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## Wholesale Electricity Market Rule Change Proposal Submission Form

### RC\_2014\_09 Managing Market Information

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#### Submitted by

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

##### Background

The Market Rules contain specific provisions for identifying different types of market information within the Wholesale Electricity Market (WEM) and provides guidelines for how to classify and manage the data. The bulk of the guidelines are contained within chapter 10 of the Market Rules. However, specific instructions in relation to how to classify certain pieces of information are also found in clauses in other sections of the Market Rules.

The Market Rules currently contain six different confidentiality statuses governing information sharing with different parties. These include "IMO Confidential", "System Management Confidential" and "Rule Participant Dispatch Restricted".

The Independent Market Operator (IMO) has conducted a review of the confidentiality and information classification provisions within the Market Rules to assess the effectiveness and appropriateness of the current framework. The IMO looked to guidelines provided in other jurisdictions, such as by the National Electricity Law, National Gas Law and the information classification and sharing principles applying to the Australian Stock Exchange when conducting the review.

Following the review of the provisions that apply in these other jurisdictions, the IMO concluded that key to being an efficient and effective confidentiality framework is that the framework:

- is simple to use and understand
- maximises the release of information
- treats all information and participants equally
- protects against harmful disclosure
- ensures that information that is required for efficient information of the WEM is readily available to relevant parties
- is consistent with all relevant and applicable laws and regulations.

## **Issues**

The IMO scored the performance of the confidentiality obligations within the current Market Rules against the principles set out above. The IMO found that the current confidentiality provisions:

- are not simple to use and indeed in some instances there can be inconsistencies between different parts of the Market Rules as to what type of classification a particular piece of market information should have.
- do not necessarily maximise the release of market information due to the complexity of the current framework and the inconsistencies (discussed above) between different parts of the Market Rules often lead to a more conservative approach (not publishing data) being adopted.
- focus on supply side originated data with less attention on demand side originated data. This does not comply with the principle of treating all information and participants equally.
- are not always consistent with provisions in other relevant laws and regulations.

The IMO did consider that the current provisions are effective with respect to protecting persons against harmful disclosure of information that should remain confidential. The IMO also considers that the current confidentiality provisions allow for sufficient information flow to ensure efficient operation of the WEM.

## **Change Proposal**

The IMO submitted Rule Change Proposal RC\_2014\_09 “Managing Market Information” on 13 March 2015.

The IMO proposed to amend the confidentiality regime within the WEM to more closely follow the principles set out above. The IMO proposed to simplify the current classification system

to only having “confidential” and “public” information as opposed to the current six different information classes.

The IMO also proposed that generic, high level guidelines should be applied in determining whether information should be classed as confidential or public. These guidelines are as follows:

- whether the use or disclosure of the market information is reasonably required to ensure that the SWIS is operated in a safe, secure and reliable manner
- whether the market information is publicly available from a source that, as far as the IMO is aware, is not subject to any confidentiality obligation
- whether a written law (other than the Market Rules) prohibits the disclosure of the market information or limits the extent to which the market information may be used or disclosed
- whether the disclosure of the market information would cause detriment to the person who gives it or to the person from whom that person receives it
- whether, although the disclosure of the information would cause detriment to a person, the benefit to the market in disclosing it (determined by assessing the achievement of the Wholesale Market Objectives) outweighs that detriment
- whether the information is required to be provided under the Market Rules or Market Procedures or is provided voluntarily, and
- whether (having regard to the nature of the market information) a reasonable person would expect it to be disclosed.

The IMO also proposed that Market Participants should be able to apply to the IMO for a redetermination of the classification of a particular piece of market information. The IMO would be following the same process as that that applies to Market Rule Changes to consult on and decide on the proposed new treatment of a particular piece of information.

The IMO also proposed to amend the current requirement in the Market Rules to publish the information status of all market information to instead only publish a list of all market information that is classified as being confidential.

The IMO proposed (consistent with current treatment) that confidential information could be disclosed to entities that would need access to the information to perform their duties, such as System Management, the IMO, the Minister and the Economic Regulation Authority (ERA).

Finally, the IMO also proposed to make various minor administrative amendments to section 10 of the Market Rules, such as removing blank sections.

The IMO is progressing a related Procedure Change Proposal in parallel to the Rule Change Proposal.

## Perth Energy's Views

Perth Energy supports the amendments proposed by the IMO.

Perth Energy agrees that the current confidentiality provisions in the Market Rules are complex and cumbersome which may lead to confusion and unnecessarily restrict availability of information which could potentially aid in achieving more efficient outcomes in the WEM.

Perth Energy considers that the proposed move to use high level principles as the basis for determination of whether information is public or confidential as opposed to the case by case prescription in the current version of the Market Rules to be a significant improvement on the current Market Rules. A principles based approach is more flexible and should in our view also be more predictable and consistent in application compared to the current "hard wired" approach. This should lead to more clarity for all parties as to the application of the confidentiality provisions of the Market Rules.

Perth Energy also supports the move away from six confidentiality classes to having only "confidential" and "public" information as categories. This further removes unnecessary complexity from the Market Rules.

Perth Energy believes that with the improved clarity it should be possible to make more market information available to a wider audience in a more timely manner compared to the current practice. Having relevant and readily available data provided is key to achieving efficient outcomes in most markets, including the WEM. For this reason, Perth Energy believes the proposed amendments are likely to improve the efficiency of the WEM and improve competition to the ultimate benefit of consumers in the South West Interconnected System (SWIS).

Perth Energy welcomes the proposed mechanism whereby Market Participants can apply to get a ruling from the IMO on the confidentiality status of a particular piece of information. This should provide further flexibility and potential protection for Market Participants in cases where the generic principles may lead to unintended negative outcomes.

Perth Energy notes that a list of entities, including the IMO, System Management and the ERA has been included as being potential receivers of confidential information. Perth Energy broadly agrees that the entities identified by the IMO may from time to time need access to information that would be classified as confidential in order to perform their duties. However, we expect that also these entities would only be given access to confidential information when a genuine need exists rather than having carte blanche access.

Perth Energy is also aware that a working group has been set up to examine certain transitional issues such as how to treat information that has been submitted under the current confidentiality provisions and been afforded confidential status. It would seem reasonable that information that has been submitted on the basis that it would be treated as confidential continues to be treated as confidential under any changed regime even if the new regime would not result in a confidential classification of the information. Perth Energy would suggest that the IMO awaits the outcome of the deliberations of the working group before making a final decision in relation to this Market Rule Change Proposal.

Finally, Perth Energy notes that there is still potential for very significant changes to be introduced to the WEM via the ongoing Electricity Market Review (EMR). If significant

changes are made following the review, we expect that a further thorough review of those new and amended sections of the Market Rules will need to be conducted to classify information flowing from those sections as confidential or public. We query whether it would be more efficient to await the outcome of the EMR before implementing the changes proposed in this Rule Change Proposal and potentially avoid some wasted effort with classifying the confidentiality status of sections of the current Market Rules that may become redundant.

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

Perth Energy considers the proposed changes are likely to improve the clarity and transparency of the process of classifying the confidentiality status of market information. We also consider the proposed changes are likely to lead to more relevant information being made available to a wider audience and in a more timely manner. Improving the information flow in the WEM is likely to improve overall efficiency of the market and also positively influence competition both in generation and retail. In turn, this should lead to downwards pressure on prices in the longer run to the benefit of all customers in the SWIS. Perth Energy also believes the proposed changes are likely to bring a more balanced approach to the way that information relating to supply and demand side is treated.

For all of these reasons we believe that the proposed changes are likely to positively impact the ability to achieve Market Objectives<sup>1</sup> (a), (b) and (d). We have not identified any impacts on the remaining 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 will be no impacts for Perth Energy flowing from the proposed changes.

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

There will be no impacts for Perth Energy flowing from the proposed changes.

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<sup>1</sup> (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.