

---

---

## Wholesale Electricity Market Rule Change Proposal Submission Form

### RC\_2012\_12 Updates to Commissioning Test Plans

---

---

#### Submitted by

<b>Name:</b>	Jacinda Papps
<b>Phone:</b>	(08) 9424 1917
<b>Fax:</b>	(08) 9424 1818
<b>Email:</b>	<a href="mailto:Jacinda.papps@verveenergy.com.au">Jacinda.papps@verveenergy.com.au</a>
<b>Organisation:</b>	Verve Energy
<b>Address:</b>	GPO Box F366, Perth WA 6841
<b>Date submitted:</b>	18 October 2012

---

---

#### Submission

---

---

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

Verve Energy generally supports the Rule Change Proposal as modified by the Independent Market Operator (IMO) following the first submission period and presented in the Draft Rule Change Report.

Specifically, Verve Energy considers that the proposal allows for a more efficient and flexible process which is more aligned with the operational and technical realities of commissioning. Additionally, Verve Energy considers that the proposal removes unnecessary costs (application of Civil Penalties and costs arising from unnecessary time delays) from the Commissioning Test process.

Verve Energy agrees with the IMO's decision to not implement the suggestion that commissioning Facilities should also be on a Planned Outage. Verve Energy agrees with the IMO that this suggestion would distort Balancing Market outcomes due to the differential treatment of outages and commissioning when preparing Balancing Submissions. Additionally, Verve Energy considers that this suggestion would artificially inflate Planned Outage rates, which are used in the decision making process for certification of Reserve Capacity. Verve Energy notes that there are probably other aspects of the Market design that would be distorted had this suggestion be adopted.

In reviewing the Draft Rule Change Report, Verve Energy has identified the following issues for further consideration by the IMO.

### **Addition of new clause 3.21A.5A**

In its Draft Rule Change Report, the IMO included new clause 3.21A.5A, to ensure that the Commissioning Test process is not being inappropriately used by Market Generators to avoid Capacity Cost Refunds, and that if it were to be the case, such behaviour would be considered to be in breach of the “good faith” clause in the Market Rules (clause 3.21A.5).

In its Draft Rule Change Report the IMO noted that legally, an alleged breach of clause 3.21A.5 (the good faith clause) would be easier to prove than an alleged breach of the new clause 3.21A.5A. As such, the IMO noted that it will work with the Public Utilities Office to determine whether it is appropriate to allow the IMO to seek Category C Civil Penalties for breaches of the current clause 3.21A.5 (and therefore by inference for breaches of the new clause 3.21A.5A).

Verve Energy considers that the addition of clause 3.21A.5A in the proposed Amending Rules is unnecessary detail and is the type of prescriptive detail that the IMO should be seeking to avoid in its drafting. Additionally, Verve Energy considers that it is inappropriate to list just one example of what would be considered to be a breach of a good faith provision.

### **Should Category C Civil Penalties apply to clause 3.21A.5?**

Following the release of the Draft Rule Change Report, the IMO issued an addendum to that report specifically seeking the views of interested stakeholders on the issue of whether Category C Civil Penalties should apply to clause 3.21A.5.

Verve Energy notes that there are a number of other “good faith” clauses in the Market Rules which have Category C Civil Penalties associated with them, for example:

- Outage plans (clause 3.18.7);
- Balancing Submissions (clause 7A.2.13); and
- LFAS Submissions (clause 7B.2.11).

For consistency with other clauses in the Market Rules Verve Energy considers that it seems appropriate that the IMO seeks to amend the Regulations so that Category C Civil Penalties apply to breaches of clause 3.21A.5 of the Market Rules.

### **Proposed commencement date**

The addendum to the Draft Rule Change Report released by the IMO indicates that if Civil Penalties are attached to clause 3.21A.5 the timing of the required changes to the Electricity Industry (Wholesale Electricity Market) Regulations 2004 would occur at the same time as the currently proposed commencement date of 1 March 2013. The IMO also noted that this timeline is subject to any timing restrictions arising from a caretaker government period.

Verve Energy does not support delaying the commencement of the Rule Change Proposal to wait for other regulatory amendments to be made (particularly when there is no certainty around when these other regulatory amendments might be made). Verve Energy considers that the current commissioning test process is inflexible and largely unworkable and that

aligning the commencement date with the commencement of other regulatory amendments is inappropriate in this instance. Verve Energy suggests that the IMO consider revising the proposed commencement date to allow the Amending Rules to commence as soon as practicable.

### Drafting conventions

In the Draft Rule Change Report the IMO noted that it follows a convention whereby it only deletes “blank” clauses when this does not break the consecutive sequencing of the clauses. As a result of this convention the IMO has proposed:

- completely deleting clause 3.21A.7A; and
- retaining the reference to clause 3.21A.14 by making this a “Blank” clause.

Verve Energy considers that this convention is flawed in that clause 3.21A.7A may be re-used in future amendments to the Market Rules which not only means that the history of this clause is lost but it also has the potential to cause confusion.

Verve Energy suggests that the IMO reconsider how it treats “Blank” clauses in the Market Rules. If the IMO agrees with Verve Energy’s suggestion, Verve Energy suggests that the review also reconsider the IMO’s practice of replacing “blank” clauses with completely new (and unrelated) clauses. One such example of this is as follows:

- RC\_2010\_11 removed the Network Control Services (NCS) expression of interest and tender process from the Market Rules, as a result of this clause 2.1.2(e)<sup>1</sup> was made a “Blank” clause.
- RC\_2011\_10 then replaced the “Blank” clause 2.1.2(e) with “to do anything that the IMO determines to be conducive or incidental to the performance of the functions set out in this clause 2.1.2.

### Minor drafting suggestion

For consistency of drafting with other clauses in the Market Rules (for example clause 3.21A.3), Verve Energy suggests amending clause 3.21A.2(a) to refer to “an existing generating system” rather than “a generating system”, as follows:

3.21A.2 A Market Participant conducting a Commissioning Test for:

- (a) an existing generating system that has undergone significant maintenance;

---

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

As outlined in its first submission, Verve Energy considers that the proposal will have the following impact on the Wholesale Market Objectives:

---

<sup>1</sup> Clause 2.1.2 outlines the functions of the IMO, sub-clause (e) related to the administration of the tender processes for NCS.



Market Objective	Comments
(a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system.	Verve Energy considers that the Rule Change Proposal will promote the economically efficient production and supply of electricity.  Specifically, productive efficiency requires that demand be served by the least-cost sources of supply, and that there be incentives for producers to achieve least-cost supply through a better management of cost drivers. As such, Verve Energy considers that the proposal allows for a more efficient management of commissioning processes, timeframes and costs, which in turn promotes the economically efficient production and supply of electricity.
(b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors.	Verve Energy considers that improvements to the efficiency of the commissioning test process contemplated by the proposal may assist in the facilitation of efficient entry of new competitors.
(d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system.	Verve Energy considers that the impacts on economic efficiency and efficient entry of new competitors (as outlined above) potentially lead to the minimisation of the long term cost of electricity supplied.

---

**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.**

Verve Energy would not require any changes to its IT or business systems, nor incur any organisation costs as a consequence of adopting the changes.

---

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

As outlined in its first submission, Verve Energy will need to undertake some work to implement this Rule Change Proposal (i.e. updating internal processes and procedures). However, these are expected to be minimal, and as such, Verve Energy will not need any significant time to implement the change.

---