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## Wholesale Electricity Market Rule Change Proposal Submission Form

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

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#### Submitted by

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#### Submission

- Please provide your views on the proposal, including any objections or suggested revisions.**

#### Background

The Market Rules contain provisions to amend the Market Rules and the Market Procedures. The amendment provisions provide descriptive detail with regard to consultation with industry and interested parties, timelines for consultations and decisions and requirements for publishing consultation documents and reasons for decisions by the Independent Market Operator (IMO) and System Management.

The Market Rules and Regulations made under the Electricity Industry Act 2004 (WA) (the Act) also provide for the Minister or the Electricity Review Board to review some decisions made by the IMO and System Management.

There are currently two distinct set of regulations flowing from the Act that has relevance for the Wholesale Electricity Market (WEM). These are the "Electricity Industry (Independent Market Operator) Regulations 2004" and the "Electricity Industry (Wholesale Electricity Market) Regulations 2004". Currently no distinction is made between these regulations in the Market Rules and all regulations made under the Act are referred to as "Regulations".

## Issues

The IMO has identified a number of issues relating to the interaction between the Market Rules and Regulations made under the Act as follows:

### *Issue 1*

Market Rule 2.10.2A requires the IMO or System Management to publish its reasons for deciding not to amend a Market Procedure following a request by a Market Participant to make an amendment. During consultation on the recently introduced rule change RC 2011 10 “Competitive Balancing and Load Following” market participants expressed a desire to allow for an independent review of the IMO’s and System Management’s decisions not to proceed with a proposed Procedure Change Proposal.

The Public Utilities Office (PUO) has advised the IMO that the current wording of 2.10.2A is not clearly indicating a requirement for the IMO or System Management to make a decision. An unambiguous reference to a requirement for a decision by the IMO or System Management is required for the PUO to draft necessary amendments to Regulations to allow those decisions to be reviewable.

Currently, the market rule change process does not specifically allow external review of any decision by the IMO to not proceed with a proposed market rule change. If such a potential for external review were to be introduced for proposed market procedures there would be an inconsistency in the treatment of market procedure proposals and market rule change proposals.

### *Issue 2*

There is an inconsistency between the Market Rules and the Regulations relating to the time allowed for parties to submit an application for a procedural review of the market rule change process or the market procedure change process (clauses 2.8.1 and 2.11.1 respectively). The Market Rules stipulate the time period as 10 Business Days following a decision, whereas the Regulations stipulate 28 days.

### *Issue 3*

The definition of “Regulations” currently erroneously refers to the “Electricity Industry (Wholesale **Electricity** Market) Regulations 2004 (WA)” (emphasis added). The Electricity Industry (Wholesale Market) Regulations 2004 (WA) relate to the previous Top Up and Spill market and the regulations have been repealed.

### *Issue 4*

The Market Rules do not make any distinction between the “Electricity Industry (Independent Market Operator) Regulations 2004” and the “Electricity Industry (Wholesale Electricity Market) Regulations 2004” but refer to both as “Regulations”.

### *Issue 5*

Clause 2.1.3 incorrectly refers to clause 17(l) of the Regulations, which should be a reference to clause 17(m) of the WEM Regulations.

## Change Proposal

The IMO submitted Rule Change Proposal 2012 06 “Clarification of Reviewable Decisions and Definition of Regulations” on 2 October 2012 on 7 November 2012. The IMO proposed the following solutions to the issues listed above in its Rule Change Proposal.

### *Issue 1*

The IMO has proposed to amend clause 2.10.2A to make it clear that the IMO or System Management is required to make a decision in relation to whether or not to go ahead with a proposed market procedure change.

To address the potential inconsistency that may arise between the market rule change process and the market procedure change process, the IMO has also proposed to include clause 2.5.7(e) on the list of reviewable decisions. Clause 2.5.7(e) relates to the IMO making a decision on whether to progress a proposed market rule change to the consultation stage.

The IMO will also work closely with the Public Utilities Office (PUO) to develop the necessary amendments to Regulations to allow the Electricity Review Board to review decisions not to proceed with proposed market procedure changes and market rule changes.

### *Issue 2*

The IMO has proposed to amend clauses 2.8.1 and 2.11.1 of the Market Rules to reflect the 28 day period in the Regulations.

### *Issue 3*

The IMO has proposed to remove the reference to the regulations relating to the Top Up and Spill Market altogether by amending the definition of “Regulations” in the Market Rules.

### *Issue 4*

The IMO has proposed to amend the Market Rules to allow for a distinction between the “Electricity Industry (Independent Market Operator) Regulations 2004” and the “Electricity Industry (Wholesale Electricity Market) Regulations 2004”. The IMO has proposed to refer to the former as the “IMO Regulations” and the latter as the “WEM Regulations”. Any reference to “Regulations” will continue to imply any regulations made under the Act, and will therefore include both the IMO Regulations and the WEM Regulations.

### *Issue 5*

The IMO has proposed to amend clause 2.1.3 so it refers to clause 17(m) of the WEM Regulations.

The Rule Change Proposal is being progressed using the Fast Track process as the changes are required to correct manifest errors (issues 3 and 5) or are of a minor / procedural nature (issues 1, 2 and 4).

## Perth Energy's Views

Perth Energy supports the proposed changes to the Market Rules.

Perth Energy considers issue 1 to be the most important to address of the issues raised in the Rule Change Proposal. The trend lately has been to move more of the important detail from the Market Rules into Market Procedure documents. It is therefore important that amendments to the Market Procedures are subject to a rigorous consultation process with industry on par with the process that applies to proposed changes to the Market Rules. Having recourse to an independent review of a decision to not proceed with a proposed Market Procedure change is important. In Perth Energy's view this change would in itself provide strong incentives on the IMO and System Management to ensure their decisions not to proceed with a proposed Market Procedure change are properly assessed and that adequate reasons are given for their decisions. A decision to not proceed is effectively a decision to reject the proposal early in the process.

For the same reasons, Perth Energy also welcomes the change to ensure that a decision to not take a Market Rule Change proposal further in the process can be challenged and referred to the Electricity Review Board for further consideration.

Perth Energy notes that it will also be necessary to amend Regulations for the proposed changes to take effect. We would welcome development of the necessary amendments to the Regulations by the IMO and the PUO as soon as possible. Perth Energy queries whether the IMO or PUO is able to give any indication on the likely timetable to complete the necessary amendments to the Regulations?

With respect to issues 2 – 5 we consider them to all be minor and support the amendments to ensure the Market Rules are as clear and consistent as possible.

Perth Energy agrees with the IMO's assessment that this Rule Change Proposal should be subject to the Fast Track process.

## **2. Please provide an assessment whether the change will better facilitate the achievement of the Market Objectives.**

Perth Energy considers that the proposed changes to the Market Rules would improve on the ability to achieve Market Objective (a)<sup>1</sup> relating to efficiency in the market place. The proposed change would in Perth Energy's view increase the level of transparency in the market by ensuring that these decisions are potentially subject to independent review. Perth

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<sup>1</sup> The objectives of the market are:

- (a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system;
- (b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors;
- (c) to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions;
- (d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used.

Energy also believes another effect of the proposed changes would be that the IMO and System Management will be further incentivised to provide reasons for their decisions and linking these reasons back to the Market Objectives.

Perth Energy considers the proposed changes in relation to items 2 – 5 will also help clarify the Market Rules and thereby increase the level of transparency in the Market Rules and therefore also contribute to better achieving Market Objective (a).

Perth Energy has not identified any impacts on the other Market Objectives.

**3. Please indicate if the proposed change will have any implications for your organisation (for example changes to your IT or business systems) and any costs involved in implementing these changes.**

Perth Energy has not identified any impacts to our business.

**4. Please indicate the time required for your organisation to implement the change, should it be accepted as proposed.**

Perth Energy will not require any lead time to implement the proposed changes.