

Decision to Approve Amendments to the Retail Market Scheme - Rule Changes C03/15R, C04/15S and C05/15R

Submitted by the Retail Energy Market Company

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Economic Regulation Authority

WESTERN AUSTRALIA

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Decision

- 1) Pursuant to section 11ZOM of the *Energy Coordination Act 1994 (Act)*, the Economic Regulation Authority (**ERA**) approves the amendments in Rule Change Proposals C03/15R, C04/15S and C05/15R, submitted to the ERA by the Retail Energy Market Company (**REMCo**) on 30 October 2015, to be effective from 1 January 2016.

Reasons

Background

1. REMCo may prepare an amendment to its Retail Market Scheme (**Scheme**) and submit the amendment to the ERA for approval under section 11ZOM of the Act.¹
2. The REMCo Scheme includes the Retail Market Rules (**Rules**), the Specification Pack (**Spec Pack**)², the REMCo Constitution, and the FRC Hub Operational Conditions.³
3. On 30 October 2015, the ERA received a submission from REMCo seeking approval of amendments to the REMCo Rules. The submission details the rationale for three Rule Changes, including C03/15R, C04/15S and C05/15R, and REMCo's assessment of these amendments in meeting the prerequisites for approval under the Act.

Discussion

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. The Authority may approve an amendment to the Scheme if it is satisfied that if the amendment is made, the scheme will:⁴

¹ *Energy Coordination Act 1994*, Section 11ZOL

² The Spec Pack is a suite of documents that supports the operation of the Rules.

³ The FRC Hub is the information system provided by REMCo for the transmission of aseXML messages under the Rules. The FRC Hub Operational terms and conditions govern the communication protocol within the FRC Hub. Whilst the ERA is required to approve amendments to the Rules, Specification Pack and the Constitution, it is not required to approve amendments to the FRC Hub Operational terms and conditions.

⁴ Pursuant to section 11ZOO(1)(a) of the Act,

- i. comply with the Act; and
 - ii. be suitable for the purposes of section 11ZOB of the Act.
6. The scheme's purpose is to ensure that the retail gas market supplied through a distribution system is regulated and operates in a manner that is:⁵
 - a) open and competitive;
 - b) efficient; and
 - c) fair to gas market participants and their customers.
7. The Authority may approve an amendment to a retail market scheme if it is satisfied that it meets any other principle, criterion, or requirement that is prescribed under section 11ZOO(1)(b) of the Act.
8. Rules amendments for a distribution system scheme are not to be submitted without consulting potentially affected scheme members:⁶
 - 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), which includes any Shipper, SSP or Self Contracting User.
9. The Authority may only approve retail market rules amendments under section 11ZOM only if the Authority is satisfied that such consultation has taken place and:⁷
 - 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 the consultation to provide reasons for not agreeing and any reasons so provided have been considered.
10. Also, when determining whether to give approval under section 11ZOM, the Authority is also to have regard to:⁸
 - 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.

Rule Change C03/15R – Explicit Informed Consent for Move-ins

11. Rule Change proposal C03/15R notes that there is ambiguity in the Rules as to whether Explicit Informed Consent (**EIC**) requirements apply for 'move-ins.'

⁵ Section 11ZOB of the Act

⁶ Section 11ZOL(3)

⁷ section 11ZOO(2) of the Act

⁸ Section 11ZOP of the Act

12. Under Rule 78, a move-in occurs when a small use customer occupies a premises; and the user of a delivery point supplying gas to that premises consequently also changes.
13. Rule 79 notes that before lodging a transfer request with REMCo, an incoming user must obtain the ‘transferring customer’s’ explicit informed consent to the lodgement.⁹
14. The term ‘transferring customer’ may suggest that the customer is remaining the same, and is merely changing users.
15. However, the term transferring customer also incorporates a new customer that wishes to change the user in relation to the property. This is evident in the definition of “customer,” which includes a person who intends to take gas at a delivery point.¹⁰ It is also supported by rules that follow it, including 81, 98, and 99, which presuppose that the transfer can be a move-in.¹¹
16. Rule Change C03/15R thus proposes adding a note to Retail Market Rule 79 to increase clarity, specifically stating that, for the avoidance of doubt, EIC is required for a “move-in,” as defined under Rule 78.
17. The ERA considers that the Scheme will continue to comply with the Act if the proposed Rule Change is implemented. The ERA considers that the amendment under C03/15R will increase clarity with regard to the EIC obligations for move-ins. The ERA is satisfied that rule change proposal meets the requirements under section 11ZOO(1)(a) of the Act.
18. The ERA notes that REMCo submitted Rule Change C03/15R to the Rule Change Committee (**RCC**) for consideration, and the Committee unanimously agreed that the proposed change is a non-consequential Rule Change, as the Rule Change:
 - adds a note to the Rules to increase clarity on the EIC requirements for move-ins and is not a legally binding part of the Rules; and
 - has no effect on the operations of REMCo, Users and the Network Operator.
19. Under the provisions of Rule 396A, if the RCC unanimously agrees that a Rule Change is a non-consequential change, REMCo can submit the Rule Change directly to the ERA for approval.
20. It is the ERA’s view that each person required to be consulted has been consulted and can be deemed to have agreed to the amendments proposed under C03/15R.
21. The ERA 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.

⁹ Under the Market Rules, ‘transferring customer’ means the customer located at the delivery point specified in a transfer request.

¹⁰ Under the Market Rules, “customer” means a person who takes or intends to take gas from a user at a delivery point.

¹¹ As an example, Rule 81 notes that a transfer request must specify, among the other things, whether the requested transfer is a move-in.

Rule Change C04/15S – Removal of Reference to Hansen in the Spec Pack

22. Rule Change C04/15S proposes a simple typographic change to amend a referencing error in the 'FRC B2B Hub System Architecture' document that is part of the Spec Pack.
23. The Australian Energy Market Operator (**AEMO**) approved upgrades to its FRC Hub information system on 27 February 2015. AEMO grants REMCo access under a contractual agreement. REMCo provides communication services to WA gas retail market participants through the FRC Hub.¹²
24. Rule Change C02/15S proposed updating the Spec Pack Documentation, to align with the documentation changes made during the FRC Hub Upgrade¹³. In particular, Rule Change C02/15S proposed removing references to Hansen's Network and associated Hansen documents from the FRC B2B Hub System Architecture.
25. In the ERA's decision on Rule Change C02/15S, approved on 20 May 2015, the ERA noted that the 'FRC B2B Hub System Architecture' document still contained one reference to Hansen's Network, and that REMCo had earmarked this reference for amendment the next time that the rule change process was undertaken. Hence, the application for Rule Change proposal C04/15S.
26. The ERA considers that the Scheme will continue to comply with the Act if the proposed Rule Change is implemented. The ERA considers that the amendments will remove inaccuracies in the Spec Pack and improve clarity. The ERA is therefore satisfied that the proposed amendment meets the requirements under section 11ZOO(1)(a) of the Act.
27. The ERA notes that REMCo submitted Rule Change C04/15S to the RCC for consideration, and the RCC unanimously agreed that the proposed change is a non-consequential Rule Change, as the Rule Change:
 - fixes a typographic error in the Spec Pack; and
 - has no effect on the operations of REMCo, Users and the Network Operator.
28. Under the provisions of Rule 396A, if the RCC unanimously agrees that a Rule Change is a non-consequential change, REMCo can submit the Rule Change directly to the ERA for approval.
29. It is the ERA's view that each person required to be consulted has been consulted and can be deemed to have agreed to the amendments proposed under C04/15S.
30. The ERA 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.

¹² This is done under the FRC Hub Terms and Conditions, which is an envelope agreement within the Rules

¹³

<https://www.erawa.com.au/cproot/13611/2/Decision%20to%20Approve%20Rule%20Change%20C02%2015S%20-%20Submitted%20by%20the%20Retail%20Energy%20Market%20Company.pdf>

Rule Change C05/15R – New Gate Point in the South Metro Sub-network to Identify the Parmelia Pipeline Injection Point

31. Rule Change proposal C05/15R proposes changes to Appendix 1 of the Rules, covering coding of gas zones and gate points, to recognise a new gate point (1107P) from the Parmelia Pipeline, which will be interconnected to Metro-South Sub-network (1107), with first gas flows from 1 January 2016.
32. Rule 16(1) notes that the standard Rule Change process does not apply for amending Appendix 1 of the rules.¹⁴ Instead, Market Rule 15 covers identification of sub-networks, gas zones and gate points.
33. REMCo was notified that a new gate point was established on 6 October 2015 identifying the Parmelia Pipeline injection point (1107P). In accordance with Market Rule 15, REMCo verified the change to 1107 recognising the gate point. REMCo is now seeking the ERA's approval of the relevant change to Appendix 1 of the Rules.
34. The ERA considers that the Scheme will continue to comply with the Act if the proposed Rule Change is implemented. The ERA considers that the Proposed Rule Change will allow users access to alternative gas transmission capacity and alternative sources of gas to supply to customers on 1107. It is thus consistent with the purpose of the Scheme.¹⁵
35. Rule 15 does not require consultation with market participants for changes to Appendix 1 of the Rules. However, as noted above, Section 11ZOL(3) of the *Energy Co-ordination Act (Act)*, requires consultation 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), which includes any Shipper, SSP or Self Contracting User.
36. In line with this, REMCo notes that it has consulted with all market participants on the proposed change via the RCC since July 2015. The RCC has agreed to the necessary changes to Appendix 1 of the Rules, and all market participants are aware of the forthcoming changes.
37. The ERA therefore considers that each person required to be consulted has been consulted and can be deemed to have agreed to the amendments proposed under C05/15R.
38. Rule 15(4) requires that, among other things, REMCo must publish to each participant, pipeline operator and prescribed person, an update to the relevant section of Appendix 1, specifying any applicable new gate point and its code.
39. The ERA notes that REMCo intends to meet its obligations under Rule 15(4), following the ERA's approval of the changes to Appendix 1.

¹⁴ Chapter 9 of the Retail Market Rules addresses standard rule change processes.

¹⁵ Section 11ZOB of the Act

40. The ERA 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.

Conclusion

The ERA considers that the proposed amendments to the REMCo Scheme in Rule Changes C03/15R, C04/15S and C05/15R meet the requirements for approval, in accordance with sections 11ZOO and 11ZOP of the Act. Thus, pursuant to section 11ZOM of the Act, the ERA approves the amendments proposed in Rule Changes C03/15R, C04/15S and C05/15R.