

## **ADDENDUM TO DRAFT RULE CHANGE REPORT: RC\_2012\_12: Updates to Commissioning Test Plans**

The IMO acknowledges that, because this addendum is not contained in the Draft Rule Change Report, it has no formal standing. However, the IMO invites interested stakeholders to make submissions on the Draft Rule Change Report as previously notified, and if considered appropriate the IMO invites interested stakeholders to take into account the information contained in this addendum.

As previously notified, the second submission period submissions must be delivered to the IMO by 5.00pm on **Thursday 1 November 2012**.

### **BACKGROUND**

RC\_2012\_12 seeks to amend the Wholesale Electricity Market Rules to provide greater flexibility in the application and approval timelines relating to Commissioning Testing.

Full details of the original proposed amendments are provided in the Rule Change Proposal available on the Market Web Site: [RC\\_2012\\_12](#).

### **ISSUE AND THE IMO'S PROPOSED SOLUTION**

During the first submission period, the IMO and System Management identified that it would be desirable for a clause to be drafted which placed a responsibility on generators not to apply for a Commissioning Test so as to avoid being exposed to Capacity Cost Refunds. This is an issue because Market Generators on approved Commissioning Test Plans are exempt from paying Capacity Cost Refunds. Given the financial incentives to avoid exposure to refunds the IMO considers that the Market Rules must ensure that the Commissioning Test system is not inappropriately used by Market Generators to avoid making refunds, since the cost of this avoidance is ultimately borne by Market Customers.

To this effect, in the Draft Rule Change Report for RC\_2012\_12 the IMO proposed an additional new clause 3.21A.5A which states that "a Commissioning Test Plan submitted by a Market Participant principally to avoid exposure to Capacity Cost Refunds shall be deemed to be in breach of the good faith intention in clause 3.21A.5". Clause 3.21A.5, as amended in the Rule Change Proposal, states that "a Commissioning Test Plan submitted by a Market Participant must represent the good faith intention of the Market Participant to conduct the Commissioning Test."

Capacity Cost Refunds have the potential to be a significant cost to Market Generators and so the abuse of the Commissioning Test system in order to avoid these payments should carry significant financial penalties. To ensure that these clauses effectively deter Market Generators from using Commissioning Tests to avoid

making refunds, the IMO is working directly with the Public Utilities Office (PUO) to attach Category C civil penalties to clause 3.21A.5.

The IMO notes that if civil penalties were to be attached to clause 3.21A.5, the timing of the implementation of the required changes to the Electricity Industry (Wholesale Electricity Market) Regulations 2004 would be envisaged to occur at the same time as the proposed commencement of this Rule Change on 1 March 2013. However, this timeline is subject to further consultation with the PUO and any timing restrictions that may exist during the caretaker government period.

The IMO requests the views of interested parties during the second submission period on the issue of whether Category C civil penalties should apply to clause 3.21A.5. Given the potential implications for Market Participants, the IMO wishes to ensure that Market Participants understand the intent of, and have a further opportunity to provide their views on this proposal.

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<sup>1</sup> Note that for Category C civil penalties: maximum penalty for first breach \$50,000, maximum penalty for subsequent breaches \$100,000