



Draft Rule Change Report

Title: MAC Membership Review

Ref: RC_2010_15
Standard Rule Change Process

Date: 3 August 2010

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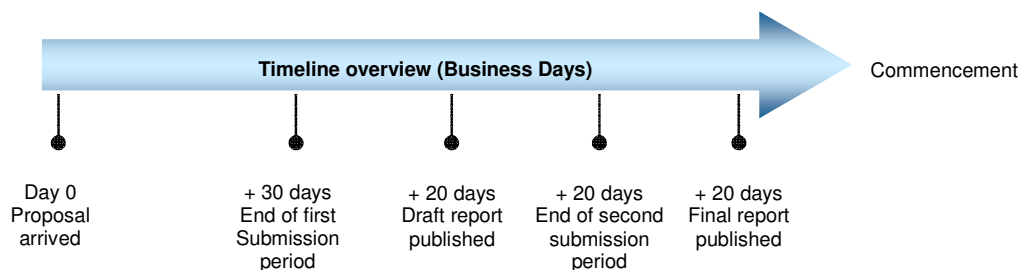
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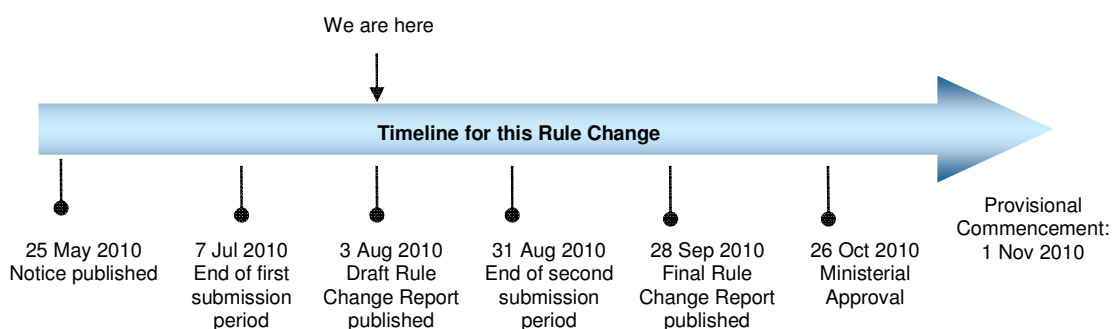
1. INTRODUCTION

On 18 May 2010 Perth Energy submitted a Rule Change Proposal regarding amendments to clause 2.3.5 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:



The key dates in processing this Rule Change Proposal are:



Please note the commencement date is provisional and may be subject to change in the Final Rule Change Report.

The draft decision of the IMO Board is to accept the Rule Change Proposal as modified following the first submission period. The detailed reasons for the decision are set out in section 5 of this report.

In making its draft decision on the Rule Change Proposal, the IMO has taken into account:

- the Wholesale Market Objectives;
- the practicality and cost of implementing the proposal;
- the views of the Market Advisory Committee (MAC); and
- the submissions received.

All documents related to this Rule Change Proposal can be found on the IMO website: http://www.imowa.com.au/RC_2010_15.

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, **Tuesday 31 August 2010**.

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

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

Independent Market Operator
Attn: General Manager Development
PO Box 7096
Cloisters Square, PERTH, WA 6850
Fax: (08) 9254 4399

3. THE RULE CHANGE PROPOSAL

3.1 Submission Details

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Organisation:	Perth Energy
Address:	77 Mill Point Road, South Perth WA 6151
Date submitted:	18 May 2010
Urgency:	3-High
Change Proposal title:	MAC Membership Review
Market Rule affected:	2.3.5

3.2 Summary details of the Proposal

Perth Energy's Rule Change Proposal sought to amend the membership of the Market Advisory Committee¹ (MAC) to allow an extra two positions for Discretionary Class members. Perth Energy considered that the proposed changes will:

- broaden the catchment of private suppliers' representation;
- ensure greater equitability of representation;
- enrich debate at MAC level; and
- assist the IMO to better achieve the Wholesale Market Objectives.

Full details of Perth Energy's proposal are presented in Appendix 1 of this report.

3.3 The Proposal and the Wholesale Market Objectives

Perth Energy submitted that the proposed changes would allow the Market Rules to better address Wholesale Market Objectives (a), (b), (c) and (d), by improving the quality

¹ Clause 2.3.5 of the Market Rules

of debate at the MAC, encouraging competition through increased participation, and minimising the long term cost of electricity through retention of investor confidence required to facilitate investment in generation, retail and wholesale trading in the WEM.

Perth Energy recommends that should the proposed amendments be adopted, the IMO should immediately appoint the additional MAC members to ensure that the urgency of the Market Rule change schedule is maintained.

3.4 Amending Rules proposed by Perth Energy

Perth Energy proposed the following amendments to the Market Rules (~~deleted text~~, added text):

- 2.3.5. Subject to clause 2.3.13, the Market Advisory Committee must comprise:
- (a) ~~three~~ four members representing Market Generators, of whom one must represent the Electricity Generation Corporation;
 - (b) one member representing Contestable Customers;
 - (c) at least one and not more than two members representing Network Operators, of whom one must represent the Electricity Networks Corporation;
 - (d) ~~three~~ four members representing Market Customers, of whom one must represent the Electricity Retail Corporation;
 - (e) one member nominated by the Minister to represent small-use consumers;
 - (f) one member representing System Management;
 - (g) one member representing the IMO; and
 - (h) a chairperson, who must be a representative of the IMO.

3.5 The IMO's Initial Assessment of the Proposal

The IMO decided to proceed with the proposal on the basis that Market Participants should be given an opportunity to provide submissions as part of the rule change process.

4. FIRST SUBMISSION PERIOD

The first submission period for this Rule Change Proposal was between 25 May 2010 and 7 July 2010.

4.1 Submissions received

The IMO received submissions from Landfill Gas & Power (LGP) and Synergy. The main points raised in the submissions are summarised below; additional detail along with the IMO's response is contained in section 4.2 of this paper. The full text of all submissions is available on the IMO website.

In summary, LGP supports the Rule Change Proposal but suggests a number of revisions to the Amending Rules. LGP also suggests that the IMO be provided with discretion as to whether to appoint additional Market Customer and Market Generator

representatives. Synergy does not object to the proposal but notes concern about a precedence being established allowing an ever increasing MAC membership that could weaken the group's effective performance. Synergy notes that a Rule Participant without representation on the MAC can:

- request the Chair to attend as an observer (which entails no restriction on them contributing to the discussion);
- view reports, minutes and comments resulting from the MAC on the IMO's website. In particular, all meeting papers are made available to the market via the IMO's website at the same time as they are sent to the MAC. Any contentious or potentially complex topics have in the past resulted in the IMO arranging public workshops, which are open to all Market Participant; and/or
- nominate to serve on Working Groups constituted by the MAC. Recommendations are made to the MAC by these Working Groups on a regular basis and are pivotal in influencing MAC decision making.

LGP considers that by the encouragement of investment via the perception of more effective participation of new investors the proposal would support Wholesale Market Objectives (a), (b), (d) and (e). Synergy does not consider that increased MAC membership will better facilitate the achievement of the Wholesale Market Objectives.

4.2 *IMO's response to submissions received in the first submission period*

The IMO's response to each of the issues identified during the first submission period is presented in the table over the page:

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Clause/Issue	Submitter	Comment/Change Requested	IMO's response
2.3.5	LGP	Considers that DSM providers may soon be as significant as wind generation and so should be eligible for participation on the MAC	Currently a DSM aggregator may apply to serve on the MAC as a Market Customer representative. The Maximum Reserve Capacity Price Working Group recently determined to appoint a DSM Aggregator representative. This was on the basis that a DSM Aggregators involvement would add value to the outcomes of the Working Group.
2.3.5 (a)	LGP	Should refer to "Market Generators" rather than "generators".	Perth Energy's proposed Amending Rules were based on an out of date version of the Market Rules. The IMO had amended this reference as part of the commencement of the Rule Change Proposal: Market Advisory Committee Constitution and Operating Practices (RC_2009_28). Perth Energy's proposed drafting was corrected in the IMO's Rule Change Notice for consistency with the reference to "Market Generator" and "Market Customer" as outlined in the current version of the Market Rules (1 July 2010).
2.3.5(d)	LGP	Should refer to "Market Customers" rather than "retailers".	Refer to the above comment.
2.3.5(a) and (d)	LGP	Would prefer the IMO has discretion to increase the number of representatives, but not an obligation to. Considers that the IMO's application process should ensure that all appointees meet an acceptable professional standard to ensure that the forum is not diluted, or even impeded by additional members. LGP therefore proposes the addition of words to the effect of "not more than" at the beginning of each of the sub-clauses. Alternatively LGP suggests that clauses could read "At least 3 and not more than 4"	<p>This suggestion has been incorporated into the Amending Rules.</p> <p>A level of discretion when deciding whether to appoint additional Market Generator and Market Customer representatives will ensure that the optimal size of the group can be taken into account when making appointment decisions. This will allow the IMO to be able to consider the likely impacts on the operation and efficiency of the group associated with an increased membership.</p> <p>Given the small size of the current market there is currently a potential risk associated with limitations on the availability of suitable members. This discretion will ensure that appointees who do not meet the IMO's appointment criteria and who the IMO considers will not actively contribute to the MAC are not appointed simply to meet the size requirement. This will guarantee the integrity of the committee is maintained.</p> <p>This discretion would be consistent with that provided under sub-clause 2.3.5(c) when determining the number of members representing Network Operators.</p>

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Clause/Issue	Submitter	Comment/Change Requested	IMO's response
			<p>The IMO notes that in making appointment decisions to the MAC it will ensure that the number of Market Generator representatives remains equal to the number of Market Customer representatives. The IMO will update the Appointment Guidelines document to reflect this criterion for appointments to either position.</p> <p>The IMO will be presenting options for the selection of Discretionary Members to the MAC for consideration later in 2010. This is as a result of a concerns raised by interested stakeholders.</p>
All	Synergy	Larger groups can be ineffective in achieving acceptable outcomes, particularly under constrained timeframes.	<p>While a larger group may be ineffective in achieving acceptable outcomes the IMO not consider an additional two members to the current MAC will impact on the efficiency of the committee. The IMO however considers that the adoption of a level of discretion to increase the representation of the Market Generator and Market Customer classes will ensure that future membership reviews and appointment processes can take into account any perceived impacts of a larger group.</p> <p>The IMO also notes Synergy's concerns around the precedent set by this proposed amendment to the size of the MAC. Any future decisions to amend the composition of the MAC will also need to consider the likely impacts on the operation and efficiency of the group.</p>

4.3 Public Forums and Workshops

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

4.4 Additional Amendments to the Amending Rules

Following the first public submission period the IMO has made some minor changes to the proposed Amending Rules in response to the submissions received. These additional amendments are presented below (~~deleted text~~, added text):

2.3.5. Subject to clause 2.3.13, the Market Advisory Committee must comprise:

- (a) at least three and not more than four members representing Market Generators, of whom one must represent the Electricity Generation Corporation;
- (b) one member representing Contestable Customers;
- (c) at least one and not more than two members representing Network Operators, of whom one must represent the Electricity Networks Corporation;
- (d) at least three and not more than four members representing Market Customers, of whom one must represent the Electricity Retail Corporation;
- (e) one member nominated by the Minister to represent small-use consumers;
- (f) one member representing System Management;
- (g) one member representing the IMO; and
- (h) a chairperson, who must be a representative of the IMO.

5. THE IMO'S 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.

The IMO's assessment is outlined in the following sections.

5.1 Wholesale Market Objectives

The IMO considers that the Market Rules as a whole, if amended, will be consistent with the Wholesale Market Objectives.

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

5.2 Practicality and Cost of Implementation

Cost:

The proposed changes do not require any change to the Wholesale Electricity Market Systems operated by the IMO or any of the systems operated by System Management. There have been no additional costs identified with the implementation of this Rule Change Proposal.

Following the implementation of the proposed Amending Rules, the IMO will:

- update the MAC Appointment Guidelines document; and
- undertake a further appointment process to appoint an additional Market Customer and Market Generator representative.

Given these tasks are both within the day to day operation of the IMO, the IMO considers that there will be no additional personnel costs associated with the implementation of the proposed changes, however, resources will have to be diverted from other rule and procedure change related work.

Practicality:

The IMO has not identified any issues with the practicality of implementing the proposed changes.

5.3 *Market Advisory Committee*

The MAC met to discuss the Rule Change Proposal at the 16 June 2010 meeting. During the meeting the following points were discussed/noted.

- Some members asked what would happen next time someone did not get appointed to the MAC and requested that additional places be created. It was noted that the MAC should not just keep expanding at the request of participants.
- A larger group would not necessarily improve the quality of debate as this depended more on the individual members.
- All members needed to contribute to MAC discussion and not all members had done this in the past. It was noted that there had been a significant improvement since the appointment of the 2010 MAC.
- If participants use the MAC purely to gain information then this would result in a one-way information flow that could lead to problems.
- A requirement for MAC members to attend meetings could be introduced (it was confirmed that this was already included in the MAC Constitution).
- There is benefit from MAC membership, but there are other ways for participants without MAC membership to become involved in the process, for example through their Discretionary Class representatives.
- The Market Generators forum has meant that Market Generator representatives had made progress in representing the views of the wider group.
- A significant amount of work had been put into developing the MAC process, and Market Participants now have a better idea of the role of their representatives, although there is still some development required.

The importance of open access to what occurs at MAC meetings was noted. The Chair noted that to help ensure this the IMO:

- has implemented an open access approach to most Working Groups; and
- publishes MAC papers on the IMO website at the same time as they are received by MAC members, to allow a participant to raise issues with its representatives or request to attend a MAC meeting as an observer if relevant issues are to be discussed.

The Chair noted that originally he had been concerned about the size of the MAC as it was a large group for constructive decision-making, and although 8 members is an optimal group size he considered that the MAC is currently working well and would not necessarily be affected by two additional members.

During the meeting the MAC was also requested to note that the IMO would present a paper on the options for the selection of Discretionary Members later in 2010. This followed the paper presented at the 12 May 2010 MAC meeting which outlined the questions which had been raised around:

- whether Verve Energy and Synergy should be Compulsory Class members; and
- the IMO's ongoing role in the selection of discretionary members.

5.4 Views Expressed in Submissions

During the first submission period the IMO received two submissions. LGP supported the proposal but suggested a number of amendments, including that the IMO be provided with discretion as to whether additional members are appointed. Synergy did not object to the proposal but noted concern about a precedent being established allowing an ever increasing MAC membership.

5.5 The IMO's response to Perth Energy's Rule Change Proposal

The IMO considers that an increase in the membership of the MAC should be on the basis that:

- The existing number of representatives does not adequately represent the Market Participants they are intended to; or
- The existing representation does not cover a category of Market Participants.

The IMO wishes to gauge the views of interested parties during the second consultation period on these two points.

6. THE IMO'S DRAFT DECISION

The IMO's draft decision is to accept the amendment of clause 2.3.5 as proposed in the Rule Change Proposal and amended following the first submission period. However, in making this draft decision, the IMO notes it's request for views during the second submission period on:

- whether the current composition of the MAC adequately represents the Market Participants they are intended to; and
- whether the existing representation does not cover a specific category of Market Participants.

The IMO will use this additional information in forming its final decision.

6.1 Reasons for the decision

The IMO has made its decision on the basis that the Amending Rules:

- are consistent with the Wholesale Market Objectives; and
- have the general support of submissions received during the first submission period.

Additional detail outlining the analysis behind the IMO's reasons is outlined in section 5 of this Draft Rule Change Report.

7. PROPOSED AMENDING RULES

The IMO proposes to implement the following Amending Rules (added text, ~~deleted text~~):

- 2.3.5. Subject to clause 2.3.13, the Market Advisory Committee must comprise:
- (a) at least three and not more than four members representing Market Generators, of whom one must represent the Electricity Generation Corporation;
 - (b) one member representing Contestable Customers;
 - (c) at least one and not more than two members representing Network Operators, of whom one must represent the Electricity Networks Corporation;
 - (d) at least three and not more than four members representing Market Customers, of whom one must represent the Electricity Retail Corporation;
 - (e) one member nominated by the Minister to represent small-use consumers;
 - (f) one member representing System Management;
 - (g) one member representing the IMO; and
 - (h) a chairperson, who must be a representative of the IMO.

APPENDIX 1: FULL DETAILS OF THE PROPOSAL

Perth Energy noted that clause 2.3.5 of the Market Rules sets the Market Advisory Committee (MAC)'s membership at a maximum 12 in total, with 7 places reserved for incumbent State owned entities, these being Verve Energy, Synergy, System Management, Western Power (x2) and the IMO (x2). There are only 6 places for other Market Participants, two of which must be reserved for representatives of large user and small user groups. This leaves just 4 places for private sector generators, wholesalers and retailers combined.

Perth Energy considered that an allowance of 4 places may have seemed reasonable in 2004, when the Market Rules were written in the context of a closed market, and even 2006-07, when the Wholesale Electricity Market (WEM) began. But in today's South West interconnected system (SWIS), Perth Energy considered that the limitation on and distribution of MAC membership have become inadequate, given the growth and complexity of the WEM in which the private sector holds almost \$2 billion in generation assets and trades approximately \$450 million per year through the STEM, Balancing and other segments of the market settled by the IMO including Reserve Capacity Trades, Ancillary Services etc. and retails a similar amount to contestable customers annually.

With the growth in private sector investment in the SWIS, Perth Energy considered that there is increasing investor concern over barriers to direct participation of private suppliers in the direction and implementation of Market Rule changes. This concern applies to investment in not just generation but also retail and wholesale trading operations in the SWIS, causing the holding off of capital injection into these operations to supply the growing contestable market and improve on the efficiency of that supply. Perth Energy noted that this has direct and negative electricity price and supply quality implications for all consumers in the SWIS.

To continue encouraging private sector participation, Perth Energy considered that clause 2.3.5 of the Market Rules needs to be changed to provide for fairer and wider representation. With Verve Energy and Synergy, the State owned generator and retailer respectively, having compulsory (permanent) class membership; Perth Energy considered that the MAC membership cap should exclude Verve Energy and Synergy. Perth Energy therefore considered that total membership should be expanded by at least 2 Discretionary Class members. Perth Energy noted that this will broaden the catchment of private suppliers' representation and make it more equitable, enrich debate at MAC level and assist the IMO to better achieve the objectives of the market stated above.