

Decision to Approve Rule Change C01/14R

Submitted by the Retail Energy Market Company

25 November 2014

Economic Regulation Authority

WESTERN AUSTRALIA

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1.1 DECISION

1. Pursuant to section 11ZOM of the *Energy Coordination Act 1994 (Act)*, the Economic Regulation Authority (**Authority**) approves the proposed amendments in Rule Change C01/14R, submitted by the Retail Energy Market Company (**REMCo**) on 6 October 2014. The Rule Change allows Shippers and Swing Service Providers (**SSPs**) to be listed on the REMCo Shipper Register if they have purchased pipeline capacity from the secondary capacity market. This decision will be gazetted on 25 November 2014, to take effect from 28 November 2014.

1.2 REASONS

1.2.1 Background

2. Under section 11ZOL of the Act, REMCo may prepare an amendment to its Retail Market Scheme (**Scheme**), which includes the Retail Market Rules (**Rules**)¹, and submit the amendment to the Authority for approval.
3. On 6 October 2014, REMCo submitted Rule Change proposal C01/14R to the Authority, detailing the rationale for the proposed Rule Change and REMCo's assessment of whether the criteria for approval of an amendment to the Scheme under the Act had been met.

1.2.2 Discussion

1.2.2.1 Legislative requirements for the Authority's approval

4. Section 11ZOM of the Act provides that where an amendment is submitted under section 11ZOL of the Act, the Authority is to, in accordance with section 11ZOO and section 11ZOP of the Act:
 - a) approve it;
 - b) request that it be changed and approve it in a changed form; or
 - c) refuse to approve it.
5. Under section 11ZOO(1)(a) of the Act, the Authority may approve an amendment to the Scheme, only if the Authority is satisfied that, if the amendment is made, the provisions of the Scheme:
 - a) will comply with the Act; and
 - b) be suitable for the purposes of section 11ZOB;

¹ The REMCo Retail Market Scheme also comprises the REMCo Constitution, the REMCo Specification Pack, and the FRC Hub Conditions.

6. Section 11ZOB of the Act indicates that the purpose of the Scheme for a distribution system is to ensure that the retail gas market that is supplied through that system is regulated and operates in a manner that is:
 - a) open and competitive;
 - b) efficient; and
 - c) fair to gas market participants and their customers.
7. Pursuant to section 11ZOO(1)(b) of the Act, the Authority may approve an amendment to a retail market scheme if it is satisfied that any other principle, criterion, or requirement that is prescribed for the purposes of this paragraph in the Act has been met.
8. Section 11ZOL(3) of the Act requires that an amendment to the Rules that is made as part of a scheme for a distribution system is not to be submitted unless the members of the scheme have consulted in relation to the amendment with any of the following who would be affected by the amendment if it is approved:
 - a) a gas transmission operator whose pipeline is used to transport gas into that system; and
 - b) a prescribed person within the meaning in 11ZOD(1)(b) of the Act, which includes any Shipper, SSP or Self Contracting User.
9. Under 11ZOO(2) of the Act, the Authority may approve an amendment to any retail Market Rule under section 11ZOM of the Act only if it is satisfied that the consultation required by section 11ZOL(3) of the Act has taken place and:
 - a) each person required to be consulted has agreed to the amendment; or
 - b) if any person required to be consulted has not so agreed, that person has been given a reasonable opportunity in the course of consultation to provide reasons for not agreeing, and any reasons so provided have been considered.
10. Additionally, under 11ZOP of the Act, when determining whether or not to give an approval under section 11ZOM of the Act, the matters to which the Authority is also to have regard include:
 - a) any principles, criteria, or requirements that are prescribed for the purposes of this paragraph; and
 - b) such other matters as the Authority considers relevant.

1.2.2.2 *Rule Change C0/14R – Secondary Capacity for Shipper and Swing Service Provider Listing Requests*

11. Currently, the REMCo Retail Market Rules require that Shippers and SSPs secure pipeline capacity from Pipeline Operators in order to be listed on the REMCo Shipper Register.
12. Rule Change proposal C01/14R proposes to allow Shippers and SSPs to be listed on the REMCo Shipper Register if they have purchased pipeline capacity from the secondary capacity market.

13. The Authority considers that the Scheme will continue to comply with the Act if the proposed Rule Change is implemented. The Authority considers that the proposed Rule Change will remove a barrier to entry in the Market Rules for Shippers and SSPs, and will provide Market Participants with greater flexibility in sourcing transmission capacity. The Authority is therefore satisfied that the requirements in section 11ZOO(1)(a) of the Act have been met.
14. The Authority notes that REMCo submitted Rule Change proposal C01/14R to the Rule Change Committee, where it was unanimously agreed that the proposed change is a low impact Rule Change and that consultation should commence. The Rule Change proposal was circulated to a network operator, two pipeline operators, two self-contracting users, and four retailers (three of whom are also shippers, and two of whom are also SSPs). Additionally, REMCo published a notice of consultation on its website on 8 September 2014 inviting gas Market Participants to lodge a submission to the Rule Change proposal. The Consultation period closed on 22 September 2014.
15. REMCo received no objections to the Rule Change proposal. REMCo received one submission supporting the Rule Change proposal and suggesting further minor drafting amendments. REMCo endorsed the additional amendments and submitted the Rule Change proposal to the Authority for approval.
16. It is the Authority's view that each person required to be consulted has been consulted and can be deemed to have agreed to the amendments proposed under C01/14R. The Authority thus considers that the requirements under sections 11ZOL(3) and 11ZOO(2) of the Act have been satisfied.
17. The Authority is not aware of any other principle, criterion or requirement that is prescribed for the purposes of section 11ZOP of the Act that would prevent approval of the proposed amendments under section 11ZOM of the Act.

1.3 CONCLUSION

18. For the reasons outlined above, the Authority considers that the proposed amendments to the Rules in Rule Change C01/14R meet the requirements for approval, in accordance with sections 11ZOO and 11ZOP of the Act. Therefore, pursuant to section 11ZOM of the Act, the Authority approves the amendments proposed in Rule Change C01/14R.