMATION ABOUT RULE CHANGE PROPOSALS

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 with Rule Participants who either advise the IMO that they wish to be consulted or the IMO considers have an interest in the change.