

## ADDENDUM TO RULE CHANGE NOTICE:

### RC\_2012\_06: Clarification of Reviewable Decisions and Definition of Regulations

The IMO acknowledges that, because this addendum is not contained in a Rule Change Notice, it has no formal standing. However, the IMO invites interested stakeholders to make submissions on the Rule Change Proposal as previously notified. If considered appropriate, the IMO invites interested stakeholders to submit on the specific information contained in this addendum.

As previously notified, submissions must be delivered to the IMO by 5.00pm on **Monday 10 December 2012**.

#### BACKGROUND

RC\_2012\_06, proposed by the IMO on 7 November 2012, seeks to improve the clarity of the Market Rules as well as providing greater transparency to the definition and referencing of the Regulations in the Market Rules.

Full details of the original proposed amendments are provided in the Rule Change Proposal available on the Market Web Site: [http://www.imowa.com.au/RC\\_2012\\_06](http://www.imowa.com.au/RC_2012_06).

#### FURTHER UPDATES TO PROPOSED AMENDMENTS

Following internal review and discussion with the Public Utilities Office (PUO), the IMO identified that clauses 2.5.7(e), 2.6.4(f) and 2.7.8(e) of the Market Rules are similar to clause 2.10.2A in that they all refer to the publication of the IMO's decisions, rather than to the decisions themselves. The IMO considers that in all four cases the clauses that are subject to Procedural Review should explicitly refer to the relevant decisions. To achieve this, the IMO proposes the following additional changes to the Amending Rules:

- incorporation of new clauses 2.5.6(c), 2.6.3A(a); and 2.7.7A(a) containing the relevant explicit decisions
- amending 2.17.1 and 2.17.2 to make these new clauses subject to Procedural Review
- amend cross-references throughout the Market Rules to reflect these changes

In addition, some minor changes to wording have been made to improve the clarity of the proposed amendments.

For clarity, the IMO has provided the proposed revised drafting in full in this addendum, rather than showing incremental changes to the proposed Amending Rules listed in the Rule Change Proposal.

The IMO's proposed revised drafting is as follows (~~deleted text~~, added text):

- 2.1.1. The Independent Market Operator, or IMO, is established under the ~~Electricity Industry (Independent Market Operator-IMO) Regulations 2004~~.
- 2.1.3. The IMO may delegate any of its functions under the Market Rules (other than the power to do the things indicated as not able to be delegated in regulation 17(~~lm~~) of the WEM Regulations) to a person or body of persons that is, in the IMO's opinion, competent to exercise the relevant functions. A function performed by a delegate is to be taken to be performed by the IMO. A delegate performing a function under this clause 2.1.3 is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown. Nothing in this clause 2.1.3 limits the ability of the IMO to perform a function through an officer, employee or agent.
- 2.2.1. Western Power, acting through the segregated business unit known as System Management, has the function of operating the SWIS in a secure and reliable manner for the purposes of regulation 13(1) of the WEM Regulations.
- 2.5.6. Within five Business Days of the later of:
- (a) receiving the Rule Change Proposal; and
  - (b) any clarification under clause 2.5.5,
- the IMO must:
- (c) decide whether or not to progress the Rule Change Proposal any further;  
and
  - (d) notify the person who submitted the Rule Change Proposal whether or not the IMO will progress the Rule Change Proposal any further.
- 2.6.3A. Within 20 Business Days of publishing the notice referred to in clause 2.5.7, the IMO must:
- (a) decide whether to:
    - i. accept the Rule Change Proposal in the proposed form; or
    - ii. accept the Rule Change Proposal in a modified form; or
    - iii. reject the Rule Change Proposal; and
  - (b) prepare and publish a Final Rule Change Report on the Rule Change Proposal.



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- 2.6.4. ~~Within 20 Business Days of publishing the notice referred to in clause 2.5.7, the IMO must prepare and publish a Final Rule Change Report containing:~~The Final Rule Change Report must contain:
- (a) the information in the notice of the Rule Change Proposal under clause 2.5.7;
  - (b) any analysis of the Rule Change Proposal that the IMO has carried out;
  - (c) the identities of Rule Participants that were consulted;
  - (d) information on any objections expressed by the Rule Participants consulted, and the IMO's response to the objections;
  - (e) the IMO's assessment of the Rule Change Proposal in light of clauses 2.4.2 and 2.4.3;
  - (f) ~~a decision by the IMO that:~~the decision made by the IMO under clause 2.6.3A(a) on the Rule Change Proposal:
    - i. ~~the Rule Change Proposal be accepted in the proposed form; or~~
    - ii. ~~the Rule Change Proposal be accepted in a modified form; or~~
    - iii. ~~the Rule Change Proposal be rejected;~~
  - (g) the IMO's reasons for the decision; and
  - (h) if the IMO decides to make Amending Rules arising from the Rule Change Proposal:
    - i. the wording of the Amending Rules; and
    - ii. the proposed date and time that the Amending Rules will commence.
- 2.7.7A. Within 20 Business Days of the deadline specified under clause 2.7.6(b), the IMO must:
- (a) decide whether to:
    - i. accept the Rule Change Proposal in the proposed form; or
    - ii. accept the Rule Change Proposal in a modified form; or
    - iii. reject the Rule Change Proposal; and
  - (b) prepare and publish a Final Rule Change Report on the Rule Change Proposal.
- 2.7.8. ~~Within 20 Business Days of the deadline specified under clause 2.7.6(b), the IMO must prepare and publish a Final Rule Change Report containing:~~The Final Rule Change Report must contain:



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- (a) the information in the Draft Rule Change Report;
  - (b) all submissions received before the deadline for submissions specified in relation to the relevant Draft Rule Change Report under clause 2.7.6(b), a summary of those submissions, and the IMO's response to the issues raised in those submissions;
  - (c) any further analysis or modification to the Rule Change Proposal;
  - (d) the IMO's assessment of the Rule Change Proposal in light of clauses 2.4.2 and 2.4.3;
  - (e) ~~a decision by the IMO that~~ the decision made by the IMO under clause 2.7.7A(a) on the Rule Change Proposal:
    - ~~i. the Rule Change Proposal be accepted in the proposed form; or~~
    - ~~ii. the Rule Change Proposal be accepted in a modified form; or~~
    - ~~iii. the Rule Change Proposal be rejected;~~
  - (f) the IMO's reasons for the decision; and
  - (g) if the IMO decides to make Amending Rules arising from the Rule Change Proposal:
    - i. the wording of the Amending Rules; and
    - ii. the proposed date and time that the Amending Rules will commence.
- 2.8.1. A Rule Participant may apply to the Electricity Review Board for a Procedural Review of a decision by the IMO contemplated by clause ~~2.5.6(c), 2.5.9, 2.6.4(f) or 2.7.8(e)~~ 2.6.3A(a) or 2.7.7A(a) within ~~10 Business Days~~ the time specified in regulation 44 of the WEM Regulations of the relevant decision, on the grounds that the IMO has not followed the rule change process set out in clauses 2.5, 2.6 and 2.7.
- 2.8.3. The IMO must submit a Rule Change Proposal, together with the Final Rule Change Report, to the Minister for approval where Amending Rules in the Final Rule Change Report ~~under clause 2.6.4 or 2.7.8~~ amend or replace a Protected Provision, or, in the IMO's opinion, would have the effect of changing the meaning or effect of one or more Protected Provisions.
- 2.8.11. Amending Rules are made:
- (a) for Rule Change Proposals to which clause 2.8.3 applies, when the Minister has either approved, or is taken by clause 2.8.8 to have approved, the Amending Rules; and



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- (b) for Rule Change Proposals to which clause 2.8.3 does not apply, when the IMO has decided to make the Amending Rules as notified under clause ~~2.6.4(f) or clause 2.7.8(e)~~ 2.6.3A(b) or clause 2.7.7A(b).
- 2.10.2A. ~~Where the IMO or System Management has decided not to amend or replace a Market Procedure following a notification under clause 2.10.2, the IMO or System Management, as applicable, must publish reasons for that decision on the Market Web Site. Within 20 Business Days of receipt of a notification under clause 2.10.2, the IMO or System Management, as applicable, must:~~
- (a) determine whether an amendment to or replacement of a Market Procedure is appropriate; and
- (b) publish on the Market Web Site details of whether a Procedure Change Proposal will be progressed with respect to the suggested amendment to or replacement of a Market Procedure and the reasons for that decision.
- 2.11.1. A Rule Participant may apply to the Electricity Review Board for a Procedural Review of a decision by the IMO or System Management contemplated by clause 2.10.2A(a), 2.10.13 or 2.10.14 ~~within 40 Business Days~~ the time specified in regulation 44 of the WEM Regulations ~~of the decision~~, on the grounds that the IMO or System Management has not followed the process set out in clause 2.10 or the Administration Procedure.
- 2.17.1. Decisions by the IMO or System Management, as applicable, made under the following clauses are Reviewable Decisions:
- (a) clause 2.3.8;
  - (b) clauses ~~2.5.6(c) and 2.5.9;~~
  - (c) clause ~~2.6.4(f), 2.6.3A(a);~~
  - (d) clause ~~2.7.8(e) 2.7.7A(a);~~
  - (e) clause 2.10.2A(a);
  - (f) clause 2.10.13;
  - (g) clause 2.10.14;
  - (h) clause 2.13.28;
  - (i) clause 2.28.16;
  - (j) clauses 2.30.4 and 2.30.8;
  - (k) clause 2.31.10;
  - (l) clause 2.32.7E(b);



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- (m) clause 2.34.7;
- (n) clause 2.34.7A(b)(ii);
- (o) clause 2.34.7C(c);
- (p) clause 2.34.11;
- (q) clauses 2.37.1 to 2.37.3;
- (r) clause 4.9.9;
- (s) clause 4.15.1;
- (sA) clause 4.20.11;
- (t) clause 4.27.7;
- (u) clause 4.28.7;
- (v) clause 7A.1.11; and
- (w) clause 10.2.1.

2.17.2. Decisions by the IMO or System Management, as applicable, made under the following clauses may be subject to a Procedural Review:

- (a) clauses 2.5.6(c), 2.5.9, ~~2.6.4(f) and 2.7.8(e)~~ 2.6.3A(a) and 2.7.7A(a); and
- (b) clauses 2.10.2A(a), 2.10.13, and 2.10.14.

6.6.3A. For the purpose of ~~Regulation 37(a) of the Electricity Industry (Wholesale Electricity Market) WEM Regulations 2004~~, where a civil penalty is imposed for a contravention of clause 6.6.3, the civil penalty amount should be distributed amongst all Market Customers in proportion to their Market Fees calculated over the previous full 12 months, or part thereof if Market Commencement was less than 12 months prior to the date the civil penalty is received.

7A.2.19. For the purpose of regulation 37(a) of the ~~WEM Electricity Industry (Wholesale Electricity Market) Regulations 2004~~, where a civil penalty is imposed for a contravention of clauses 7A.2.8, 7A.2.9, 7A.2.13 or 7A.2.17 the civil penalty amount should be distributed amongst all Market Participants in proportion to their Market Fees calculated over the previous full 12 months, or part thereof if the Balancing Market Commencement Day was less than 12 months, prior to the date the civil penalty is received.

7B.2.17. For the purpose of regulation 37(a) of the ~~WEM Electricity Industry (Wholesale Electricity Market) Regulations 2004~~, where a civil penalty is imposed for a contravention of clauses 7B.2.10, 7B.2.11 or 7B.2.15, the civil penalty amount must be distributed amongst all Market Participants in proportion to their Market



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Fees calculated over the previous full 12 months, or part thereof if the Balancing Market Commencement Day was less than 12 months, prior to the date the civil penalty is received.

## Glossary

**Draft Rule Change Report:** The draft report described in clause 2.7.7 and published by the IMO under clause 2.7.6(a) ~~by the IMO~~ in relation to a Rule Change Proposal.

**Final Rule Change Report:** In respect of a Rule Change Proposal to which the Fast Track Rule Change Process applies, the report described in clause 2.6.4 and published by the IMO in accordance with clause ~~2.6.4~~ 2.6.3A(b). In respect of a Rule Change Proposal to which the Standard Rule Change Process applies, the report described in clause 2.7.8 and published by the IMO in accordance with clause ~~2.7.8~~ 2.7.7A(b).

**IMO Regulations:** Means the Electricity Industry (Independent Market Operator) Regulations 2004.

**Regulations:** Any regulations made under the Electricity Industry Act 2004 (WA) including the IMO Regulations and the WEM Regulations, ~~but excluding the Electricity Industry (Wholesale Electricity Market) Regulations 2004 (WA)~~.

**WEM Regulations:** Means the Electricity Industry (Wholesale Electricity Market) Regulations 2004.

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