

Draft Rule Change Report:
AEMO Role in Market Development (RC_2017_05)
Standard Rule Change Process
25 October 2017

Executive Summary

Proposed Amendments

In this Rule Change Proposal the Australian Energy Market Operator (AEMO) seeks to clarify and extend its prescribed market development functions under the Wholesale Electricity Market (WEM) Rules (Market Rules) to include:

1. provision of information to the Rule Change Panel, to help the Rule Change Panel understand (and potentially quantify) the market impacts, benefits and costs of Rule Change Proposals;
2. provision of support for the periodic reviews of aspects of the WEM design that are undertaken by the Economic Regulation Authority (ERA) in accordance with the Market Rules; and
3. development of Rule Change Proposals, where it identifies opportunities for improvements in market operation and administration.

While AEMO is not currently prohibited from performing these functions, the Market Rules do not state explicitly that these are services for which AEMO may seek cost recovery from the market.

Consultation

A Pre Rule Change Proposal was presented to the Market Advisory Committee (MAC) at its 14 June 2017 meeting. MAC members generally agreed that AEMO has an important role to play in market development but raised some concerns about a lack of clarity regarding the scope of AEMO's market development role, suggesting that further work was needed to distinguish between the roles of AEMO and other agencies such as the Public Utilities Office (PUO). Despite these concerns, the MAC supported the progression of the proposal into the formal rule change process.

The Rule Change Proposal was submitted to the Rule Change Panel on 7 July 2017. The first submission period was held between 18 July 2017 and 29 August 2017. The Rule Change Panel received submissions from Alinta Energy, Community Electricity, Perth Energy, the PUO and Synergy.

Most submissions supported formalisation of AEMO's functions to provide information to the Rule Change Panel and ERA to support their respective functions. However, only one submission (from Community Electricity) provided unequivocal support for the Rule Change Proposal. The remaining submissions raised material concerns about the potential scope of the new function, considering it to be too broad. In particular, submitters identified the following risks with the broad scope of the proposal:

- uncertain and potentially material cost increases for Market Participants through increases to Market Fees, and to Regulator Fees to the extent that additional RCP Support resources would be required to handle an increased workload;
- increased costs for Market Participants and other stakeholders to respond to a greater volume of Rule Change Proposals;
- the potential for "mission creep", with AEMO assuming a role of developing structural changes to the market in parallel with, or even in competition with, the PUO or other Government agencies; and

- a more general potential for conflicts of interest and duplication of functions/costs.

In a follow up discussion with RCP Support, Synergy also raised a concern that the drafting might allow AEMO to recover costs from the market for market development activities that were not directly related to the WEM, e.g. for the development of Western Australian energy markets outside of the South West interconnected system or participation in national debates on energy policy.

While not supporting the proposed amendments as drafted, these submitters all (with the exception of Synergy) appeared open to the idea of AEMO developing at least some Rule Change Proposals, provided that the scope and costs of this activity were adequately defined and controlled. The submissions included various suggestions on how this could be accomplished, including changes to the proposed Amending Rules and the development of various documents including an AEMO Statement of Role and Memoranda of Understanding.

The Rule Change Panel's Assessment of the Rule Change Proposal

The Rule Change Panel agrees with the majority of submitters that the functions 1 and 2 proposed by AEMO should be included explicitly in the list of functions for which AEMO can recover its costs.

The Rule Change Panel also considers that AEMO has an important role to play in the development of Rule Change Proposals. AEMO's technical expertise and familiarity with market operations will often make it the most efficient option (and in some cases the only practical option) for the development of proposals addressing complex market issues. Providing AEMO with certainty that it can recover the costs of developing such Rule Change Proposals will encourage AEMO to take on responsibility for these tasks. This should, as suggested by AEMO, promote earlier and more efficient rectification of emergent issues in the market that may be affecting market efficiency, security and reliability.

Despite these conclusions, the Rule Change Panel agrees that the potential scope of the drafting is too broad, as it places no limits on AEMO's market development role and does nothing to delineate the boundaries between AEMO's market development role and that of other agencies such as the PUO.

The Rule Change Panel has accordingly made some changes to the proposed new clause 2.1A.2(IA) to clarify the nature and extent of AEMO's new functions. The changes are designed to indicate the contributory, rather than leading, role played by AEMO in market development and to restrict that role explicitly to the three functions about which AEMO requested clarity in the Rule Change Proposal. The revised definition excludes other, larger-scale or strategic market development activities such as the progression of major market reviews.

The Rule Change Panel agrees that AEMO should avoid market development activities that conflict with the activities of other agencies, and in particular the PUO. However, the Rule Change Panel believes it is extremely unlikely that AEMO would knowingly develop Rule Change Proposals in direct conflict with the Government's work program for energy market reform, or that the ERA would approve funding for AEMO to develop significant Rule Change Proposals that replicate or conflict with work being undertaken by the PUO. Nevertheless, the Rule Change Panel agrees that inadvertent overlaps and conflicts are possible and so the implementation of a mechanism to prevent their occurrence is needed.

The Rule Change Panel does not agree however that imposing more prescriptive role definitions will provide the solution to this problem. The market development role of the PUO reflecting Government policy is not prescribed in the Market Rules or Regulations, and the extent to which the PUO actively participates in market development, and in particular which

Rule Change Proposals it develops, is at the discretion of the Government of the day. Further, the Rule Change Panel does not consider it practical or appropriate to make assumptions about the intentions of the current or any future Government on policy development.

These realities make the definition of specific, permanent boundaries between AEMO's market development activities and those of other agencies impractical and risky. Specifically, the placement of any strict boundaries on the Rule Change Proposals that AEMO may develop could lead to situations where a problem is identified in the market, AEMO is not permitted to develop a Rule Change Proposal to address that problem, and no other party is willing or able to do so.

Given the rate at which the electricity industry is changing, the Rule Change Panel considers that the risk to the Wholesale Market Objectives of AEMO not being able to develop Rule Change Proposals is far greater than the risks of AEMO occasionally recovering development costs from the market for an unnecessary Rule Change Proposal.

For these reasons, instead of seeking to define AEMO's role in prescriptive terms the Rule Change Panel proposes a more light-handed, flexible approach that reflects the dynamic nature of the market and the discretionary and variable nature of other agencies' participation in market development.

This approach involves the use of a mandatory MAC consultation process to ensure the development of Rule Change Proposals that are funded by the market is conducted in a transparent and consultative manner. The Rule Change Panel has added two new clauses to the proposed Amending Rules to place a requirement on AEMO (clause 2.5.1A) and the ERA (clause 2.5.1B) to consult with the MAC before starting the development of a Rule Change Proposal and, where appropriate, during the development of a Rule Change Proposal. The requirement has been placed on the ERA as well as AEMO because the development costs of any ERA Rule Change Proposals will also be recovered from Market Participants.

The new clauses also require AEMO and the ERA to consult with the MAC before providing material support or assistance to another party to develop a Rule Change Proposal.

The agencies will be required to take into account any advice, comments or objections provided by any member or observer of the MAC in deciding whether, when and how to develop a Rule Change Proposal¹. It should be noted that this does not mean that the agency must always follow the advice provided, as in some cases a Rule Change Proposal may be opposed by several MAC members but still provide a material net benefit in terms of the Wholesale Market Objectives.

As the MAC's primary function is to provide advice regarding Rule Change Proposals it is well placed to provide advice to agencies considering the development of Rule Change Proposals. The requirement to consult before commencing any substantive work on a Rule Change Proposal will help ensure that neither party wastes Market Participant fees developing proposals that are, for example:

- contrary to Government energy policy;
- overlapping or conflicting with work being undertaken by the PUO or other stakeholders;
- fundamentally flawed in concept (e.g. addressing a problem that is not actually a problem); or

¹ Or provide material support or assistance to another party to develop a Rule Change Proposal.

- of low value in terms of better achieving the Wholesale Market Objectives.

The MAC will also provide a forum for parties to identify opportunities to collaborate on the development of some Rule Change Proposals and coordinate the timing of any consultation processes to ensure that stakeholders have sufficient opportunity to participate.

Most importantly, the proposed MAC consultation process will give all the relevant stakeholders, including the ERA, the PUO and the Minister, visibility of AEMO's (and the ERA's) market development intentions and the opportunity to provide feedback or clarify responsibilities at an early stage.

The Rule Change Panel has also proposed amendments to existing clause 2.3.1 to include consultation with AEMO and the ERA on the development of Rule Change Proposals as a formal function of the MAC.

Assessment against Wholesale Market Objectives

The Rule Change Panel considers that the additional changes it has made to the proposed Amending Rules should adequately address the concerns raised by stakeholders at the MAC and in submissions, and help ensure that AEMO's market development activities provide value to the market and do not conflict with the market development activities of other agencies.

On this basis, the Rule Change Panel considers that the proposed amendments, as modified following the first submission period, will better achieve all the Wholesale Market Objectives but in particular Wholesale Market Objectives (a) and (d).

Practicality and Cost of Implementation

The expansion of AEMO's market development functions under the Market Rules could result in some increase in Market Participants' costs through increases in Market Fees. The extent of the increases is difficult to quantify precisely as AEMO's market development costs are likely to vary over time, depending on the number and complexity of the Rule Change Proposals in AEMO's forward work program. It should be noted however that the extent of any increase in Market Fees is subject to approval by the ERA through the Allowable Revenue process. Additionally, under the proposed Amending Rules, AEMO will be required to consult with the MAC regarding the Rule Change Proposals to be included in its work program.

If the Rule Change Proposal results in an increase in the level of rule change activity then this may also result in an increase in Regulator Fees and the costs incurred by Market Participants to assess and respond to Rule Change Proposals.

However, the Rule Change Panel notes that the relevant costs represent only a small proportion of overall WEM Fees and an even smaller proportion of total wholesale electricity market costs.

The Rule Change Panel does not consider that there are any issues with the practicality of implementing the proposed changes.

The Rule Change Panel's Proposed Decision

The Rule Change Panel's proposed decision is to accept the Rule Change Proposal as modified by the amendments outlined in section 5.2 and specified in Appendix B of this report.

Next Steps

The Rule Change Panel now invites interested stakeholders to make submissions on this Draft Rule Change Report by **5:00 PM on Wednesday, 22 November 2017**.

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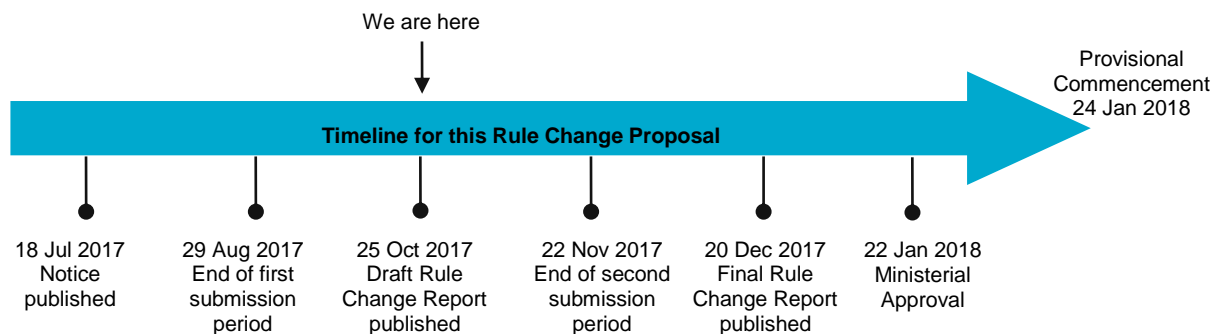
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1. Rule Change Process and Timeline

On 7 July 2017 the Australian Energy Market Operator (AEMO) submitted a Rule Change Proposal titled “AEMO Role in Market Development” (RC_2017_05).

This proposal is being processed using the Standard Rule Change Process, described in section 2.7 of the Wholesale Electricity Market (WEM) Rules (Market Rules). On 26 September 2017 the Rule Change Panel extended the timeframe for the publication of the Draft Rule Change Report in accordance with clause 2.5.10 of the Market Rules. Further details of the extension are available on the Rule Change Panel’s website.

The key dates for progressing this Rule Change Proposal, as amended in the extension notice, are:



Please note that the commencement date is provisional and may be subject to change in the Final Rule Change Report.

All documents related to this Rule Change Proposal can be found on the Rule Change Panel’s website at [Rule Change: RC_2017_05 - Economic Regulation Authority Western Australia](#).

2. Call for Second Round Submissions

The Rule Change Panel invites interested stakeholders to make submissions on this Draft Rule Change Report. The submission period is 20 Business Days from the publication date of this report. Submissions must be delivered to the RCP Secretariat by **5:00 PM on Wednesday, 22 November 2017**.

The Rule Change Panel prefers to receive submissions by email, using the submission form available at: <https://www.erawa.com.au/rule-change-panel/make-a-rule-change-submission> sent to rcp.secretariat@rcpwa.com.au.

Submissions may also be sent to the Rule Change Panel by post, addressed to:

Rule Change Panel
Attn: Executive Officer
C/o Economic Regulation Authority
PO Box 8469
PERTH BC WA 6849

3. Proposed Amendments

3.1 The Rule Change Proposal

In this Rule Change Proposal AEMO seeks to clarify and extend its prescribed market development functions under the Market Rules.

AEMO considers it crucial that it should be capable of contributing to the development of the market and efficiency improvements of market processes, and that it should be able to recover costs associated with these activities. AEMO considers that the following contributions to the development of the market are not explicitly addressed in the Market Rules:

1. provision of information to the Rule Change Panel, to help the Rule Change Panel understand (and potentially quantify) the market impacts, benefits and costs of Rule Change Proposals;
2. provision of support for the periodic reviews of aspects of the WEM design that are undertaken by the Economic Regulation Authority (ERA) in accordance with the Market Rules; and
3. development of Rule Change Proposals, where it identifies opportunities for improvements in market operation and administration.

AEMO considers that this contribution to market development will improve the quality and timeliness of regulatory outcomes in the WEM and reduce the burden on Market Participants and other agencies.

While AEMO is not prohibited from performing these functions, the Market Rules do not state explicitly that these are services for which AEMO may seek cost recovery from the market. AEMO seeks to clarify AEMO's prescribed functions and budgetary approval process by explicitly including in the Market Rules a function of AEMO to "promote the development and improve the effectiveness of the operation and administration of the Wholesale Electricity Market, including providing information to the Rule Change Panel and Economic Regulation Authority to support their respective functions".

Full details relating to the Rule Change Proposal are available on the Rule Change Panel's website.

3.2 The Rule Change Panel's Initial Assessment of the Proposal

The Rule Change Panel decided to progress the Rule Change Proposal on the basis that its preliminary assessment indicated that the proposal is consistent with the Wholesale Market Objectives.

4. Consultation

4.1 The Market Advisory Committee

The proposed amendments were discussed by the Market Advisory Committee (MAC) at its 14 June 2017 meeting. A summary of the discussion is provided below; further details are available in the MAC meeting minutes available on the Rule Change Panel's website at

14 June 2017 MAC meeting

Mr Martin Maticka gave an overview of AEMO's Pre Rule Change Proposal, which was circulated in the papers for the meeting. The following key points were discussed.

- Mrs Jacinda Papps and Mr Matthew Martin agreed that AEMO had an important role to play in the development of the market and AEMO's market development function should be funded appropriately.
- Mrs Papps noted that the recent Vertigan and Finkel Reviews both raised concerns about a lack of clarity regarding AEMO's role in the National Electricity Market (NEM). Both reviews recommended the development of a Statement of Role for AEMO, to provide greater clarity on its role than is given in the National Electricity Law (NEL). Mrs Papps noted that the proposed rule drafting was taken from the NEL and suggested AEMO should avoid introducing a similar uncertainty into the WEM.

Mr Maticka agreed that a tighter definition (e.g. to clarify what constituted the operation of the market) was needed to help distinguish between the roles of AEMO and the Public Utilities Office (PUO). Mr Martin agreed on the need to develop greater clarity about the market development roles of each organisation.

- Ms Jenny Laidlaw noted that previously the Independent Market Operator (IMO) had an obligation under the Market Rules to develop Rule Change Proposals in some situations and that currently no party had a similar obligation. Mr Maticka advised that AEMO would continue to develop Rule Change Proposals where it became aware of material operational issues.
- There was some discussion about the challenges of predicting AEMO's resource needs for its market development functions.
- Mr Will Bargmann asked for clarification on the budget approval process for AEMO's market development function. The Chair (Mr Rajat Sarawat) replied that AEMO's Allowable Revenue, including its budget for any market development role, was assessed and approved by the ERA. The Chair noted that it was therefore critical to develop wording that clarified AEMO's market development role, as without such clarity it would be difficult for the ERA to assess AEMO's budget submissions. The Chair also suggested that giving new roles to different institutions constituted an institutional reform and so the Government would need to be comfortable with the proposed changes.
- Mr Maticka advised that AEMO would consider how to provide greater clarity in the proposal about AEMO's market development role, before submitting the proposal formally to the Rule Change Panel.

The MAC supported the progression of the Rule Change Proposal into the formal rule change process.

4.2 Submissions Received During the First Submission Period

The first submission period for this Rule Change Proposal was held between 18 July 2017 and 29 August 2017. The Rule Change Panel received submissions from Alinta Energy (Alinta)², Community Electricity, Perth Energy, the PUO and Synergy.

² Alinta Energy's submission was received after the end of the first submission period, on 1 September 2017.

The Rule Change Panel noted in the Rule Change Notice for the proposal that:

“...the potential scope of the new function is very broad. The proposed drafting places no limits on AEMO’s market development role, in particular in relation to the development of Rule Change Proposals, and provides no clarity on the boundaries between AEMO’s market development role and that of other parties such as the Public Utilities Office.”

The Rule Change Panel sought stakeholder views on the role AEMO should play in the development of WEM Rule Change Proposals and whether greater clarity about the boundaries of AEMO’s market development is needed. Where stakeholders considered that greater clarity of AEMO’s market development role is required, the Rule Change Panel also sought views on whether this clarity should be provided in the Market Rules, which prescribe the functions for which AEMO may seek cost recovery, or in some other instrument, like the Statement of Role recommended for AEMO in the NEM by the Vertigan³ and Finkel⁴ Reviews.

Community Electricity supported the Rule Change Proposal, considering it to be self-evident that AEMO’s participation is central to a properly functioning rule change process and that participation should be properly funded. Community Electricity further suggested that the magnitude of the cost involved in the expansion of AEMO’s role is relatively minor in comparison with the potential benefits of the proposal.

The remaining submissions shared the Rule Change Panel’s concerns about the proposal. Synergy in particular considered that the lack of clarity about the boundaries of AEMO’s proposed new functions and the potential impact of the changes on Market Fees left Synergy unable to assess the proposal against the Wholesale Market Objectives.

Synergy also questioned the need for any further expansion of AEMO’s market development role. The other submitters agreed however that AEMO had an important role to play in the development of the WEM, reflecting the views expressed during the MAC discussion of the proposal.

Alinta, Community Electricity, Perth Energy and the PUO all supported formalisation of AEMO’s function to provide information to the Rule Change Panel and ERA to support their respective functions. Additionally, there was cautious support for AEMO’s participation in the development of Rule Change Proposals, provided that the boundaries on this activity were clearly defined.

Submitters identified the following risks with the broad scope of the proposal:

- uncertain and potentially material cost increases for Market Participants through increases to Market Fees, and Regulator Fees to the extent additional RCP Support resources would be required to handle an increased workload;
- increased costs for Market Participants and other stakeholders to respond to a greater volume of Rule Change Proposals;
- the potential for “mission creep”, with AEMO assuming a role of developing structural changes to the market in parallel with, or even in competition with, the PUO or other Government agencies; and

³ Review of Governance Arrangements for Australian Energy Markets’, for which the Final Report is available at <http://www.coagenergycouncil.gov.au/sites/prod.energycouncil/files/publications/documents/Review%20of%20Governance%20Arrangements%20for%20Australian%20Energy%20Markets%20-%20Final%20Report%20-%20Oct%202015.pdf>

⁴ ‘Independent Review into the Future Security of the National Electricity Market’, for which the ‘Blueprint for the Future’ is available at <http://www.environment.gov.au/system/files/resources/1d6b0464-6162-4223-ac08-3395a6b1c7fa/files/electricity-market-review-final-report.pdf>.

- a more general potential for conflicts of interest and duplication of functions/costs.

In a follow up discussion with RCP Support, Synergy also raised a concern that the drafting might allow AEMO to recover costs from the market for market development activities that were not directly related to the WEM, e.g. for the development of Western Australian energy markets outside of the South West interconnected system or participation in national debates on energy policy.⁵

Both Alinta and Perth Energy suggested drafting changes to tighten the scope of AEMO's new functions. Perth Energy proposed changes to new clause 2.1A.2(IA) to limit AEMO's involvement to a more operational level, reflecting its mission creep concerns:

(IA) to ~~promote the development and~~ improve the effectiveness of the operation and administration of the Wholesale Electricity Market, including providing information to the Rule Change Panel and Economic regulation Authority to support their respective functions; and

In its submission, Alinta discussed the relevant findings of the Vertigan and Finkel Reviews, concluding that

"...both the Vertigan and Finkel Reviews recognise AEMO's valuable contributions into market development work. However, the reviews considered that this should be constrained to contributing to the issues identified by the AEMC as part of the process for identifying strategic priorities for energy market development."

Alinta's suggested drafting was consistent with its view that AEMO should play a supporting rather than leading role in market development:

(IA) to promote ~~the development and~~ improve the effectiveness efficient of the operation and administration of the Wholesale Electricity Market, including providing information to the Rule Change Panel and Economic Regulation Authority to support their respective functions; and

(IB) to provide input into market development activities identified by the Rule Change Panel and Economic Regulation Authority, including providing information and analysis to develop solutions, as required; and

Submitters offered various suggestions as to how the market development roles of the different agencies should be determined and documented.

- Alinta recommended that further work be undertaken to review the current institutional arrangements and ensure there is clear delineation between the roles of AEMO and the policy-making and regulatory bodies such as the PUO and ERA. Alinta suggested that consideration be given to developing Statements of Expectations for the ERA, PUO and Rule Change Panel, and a Statement of Role for AEMO containing a comprehensive set of outcomes-based performance indicators.
- Synergy supported AEMO's proposal to publish memoranda of understanding (MOU) between AEMO and each of the ERA, Rule Change Panel and PUO. Synergy considered that any MOU should provide for role clarity in relation to market development matters and specifically address how regulatory and policy duplication will be avoided.

⁵ Section 52 of the National Electricity Law and Section 91E of the National Gas Law allow AEMO to determine and charge fees for the services it provides under those laws, the Rules or the Procedures. These fees are to recover the costs of AEMO providing its services. AEMO's annual budget process includes a public consultation process that ensures that the fees for each of its service generates revenue to cover the cost of providing that service.

- Perth Energy suggested that a document such as a Statement of Role could potentially assist by:
 - defining the general areas of activity where AEMO can act without limit;
 - establishing a process whereby AEMO should channel any structural change ideas through to the PUO; and
 - outline how AEMO can participate within broader market reviews.

Perth Energy suggested that the Statement of Role could also set limits on the level of staffing that AEMO can include for market development within its funding requests.

- The PUO suggested that an alternative approach could involve expansion of the ERA’s annual reports to the Minister on the effectiveness of the WEM, to explicitly define market development priorities to be undertaken by AEMO and potentially differentiate between market development activities to be undertaken by AEMO and policy-related responsibilities more properly undertaken by the PUO.

The assessment by submitting parties as to whether the proposal would better achieve the Wholesale Market Objectives is summarised below:

Submitter	Wholesale Market Objective Assessment
Alinta	Cannot categorically state that the proposal as drafted would promote economic efficiency or minimise the long term cost of electricity supplied. However, if greater clarity about AEMO’s role in market development was included in the proposed drafting then it is likely that the proposal would better facilitate the achievement of Wholesale Market Objectives (a) and (d).
Community Electricity	Agrees with AEMO’s assessment, i.e. that the changes will better achieve Wholesale Market Objectives (a) and (d), and are consistent with the other Wholesale Market Objectives.
Perth Energy	Appropriate funding would better achieve the Wholesale Market Objectives; however if AEMO moves into review of the fundamental structure of the market it is likely to be counter-productive and lead to lower market efficiencies.
PUO	While supporting the proposal in principle, the absence of a clearly defined role for AEMO’s market development responsibilities could introduce inefficiencies and confusion amongst Market Participants and industry bodies in conflict with Wholesale Market Objectives (a) and (d).
Synergy	Unable to assess whether the proposal meets Wholesale Market Objectives (a) and (d) due to a lack of cost information.

A copy of all submissions in full received during the first submission period is available on the Rule Change Panel’s website.

4.3 The Rule Change Panel’s Response to Submissions Received in the First Submission Period

The Rule Change Panel’s response to each of the specific issues raised in the first submission period is presented in Appendix A of this report. A more general discussion of the proposal, which addresses the main issues raised in submissions and the Rule Change Panel’s response to these issues, is available in section 5.1.

4.4 Public Forums and Workshops

No public forums or workshops were held in regard to this Rule Change Proposal.

5. The Rule Change Panel's Draft Assessment

In preparing its Draft Rule Change Report, the Rule Change Panel must assess the Rule Change Proposal in light of clauses 2.4.2 and 2.4.3 of the Market Rules.

Clause 2.4.2 of the Market Rules states that the Rule Change Panel “*must not make Amending Rules unless it is satisfied that the Market Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives*”. Additionally, clause 2.4.3 of the Market Rules states that, when deciding whether to make Amending Rules, the Rule Change Panel must have regard to:

- any applicable statement of policy principles the Minister has issued to the Rule Change Panel under clause 2.5.2 of the Market Rules;
- the practicality and cost of implementing the proposal;
- the views expressed in submissions and by the MAC; and
- any technical studies that the Rule Change Panel considers necessary to assist in assessing the Rule Change Proposal.

When making its draft decision, the Rule Change Panel has had regard to each of the matters identified in clauses 2.4.2 and 2.4.3 of the Market Rules as follows:

- the Rule Change Panel's assessment of the Rule Change Proposal against the Wholesale Market Objectives is available in section 5.3 of this report;
- the Rule Change Panel notes that there has not been any applicable statement of policy principles from the Minister in respect of this Rule Change Proposal;
- the Rule Change Panel's assessment of the practicality and cost of implementing the Rule Change Proposal is available in section 5.4 of this report;
- a summary of the views expressed in submissions and by the MAC is available in section 4 of this report. The Rule Change Panel's response to these views is available in section 5.1 and Appendix A of this report; and
- the Rule Change Panel does not believe a technical study in respect of this Rule Change Proposal is required and therefore has not commissioned one.

The Rule Change Panel's assessment is presented in the following sections.

5.1 AEMO's Market Development Role

5.1.1 Essential components of AEMO's market development role

In its Rule Change Proposal, AEMO has sought confirmation of its ability to recover costs for three functions:

1. the provision of information to the Rule Change Panel to support its functions;
2. the provision of support for the reviews undertaken by the ERA under the Market Rules; and

3. the development of Rule Change Proposals, where it identifies opportunities for improvements in market operation and administration.

The Rule Change Panel agrees with the majority of submissions that functions 1 and 2 should be included explicitly in the list of functions for which AEMO can recover its costs. The Rule Change Panel considers that these functions are clearly necessary for the Rule Change Panel and ERA to carry out their respective functions under the Market Rules.

The Rule Change Panel also considers that AEMO has an important role to play in the development of Rule Change Proposals. AEMO's technical expertise and familiarity with market operations will often make it the most efficient option (and in some cases the only practical option) for the development of proposals addressing complex market issues. A recent example of a proposal of this type is the Rule Change Proposal "Reduction of the prudential exposure in the Reserve Capacity Mechanism" (RC_2017_06).

Providing AEMO with certainty that it can recover the costs of developing Rule Change Proposals like RC_2017_06 will encourage AEMO to take on responsibility for these tasks. This should, as suggested by AEMO, promote earlier and more efficient rectification of emergent issues in the market that may be affecting market efficiency, security or reliability.

5.1.2 Limits of AEMO's market development role

Despite these conclusions, the Rule Change Panel nevertheless agrees with the views expressed at the MAC and in submissions that the scope of AEMO's new function, as drafted in the proposed Amending Rules, is too broad and could be construed as extending beyond the ability to develop Rule Change Proposals to a strategic/policy making role that in the last few years has been filled by the PUO.

The Rule Change Panel has accordingly made some changes to the proposed new clause 2.1A.2(IA) to clarify the nature and extent of AEMO's new functions. The changes, which are described in further detail in section 5.2 of this report, are designed to indicate the contributory, as opposed to leading, role played by AEMO in market development and to list explicitly the three functions about which AEMO requested clarity in the Rule Change Proposal. The revised definition excludes other, larger-scale or strategic market development activities such as the progression of major market reviews.⁶

5.1.3 Limiting the scope of AEMO's Rule Change Proposals

The Rule Change Panel also agrees it is important to avoid duplication and conflicts between the market development activities of the different WEM agencies. Despite this, the Rule Change Panel has concerns about any approach that specifies AEMO's role in terms of prescriptive definitions of what Rule Change Proposals it can and cannot develop.

For example, a common view expressed in submissions is that AEMO should restrict its focus to operational matters and avoid (except as a provider of support to another agency) market development, structural or policy matters. However, the submissions received do not provide workable definitions of what, for example, constitutes an operational versus a policy issue. As an extreme example, it could be argued that the core reforms proposed by the

⁶ In addition to its rule-making role, the Australian Energy Market Commission (AEMC) may conduct a review of any aspect of the NEM, either at the request of the COAG Energy Council or by self-initiation in line with its own strategic priorities for market development. The previous Minister's reforms to the WEM institutional arrangements did not assign a similar role to any agency, and there is nothing to suggest that the current Government will not continue to initiate, manage and fund such reviews directly through the PUO (as has been the practice in recent years). Accordingly, the Rule Change Panel considers that major market reviews should not be undertaken by any agency at the market's expense unless the requirement for that review is prescribed explicitly in the Market Rules.

Government's Energy Market Operations and Processes project⁷ are simply measures to improve the operational efficiency of the WEM real-time dispatch processes.

The term *policy* is often used in discussions about the WEM to describe matters that are to be progressed and decided by the Minister (assisted by the PUO) rather than other stakeholders. In this context it is clear that policy is whatever the Government of the day decides it needs to be and therefore, importantly, its scope is something that is likely to vary from time to time.

Defining the agencies' roles using terms like policy is unlikely to be effective if there is no clear and lasting agreement about what these terms encompass. The Rule Change Panel considers that attempting to use these terms in a prescriptive manner is impractical, could lead to unnecessary confusion and conflict about what matters meet the prescribed criteria and may inhibit the efficient development of WEM Rule Change Proposals.

Most submissions also suggested that AEMO should avoid market development activities that conflict with the activities of other agencies, and in particular the PUO. The Rule Change Panel believes it is extremely unlikely that AEMO would knowingly develop Rule Change Proposals in direct conflict with the Government's work program for energy market reform, or that the ERA would approve funding⁸ for AEMO to develop significant Rule Change Proposals that replicate or conflict with work being undertaken by the PUO. Nevertheless, the Rule Change Panel agrees that inadvertent overlaps and conflicts are possible and so the implementation of a mechanism to prevent their occurrence is needed.

The Rule Change Panel does not agree that imposing more prescriptive role definitions will provide the solution to this problem. The market development role of the PUO reflecting Government policy is not prescribed under the Market Rules or Regulations, and as noted above the extent to which the PUO actively participates in market development, and in particular which Rule Change Proposals it develops, is at the discretion of the Government of the day. Further, the Rule Change Panel does not consider it practical or appropriate to make assumptions about the intentions of the current or any future Government on policy development.

Of the other agencies involved in the WEM, the ERA has no specific obligations regarding the development of Rule Change Proposals, while the Rule Change Panel itself may only develop Rule Change Proposals that address manifest errors and matters of a minor or procedural nature.

These realities make the definition of specific, permanent boundaries between AEMO's market development activities and those of other agencies impractical and risky. Specifically, the placement of any strict boundaries on the Rule Change Proposals that AEMO may develop could lead to situations where a problem is identified in the market, AEMO is not permitted to develop a Rule Change Proposal to address that problem and no other party is willing or able to do so.

Given the rate at which the electricity industry is changing, the Rule Change Panel considers that the risk to the Wholesale Market Objectives of AEMO not being able to develop Rule Change Proposals to address emerging issues is far greater than the risks of AEMO occasionally recovering development costs from the market for a Rule Change Proposal that is subsequently determined to be unnecessary.

The Rule Change Panel considered options to require AEMO to obtain some form of formal approval from another agency (e.g. the ERA, PUO or the Rule Change Panel itself) before

⁷ Namely the implementation of new real-time energy and ancillary services markets featuring security-constrained dispatch, facility bidding and co-optimisation of energy and ancillary services, as described in https://www.treasury.wa.gov.au/uploadedFiles/Site-content/Public_Utility_Office/Industry_reform/Final-Report-Design-Recommendations-for-Wholesale-Energy-and-Ancillary-Market-Reforms.pdf.

⁸ Through the Allowable Revenue process.

commencing the development of a Rule Change Proposal that met certain pre-defined size or subject matter criteria. These options were however discounted on the basis that they would effectively pre-empt and therefore compromise the integrity of the rule change process.

Based on these considerations, instead of seeking to define AEMO's role in prescriptive terms (either in the Market Rules or a separate document like a Statement of Role) the Rule Change Panel proposes a more light-handed, flexible approach that reflects the dynamic nature of the market and the discretionary and variable nature of the other agencies' participation in market development. This approach, which is described in more detail in section 5.2, involves the use of a mandatory MAC consultation process to ensure that the development of Rule Change Proposals funded by the market is conducted in a transparent and consultative manner.

5.1.4 Costs and net benefits of extending AEMO's market development role

Both Perth Energy and Synergy raised concerns about the cost implications of the proposed amendments. Both parties suggested the lack of specific cost information in the proposal prevents its assessment against the Wholesale Market Objectives. Additionally, Perth Energy suggested that AEMO had failed to provide a defined value proposition and that this, combined with the lack of cost information, made the proposal incomplete.

The Rule Change Panel considers that the benefit to the market of AEMO's proposal is clear. The information provided by AEMO to the Rule Change Panel and ERA to support their respective functions is in many cases unavailable from any other source. Further, as noted previously AEMO's expertise as the market and system operator makes it an obvious candidate to develop Rule Change Proposals that are needed to address market problems but do not fall within the scope of the Government's work program.

The Rule Change Panel agrees that AEMO's market development budget requirements are likely to fluctuate from time to time, depending on the pace of regulatory change and the extent to which material Rule Change Proposals are developed by other agencies. Additionally, it is impossible to identify in advance what Rule Change Proposals AEMO might develop and what the net benefits of those proposals might be. Together these factors make the presentation of a standard cost/benefit analysis for this Rule Change Proposal unrealistic.

An increase in the level of rule change activity may lead to some increase in Market Fees and Regulator Fees and may also, as noted by Perth Energy, increase Market Participants' internal costs associated with assessing and responding to proposals. However, the costs of this additional rule change activity need to be weighed against the benefits delivered by the activity in terms of the Wholesale Market Objectives.

Previous WEM Rule Change Proposals have frequently delivered benefits that far outweigh their development costs. For example, the most recently commenced Rule Change Proposal "Limit to Early Entry Capacity Payments" (RC_2013_21) ended the payment of early entry capacity payments for new Facilities in periods of excess capacity. The total cost to the market of these unnecessary payments over the period up to the submission of the proposal was \$12.4 million, an amount vastly greater than the development cost of the proposal.

The Rule Change Panel also considers that the additional changes it has made to the proposed Amending Rules:

- clarify the nature of AEMO's market development function, excluding some of the potentially high cost market development activities contemplated by Perth Energy and Synergy in their submissions (and by Synergy in later clarifying discussions); and

- provide, through the mandatory MAC consultation process, a mechanism to prevent inadvertent conflicts and overlaps in the development of Rule Change Proposals and deter the development of self-serving or low value Rule Change Proposals.

Obviously it is impossible to ensure in advance that all Rule Change Proposals developed by AEMO will deliver net benefits against the Wholesale Market Objectives. However, the proposed MAC consultation mechanism, combined with the public scrutiny provided by the existing Allowable Revenue process and the independent assessment of Rule Change Proposals by the Rule Change Panel, make it extremely unlikely that the costs of extending AEMO's market development functions would outweigh the associated benefits.

For these reasons the Rule Change Panel does not agree that a lack of detailed cost information or uncertainty about the future market development activities of other agencies prevents the assessment of this Rule Change Proposal.

5.2 Additional Amendments to the Proposed Amending Rules

Following the first submission period, the Rule Change Panel has made some additional changes to the proposed Amending Rules. A summary of these changes is provided below. The additional amendments are shown in detail in Appendix B of this report.

Requirement to consult with the MAC

The Rule Change Panel has added two new clauses to place a requirement on AEMO (clause 2.5.1A) and the ERA (clause 2.5.1B) to consult with the MAC before starting the development of a Rule Change Proposal and, where appropriate, during the development of a Rule Change Proposal. The requirement has been placed on the ERA as well as AEMO because the development costs of any ERA Rule Change Proposals will also be recovered from Market Participants.

The new clauses also require AEMO and the ERA to consult with the MAC before providing material support or assistance to another party to develop a Rule Change Proposal.

The agencies will be required to consult with the MAC on the following:

- the matters to be addressed by the Rule Change Proposal, and if applicable the nature and scope of the support or assistance requested by the other party;
- what options exist to resolve the matters to be addressed by the Rule Change Proposal (i.e. are there other ways in which the problem could be resolved);
- the agency's estimated costs of developing the Rule Change Proposal or providing the support or assistance requested by the other party;
- whether and when the agency should develop the Rule Change Proposal (e.g. developing the proposal might be inappropriate, or more appropriately progressed by another agency, or insufficiently urgent to progress in the short term) or if the agency should provide the support or assistance requested by the other party; and
- whether and how the MAC will be consulted during the development of the Rule Change Proposal (e.g. for many proposals the MAC may only want to be consulted at the Pre Rule Change Proposal stage, but for more complex proposals some intermediate consultation steps may be warranted, potentially involving the use of concept papers, workshops or even, for very large proposals, the establishment of MAC Working Groups).

The agencies will be required to take into account any advice, comments or objections provided by any member or observer of the MAC in deciding whether, when and how to

develop a Rule Change Proposal⁹. Note that this does not mean that the agency must always follow the advice provided, as in some cases a Rule Change Proposal may be opposed by several MAC members but still provide a material benefit in terms of the Wholesale Market Objectives.

As the MAC's primary function is to provide advice regarding Rule Change Proposals it is well placed to provide advice to agencies considering the development of a Rule Change Proposal. The requirement to consult before commencing any substantive work on a Rule Change Proposal will help ensure that neither party wastes Market Participant fees developing proposals that are, for example:

- contrary to Government energy policy,
- overlapping or conflicting with work being undertaken by the PUO or other stakeholders;
- fundamentally flawed in concept (e.g. addressing a problem that is not actually a problem); or
- of low value in terms of better achieving the Wholesale Market Objectives.

The MAC will also provide a forum for parties to identify opportunities to collaborate on the development of some Rule Change Proposals and to coordinate the timing of any consultation processes to ensure that stakeholders have sufficient opportunity to participate.

Most importantly, the proposed MAC consultation process will give all the relevant stakeholders, including the ERA and the PUO and the Minister, visibility of AEMO's (and the ERA's) market development intentions and the opportunity to provide feedback or clarify responsibilities at an early stage.

The Rule Change Panel does not consider that the consultation requirement will place an undue burden on agencies or result in any problematic delays in the development and progression of Rule Change Proposals. In particular, the consultation requirement is flexible enough to accommodate the development of urgent Rule Change Proposals, e.g. in an extreme situation AEMO could circulate an email to MAC members explaining the situation and providing a suitably short window for members to raise any concerns.

The Rule Change Panel has also amended existing clause 2.3.1, to include consultation with AEMO and the ERA on the development of Rule Change Proposals as a formal function of the MAC.

Clarification of AEMO's new functions

The Rule Change Panel has also amended new clause 2.1A.2(IA) to:

- replace the words "promote the development" with "contribute to the development", to emphasise the contributory, as opposed to leading, role of AEMO in WEM market development; and
- list explicitly the functions about which AEMO requested clarity in its Rule Change Proposal, to address the concerns raised at the MAC and in submissions about the broad scope of the new function as originally drafted.

Other changes

The Rule Change Panel has further amended clause 2.22A.1(c) to remove the word "market" from the phrase "market reviews by the Economic Regulation Authority" to avoid any doubt

⁹ Or provide material support or assistance to another party to develop a Rule Change Proposal.

that the support provided by AEMO extends to all reviews conducted by the ERA under the Market Rules.

5.3 Assessment against the Wholesale Market Objectives

The Rule Change Panel considers that the Market Rules as a whole, if amended as presented in section 7, will better achieve all the Wholesale Market Objectives but in particular Wholesale Market Objectives (a) and (d).

The effectiveness of the rule change process and the WEM reviews conducted by the ERA depend on access to timely and accurate market information. The information provided by AEMO to the Rule Change Panel allows the Rule Change Panel to make more informed decisions on Rule Change Proposals. The ERA uses the information provided by AEMO in its various WEM reviews to identify deficiencies and opportunities for enhancements in the operation of the WEM. Both activities work directly to better achieve all the Wholesale Market Objectives, and so confirmation of AEMO's role in supporting these activities is also expected to contribute to this outcome.

Further, as noted above AEMO's technical expertise and familiarity with market operations will often make it the most efficient option for the development of Rule Change Proposals addressing complex issues. Allowing AEMO to recover its costs will encourage it to take on the development of Rule Change Proposals that other parties might be less willing or able to tackle. This is expected to promote the earlier and more efficient rectification of emergent issues in the market that may be affecting market efficiency, security and reliability, thus better achieving Wholesale Market Objectives (a) and (d):

- (a) *to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system*
- (d) *to minimise the long-term cost of electricity supplied to customers from the South West interconnected system*

The Rule Change Panel considers that the additional changes it has made to the proposed Amending Rules should help to ensure that the Rule Change Proposals developed by AEMO provide value to the market and do not conflict with the market development activities of other agencies.

5.4 Practicality and Cost of Implementation

5.4.1 Cost

The expansion of AEMO's market development functions under the Market Rules could result in some increase in AEMO's costs, which are recovered from Market Participants via Market Fees. The extent of the increase is difficult to quantify as AEMO's market development costs are likely to vary over time, depending on the number and complexity of the Rule Change Proposals in AEMO's forward work program. It should however be noted that the extent of any increase in Market Fees is subject to approval by the ERA through the Allowable Revenue process. Additionally, under the proposed Amending Rules AEMO will be required to consult with the MAC regarding the Rule Change Proposals to be included in its work program.

As a guide, however, AEMO has advised the Rule Change Panel that its current market development budget is approximately \$800,000 per year. AEMO considers that this represents an appropriate resource level for the current level of rule change activity. The

figure excludes costs associated with the Government's market reform program, which were separately approved by the ERA in May 2017.

For the 2017/18 financial year an annual cost of \$800,000 equates to a Market Fee charge of about \$0.021/MWh. By comparison, the total WEM Fee rate for 2017/18 has been set at \$0.918/MWh, comprising a Market Fee rate of \$0.357/MWh, a System Management Fee rate of \$0.434/MWh and a Regulator Fee rate of \$0.127/MWh. The Rule Change Panel notes that AEMO's market development costs represent only a small proportion of overall WEM Fees and an even smaller proportion of total wholesale electricity costs.

A material increase in the volume of Rule Change Proposals may also lead to an increase in RCP Support costs, which are recovered from Market Participants through Regulator Fees. The size of any increase in RCP Support resourcing will depend on the extent to which the volume and complexity of Rule Change Proposals increase, the quality of the Rule Change Proposals submitted and expectations about the speed at which Rule Change Proposals should be progressed. As a guide, the current annual RCP Support budget excluding the costs of the Rule Change Panel members and the executive officer (which would not be expected to change materially with an increase in activity) is also approximately \$800,000 per year.

As noted by Perth Energy, an increase in the level of rule change activity is also likely to increase the costs incurred by Market Participants to assess and respond to Rule Change Proposals. Obviously each Market Participant can and will make their own commercial decision about the extent to which they actively contribute to rule change process. However, the Rule Change Panel considers it will be important to ensure that the pace of market development is not so great as to prevent Market Participants from being able to contribute to the rule change process in a meaningful way, and that proper consideration of this factor places a natural upper limit on the acceptable level of market development activity at any time.

5.4.2 Practicality

The Rule Change Panel does not consider that there are any issues with the practicality of implementing the proposed changes.

5.4.3 Amendments to Associated Market Procedures

The Rule Change Panel has not identified any Market Procedures that require updating as a result of this Rule Change Proposal. The Rule Change Panel expects that some consequential changes to the MAC Constitution will be required.

5.5 Protected Provisions, Reviewable Decisions and Civil Penalties

Clauses 2.1A.2, 2.3.1 and 2.22A.1 of the Market Rules are Protected Provisions. Under clause 2.8.3 of the Market Rules, amendments to a Protected Provision require the Amending Rules in the Rule Change Proposal to be approved by the Minister.

In addition, the Rule Change Panel proposes to add two new clauses, 2.5.1A and 2.5.1B, and considers that these new clauses should also be made Protected Provisions as they will form part of the governance framework for the WEM. As clauses 2.5.1A and 2.5.1B are included in an existing range of Protected Provisions in clause 2.8.13(b) of the Market Rules (i.e. "2.1 to 2.25"), no specific amendments are required to give effect to this.

This Rule Change Proposal does not amend any civil penalty provisions or Reviewable Decisions, nor does the Rule Change Panel consider that the new clauses 2.5.1A and 2.5.1B should be civil penalty provisions or Reviewable Decisions.

6. The Rule Change Panel's Proposed Decision

The Rule Change Panel's proposed decision is to accept the Rule Change Proposal as modified by the amendments outlined in section 5.2 and specified in Appendix B of this report.

6.1 Reasons for the Decision

The Rule Change Panel made its proposed decision on the basis that the Amending Rules, as amended following the first submission period:

- will allow the Market Rules to better achieve all the Wholesale Market Objectives, but in particular Wholesale Market Objectives (a) and (d);
- provide clarity on the role of AEMO, by including the provision of information to support the Rule Change Panel and the market review functions of the ERA as explicit functions of AEMO;
- adequately address the concerns raised by the MAC and in submissions about the broad scope of the proposed new functions leading to conflicts and unwarranted market costs;
- are expected to deliver benefits in terms of the Wholesale Market Objectives that outweigh any costs associated with an increase in rule change activity; and
- create no practicality issues.

Additional detail outlining the analysis behind the Rule Change Panel's decision is provided in section 5 of this report.

6.2 Proposed Commencement Details

The Amending Rules are proposed to commence at **8:00 AM on 24 January 2018**.

7. Proposed Amending Rules

The Rule Change Panel proposes to implement the following Amending Rules (~~deleted text~~, added text):

2.1A.2. The WEM Regulations also provide for the Market Rules to confer additional functions on AEMO. The functions conferred on AEMO are:

...

- (j) to support:
 - i. the Economic Regulation Authority's monitoring of other Rule Participants' compliance with the Market Rules;

- ii. the Economic Regulation Authority's investigation of potential breaches of the Market Rules (including by reporting potential breaches to the Economic Regulation Authority); and
 - iii. any enforcement action taken by the Economic Regulation Authority under the Regulations and these Market Rules;
- (k) to support the Economic Regulation Authority in its market surveillance role, including providing any market related information required by the Economic Regulation Authority;
- (l) to support the Economic Regulation Authority in its role of monitoring market effectiveness, including providing any market related information required by the Economic Regulation Authority; ~~and~~
- (IA) to contribute to the development and improve the effectiveness of the operation and administration of the Wholesale Electricity Market, by:
- i. developing Rule Change Proposals;
 - ii. providing support and assistance to other parties to develop Rule Change Proposals;
 - iii. providing information to the Rule Change Panel as required to support the Rule Change Panel's functions under the Market Rules; and
 - iv. providing information to the Economic Regulation Authority as required to support the reviews carried out by the Economic Regulation Authority under the Market Rules; and
- (m) to carry out any other functions conferred, and perform any obligations imposed, on it under these Market Rules.

...

2.3.1. The Market Advisory Committee is a committee of industry representatives convened by the Rule Change Panel:

- (a) to advise the Rule Change Panel regarding Rule Change Proposals;
- (b) to advise the IMO, Rule Change Panel, AEMO (including in its capacity as System Management) and the Economic Regulation Authority regarding Procedure Change Proposals;
- (c) ~~to~~ consult with AEMO and the Economic Regulation Authority on the development of Rule Change Proposals where requested by AEMO or the Economic Regulation Authority in accordance with clause 2.5.1A or 2.5.1B; and
- (d) to advise the Rule Change Panel regarding matters concerning the evolution of these Market Rules.

...

2.5.1A. AEMO must, before commencing the development of a Rule Change Proposal or providing material support or assistance to another party to develop a Rule Change Proposal, consult with the Market Advisory Committee on:

- (a) the matters to be addressed by the Rule Change Proposal and if applicable the nature and scope of the support or assistance requested by the other party;
- (b) what options exist to resolve the matters to be addressed by the Rule Change Proposal;
- (c) AEMO's estimated costs of developing the Rule Change Proposal or providing the support or assistance requested by the other party;
- (d) whether and when AEMO should develop the Rule Change Proposal or if AEMO should provide the support or assistance requested by the other party; and
- (e) whether and how the Market Advisory Committee will be consulted during the development of the Rule Change Proposal,

and take into account any advice, comments or objections provided by any member or observer of the Market Advisory Committee in deciding whether, when and how to develop the Rule Change Proposal or provide material support or assistance to another party to develop the Rule Change Proposal.

2.5.1B. The Economic Regulation Authority must, before commencing the development of a Rule Change Proposal or providing material support or assistance to another party to develop a Rule Change Proposal, consult with the Market Advisory Committee on:

- (a) the matters to be addressed by the Rule Change Proposal and if applicable the nature and scope of the support or assistance requested by the other party;
- (b) what options exist to resolve the matters to be addressed by the Rule Change Proposal;
- (c) the Economic Regulation Authority's estimated costs of developing the Rule Change Proposal or providing the support or assistance requested by the other party;
- (d) whether and when the Economic Regulation Authority should develop the Rule Change Proposal or if the Economic Regulation Authority should provide the support or assistance requested by the other party; and
- (e) whether and how the Market Advisory Committee will be consulted during the development of the Rule Change Proposal,

and take into account any advice, comments or objections provided by any member or observer of the Market Advisory Committee in deciding whether, when and how to develop the Rule Change Proposal or provide material support or assistance to another party to develop the Rule Change Proposal.

...

2.22A.1. For the purposes of this clause 2.22A, the services provided by AEMO are:

...

- (c) market administration services, including AEMO's performance of the Procedure Change Process, support for the Rule Change Panel in carrying out its functions under these Market Rules, participation in the Market Advisory Committee and other consultation, ~~to~~ support for monitoring and reviews by the Economic Regulation Authority, audit, registration related functions and other functions under these Market Rules; and

...

Appendix A Responses to Submissions Received in the First Submission Period

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
1	Synergy	AEMO should and currently does have a say in market development, however, the proposed rule change would significantly broaden its functions under the WEM rules. Synergy is concerned the proposed function extension could significantly increase industry costs as the rule change would have the effect of increasing AEMO's scope of services that could be legitimately included in allowable revenue and forecast capital expenditure.	While the extension of AEMO's market development functions may increase Market and Regulator Fees, the Rule Change Panel expects that any additional cost resulting from this Rule Change Proposal will not be material compared with other WEM costs (see section 5.4.1) and is extremely unlikely to outweigh the benefits of AEMO performing the relevant functions.
2	Synergy	Synergy agrees with the Rule Change Panel that the scope of the new function is very broad, the proposed drafting places no limits on AEMO's market development role and provides no clarity on the boundaries between AEMO's market development role and that of other agencies such as the PUO.	The Rule Change Panel considers that these concerns are adequately addressed by the additional changes it has made to the proposed Amending Rules, which limit AEMO's new functions to those specifically requested and require AEMO to develop Rule Change Proposals in a transparent and consultative manner. Please refer to section 5.1 of this report for further details.
3	Synergy	The rule change is premature on three grounds. Firstly, the Vertigan and Finkel market reviews both determined there was confusion regarding AEMO's market development role and recommended the COAG Energy Council issue AEMO with a "statement of role" to provide greater clarity. Secondly, there is uncertainty regarding WEM policy direction and reform. Thirdly, AEMO has indicated it will submit a further allowable revenue adjustment in the third or fourth quarter of 2017 "once clarification has been obtained about the underpinning market reform legislation". Role clarity, certainty on WEM reform and visibility on AEMO's future allowable revenue adjustment should occur prior to the rule change being considered.	<p>Please refer to sections 5.1.2 and 5.1.3 of this report regarding the definition of AEMO's market development role.</p> <p>As explained in section 5.1.4, the Rule Change Panel does not agree that certainty on the details of the Government's reform program or AEMO's next Allowable Revenue adjustment are necessary to assess this Rule Change Proposal.</p> <p>Further, as AEMO's list of functions is an essential input to the determination of its Allowable Revenue, the Rule Change Panel considers that clarification of AEMO's functions through the progression of this Rule Change Proposal should occur before the next Allowable Revenue adjustment is considered by the ERA.</p>

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
4	Synergy	Should the rule change be approved, Synergy supports AEMO's proposal there be published memoranda of understanding (MOU) between AEMO and the Economic Regulation Authority and AEMO and the RCP. An MOU should also exist between AEMO and PUO. Any MUO should provide for role clarity in relation to market development matters and specifically address how regulatory and policy duplication will be avoided.	While MOUs can play a useful role in the market they are voluntary, high-level documents with no legal standing and so may not provide a reliable mechanism to avoid regulatory and policy duplication. The Rule Change Panel notes that the MOUs between AEMO and the AEMC and Australian Energy Regulator do not place any specific boundaries on AEMO's market development activities.
5	Synergy	<p>Synergy is concerned AEMO's Rule Change Proposal (as published by the RCP) did not contain any costs for its proposed role extension. Further we note AEMO's position that the incremental cost to its budget for the activities described in its rule change proposal is unclear due to the uncertainty over the broader reform program and may fluctuate over time with the pace of regulatory change progressed via the RCP and broader reform program.</p> <p>In the absence of any cost information in relation to AEMO's increased functions Synergy cannot determine whether the proposal meets WEM objectives (a) and (d) nor can it assess its own cost impact of having to fund AEMO's extended functions. Consequently, the RCP should carefully review the sufficiency of the information provided to it and whether the rule change meets WEM objectives (a) and (d).</p>	Please refer to section 5.1.4 of this report.
6	Perth Energy	Our concern, which appears to be mirrored in the Rule Change Notice, is that the statement "promote the development ... of the WEM" is a very wide ranging remit which could lead to AEMO establishing a large staff undertaking substantial assessments. It would be very easy for "mission creep" to move AEMO into the role of developing structural changes to the market in parallel with, or even in competition with, the Public Utilities Office or other Government agencies. While AEMO may well be able to identify opportunities for such change, undertaking such work separately from the PUO would clearly be counter-productive.	Please refer to the response to issue 2.

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
7	Perth Energy	Perth Energy is happy to invest in AEMO if there is a sufficient value proposition, however not including the cost of the investment nor a defined value proposition resulting from this change makes it an incomplete rule change proposal. Given the current lack of information, Perth Energy cannot support the current rule change because the cost and the benefits are not clear.	Please refer to section 5.1.4 of this report.
8	Perth Energy	Private industry has committed, and continues to commit, substantial resources out of its own pocket to support the rule change and market reform processes. We see extension of AEMO's market development role carrying the risk that greater industry commitment will be required in response to ideas that it puts forward. Placing a limit on how many rule change proposals can be submitted by AEMO is clearly not efficient but AEMO does need to recognize the costs incurred by private industry, Government trading enterprises and the PUO/RCP to respond.	<p>The Rule Change Panel agrees it is important to avoid imposing so much concurrent rule change activity on the market as to make it infeasible (or unnecessarily expensive due to the need to procure additional resources) for Rule Participants to participate in the consultation process.</p> <p>The proposed new MAC consultation process will provide a mechanism for these issues to be raised with and taken into consideration by AEMO (and the ERA) when deciding whether and when to develop Rule Change Proposals.</p>
9	Perth Energy	<p>Developing a balance between restricting AEMO's ability to contribute to market development and giving it a totally free hand is clearly not easy. A document such as a Statement of Role could potentially assist by:</p> <ul style="list-style-type: none"> • defining the general areas of activity where AEMO can act without limit; • establishing a process whereby AEMO should channel any structural change ideas through to the PUO; and • outline how AEMO can participate within broader market reviews. <p>The Statement of Role could also set limits on the level of staffing that AEMO can include for market development within its funding requests. The cost of these resources will be passed through to the market participants and subsequently through to customers so they need to be clearly justified</p>	<p>A Statement of Role developed by the Minister could provide a useful mechanism to clarify the Minister's expectations about how AEMO should contribute to the broader market development process consistent with AEMO's obligations under the Market Rules.</p> <p>The list of functions for which AEMO can recover its costs from the market is prescribed in the Market Rules.</p> <p>The Rule Change Panel does not consider it necessary to set specific limits on AEMO's market development staffing levels, whether in a Statement of Role or any other document (including the Market Rules). AEMO's staffing levels are effectively constrained by the size of its Allowable Revenue and so are subject to a robust, independent determination process. A hard staffing limit would be very inflexible and could potentially lead to both over and under-resourcing of AEMO's market development functions.</p>

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
10	Perth Energy	<p>Perth Energy suggests that the proposed specific rule change should be modified to specify a more limited scope than AEMO has proposed.</p> <p>2.1A.2. <i>(IA) to promote the development and improve the effectiveness of the operation and administration of the Wholesale Electricity Market, including providing information to the Rule Change Panel and Economic regulation Authority to support their respective functions; and</i></p>	<p>The Rule Change Panel notes that the proposed changes to clause 2.1A.2(IA) would still permit AEMO to undertake a much broader range of market development activities than is contemplated in the text of AEMO's Rule Change Proposal, for example to initiate major reviews of aspects of the operation of the WEM.</p>
11	PUO	<p>The PUO is supportive of the intent of AEMO's Rule Change Proposal. However, the proposed Market Rules as currently drafted require further refinement to provide clearer definition of AEMO's future market development responsibilities.</p>	<p>Please refer to sections 5.1.2 and 5.1.3 of this report regarding the definition of AEMO's market development role.</p>
12	PUO	<p>As noted in the Rule Change Notice, similar challenges are being faced in the NEM, with recent reviews of governance arrangements recommending that the COAG Energy Council provide AEMO with a "statement of role" to clarify its responsibilities in this market. A role statement of this nature would provide a useful starting point in addressing the above concerns, however it is not expected to be in place until around mid-2018.</p>	<p>Noted.</p>
13	PUO	<p>An alternative approach could involve use of the annual reports prepared by the ERA to the Minister for Energy on the effectiveness of the Wholesale Electricity Market. These annual reports could explicitly define market development priorities to be undertaken by AEMO, ensuring that any initiatives in this regard have the broad support of market participants given the consultative processes that are undertaken in preparing these reports.</p> <p>The scope of ERA's annual reports could also be expanded to differentiate between market development activities by AEMO and the policy related responsibilities more properly undertaken by the Public Utilities Office.</p>	<p>While the ERA could extend its annual reports to include recommendations on these matters, the recommendations would not be binding (and clearly should not be, in the case of activities to be undertaken by the PUO) and might not contain a level of detail sufficient to ensure avoidance of all overlaps and conflicts. The Rule Change Panel therefore considers that another, more flexible mechanism (such as the proposed MAC consultation process) is likely to better achieve the Wholesale Market Objectives.</p>

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
14	PUO	<p>The Minister for Energy has recently announced a number of electricity sector reform initiatives, including the implementation of a constrained network access model for Western Power's network. Changes to the network access regulation model for the Western Power network will require consequential and complementary changes to the Wholesale Electricity Market Rules, including a new generator dispatch tool to be designed and implemented by AEMO. As the proposed electricity sector reform initiatives are further developed, the Public Utilities Office is continuing to work with AEMO to ensure there is a clear delineation of responsibilities for any activities to be undertaken to avoid duplication of effort or conflicting outcomes. Clearer definition of the scope of AEMO's market development responsibilities will contribute towards this aim.</p>	<p>The Rule Change Panel notes that section 1.20 of the Market Rules confers specific functions on AEMO until 1 July 2020 relating to the implementation of market reforms endorsed by the Minister, including the reform package set out in the July 2016 PUO report "Final Report: Design Recommendations for Wholesale Energy and Ancillary Service Market Reforms". These functions include "developing, and consulting about, proposals to change these Rules to accommodate Wholesale Electricity Market Reform". These provisions are additional to the normal market development functions that are the subject of this Rule Change Proposal.</p> <p>The Rule Change Panel assumes that the allocation of responsibilities for the Government's current energy reform work program will be decided by the Minister (assisted by the PUO) in consultation with AEMO and other relevant stakeholders.</p>
15	Alinta	<p>Alinta notes that the proposed drafting has been paraphrased from a similar function conferred on AEMO section 49(1)(b) of the National Electricity Law (NEL) and adjusted for the Wholesale Electricity Market (WEM) context.</p> <p>Alinta is broadly concerned with the proposal to mirror the NEL given the confusion about AEMO's role in market development in the National Electricity Market (NEM), as identified in the recent Vertigan and Finkel Reviews. Further, Alinta agrees with the Rule Change Panel's (RCP) assessment that "the potential scope of the new function is very broad. The proposed drafting places no limits on AEMO's market development role, in particular in relation to the development of Rule Change Proposals, and provides no clarity on the boundaries between AEMO's market development role and that of other parties such as the Public Utilities Office (PUO)".</p>	Please refer to the response to issue 2.

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
16	Alinta	<p>Given the EMR reform to the institutional arrangements is now operational, Alinta considers that it is timely to undertake further work to review these arrangements and ensure:</p> <ul style="list-style-type: none"> • That each agency's role is clear – for both the agency itself and the broader industry; • There are no conflicts of interest and duplication of functions/costs occurring; and • Robust energy policy and market development in able to occur in a timely, efficient and appropriate manner going forward. <p>Specifically, Alinta considers that there needs to be clear delineation between of the roles of the AEMO and the policy-making and regulatory bodies such as PUO and ERA.</p>	<p>A general review of the WEM institutional arrangements is outside the scope of this Rule Change Proposal.</p> <p>The Rule Change Panel agrees there should be a clear delineation between the roles of AEMO, the PUO and the ERA. However, as discussed in section 5.1.3 of this report, the extent of the PUO's policy activities may vary over time, making the specification of detailed and permanent role boundaries challenging.</p>
17	Alinta	<p>Consideration should be given to developing Statements of Expectations for the ERA, the PUO and the Rule Change Panel, and a Statement of Role for the AEMO containing a comprehensive set of outcomes-based performance indicators.</p>	<p>The development of these statements is outside the scope of this Rule Change Proposal.</p>
18	Alinta	<p>Alinta notes the comment in AEMO's Rule Change Proposal that <i>"Both the Vertigan and Finkel Reviews have acknowledged the strong contribution that AEMO should make to market development activities"</i>. Alinta presents several extracts from the final reports of these reviews to provide a better understanding of the reviews' recommendations regarding AEMO's market development role in the NEM.</p> <p>Alinta concludes that both the Vertigan and Finkel Reviews recognise AEMO's valuable contributions into market development work, but considered that this should be constrained to contributing to the issues identified by the AEMC as part of the process for identifying strategic priorities for energy market development.</p>	<p>The Rule Change Panel agrees with Alinta's assessment of the views expressed by the Vertigan and Finkel Reviews regarding AEMO's market development role in the NEM.</p>
19	Alinta	<p>Alinta considers that AEMO should quite rightly have the ability to provide input into policy and market development processes given its expertise in market and system operations. AEMO should also be able to recover its costs for doing so. In noting this, Alinta</p>	<p>The Rule Change Panel notes that the proposed changes to clause 2.1A.2(IA) still leave the clause open to different interpretations, and so permit AEMO to undertake a broader range of market development</p>

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
		<p>considers that the proposed drafting in the Rule Change Proposal is too broad and greater clarity about the boundaries of AEMO's market development role is needed. Alinta suggests the following drafting for consideration:</p> <p>Alinta recommends that Market Rules contain further clarity as to the role AEMO should play in market development, and has suggested some drafting for the RCP to consider:</p> <p>2.1A.2</p> <p>(IA) to promote the development and improve the effectiveness efficient of the operation and administration of the Wholesale Electricity Market, including providing information to the Rule Change Panel and Economic Regulation Authority to support their respective functions; and</p> <p><u>(IB) to provide input into market development activities identified by the Rule Change Panel and Economic Regulation Authority, including providing information and analysis to develop solutions, as required; and</u></p>	<p>activities than is contemplated in the text of AEMO's Rule Change Proposal.</p> <p>It is not clear from proposed new clause 2.1A.2(IB) to whom AEMO is meant to provide input, as while the activities in question are identified by the Rule Change Panel and ERA, the party or parties responsible for undertaking these activities is not specified. The Rule Change Panel also notes that its functions do not include the identification of market development activities.</p>
20	Alinta	<p>Developing an appropriate balance when defining the limits of AEMO's contribution to market development is not easy and a document such as a Statement of Role, as recommended above, will assist. However, a Statement of Role is likely to take some time to be developed, and even if there was such a statement in place, Alinta considers that the proposed drafting is still too ambiguous and broad and therefore recommends that the Market Rules also contain further clarity as to the role AEMO should play in market development.</p>	<p>Please refer to sections 5.1.2 and 5.1.3 of this report.</p>
21	Alinta	<p>Given the proposed drafting is ambiguous and broad, Alinta cannot categorically state that the Rule Change Proposal, as drafted, would promote economic efficiency or minimise the long term cost of electricity supplied. This is because Alinta cannot be certain that</p> <ul style="list-style-type: none"> • There is no duplication of functions/costs occurring; and • Robust energy policy and market development will occur in a timely, efficient and appropriate manner going forward (i.e. if would not be appropriate for AEMO as the market and 	<p>Please refer to the response to issue 2.</p>

Issue	Submitter	Comment/ Issue Raised	Rule Change Panel's Response
		<p>system operator to initiate a fundamental review of the underlying structure of the market).</p> <p>Alinta considers that, if greater clarity into what AEMO's role in market development was included in the proposed drafting, and AEMO was able to appropriately recover its costs for performing such tasks, then it is likely that the rule change proposal would better facilitate the achievement of Wholesale Market Objectives (a) and (d).</p>	

Appendix B Further Amendments to the Proposed Amending Rules

The Rule Change Panel made some amendments to the proposed Amending Rules following the first submission period. These changes are as follows (~~deleted text~~, added text):

2.1A.2. The WEM Regulations also provide for the Market Rules to confer additional functions on AEMO. The functions conferred on AEMO are:

...

- (j) to support:
 - i. the Economic Regulation Authority's monitoring of other Rule Participants' compliance with the Market Rules;
 - ii. the Economic Regulation Authority's investigation of potential breaches of the Market Rules (including by reporting potential breaches to the Economic Regulation Authority); and
 - iii. any enforcement action taken by the Economic Regulation Authority under the Regulations and these Market Rules;
- (k) to support the Economic Regulation Authority in its market surveillance role, including providing any market related information required by the Economic Regulation Authority;
- (l) to support the Economic Regulation Authority in its role of monitoring market effectiveness, including providing any market related information required by the Economic Regulation Authority;
- (IA) ~~to promote~~ contribute to the development and improve the effectiveness of the operation and administration of the Wholesale Electricity Market, ~~by including providing information to the Rule Change Panel and Economic Regulation Authority to support their respective functions; and~~
 - i. developing Rule Change Proposals;
 - ii. providing support and assistance to other parties to develop Rule Change Proposals;
 - iii. providing information to the Rule Change Panel as required to support the Rule Change Panel's functions under the Market Rules; and
 - iv. providing information to the Economic Regulation Authority as required to support the reviews carried out by the Economic Regulation Authority under the Market Rules; and
- (m) to carry out any other functions conferred, and perform any obligations imposed, on it under these Market Rules.

...

- 2.3.1. The Market Advisory Committee is a committee of industry representatives convened by the Rule Change Panel:
- (a) to advise the Rule Change Panel regarding Rule Change Proposals;
 - (b) to advise the IMO, Rule Change Panel, AEMO (including in its capacity as System Management) and the Economic Regulation Authority regarding Procedure Change Proposals;
 - (c) ~~to~~ consult with AEMO and the Economic Regulation Authority on the development of Rule Change Proposals where requested by AEMO or the Economic Regulation Authority in accordance with clause 2.5.1A or 2.5.1B; and
 - (d) to advise the Rule Change Panel regarding matters concerning the evolution of these Market Rules.

...

2.5.1A. AEMO must, before commencing the development of a Rule Change Proposal or providing material support or assistance to another party to develop a Rule Change Proposal, consult with the Market Advisory Committee on:

- (a) the matters to be addressed by the Rule Change Proposal and if applicable the nature and scope of the support or assistance requested by the other party;
- (b) what options exist to resolve the matters to be addressed by the Rule Change Proposal;
- (c) AEMO's estimated costs of developing the Rule Change Proposal or providing the support or assistance requested by the other party;
- (d) whether and when AEMO should develop the Rule Change Proposal or if AEMO should provide the support or assistance requested by the other party; and
- (e) whether and how the Market Advisory Committee will be consulted during the development of the Rule Change Proposal,

and take into account any advice, comments or objections provided by any member or observer of the Market Advisory Committee in deciding whether, when and how to develop the Rule Change Proposal or provide material support or assistance to another party to develop the Rule Change Proposal.

2.5.1B. The Economic Regulation Authority must, before commencing the development of a Rule Change Proposal or providing material support or assistance to another party to develop a Rule Change Proposal, consult with the Market Advisory Committee on:

- (a) the matters to be addressed by the Rule Change Proposal and if applicable the nature and scope of the support or assistance requested by the other party;

- (b) what options exist to resolve the matters to be addressed by the Rule Change Proposal;
 - (c) the Economic Regulation Authority's estimated costs of developing the Rule Change Proposal or providing the support or assistance requested by the other party;
 - (d) whether and when the Economic Regulation Authority should develop the Rule Change Proposal or if the Economic Regulation Authority should provide the support or assistance requested by the other party; and
 - (e) whether and how the Market Advisory Committee will be consulted during the development of the Rule Change Proposal,
- and take into account any advice, comments or objections provided by any member or observer of the Market Advisory Committee in deciding whether, when and how to develop the Rule Change Proposal or provide material support or assistance to another party to develop the Rule Change Proposal.

...

2.22A.1. For the purposes of this clause 2.22A, the services provided by AEMO are:

...

- (c) market administration services, including AEMO's performance of the Procedure Change Process, support for the Rule Change Panel in carrying out its functions under these Market Rules, participation in the Market Advisory Committee and other consultation, support for monitoring and ~~market~~ reviews by the Economic Regulation Authority, audit, registration related functions and other functions under these Market Rules; and

...