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Diversification

Energy
Policy WA

Constitution of the Market Advisory Committee

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1. Introduction

- 1.1. The Electricity System and Market (ESM) Rules are made under the Electricity Industry (Electricity System and Market) Regulations 2004 (**Regulations**) and in accordance with section 123 of the *Electricity Industry Act 2004* (**Act**).
- 1.2. The Coordinator of Energy's (**Coordinator**) functions are specified in clause 2.2D.1 of the ESM Rules and are to:
 - (a) administer the ESM Rules;
 - (b) develop amendments to the ESM Rules and replacements for them;
 - (c) consider and, in consultation with the Market Advisory Committee, progress the evolution and development of the Wholesale Electricity Market and the ESM Rules;
 - (d) undertake reviews and consultation as required under the ESM Rules;
 - (e) provide MAC Secretariat services to the Market Advisory Committee and support the independent Chair of the Market Advisory Committee (**independent Chair**);
 - (f) develop WEM Procedures, and amendments and replacements for them, where required by the ESM Rules;
 - (g) do anything that the Coordinator determines to be conducive or incidental to the performance of the functions set out in clause 2.2D.1 of the ESM Rules; and
 - (h) carry out any other functions conferred, and perform any obligations imposed, on them under the ESM Rules.
- 1.3. The Coordinator must not make Amending Rules unless they are satisfied that the ESM Rules, as proposed to be amended or replaced, are consistent with the State Electricity Objective.
- 1.4. The State Electricity Objective are contained within section 3A(1) of the Act and clause 1.2.1 of the ESM Rules.
- 1.5. This constitution of the Market Advisory Committee (**the Constitution**) is prepared in accordance with clause 2.3.2 of the ESM Rules.
- 1.6. Terms used in this Constitution have the same meaning as defined in the ESM Rules.
- 1.7. If a provision of this Constitution is inconsistent with a higher order document (the Act, Regulations, ESM Rules or a WEM Procedure), then the provision in the higher order document prevails to the extent of the inconsistency.

2. Terms of Reference

- 2.1. The Market Advisory Committee is a committee of stakeholder representatives convened by the Coordinator to advise the Coordinator regarding matters concerning, and the Coordinator's plans for, the evolution, development and operation of the South West Interconnected System, the Wholesale Electricity Market and the ESM Rules, and to:

- (a) advise the Coordinator regarding Rule Change Proposals;
- (b) advise the Australian Energy Market Operator (AEMO), the Economic Regulation Authority (ERA), the Coordinator and Network Operators regarding Procedure Change Proposals;
- (c) advise the Coordinator, AEMO and the ERA on the development of Rule Change Proposals when requested by the Coordinator, AEMO or the ERA in accordance with clauses 2.5.1A, 2.5.1B or 2.5.1C of the ESM Rules; and
- (d) provide assistance to the Coordinator in its monitoring role under clauses 2.16.13A and 2.16.13B of the ESM Rules.

2.2. In carrying out its functions, the Market Advisory Committee must have regard to the State Electricity Objective as set out in clause 1.2.1 of the ESM Rules and any recommendations made by the Market Advisory Committee must be consistent with the State Electricity Objective.

2.3. Market Advisory Committee members or their proxies are required to act in the best interests of the WEM.

2.4. Market Advisory Committee members do not vote on issues and must endeavour to reach a consensus on any issue before the committee. If, after allowing a reasonable time for discussion, the independent Chair of the Market Advisory Committee determines that a consensus position either will not be achieved, or is unlikely to be achieved within a time which is reasonable in the circumstances, then the independent Chair must provide advice to the Coordinator which reflects any majority view and which includes or is accompanied by the dissenting views.

2.5. The Market Advisory Committee may establish Working Groups comprised of representatives of Rule Participants and other interested stakeholders to assist it in advising the Coordinator, ERA, AEMO and Network Operators.

3. Membership Terms

3.1. In accordance with clause 2.3.5 of the ESM Rules, the Market Advisory Committee must comprise:

- (a) at least eight and not more than ten members representing Market Participants, or prospective Market Participants;
- (b) at least one member and not more than two representing Contestable Customers;
- (c) at least one and not more than two members representing Network Operators, of whom one must represent Western Power;
- (d) at least two independent members to represent small-use consumers;
- (e) two members representing AEMO;
- (f) one member representing Synergy, in its role as the only supplier of electricity to non-contestable customers; and
- (g) an independent Chair, who must be a person appointed by the Minister under clauses 2.3.8A or 2.3.8D of the ESM Rules.

3.2. The Minister may appoint a representative to attend Market Advisory Committee

meetings as an observer, as outlined in clause 2.3.6 of the ESM Rules.

- 3.3. The ERA may appoint a representative to attend Market Advisory Committee meetings as an observer, as outlined in clause 2.3.7 of the ESM Rules.
- 3.4. The Coordinator or the independent Chair may invite a person to attend Market Advisory Committee meetings as an observer, either for a specified meeting or meetings or until further notice.

Proxies

- 3.5. AEMO, Synergy and Western Power (**Single Entity**) and small-use consumer representatives who are unable to attend a meeting can send an appropriate proxy with similar skills and experience to attend meetings in their place.
- 3.6. Members, other than those to which clause 3.5 applies, who are unable to attend a meeting can request the attendance of an appropriate proxy (from any organisation which belongs to the same class as the member) who must have similar skills and experience. These members cannot send a proxy by right. Permission for the attendance by proxies will be at the independent Chair's discretion and must not be withheld unreasonably.
- 3.7. Observers appointed by the Minister or the ERA can send proxies to attend meetings in their place.

Meeting Attendance

- 3.8. The Market Advisory Committee may continue to perform its functions under section 2.3 of the ESM Rules despite any vacancy.
- 3.9. Each member is required to make themselves reasonably available for all meetings. Members who have not been reasonably available for all meetings may be removed by the Coordinator under clause 4.15 of this Constitution.
- 3.10. Proxies sent by AEMO, Synergy, Western Power and small-use consumer representatives count towards attendance.
- 3.11. Proxies approved in accordance with clause 3.6 do not count towards attendance.
- 3.12. Each member and observer is required to:
 - (a) be prepared for all Market Advisory Committee meetings, to read the papers and to actively contribute to discussions;
 - (b) not use their position or information gained as a member or observer improperly to gain an advantage for themselves or anyone else, or to cause detriment to the Coordinator or the market; and
 - (c) ensure that the advice provided to the Coordinator is consistent with the State Electricity Objective.
- 3.13. Each MAC member who has a representative on a MAC Working Group is expected to, without limiting clauses 9.4 and 9.5 of this Constitution, proactively seek updates from that representative.

3.14. Each member, other than small-use consumer representatives under clause 3.1(d) of this Constitution, and observer must pay their own expenses associated with participating in the Market Advisory Committee.

4. Appointing and Replacing Members

4.1. The Coordinator may appoint members and terminate membership of the Market Advisory Committee in accordance with clauses 2.3.8 and 2.3.11 of the ESM Rules; section 4 of this Constitution.; and the Market Advisory Committee Appointment Guidelines (if one is published by the Coordinator).

4.2. In accordance with clause 2.3.5A of the ESM Rules, the Coordinator must use their reasonable endeavours to ensure that:

- (a) the Market Advisory Committee membership includes a diverse but balanced representation of Market Participants or prospective Market Participants;
- (b) the Market Advisory Committee membership is representative of the range Facility Classes, and existing and emerging technology types in the Wholesale Electricity Market; and
- (c) at least one Market Participant or prospective Market Participant that sells, or intends to sell, electricity to customers but has not registered, and does not intend to register, a Scheduled Facility, Semi-Scheduled or Non-Scheduled Facility in the Wholesale Electricity Market,

when appointing or removing members.

Nomination

4.3. AEMO, Synergy and Single Entity members must be nominated to the Coordinator by the represented entity.

4.4. The Coordinator will advertise for nominations for members of the Market Advisory Committee, to which clause 4.2 applies, on the Coordinator's Website, by email to recipients of Energy Policy WA's weekly RulesWatch newsletter, and via direct contact with appropriate industry groups or any other means the Coordinator considers appropriate. Any company or individual can make nominations.

Appointments

4.5. Each member appointed following an annual composition review will usually be appointed for a term of two years, subject to any earlier termination.

4.6. The Coordinator may appoint members following an annual composition review for a term shorter or longer than two years, including to ensure that the terms of half of the members in each class of discretionary members expire each year.

4.7. Where a member is appointed to a vacated position on the Market Advisory Committee that is not vacated due to the expiration of the position's term, the term of the replacement member is for the duration of the previous member's remaining length of tenure.

4.8. A member may be reappointed to the Market Advisory Committee unless they have been a member for the six or more consecutive years immediately before

the proposed reappointment period begins excluding any years before 15 February 2022.

- 4.9. With the exception of AEMO, no more than one individual from the same employing organisation can be a member of the Market Advisory Committee at any one time.
- 4.10. When appointing and removing members of the Market Advisory Committee, the Coordinator will consult with the independent Chair, and take nominations from Rule Participants and industry groups that they consider relevant to the WEM.
- 4.11. If practicable, and taking into account the requirements of the ESM Rules regarding the Market Advisory Committee composition, the Coordinator will choose members from among those persons nominated, in accordance with clause 4.4 of this Constitution.

Annual Composition Review

- 4.12. Each year the Coordinator will review the performance and attendance of all Market Advisory Committee members in consultation with the independent Chair. Following the review, if the Coordinator determines that a member has not met the requirements of members as set out in this Constitution or the Market Advisory Committee Appointment Guidelines (if one is published by the Coordinator), then the Coordinator may:
 - (a) for a Single Entity, request the party that has appointed the member to nominate another member;
 - (b) for a member appointed under clause 4.6, terminate the membership of, or decide to not reappoint the member, and must then follow the process to fill the vacancy as set out in clauses 4.10 and 4.11 of this Constitution.
- 4.13. The Coordinator may also remove a member of the Market Advisory Committee at any time in the circumstances described in clause 2.3.11 of the ESM Rules.
- 4.14. A member of the Market Advisory Committee may resign by giving notice to the Coordinator in writing. The Coordinator, subject to clause 2.3.13 of the ESM Rules, may appoint a replacement member for the duration of the previous member's remaining length of tenure.
- 4.15. When a position on the Market Advisory Committee is vacant at any time for any reason, the Coordinator must, in accordance with clause 2.3.13 of the ESM Rules, use reasonable endeavours to appoint a suitable person to fill the position. For the avoidance of doubt, the Market Advisory Committee can continue to perform its functions despite any vacancy.
 - (a) For a Single Entity, the Coordinator will request that a suitably qualified replacement nominee is provided to attend meetings.
 - (b) For small-use consumer representatives, the Coordinator will appoint a suitable representative as per clauses 4.4 of this Constitution.
 - (c) For other members, the Coordinator will appoint a suitable representative, as per clauses 4.10 and 4.11 of this Constitution, and in accordance with the requirements of the ESM Rules.

5. Convening the Market Advisory Committee

5.1. The independent Chair must convene the Market Advisory Committee:

- (a) in relation to a Rule Change Proposal, where the independent Chair or the Coordinator considers that advice is required from the Market Advisory Committee, in which case the meeting will be called before the due date for submissions on the proposed changes;
- (b) in relation to a Procedure Change Proposal, where the independent Chair, the Coordinator, AEMO or the ERA considers that advice is required from the Market Advisory Committee or a Network Operator considers that advice is required from the Market Advisory Committee on a Procedure Change Proposal they have prepared, in which case the meeting will be called before the due date for submissions on the proposed changes;
- (c) in relation to a Rule Change Proposal or Procedure Change Proposal, where two or more members of the Market Advisory Committee have informed the independent Chair in writing that they consider that advice is required from the Market Advisory Committee;
- (d) on any occasion when two or more members of the Market Advisory Committee have informed the independent Chair in writing that they wish to bring a matter regarding the evolution or the development of the WEM or the ESM Rules before the Market Advisory Committee for discussion;
- (e) on any occasion the Coordinator has informed the independent Chair they wish to bring a matter regarding the evolution or the development of the WEM or the ESM Rules before the Market Advisory Committee for discussion; and
- (f) where practicable, consistent with the provisional schedule of Market Advisory Committee meetings issued annually by the MAC Secretariat.

6. Conduct of Meetings

- 6.1. The independent Chair may determine procedures for meetings of the Market Advisory Committee.
- 6.2. The Market Advisory Committee may provide advice or make recommendations to the Coordinator on an issue. Any advice or recommendations made by the Market Advisory Committee must be based on the consensus achieved by members in accordance with clause 2.5 of this Constitution.
- 6.3. Meetings of the Market Advisory Committee may be called or held in-person or virtually, or a combination of the two, using any technology determined by the independent Chair and (if required) at a location nominated by the independent Chair.
- 6.4. Meetings of the Market Advisory Committee are recorded for the purpose of ensuring the accuracy of meeting minutes. These recordings are therefore considered temporary and once the minutes of a meeting are confirmed the recordings from that meeting are no longer considered necessary and will be periodically deleted.

7. Role of the MAC Secretariat and independent Chair

- 7.1. The MAC Secretariat will provide secretariat services to the Market Advisory Committee and support the independent Chair, including in performing the functions in sections 7.2

and 7.3 of this Constitution.

7.2. The MAC Secretariat will:

- (a) develop and issue a provisional schedule of meetings (under the direction of the independent Chair) and maintain the diary of the Market Advisory Committee;
- (b) compile the meeting papers and send them by email to all members and observers of the Market Advisory Committee and publish the papers on the Coordinator's Website. The MAC Secretariat will endeavour to issue papers to all members and observers, at least five Business Days before each meeting, except for any late papers approved by the independent Chair;
- (c) prepare the minutes of each Market Advisory Committee meeting. The MAC Secretariat will endeavour to send them by email to all members and observers of the Market Advisory Committee within ten Business Days of the meeting; and
- (d) publish the minutes on the Coordinator's Website.

7.3. The independent Chair may develop and submit Rule Change Proposals based on advice received from the Market Advisory Committee regarding the development of the WEM and the ESM Rules.

7.4. The independent Chair may, at their discretion, approve late papers for a Market Advisory Committee meeting.

8. Interaction between the Market Advisory Committee, the Coordinator and the independent Chair

- 8.1. All written communications related to the activities of the Market Advisory Committee from the members and observers of the Market Advisory Committee must be sent to the MAC Secretariat via e-mail to: energymarkets@deed.wa.gov.au
- 8.2. Communications between the members and observers of the Market Advisory Committee and the MAC Secretariat will be via email to the email addresses published on the Coordinator's Website and must copy in the MAC Secretariat energymarkets@deed.wa.gov.au
- 8.3. The Coordinator will provide the independent Chair, members and observers of the Market Advisory Committee with information in their possession that is directly relevant to the issues being addressed (subject to clause 10.2.4 of the ESM Rules).
- 8.4. After the publication of a notice of a Rule Change Proposal, the Coordinator will notify the independent Chair, and members and observers of the Market Advisory Committee (in accordance with clause 2.7.4 of the ESM Rules) via email, as to whether the Coordinator considers that advice on the proposal is required from the Market Advisory Committee and the reasons why.
- 8.5. The Coordinator will include in their Draft Rule Change Reports (in accordance with clause 2.7.7 of the ESM Rules) a summary of the views expressed by the members of the Market Advisory Committee (or Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee Working Group) has met to consider a Rule Change Proposal.
- 8.6. The Coordinator will include reasons in their Final Rule Change Reports (in accordance with clause 2.7.8(bA) of the ESM Rules) if they have decided not to follow partially or fully the advice received from the Market Advisory Committee.

8.7. The Coordinator, ERA, Network Operators and AEMO will include in their Procedure Change Reports (in accordance with clause 2.10.13 of the ESM Rules) a summary of the views expressed by the members of the Market Advisory Committee (or Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee Working Group) has met to consider a Procedure Change Proposal.

9. Governance Arrangements Between the Market Advisory Committee and Working Groups

9.1. The Market Advisory Committee may establish and disband Working Groups as per clause 2.3.17 of the ESM Rules.

9.2. The Market Advisory Committee must determine the scope of work and terms of reference for each Working Group. The Market Advisory Committee may approve any amendments to the Terms of Reference or membership of any Working Group at any time.

9.3. The terms of reference for a Working Group will be tailored to the specific requirements of each Working Group and typically include the:

- (a) background (reason for the establishment of the Working Group);
- (b) purpose and scope of work of the Working Group;
- (c) roles and responsibilities of members of the Working Group;
- (d) membership of the Working Group;
- (e) administration, secretariat and meeting arrangements for the Working Group; and
- (f) reporting arrangements to the Market Advisory Committee.

9.4. Working Groups must report to the Market Advisory Committee at least once every two months, unless otherwise specified in the terms of reference for the Working Group. Reporting will be via the Working Group secretariat. The Working Group will report to the Market Advisory Committee at other times requested by the Market Advisory Committee. Day-to-day interaction between the Market Advisory Committee and the Working Group will be via the MAC Secretariat.

9.5. Working Groups must refer issues outside the scope of the Working Group's terms of reference back to the Market Advisory Committee for consideration.

9.6. Once a Working Group has been established, the Market Advisory Committee delegates to the Working Group the ability to discuss the matters within the scope of the Working Group's terms of reference. The Working Group must report back to the Market Advisory Committee with any recommendations that it determines.

9.7. The independent Chair must, through the MAC Secretariat, inform the Coordinator if the Market Advisory Committee establishes a Working Group, and must provide the Coordinator with a copy of the terms of reference for each Working Group.

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