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**Wholesale Electricity Market  
Rule Change Submission Form**

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**RC\_2014\_09 Managing Market Information**

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**Submitted by**

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**Submission**

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

***Background and Proposal***

The IMO has completed a review of the efficiency and effectiveness of the current framework for managing market information in the Wholesale Electricity Market (WEM) and identified a number of improvements to the framework to improve its functionality and alignment with the Wholesale Market Objectives.

The IMO subsequently proposes to put in place a new confidentiality framework for the WEM that is designed to promote the disclosure of market information so as to support more efficient decision making and improve risk management.

***Alinta's views***

Alinta notes that the State Government is currently undertaking a review of the design and functions of the WEM which includes a review of a design of the capacity mechanism. It is preferable that issues such as how market information is managed in the market are put on hold until such time as the review has been concluded. This will ensure that significant changes in the direction that the market is developing towards are not made in quick succession given the associated implementation costs and investment uncertainty this would create. On this basis Alinta recommends that the progression of this rule change and all associated processes be deferred until Phase 2 of the State Governments review has been completed.

Nonetheless, Alinta's specific views on the changes proposed in this rule change are provided in the following sections:

***Proposed new framework for treatment of information***

Alinta is generally supportive of the IMO's proposed new framework for the treatment of information as it appropriately seeks to improve transparency in the WEM while removing some of the complexity of the existing arrangements. Alinta considers that transparency is fundamental to the delivery of competitive electricity markets through ensuring cost-effective investment and operating decisions and increasing market confidence.

Full disclosure of all information may not, however, necessarily always result in the best market outcomes, particularly where confidentiality, the potential for market manipulation and the direct costs of data provision are accounted for. Recognising this, Alinta notes that the guiding principles proposed by the IMO create a natural tension between maximising the release of information and providing reasonable protection against disclosure of information that could cause commercial detriment to affected individuals or entities. While Alinta is generally supportive of the proposed guiding principles the broad discretion afforded to the IMO under the proposed new framework creates a potential risk to Market Participants that commercially sensitive information could be released.

Alinta acknowledges that the difficult task of managing the trade-off between maximising transparency and protecting commercially sensitive information is well served by the IMO's establishment of clear guidelines in the relevant Market Procedure<sup>1</sup> outlining how the IMO will assess information and ensuring that the IMO is consistent in its decision making going forward. However, considering the significant discretion granted to the IMO around the release of information, Alinta supports decisions under clause 10.2.1 continuing to be subject to a merits review so as to ensure participants' interests are appropriately protected.

#### Retrospective application of changes

The one remaining area of concern to Alinta in respect of striking the right balance between greater transparency and protecting commercially sensitive information relates to the potential retrospective application of any changes in the status of commercially sensitive information that was directly provided by participants<sup>2</sup>. Our concern arises because, as a principle, Alinta does not support retrospective application of changes to any legislative document that would impact upon a substantive right of a participant.

Specifically with respect to this rule change, Alinta would be concerned if a piece of commercially sensitive information that we had previously provided on the basis of clearly defined assumptions, subsequently had its status changed from being confidential (as part of a reassessment process) and so became available to the market or more broadly to other regulatory bodies in a manner contrary to the assumptions and intention underlying its original disclosure.

Also, the broad discretion provided to the IMO under the proposed new provisions to release information when it considers it to be in the public interest creates a further risk to participants (real or perceived) that commercially sensitive information may in the future be deemed to be public even if it's status is not amended during the IMO's current process of reassessing the status of all information in the WEM.

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<sup>1</sup> Presented to the IMO Procedure Change and Development Working Group at its April 2015 meeting

<sup>2</sup> To be clear Alinta is less concerned about information created through market processes.

If participants had known of these potential disclosure risks at the time of original disclosure they may have provided information in a different manner and/or form or, at least, they would have had the opportunity to take such steps as could reasonably be required to mitigate the negative consequences arising from the subsequent disclosure. In particular, Alinta would be highly concerned if any SRMC information were to be made public at any stage. To this extent Alinta notes that the IMO's introduction of an ability to restrict which regulatory agencies can have access to information provides an important safeguard around SRMC related information.

To avoid the disclosure risks noted above, Alinta recommends that the IMO incorporates the following general principle into the Market Rules:

*“Where confidential information which is commercially sensitive to a participant and/or in respect of which the participant otherwise owes contractual obligations of confidentiality to another party has been provided directly by a participant to a regulatory body in the WEM under the reasonable expectation that it will be treated as confidential, then that specific piece of information should not be made available to the market (or to a broader group of regulatory bodies) as a result of any change in status. Any changed status should only apply to information that is provided by participants following the IMO’s determination.”*

We consider that the inclusion of this recommended general principle would protect the confidentiality of existing information provided by participants that is considered by the participant to be confidential and commercially sensitive and improve the overall governance of the IMO's proposed framework for the treatment of information<sup>3</sup>. If you require any further clarification of the matters raised in this submission please directly contact Fiona Wiseman, Wholesale Regulation Manager.

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<sup>3</sup> Without prejudice to Alinta's recommended amendments, we consider that at a minimum the IMO should provide greater transparency as to when it intends to retrospectively make available previously confidential information as a consequence of a reassessment of the status of that information. To achieve this Alinta recommends that an obligation is incorporated into the relevant Market Procedure for the IMO to clearly articulate the time period for which information is proposed to be made available, i.e. whether they propose the information to be made retrospectively available. This would enable interested parties to raise any concerns during the consultation process and have these taken into account in the IMO's final decision with respect to the new/amended status of market information. While not Alinta's preferred solution to this issue, this would provide a reasonable safeguard for the protection of confidential information (especially that of a commercially sensitive nature) and was agreed at the IMO Procedure Change and Development Working Group.