



Draft Rule Change Report

Title: Market Fees

Ref: RC_2010_20
Standard Rule Change Process

Date: 17 December 2010

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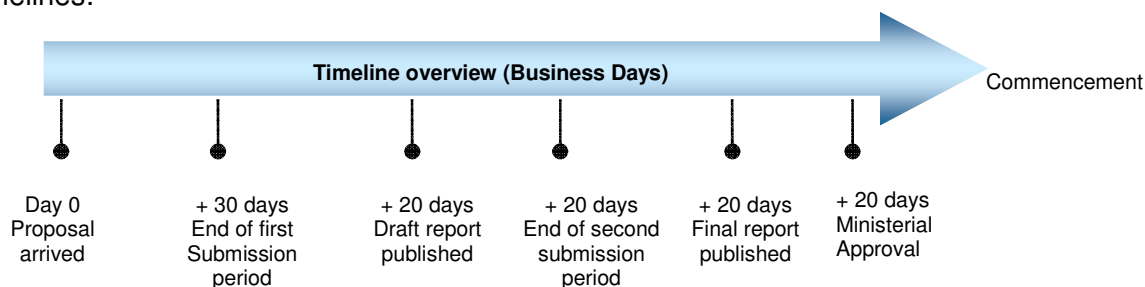
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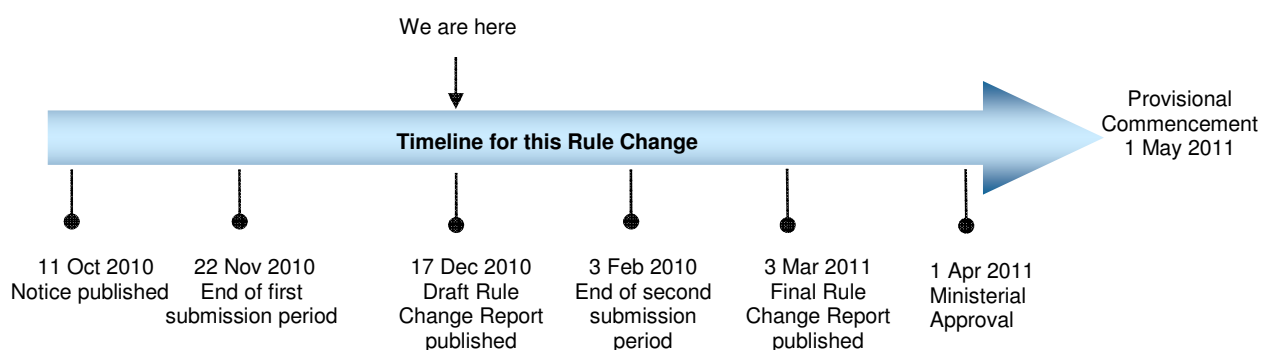
1 INTRODUCTION

On 8 October 2010 the IMO submitted a Rule Change Proposal regarding amendments to clauses 2.23.9, 2.23.11, 2.24.2 and 9.16.2 and new clauses 2.24.2A and 2.24.2B 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 CEO is to accept the Rule Change Proposal, as modified following the first consultation 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; 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_20

2 CALL FOR SECOND ROUND SUBMISSIONS

The IMO invites interested stakeholders to make submissions on this Draft Rule Change Report. The submission period is 30 Business Days from the publication date of this report. Submissions must be delivered to the IMO by 5.00pm, **Thursday 3 February 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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Date submitted:	8 October 2010
Urgency:	Standard Rule Change Process
Change Proposal title:	Market Fees
Market Rule affected:	2.23.9, 2.23.11, 2.24.2 and 9.16.2 and new clauses 2.24.2A and 2.24.2B

3.2 Summary details of the Proposal

The determination of the annual Market Fee rate, which must be published before 30 June each year, needs a number of inputs, including:

- the IMO's annual budget, approved by the Minister;
- System Management's budget proposal; and
- the Economic Regulation Authority's (ERA) notification of the amount of its budget it wishes to recover under clause 2.24.5.

However, the Minister's approval of the IMO's initial budget and the provision of System Management's budget to the IMO have no fixed dates and may be received after the Market Fee publication date.

This Rule Change Proposal sought to allow the IMO to publish an expected fee rate in the event that, prior to 30 June each year:

- the IMO's annual budget has not received approval from the Minister;

- System Management has not provided a copy of its budget proposal for the upcoming Financial Year to the IMO; or
- the ERA has not provided its notification of the amount it may recover under clause 2.24.5.

A revised fee rate will then be published when the necessary information becomes available which will be adjusted with effect from the start of the Financial Year.

The full details of the Rule Change Proposal are available in Appendix 1 of this report.

3.3 The Proposal and the Wholesale Market Objectives

The IMO considered that the proposed changes will correct the current anomaly in the Market Rules which results in the IMO not having a current schedule of fees to publish if any of the inputs needed are not provided on time. The proposed changes will also clarify that once the inputs are provided, revised fee rates will be published and will apply in arrears. The IMO considered that the proposed amendments will improve the integrity of the Market Rules.

3.4 Amending Rules proposed by the IMO

The amendments to the Market Rules originally proposed by the IMO are available in the Rule Change Notice and presented in Appendix 2 of this report.

3.5 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.

4. FIRST SUBMISSION PERIOD

The first submission period for this Rule Change Proposal was between 12 October 2010 and 22 November 2010.

4.1 Submissions received

The IMO received submissions from Landfill Gas & Power (LGP) and Synergy during the first submission period and one late submission from Perth Energy. A copy of the full text of all submissions is available on the IMO website.

In summary, all of the submissions supported the proposed amendments, albeit with a typographical suggestion from Synergy, suggesting a minor change to clause 2.24.2(b) by removing the reference to clause 2.23.11 as it considered it wasn't applicable;

In its submission, Synergy agrees with the IMO that it is in the best interests of stakeholders to be provided with the expected fee rate by 30 June to assist with budgeting.

In its submission, Perth Energy considers the proposal would be helpful for all Market Participants to have transparency in the Market Rules in regards to what will happen if the IMO is unable to calculate the new Fee Rate. Likewise Perth Energy notes that the IMO's proposal to publish and make use of a "best estimate" level for the fee rate in the interim period until an accurate rate can be established to be a sensible and pragmatic approach.

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

Submitter	Wholesale Market Objective Assessment
Synergy	Betters (a)
LGP	No material impact
Perth Energy	Betters (b)

4.2 The IMO's response to submissions received during the First Submission Period

In its submission, Synergy suggested that the reference to clause 2.23.11 (which refers to System Management providing its approved budget to the IMO prior to 30 June) be removed from 2.42.2(b) as it considered that it wasn't applicable. The IMO considers that this clause reference should be retained as it refers to System Management's most recent approved budget which can be from the previous year.

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 closure of the first consultation period, the IMO has made one amendment to the proposed Amending Rules by updating the clause reference in 2.24.2A(b).

The amendments made by the IMO are presented in Appendix 3 of this report.

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

Further, the IMO considers that the Market Rules if amended would not only be consistent with the Wholesale Market Objectives but correct a current anomaly which results in the IMO not having a current schedule of fees to publish if any of the inputs are late. The changes will also clarify that once the inputs are received, revised fee rates will be published and applied in arrears. The IMO considers that these changes will improve the integrity of the Market Rules.

5.2 Practicality and Cost of Implementation

Cost:

There have been no additional costs identified with the implementation of this Rule Change Proposal.

Practicality:

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

5.3 Market Advisory Committee

The proposal was presented to the MAC at the 8 September 2010 meeting, with any comments to be delivered out-of-session.

Synergy provided out-of-session feedback on the proposal and stated its preference for the IMO to avoid any expected fee rate being understated. Synergy considered that this would make adjustments to their budget estimate of Market Fees easier, as adjustments downwards would be more straight forward from an internal approval process perspective than an upward adjustment. As such Synergy suggested using the higher of either the proposed predicted fee rate or the previous year's rate when determining the expected interim fee rate to apply. Synergy contended that in most cases the predicted fee rate would coincide with the higher of the two rates. The IMO considers that the expected fee rate should be based on the most recently available information.

5.4 Views Expressed in Submissions

The IMO received two submissions during the first submission period and one out-of-session submission. All of the submissions supported the proposed amendments

although Synergy suggested one minor change to a clause reference in 2.24.2(b). The IMO's response to this is presented in section 4.2 of this report.

6. THE IMO'S DRAFT DECISION

The IMO's draft decision is to accept the amendment of clauses 2.23.9, 2.23.11, 2.24.2, and 9.16.2 and new clauses 2.24.2A and 2.24.2B of the Market Rules as proposed in the Rule Change Proposal and amended following the first submission period.

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;
- have the general support of submissions received during the first submission period; and
- impose no additional cost on the market.

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~~):

2.23.9. System Management must provide a copy of ~~the~~ its budget proposal to the IMO by 30 April each year. The IMO must review the budget proposal and submit a report containing advice on whether System Management's budget is consistent with the Allowable Revenue determined by the Economic Regulation Authority, including the reasons why, to the Minister by 31 May.

2.23.11. System Management must provide ~~the~~ its approved budget to the IMO and the IMO must publish the approved budget by 30 June each year.

2.24.2. Before 30 June each year, the IMO must determine and publish the level of the Market Fee rate, System Operation Fee rate and Regulator Fee rate and the level of each of the Application Fees to apply over the year starting 1 July.
Where:

(a) the Minister has not approved the IMO's budget proposal, the IMO will determine and publish the expected level of Market Fee rate for the IMO based on the most recent budget proposal (or revised budget proposal) provided to the Minister under clause 2.22.9;

(b) System Management has not provided the IMO with its approved budget, under clause 2.23.11, the IMO will determine and publish the expected level of System Operation Fee rate for System Management based on the most recent budget information provided to the IMO under either clause 2.23.9 or clause 2.23.11; and

(c) the Economic Regulation Authority has not provided the IMO with the information required under clause 2.24.6 by the date which is five Business Days prior to 30 June, the IMO will determine and publish the expected level of Regulator Fee rate based on the most recent information provided to the IMO by the Economic Regulation Authority under clause 2.24.6.

2.24.2A The IMO must determine and publish a level of revised Market Fee rate, System Operation Fee rate or Regulator Fee rate (as applicable) within five Business Days of receiving the information, if in any year:

(a) the Minister's notifies approval of the IMO budget proposal later than 30 June; or

(b) System Management provides the IMO with its approved budget under clause 2.23.11 later than 30 June; or

(c) the Economic Regulation Authority provides the IMO with the information required under clause 2.24.6 later than the date which is five Business Days prior to 30 June.

2.24.2B A revised Market Fee rate, System Operation Fee rate and Regulator Fee rate will supersede any expected Market Fee rate, System Operation Fee rate and Regulator Fee rate and are recoverable from Market Participants in arrears with effect from the start of the Financial Year to which they apply.

9.16.3. The IMO must undertake a process for adjusting settlements ("**Adjustment Process**") at least once every three months. The purpose of the process is to review the relevant Settlement Statements which were issued in the 12 months prior to the commencement of the Adjustment Process ("**Relevant Settlement Statements**") to facilitate corrections resulting from Notices of Disagreement, the resolution of Disputes, and revised metering data provided by Metering Data Agents and any revised Market Fee rate, System Operation Fee rate or Regulator Fee rate (as applicable). Adjustments may only be made to Relevant Settlement Statements. Adjustments may not be made to Settlement Statements outside of an Adjustment Process.

...

APPENDIX 1: IMO'S RULE CHANGE PROPOSAL

Background

Each year the IMO recovers its budget, System Management's costs and the portion of the Economic Regulation Authority (ERA)'s budget relating to Wholesale Electricity Market activities through a per MWh fee applied to generation and consumption in the South West interconnected system.

The process for determining the IMO's budget (and associated Market Fee rate) is prescribed in clause 2.22 of the Wholesale Electricity Market Rules (Market Rules). In simplified form, the process is as follows:

- The IMO submits its budget proposal for the forthcoming year to the Minister by 30 April (clause 2.22.5);
- The Minister makes a decision on the budget proposal within 30 Business Days (clause 2.22.9); and
- Once the Minister makes a decision the IMO publishes the approved budget within five Business Days (clause 2.22.11).

If the Minister does not make a decision by the start of the new Financial Year, the Market Rules provide that the Market Fees derived from that budget from the previous year will continue to apply (clause 2.22.10).

System Management's fee rate is derived from its approved budget, which is to be provided by System Management to the IMO for publication by 30 June of each year (clause 2.23.11). Note that System Management's budget is approved by the Minister as part of the wider Western Power budget approval process as prescribed in the Electricity Corporations Act 2005. To feed into this external process the IMO reviews System Management's budget proposal and informs the Minister whether or not the proposed budget is consistent with the Allowable Revenue determined by the ERA (clause 2.23.9).

The ERA's fee rate is based on the information it provides to the IMO on the dollar amount it may recover under clause 2.24.5 of the Market Rules.

From the IMO and System Management's approved budget and the information provided by the ERA, the IMO determines and publishes the fee rates that will apply from 1 July onwards (clause 2.24.2). This information must be published before 30 June each year.

Issue

There is currently a disconnect in the process. The IMO must determine the fees charged to Rule Participants by 30 June each year, but two of the inputs to that process are not linked to fixed dates:

- the Minister's approval of the IMO's initial budget; and
- System Management's provision of its approved budget to the IMO (noting that this is contingent on the approval of the Minister of Western Power's budget in accordance with the process outlined in the Electricity Corporations Act 2005).

The deadline in clause 2.24 for publishing Market Fees, System Operation Fees and Regulatory Fees is therefore achievable only if:

- the Minister makes a decision (under clause 2.22.9) before that date required by the Market Rules¹,
- System Management provides details of its approved budget (under clause 2.23.11) to the IMO on time; and
- the ERA provides its notification (under clause 2.24.6) on time.

If the Minister (in approving the IMO's budget), System Management (in providing the IMO with its approved budget)² or the ERA (in providing its notification under clause 2.24.6) is late, the IMO is not able to publish the new schedule of the fees for the new Financial Year before 30 June. This occurred in 2010 when the publication of the 2010 Market Fees was delayed as the IMO's budget was not approved by the Minister prior to 30 June. To ensure transparency of this delay to Market Participants a notice was published on the IMO website.

Proposal

The IMO proposes to correct this anomaly by amending the Market Rules so that the IMO will publish either a level of fee rate or in the case where the IMO does not have the required inputs an expected level of fee rate (that will later be revised when the required inputs are available) before 30 June. The IMO will determine the:

- expected Market Fee rate, based on the budget (or revised budget) provided to the Minister for approval under clause 2.22; and
- expected System Operation Fee rate, based on System Management either:
 - the budget proposal that System Management has provided to the IMO under clause 2.23.9; or
 - in the case where System Management has not yet provided a budget proposal for the upcoming Financial Year to the IMO under clause 2.23.9, the previous year's confirmed budget; and
- expected Regulator Fee rate, based on the most recent information provided to the IMO by the Economic Regulation Authority under clause 2.24.6.

In the case where the IMO has published an expected fee rate for the IMO, System Management, or ERA (whichever is late) a revised fee rate will be published once the IMO:

- receives approval from the Minister; and/or
- is provided System Management's approved budget; and/or
- receives the necessary information the ERA.

¹ Note that under clause 2.22.9(b) the Minister may refer the proposal back to the IMO for reconsideration. In this case the IMO must resubmit a revised proposal for the Ministers consideration in accordance with the 30 Business Day timeline specified in clause 2.22.9. In this case the budget proposal would not be approved by 30 June.

² Note that System Management may be late in providing the IMO with its approved budget in a case where the Minister has not yet approved System Management's budget. The Electricity Corporations Act 2005 requires the Minister to reach an agreement on the Statement of Corporate Intent, section 100, (which includes System Management's budget) and Strategic Development Plan, section 90, as soon as possible, and in any event not later than the start of the next financial year.

Once a revised fee rate has been published it will be adjusted with effect from the start of the Financial Year.

The alternative to this approach would be to not publish any values until the IMO has received approval of its budget from the Minister, been provided with an approved budget from System Management and received the necessary information from the ERA. The IMO considers that it is in the best interest of the market for all stakeholders to be provided with details of the expected fee rate by 30 June. This is because the publication of the expected fee rate, using the most up to date information available to the IMO, will ensure interested parties can take the expected values into account in their own budgeting for the coming Financial Year. Publication of an expected fee rate will also ensure that the Minister is provided with sufficient time to review the IMO's proposed budget and likewise that System Management has sufficient time receive approval from the Minister of its budget and provide details of its approved budget to the IMO for publication on the Market Web Site.

The IMO also proposes to clarify the existing process regarding the confirmation of System Management's budget against its approved Allowable Revenue and the relationship between the approval of System Management's budget under the Electricity Corporations Act 2005 and the process outlined in the Market Rules.

APPENDIX 2: PROPOSED AMENDING RULES IN THE RULE CHANGE PROPOSAL

The IMO proposed the following amendments to the Market Rules in its Rule Change Proposal (~~deleted text~~, added text):

- 2.23.9. System Management must provide a copy of ~~the~~ its budget proposal to the IMO by 30 April each year. The IMO must review the budget proposal and submit a report containing advice on whether System Management's budget is consistent with the Allowable Revenue determined by the Economic Regulation Authority, including the reasons why, to the Minister by 31 May.
- 2.23.11. System Management must provide ~~the~~ its approved budget to the IMO and the IMO must publish the approved budget by 30 June each year.
- 2.24.2. Before 30 June each year, the IMO must determine and publish the level of the Market Fee rate, System Operation Fee rate and Regulator Fee rate and the level of each of the Application Fees to apply over the year starting 1 July.
Where:
- (a) the Minister has not approved the IMO's budget proposal, the IMO will determine and publish the expected level of Market Fee rate for the IMO based on the most recent budget proposal (or revised budget proposal) provided to the Minister under clause 2.22.9;
- (b) System Management has not provided the IMO with its approved budget, under clause 2.23.11, the IMO will determine and publish the expected level of System Operation Fee rate for System Management based on the most recent budget information provided to the IMO under either clause 2.23.9 or clause 2.23.11; and
- (c) the Economic Regulation Authority has not provided the IMO with the information required under clause 2.24.6 by the date which is five Business Days prior to 30 June, the IMO will determine and publish the expected level of Regulator Fee rate based on the most recent information provided to the IMO by the Economic Regulation Authority under clause 2.24.6.
- 2.24.2A The IMO must determine and publish a level of revised Market Fee rate, System Operation Fee rate or Regulator Fee rate (as applicable) within five Business Days of receiving the information, if in any year:
- (a) the Minister's notifies approval of the IMO budget proposal later than 30 June; or
- (b) System Management provides the IMO with its approved budget under clause 2.13.11 later than 30 June; or

(c) the Economic Regulation Authority provides the IMO with the information required under clause 2.24.6 later than the date which is five Business Days prior to 30 June.

2.24.2B A revised Market Fee rate, System Operation Fee rate and Regulator Fee rate will supersede any expected Market Fee rate, System Operation Fee rate and Regulator Fee rate and are recoverable from Market Participants in arrears with effect from the start of the Financial Year to which they apply.

9.16.3. The IMO must undertake a process for adjusting settlements (“**Adjustment Process**”) at least once every three months. The purpose of the process is to review the relevant Settlement Statements which were issued in the 12 months prior to the commencement of the Adjustment Process (“**Relevant Settlement Statements**”) to facilitate corrections resulting from Notices of Disagreement, the resolution of Disputes, ~~and~~ revised metering data provided by Metering Data Agents and any revised Market Fee rate, System Operation Fee rate or Regulator Fee rate (as applicable). Adjustments may only be made to Relevant Settlement Statements. Adjustments may not be made to Settlement Statements outside of an Adjustment Process.

APPENDIX 3: ADDITIONAL AMENDMENTS MADE BY THE IMO FOLLOWING THE FIRST SUBMISSION PERIOD

The IMO made an amendment to the proposal following its assessment of responses following the first submission period. These changes are as follows (~~deleted text~~, added text):

The proposed amendment to clause 2.24.2A is a typographical change suggested by System Management.

- 2.24.2A The IMO must determine and publish a level of revised Market Fee rate, System Operation Fee rate or Regulator Fee rate (as applicable) within five Business Days of receiving the information, if in any year:
- (a) the Minister's notifies approval of the IMO budget proposal later than 30 June; or
 - (b) System Management provides the IMO with its approved budget under clause ~~2.13.11~~ 2.23.11 later than 30 June; or
 - (c) the Economic Regulation Authority provides the IMO with the information required under clause 2.24.6 later than the date which is five Business Days prior to 30 June.