



INDEPENDENT
MARKET
OPERATOR

Wholesale Electricity Market Submission to Rule Change Proposal

RC_2012_07

Loss Factor Determination

(Submission in response to proposed amendment to civil penalty provision 2.27)

Submitted by

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Date submitted:	30 April 2013

Submission

Submissions for Rule Changes should be submitted to:

Independent Market Operator

Attn: Group Manager, Market Development

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

System Management supports the preliminary view of the Public Utilities Office that it is no longer appropriate for the proposed amended MR 2.27 to be a Category A Civil Penalty Provision.



System Management understands the reason for why the existing MR 2.27.1 is a civil penalty provision. Clearly, the calculations of the Loss Factors for each connection point are important calculations and there must be some incentive for Network Operators to make such calculations. However, in System Management's view, while a penalty provision may be appropriate for a private Network Operator, it is wholly inappropriate for a publicly owned Network Operator to be subject to such a regime (let alone an expanded one).

Although System Management makes this submission in respect of MR 2.27.1, which affects Western Power and not System Management, System Management thinks the general principle is an important one and one which has broader implications. System Management would not support penalties for any publicly owned participant, especially governance participants (such as the IMO and System Management). Its reasons are set out below.

Western Power is established pursuant to the *Electricity Corporations Act 2005*. Its principal functions are set out in section 41 of that Act. In particular, section 41(c) states that a function of Western Power is:

"to do anything that it is authorised or required to do by the Electricity Industry Act 2004 Part 9 (which relates to the wholesale electricity market) and regulations and market rules made under that Part".

Although Western Power must act in accordance with prudent commercial principles and endeavour to make a profit (section 61(1)) this obligation does not apply in respect of Western Power's functions under section 41(c) of the Act. In this respect, Western Power is not participating in the market as a commercial enterprise. This is an important distinction as it means Western Power's incentives will be different to those of a private Network Operator. In fact, Western Power does not have any incentive to fail to perform tasks under the Market Rules. While it is possible for Western Power to contravene a Market Rule any such contravention (if it occurs) would be in good faith and due to inadvertent oversight. Western Power has no incentive to game the market or otherwise act in contravention of the Market Rules.

There are also other mechanisms to influence or outright direct Western Power's conduct. In particular, Western Power is subject to Ministerial direction under the *Electricity Corporations Act 2005*.

These incentives and control mechanisms do not exist in respect of private Network Operators.

The fact that MR 2.27 is a Category A Civil Penalty Provision means that the IMO has discretion to levy a penalty notice in accordance with the regulations. If Western Power is not satisfied with that penalty notice then the recourse available to it is to seek a review of the decision by the Electricity Review Board. This raises the unappealing prospect of two government owned participants arguing before a public board as to the merits or otherwise of the civil penalty provision. System Management considers that this has the potential to undermine confidence in the governance of the market.

Finally, System Management does believe there is efficiency in levying a penalty on Western Power as, ultimately, it will be paid by Government (via Western Power's revenues).

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

System Management believes the application of the Public Utilities Office preliminary view, that it may no longer be appropriate to apply Category A Civil Penalties to section 2.27, promotes the achievement of the 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.

There are no process or system changes for System Management.

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

If the Public Utilities Office preliminary view is adopted no changes will be required by the proposed change, and can be implemented immediately.
