



INDEPENDENT  
MARKET  
OPERATOR

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# Final Rule Change Report

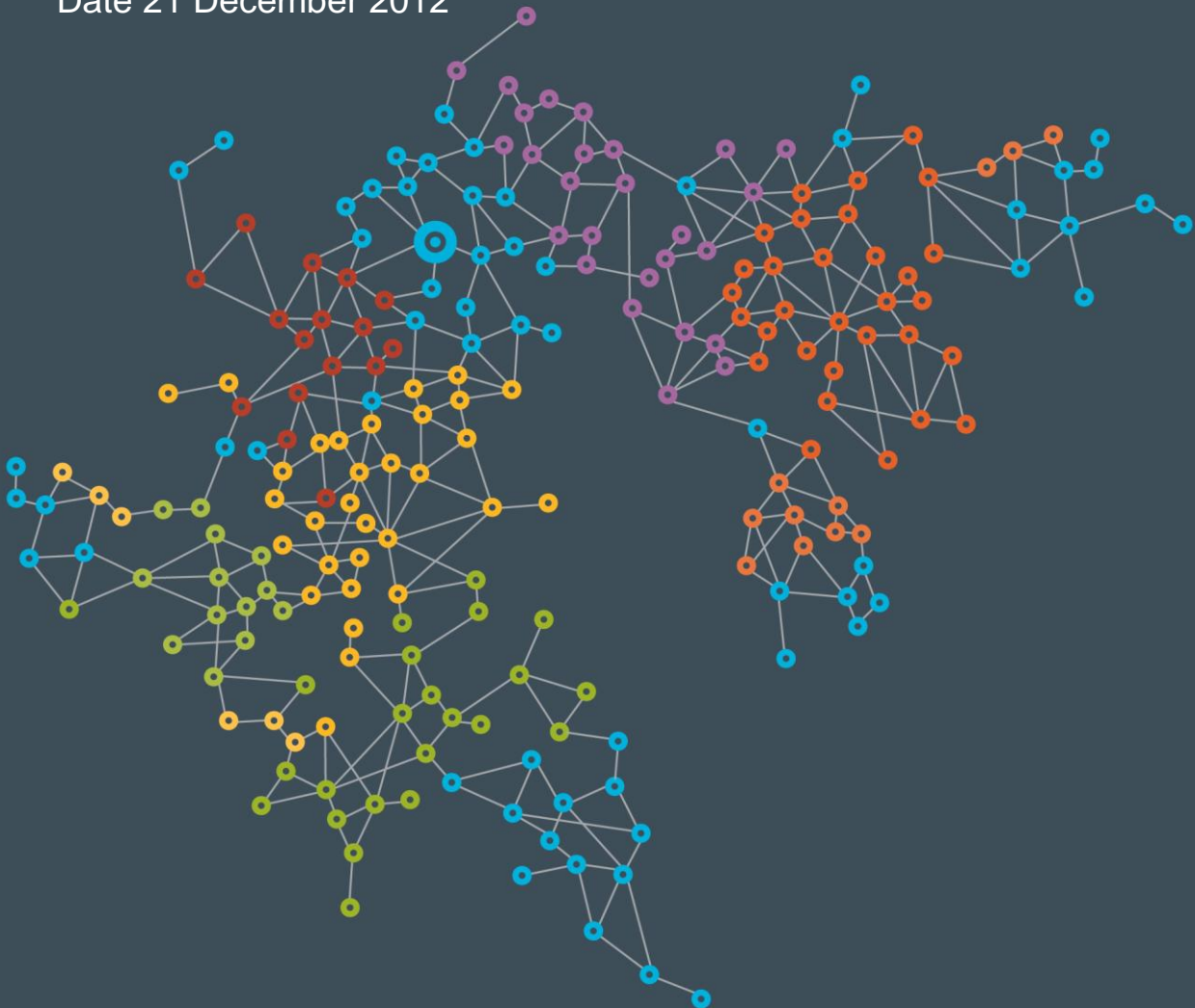
## Title: Clarification of Reviewable Decisions and Definition of Regulations

RC\_2012\_06

Fast Track Rule Change Process

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Date 21 December 2012



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## Executive Summary

### ***Proposed Amendments***

The IMO's Rule Change Proposal seeks to:

- amend clause 2.10.2A of the Market Rules, to provide an explicit reference to the making of a decision on whether to progress a Procedure Change Proposal following a suggestion from a Rule Participant, so that these decisions can be made subject to Procedural Review under the Electricity Industry (Wholesale Electricity Market) Regulations 2004 (WEM Regulations);
- make decisions by the IMO on whether to progress a Rule Change Proposal (published under clause 2.5.7(e)) subject to Procedural Review;
- amend the time limit specified in clauses 2.8.1 and 2.11.1 for a Rule Participant to apply for a Procedural Review to align with the 28 day limit prescribed in the WEM Regulations; and
- correct a number of erroneous or ambiguous references in the Market Rules to regulations made under the Electricity Industry Act 2004.

### ***Consultation***

The proposal was discussed at the Market Advisory Committee meetings on 11 July 2012 and 8 August 2012. MAC members supported the progression of the proposal using the Fast Track Rule Change Process.

The Rule Change Proposal was submitted on 7 November 2012. During the consultation period the IMO determined that the issue identified with clause 2.10.2A also applied to three other proposed or existing Procedural Decisions. On 27 November 2012 the IMO extended the consultation period until 10 December 2012 and on 4 December 2012 it published an addendum to the Rule Change Notice proposing additional changes to the Amending Rules.

The IMO received submissions from Community Electricity, Perth Energy, System Management and Verve Energy. All submitting parties supported the Rule Change Proposal.

### ***Assessment against Wholesale Market Objectives***

The IMO considers that the proposed amendments will improve the integrity and clarity of the Market Rules and are consistent with the Wholesale Market Objectives.

### ***Practicality and Cost of Implementation***

The IMO has not identified any costs for the implementation of this Rule Change Proposal.

Changes will be required to the WEM Regulations, to provide for the introduction of the two new Procedural Decisions and to amend the clause references for two existing Procedural Decisions (final decisions on fast track and standard process Rule Change Proposals). The IMO considers that to ensure the alignment of the Market Rules and the WEM Regulations, and in particular to ensure that the IMO's decisions on Rule Change Proposals remain subject to Procedural Review, the proposed amendments should commence at the same time as the corresponding Amendment Regulations.

The IMO has not identified any other issues with the practicality of implementing this Rule Change Proposal.

### ***The IMO's Decision***

The IMO's decision is to accept the Rule Change Proposal as modified following the consultation process.

### ***Next steps***

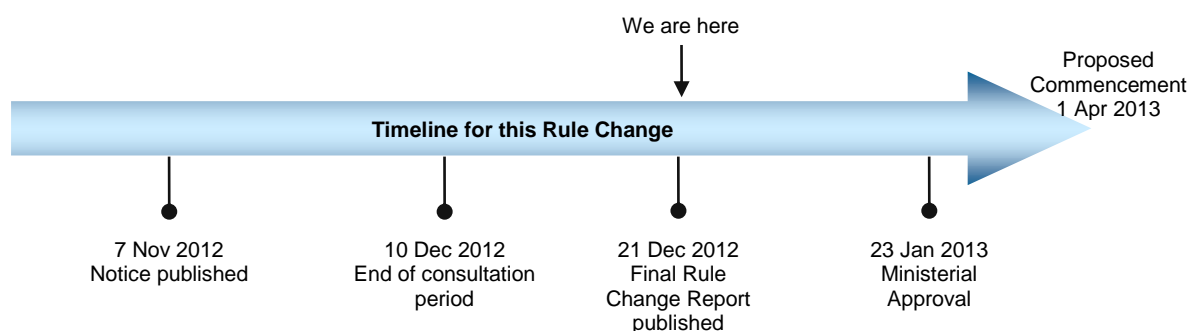
The Amending Rules will provisionally commence at **8.00 AM** on **1 April 2013**, consistent with the relevant changes to the WEM Regulations. The IMO may extend this commencement date if the amendments to the WEM Regulations are delayed.

## 1. Rule Change Process and Timetable

On 7 November 2012 the IMO submitted a Rule Change Proposal regarding amendments to numerous clauses of the Wholesale Electricity Market Rules (Market Rules).

This proposal is being processed using the Fast Track Rule Change Process, described in section 2.6 of the Market Rules. In accordance with clause 2.5.10 of the Market Rules, the IMO decided to extend the timeframes for the consultation period and the preparation of the Final Rule Change Report. Further details of the extensions are available on the Market Web Site.

The key dates in processing this Rule Change Proposal, as amended in the Extension Notices, are:



All documents related to this Rule Change Proposal can be found on the Market Web Site: [http://www.imowa.com.au/RC\\_2012\\_06](http://www.imowa.com.au/RC_2012_06).

## 2. Proposed Amendments

### 2.1. The Rule Change Proposal

The IMO's Rule Change Proposal sought to address a number of issues relating to Reviewable Decisions and provide greater clarity to the definition and referencing of the Regulations in the Market Rules.

#### Issue 1: Reviewable Decisions relating to clause 2.10.2A

The Amending Rules for the Rule Change Proposal: Competitive Balancing and Load Following Market (RC\_2011\_10) created a requirement for the IMO or System Management, as applicable, to publish details of its decision where it determines not to progress a Procedure Change Proposal following a suggestion from a Rule Participant. The IMO proposed that clause 2.10.2A be made a Reviewable Decision under the Electricity Industry (Wholesale Electricity Market) Regulations 2004 (WEM Regulations).

During the regulatory change process for RC\_2011\_10 the Public Utilities Office (PUO) indicated that it would not be possible to make new clause 2.10.2A a Reviewable Decision, because as currently drafted clause 2.10.2A does not explicitly require a decision to be made by the IMO or System Management. Without the embedded requirement of a decision being made, the PUO suggested it would be inappropriate to make this clause a Reviewable Decision under the WEM Regulations. Based on the advice of the PUO the IMO did not pursue a change to the Regulations

to include clause 2.10.2A as a Reviewable Decision as part of the regulatory process for RC\_2011\_10, but decided to clarify, at a later date, the drafting of clause 2.10.2A through a separate rule change process and separately request regulatory amendments that would allow clause 2.10.2A to become a Reviewable Decision.

### Proposal

The IMO proposed to amend clause 2.10.2A so that it expressly refers to the decision to be made by the IMO or System Management, as applicable, on whether to progress an amendment to or replacement of a Market Procedure following receipt of a suggestion under clause 2.10.2. The IMO also sought to clarify the timeframe for the making of these decisions. Furthermore the IMO proposed to update clause 2.17.1 (which lists Reviewable Decisions) and clause 2.17.2 (which lists decisions subject to Procedural Review) to allow decisions on whether to progress a Procedure Change Proposal and (for consistency) a Rule Change Proposal to be Reviewable Decisions subject to Procedural Review (Procedural Decisions).

### Issue 2: Timelines for Procedural Reviews

Clauses 2.8.1 and 2.11.1 provide that Rule Participants may apply for a Procedural Review within 10 Business Days of the relevant decision. This is inconsistent with the 28 day timeframe currently stipulated in regulation 44 of the WEM Regulations.

### Proposal

The IMO proposed to amend the timeframe for applying for a Procedural Review specified in clauses 2.8.1 and 2.11.1 to reflect the relevant timelines prescribed in the WEM Regulations. This would ensure consistency between the WEM Regulations and the Market Rules.

### Issue 3: Definition of Regulations

The Amending Rules resulting from RC\_2011\_10 incorrectly and unintentionally amended the definition of Regulations to exclude the Electricity Industry (Wholesale Electricity Market) Regulations 2004 rather than the Electricity Industry (Wholesale Market) Regulations 2004 (which provided pre-market top-up and spill wholesale arrangements and was later repealed).

### Proposal

The IMO proposed to amend the definition of Regulations to correct this error and to ensure that when referring to the Regulations in the Market Rules, all those Regulations that have been created under the Electricity Industry Act 2004 (Act) are referenced as appropriate.

### Issue 4: Specific terms for the Regulations

The IMO identified several references to the Regulations in the Market Rules where it is unclear as to which of the Regulations created under the Act the relevant clause refers.

### Proposal

The IMO proposed to introduce defined terms for the WEM Regulations and the Electricity Industry (Independent Market Operator) Regulations 2004 (IMO Regulations) and to use these terms in the Market Rules to remove any ambiguity in references to Regulations.

## Issue 5: Reference to regulation 17(l) in clause 2.13

The IMO identified that the reference under clause 2.1.3 to regulation 17(l) was incorrect.

### Proposal

The IMO proposed to amend the reference to regulation 17(m) of the WEM Regulations.

For full details of the Rule Change Proposal please refer to the Market Web Site: [http://www.imowa.com.au/RC\\_2012\\_06](http://www.imowa.com.au/RC_2012_06).

## **2.2. The IMO's initial Assessment of the Proposal**

The IMO decided to progress the Rule Change Proposal to allow interested parties an opportunity to provide submissions as part of the rule change process.

The IMO decided to subject the Rule Change Proposal to the Fast Track Rule Change Process described in section 2.6 of the Market Rules, on the grounds that it satisfies the criteria in clauses 2.5.9(a) and (b) of the Market Rules.

Clause 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.*

In particular, the IMO considered that:

- Issue 1 is of a procedural nature as the proposed amendments will clarify the procedure to be followed by the IMO or System Management when a Rule Participant suggests an amendment or replacement of a Market Procedure and does not impact on the intended substantive effect of the clause;
- Issue 2 relates to a minor clarification to provide consistency between the WEM Regulations and the Market Rules, which does not affect the operation of the Market Rules (as the relevant timeframe specified in the WEM Regulations prevails under the current drafting);
- Issue 3 relates to the correction of a manifest error in the Market Rules;
- Issue 4 relates to a minor clarification to improve the transparency and integrity of the Market Rules; and
- Issue 5 relates to the correction of a manifest error in the Market Rules.

## 2.3. Addendum to the Rule Change Notice

During the consultation period and 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) were similar to clause 2.10.2A in that they all referred to the publication of the IMO's decisions, rather than to the decisions themselves. Clauses 2.6.4(f) and 2.7.8(e) refer to the IMO's final decisions on Rule Change Proposals processed using the fast track and standard rule change processes respectively. Both clauses are currently listed as Procedural Decisions in the Market Rules and WEM Regulations.

The IMO considered that in all four cases the clauses which are subject to Procedural Review should explicitly refer to the making of the relevant decisions. In light of this, the IMO published an addendum to the Rule Change Notice on 4 December 2012, proposing 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;
- amendment of clauses 2.17.1 and 2.17.2 to make the new clauses subject to Procedural Review (rather than clauses 2.5.7(e), 2.6.4(f) and 2.7.8(e)); and
- amendment of cross-references throughout the Market Rules to reflect these changes.

## 3. Consultation

### 3.1. The Market Advisory Committee

The Rule Change Proposal was discussed at the 11 July 2012 and 8 August 2012 Market Advisory Committee (MAC) meetings. An overview of the key points raised during the MAC discussions is given below:

#### *July 2012 MAC Meeting*

- Ms Fiona Edmonds provided MAC members with an overview of the IMO's proposed changes around clause 2.10.2A. Ms Edmonds noted that the IMO had prepared PRC\_2012\_06 to ensure that an explicit decision is made under clause 2.10.2A along with including timelines for making a decision to progress a Procedure Change Proposal and requiring details of the decision to be published on the Market Web Site. Ms Edmonds also noted that the IMO considered that decisions with respect to the progression of Rule Change Proposals should be similarly subject to Procedural Review and that the IMO would work with the PUO to progress any necessary amendments to the Regulations to reflect these suggested amendments.
- Ms Jacinda Papps noted that the Regulations allowed for 28 days to request a review of a Reviewable Decision, while the Market Rules only allow for 10 Business Days. Although the Regulations would prevail, Ms Papps suggested that the timings in the Market Rules be brought into alignment with the Regulations.

MAC members supported the formal submission of the proposal into the Fast Track Rule Change Process, subject to the IMO considering the days allowed for a Reviewable Decision.



### **August 2012 MAC Meeting**

- In response to a query from Mr Stephen MacLean, Ms Edmonds explained that the length of the period during which a review of a Reviewable Decision could requested was derived from the WEM Regulations (which stipulated 28 days), and that the IMO was going to refer to the timelines prescribed in the WEM Regulations in its drafting.

Full minutes of the meetings are available on the Market Web Site: <http://www.imowa.com.au/MAC>

### **3.2. Submissions received during the consultation period**

The Rule Change Proposal was submitted on 7 November 2012 and the consultation period was initially set between 8 November 2012 and 28 November 2012. The IMO published an Extension Notice on 27 November 2012 which extended the consultation period until 10 December 2012. In addition, the IMO published an addendum to the Rule Change Notice on 4 December 2012, proposing some additional changes to the Amending Rules.

System Management and Verve Energy provided submissions after requesting to be consulted on the Rule Change Proposal. Out of session submissions were received from Community Electricity and Perth Energy.

Community Electricity and Verve Energy supported the proposed changes, including those outlined in the addendum. Verve Energy however identified several additional issues for further consideration. Perth Energy and System Management supported the Rule Change Proposal but did not comment on the addendum, although System Management suggested a change to clause 2.5.7(e) to address the issue raised by the IMO in the addendum around this clause. Perth Energy sought an indication of the likely timetable for the proposed changes to the WEM Regulations.

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

<b>Submitter</b>	<b>Wholesale Market Objective Assessment</b>
Community Electricity	Is consistent with the Wholesale Market Objectives.
Perth Energy	Better achieves Wholesale Market Objective (a).
Verve Energy	Is consistent with the Wholesale Market Objectives.
System Management	Does not believe the amendments are inconsistent with the Wholesale Market Objectives.

A copy of all submissions in full received during the consultation period is available on the Market Web Site: [http://www.imowa.com.au/RC\\_2012\\_06](http://www.imowa.com.au/RC_2012_06).

### **3.3. The IMO's response to submissions received during the consultation period**

The IMO's responses to each of the issues identified during the consultation period are presented in Appendix 1 of this Final Rule Change Report.

### **3.4. Public Forums and Workshops**

No public forum or workshop was held in regard to this Rule Change Proposal.

## **4. The IMO's Final Assessment**

In preparing its Final 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 nor has it commissioned a technical review in respect of this Rule Change Proposal. A summary of the views expressed in submissions and by the MAC is available in section 3 of this Final Rule Change Report.

The IMO's assessment of the Rule Change Proposal (inclusive of the further amendments made following the public consultation period), is outlined in the following sub-sections.

### **4.1. Additional Amendments to the Amending Rules**

Following the public consultation period, the IMO made some additional changes to the proposed Amending Rules to:

- incorporate the changes proposed in the addendum to the Rule Change Notice (refer to Appendix 2 for details); and
- add definitions of the terms “Procedural Decision” and “Procedural Review” to the Glossary (refer to Appendix 3 for details).

### **4.2. Wholesale Market Objectives**

The IMO considers that the Market Rules as a whole, if amended as presented in section 6.2 of this Final Rule Change Report, will be consistent with the Wholesale Market Objectives and will improve the overall integrity of the Market Rules.

### **4.3. Practicality and Cost of Implementation**

#### **4.3.1. Cost:**

The IMO has not identified any costs for the implementation of this Rule Change Proposal.

### 4.3.2. Practicality:

Changes will be required to the WEM Regulations, to provide for the introduction of the two new Procedural Decisions and to amend the clause references for two existing Procedural Decisions (final decisions on fast track and standard process Rule Change Proposals). The IMO considers that to ensure the alignment of the Market Rules and the WEM Regulations, and in particular to ensure that the IMO's decisions on Rule Change Proposals remain subject to Procedural Review, the proposed amendments should commence at the same time as the Amending Regulations.

System Management envisages it will require one month after the Amending Rules are made<sup>1</sup> to amend internal processes necessary to implement the Rule Change Proposal. This period is consistent with the proposed commencement date and so poses no practicality issue.

## 5. The IMO's Final Decision

Based on the matters set out in this report, the IMO's final decision is to accept the Rule Change Proposal as modified following the consultation period.

### 5.1. Reasons for the IMO's Decision

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

- will allow decisions on whether to progress Procedure Change Proposals and Rule Change Proposals to be made subject to Procedural Review;
- will improve the integrity and clarity of the Market Rules;
- are consistent with the Wholesale Market Objectives;
- have the support of the MAC; and
- have the support of all submissions received during the consultation period.

Additional detail outlining the analysis behind the IMO's decision is available in section 4 of this Final Rule Change Report.

## 6. Amending Rules

### 6.1. Commencement

The amendments to the Market Rules resulting from this Rule Change Proposal will provisionally commence at **8.00 AM on 1 April 2013**, consistent with the relevant changes to the WEM Regulations. The IMO may extend this commencement date if the amendments to the WEM Regulations are delayed.

### 6.2. Amending Rules

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

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<sup>1</sup> System Management referred to the commencement of the Rule Change Proposal in its submission but has confirmed with the IMO that the timeframe relates to the date the Amending Rules are made.

- 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(~~4m~~) 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.
- 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:

- (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
  - (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);
  - (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 ~~R~~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 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.

**Procedural Decision:** Has the meaning given in regulation 41(1) of the WEM Regulations.

**Procedural Review:** Means a review by the Electricity Review Board of a Procedural Decision in accordance with the WEM Regulations.



**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.

## Appendix 1. Responses to submissions received during the consultation period

	Submitter	Comment/Change requested	IMO Response
1	Perth Energy	Perth Energy notes that it will be necessary to amend the Regulations for the proposed amendments to take effect. It is recommended that the necessary amendments to the Regulations by the IMO and the PUO occur as soon as possible. Perth Energy questions whether the IMO or the PUO are able to give some indication on the likely timetable to complete the necessary amendments to the Regulations.	A commencement date of 1 April 2013 is proposed for both the Amending Rules and the corresponding changes to the WEM Regulations.
2	Verve Energy	Verve Energy notes that there are a number of other Reviewable Decision clauses in the Market Rules that either do not contain explicit decisions, or where the actual decision is unclear. Verve Energy recommends that the IMO undertake a review of all Reviewable Decision clauses to ensure that the same principle is applied across the entire rule book.	The IMO notes Verve Energy's suggestion.
3	Verve Energy	The proposed timeframe of 20 Business Days for the IMO or System Management to assess whether to progress a Procedure Change Proposal is too long. Verve Energy suggests that the IMO consider amending the proposed timeframe in clause 2.10.2A to five Business Days (with the ability to request clarification should it be required), similar	The IMO notes Verve Energy's suggestion but considers that the proposed 20 Business Day timeframe is appropriate. A direct comparison with the five Business Day timeframe for decisions on Rule Change Proposals ignores the extent of the scrutiny typically applied to a Rule Change Proposal before its formal submission into the rule change process, including discussion at the MAC of a Pre Rule Change Proposal.  The IMO also notes that the 20 Business Day timeframe will not prevent the IMO or System Management from making a decision

	Submitter	Comment/Change requested	IMO Response
		to the timeframes for the consideration of whether to progress a Rule Change Proposal.	more quickly where this is feasible, as is the current practice of the IMO in relation to decisions on the progression of Rule Change Proposals.
4	Verve Energy	Verve Energy considers there should be a mandated timeframe in which the IMO or System Management should prepare a Procedure Change Proposal following a decision to proceed under proposed clause 2.10.2A (for example, 20 to 30 Business Days).	The IMO notes Verve Energy's suggestion.
5	Verve Energy	Verve Energy suggests that the IMO consider adding an additional obligation to the publication requirements under proposed clause 2.10.2A for the IMO to publish the timeframe for the Procedure Change Process (should the decision be to progress a Procedure Change Proposal).	The IMO notes Verve Energy's suggestion.
6	Verve Energy	Verve Energy suggests that the IMO consider amending clause 2.10.17 to allow for the timeframe for the IMO or System Management to prepare a Procedure Change Proposal, following a decision under proposed clause 2.10.2A to be extended.	The IMO notes Verve Energy's suggestion.
7	Verve Energy	Verve Energy would like clarification of the decision making framework that the IMO or System Management would apply when deciding whether or not to proceed with a Procedure Change Proposal following a Rule Participant's request.	The IMO expects the usual practice for these decisions by the IMO or System Management (as applicable) will include undertaking a preliminary assessment of whether the suggested change benefits (or is at least consistent with) the Wholesale Market Objectives and would be consistent with the Market Rules, the Act and the Regulations. It is expected these decisions would also take into consideration any recommendations or opinions that may have been

	Submitter	Comment/Change requested	IMO Response
			<p>provided by the MAC or its subordinate Working Groups in the course of any prior discussions of a suggested change.</p> <p>Further, where the IMO or System Management decide to progress an amendment to or replacement of a Market Procedure following a Rule Participant notification, it is expected the usual practice in deciding the timing for the development and progression of a Procedure Change Proposal will take into consideration its relative priority.</p>
8	Verve Energy	While out of scope for this Rule Change Proposal, Verve Energy suggests that the IMO consider a review of the entire Procedure Change Process. Areas that the IMO could review include the inclusion of timeframes for updates to Market Procedures to comply with an Amending Rule, the inclusion of a timeframe to prepare a Procedure Change Report and amendments to allow a Rule Participant to request the development of a new Market Procedure.	The IMO notes Verve Energy's suggestions.
9	Verve Energy	Verve Energy notes that clause 2.8.1 contains a capitalised term "Procedural Review" which is currently not contained in the glossary.	The IMO acknowledges the discrepancy and as part of the proposed amendments has introduced definitions of "Procedural Review" and "Procedural Decision" into the Glossary of the Market Rules.
10	System Management	System Management suggests that the words "the IMO's decision" be added to the beginning of clause 2.5.7(e) in order to remove any argument that the decision administered under this clause is the IMO's decision whether to progress the Rule Change Proposal and not the form of, or the IMO's decisions to publish, the	The IMO acknowledges System Management's recommendation and notes that the issue was also identified in the Extension Notice published on 27 November 2012. The IMO considers that the additional amendments outlined in the addendum published on 4 December 2012 should address System Management's concern.

	Submitter	Comment/Change requested	IMO Response
		notice referred to in clause 2.5.7.	

## Appendix 2. Additional Amendments proposed in the addendum to the Rule Change Notice

The IMO proposed additional amendments to the Amending Rules in an addendum to the Rule Change Notice published on 4 December 2012. These changes are as follows (~~deleted text~~, added text):

- 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.
- ~~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:

- (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 ~~2.5.7(e)~~ 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 the time specified in regulation 44 of the WEM Regulations, 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
- (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).

2.17.1. Decisions by the IMO or System Management, as applicable, made under the following clauses are Reviewable Decisions:

- (a) clause 2.3.8;
- (b) clauses ~~2.5.7(e)~~ 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);
- (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;
- (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 2.5.7(e), 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.

## 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).

## Appendix 3. Further Amendments to the Proposed Amending Rules

The IMO has made some further amendments to the Amending Rules following the consultation period. These changes are as follows (~~deleted text~~, added text):

### Glossary

**Procedural Decision:** Has the meaning given in regulation 41(1) of the WEM Regulations.

**Procedural Review:** Means a review by the Electricity Review Board of a Procedural Decision in accordance with the WEM Regulations.