

Transition of Operation of Gas Retail Market Scheme from REMCo to AEMO

ISSUES PAPER

September 2016

Economic Regulation Authority

WESTERN AUSTRALIA

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Background

The Economic Regulation Authority administers the Western Australian gas retail market scheme in accordance with Part 2B of the *Energy Coordination Act 1994*. Companies that are members of an existing scheme can prepare an amendment to the scheme and submit the amendment to the Economic Regulation Authority for approval.¹

The Retail Energy Market Company submitted a rule change proposal to the Economic Regulation Authority on 2 September 2016, proposing to transition responsibility for operation of the Western Australian gas retail market scheme from the Retail Energy Market Company to the Australian Energy Market Operator, effective from 31 October 2016.

This issues paper has been prepared to facilitate submissions from interested parties who may wish to contribute to the consultation process on this rule change proposal. The issues paper identifies four issues relevant to the proposed transition of operation of the scheme from the Retail Energy Market Company to the Australian Energy Market Operator, including:

- transition of responsibility for operation of the Western Australian gas retail market scheme from a state based entity to a national entity;
- replacement of the Retail Energy Market Company Constitution with a new Western Australian Gas Retail Market Agreement;
- changes to the set of retail market rules under the scheme, including:
 - changes to aspects of the current compliance process;
 - changes to aspects of the current rule change process; and
 - changes related to the treatment of small users (i.e. retailers) under the scheme; and
- changes to the governance model of the gas retail market operator.

The Economic Regulation Authority is also interested in any other issues or concerns related to the rule change proposal not already raised in this issues paper.

Invitation to make submissions

The Economic Regulation Authority invites interested parties to make submissions on its issues paper by **4:00 pm (WST) Monday, 10 October 2016** via:

Email address: publicsubmissions@erawa.com.au

Postal address: PO Box 8469, PERTH BC WA 6849

Office address: Level 4, Albert Facey House, 469 Wellington Street, Perth WA 6000

Fax: 61 8 6557 7999

¹ Under section 11ZOL of the *Energy Coordination Act 1994*.

CONFIDENTIALITY

The Economic Regulation Authority will publish submissions from interested parties on its website. Where an interested party wishes to make a submission in confidence, it should clearly indicate the parts of the submission containing confidential information and specify in reasonable detail the basis for the claim.

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Introduction

The Economic Regulation Authority (**ERA**) is responsible for the regulation of the Western Australian gas retail market scheme (**scheme**) in accordance with Part 2B of the *Energy Coordination Act 1994 (Act)*.

According to the Act,² a retail market scheme for a distribution system must comprise the following elements:

- a formal entity (whether a company, partnership, trust or otherwise) to provide the structure through which the scheme is administered;
- one or more agreements made between persons who are gas market participants in relation to that system; and
- a set of retail market rules.

The Retail Energy Market Company (**REMCo**) is the formal entity operating the market. REMCo commenced operations as the gas retail market operator in both Western Australia and South Australia, on 31 May 2004. On 1 October 2009, responsibility for administration of the South Australian gas retail market transferred to the Australian Energy Market Operator (**AEMO**). However, REMCo has continued to operate the Western Australian market.

REMCo has four primary business processes. They are:

- delivery point management – management of the transfer of end-use customers between users³ and self-contracting users⁴;
- balancing, allocation and reconciliation management – management of the daily allocation of gas usage to retailers and self-contracting users to enable settlement of gas supply and gas transmission contracts;
- rule change management – management of further development and improvement of the REMCo retail market rules (**market rules**); and
- compliance management – management and enforcement of compliance with the market rules.

Gas market participants include REMCo, users and network operators. The main agreement between gas market participants that is required under the scheme is the REMCo ‘Constitution.’ The REMCo Constitution sets out how REMCo operates under the *Corporations Act 2001* and all gas market participants must sign the constitution, binding them to comply with the market rules.⁵

² Refer to section 11ZOF of the Act.

³ Also referred to as ‘retailers.’ Users are entities that have a haulage agreement for the transport of gas through a sub-network, such as Alinta Sales, Kleenheat, Perth Energy and Synergy.

⁴ Self-contracting users are users that withdraw gas from a sub-network for the sole purpose of supply to a customer that is either itself or a related body corporate.

⁵ Refer to ‘Constitution of Retail Energy Market Company Limited’: <http://www.remco.net.au/attachments/article/25/REMCo%20Constitution%20V13.pdf>

The retail market rules under the Scheme include:

- the market rules, which govern the major interactions between gas market participants (i.e. users, pipeline operators⁶, prescribed persons⁷ under the Act, and REMCo) in the Western Australian gas retail market;
- the Specification Pack, which is a suite of documents that supports the operation of the market rules; and
- the ‘FRC Hub Operational Terms and Conditions’, which govern the communication protocol within the ‘FRC Hub’ information system provided by REMCo.⁸

Under section 11ZOL of the Act, members of an existing scheme can prepare an amendment to the scheme and submit the amendment to the ERA for approval.

REMCo submitted a rule change proposal to the ERA on 2 September 2016. REMCo’s rule change proposal suggests changes to all of the main elements of the existing retail market scheme, including:

- transition of responsibility for operation of the scheme in Western Australia from REMCo to the national operator, AEMO, effective from 31 October 2016;
- replacement of the existing REMCo Constitution by a new Western Australian Gas Retail Market Agreement; and
- various changes to the market rules, which will become the market ‘procedures,’ as set out below.

This issues paper has been prepared to facilitate submissions from interested parties who wish to contribute to the consultation process on REMCo’s rule change proposal.

Legislative Requirements for the ERA’s Approval

A number of legislative requirements have informed the development of this issues paper and underpin the Economic Regulation Authority’s approval of rule change proposals.

⁶ Pipeline Operators operate a transmission pipeline, which transports gas from the gas source to the gas distribution system. Current Pipeline Operators supplying gas to ATCO Gas Australia’s networks include DBP Transmission on the Dampier to Bunbury Natural Gas Pipeline (“DBNGP”), and APA Group in the Parmelia and Goldfields Gas Pipelines.

⁷ A ‘Prescribed Person’ under the Act is any other person or class of persons, other than a gas transmission operator, that the market rules apply to. This includes any Shipper, Swing Service Provider or Self-Contracting User. A Shipper is a person who has a gas transportation agreement with a Pipeline Operator to transport gas along a transmission pipeline for the delivery of gas at a gate point to a retailer. A Shipper can be the same company as a retailer but REMCo treats them the same as separate entities. A Swing Service Provider is a Shipper or Pipeline Operator that uses its contractual rights to pipeline capacity to provide swing service (i.e. balancing) to Users at a gate point.

⁸ The FRC Hub is an information system used for the transmission of aseXML messages. AseXML is a standard developed by Australian energy industries to facilitate the exchange of information between participants of the energy industries using Extensible Markup Language (XML; which is similar to HTML).

The ERA may approve an amendment to the scheme⁹ only if it is satisfied that, if the amendment is made, the gas retail market will still operate in a manner that is:

- open and competitive;
- efficient; and
- fair to gas market participants and their customers.¹⁰

The ERA must be satisfied that prior to submission of the amendment, consultation has been undertaken with members of the scheme who would be affected by the amendment if it was approved, including: gas transmission operators whose pipelines are used to transport gas into that system; and prescribed persons under the Act.¹¹

Further, the ERA must be satisfied that:

- each person required to be consulted has agreed to the amendment; or
- if any person required to be consulted has not agreed, that person has been given a reasonable opportunity to provide reasons for not agreeing and that these reasons have been considered.¹²

Finally, when determining whether to give an approval, the ERA is to have regard to:

- any principles, criteria or requirements that are prescribed for approval of amendment; and
- such other matters as the ERA considers relevant.

For a proposed amendment to the scheme, the ERA can decide to:

- approve the amendment;
- request that the amendment be changed and approve it in a changed form; or
- refuse to approve the amendment.¹³

Key Issues for Consideration

The ERA considers that there are four key issues relevant to the proposed transition of operation of the scheme from REMCo to AEMO.

The key issues include:

- transition of responsibility for operation of the Western Australian gas retail market scheme from REMCo in Western Australia, to the national market operator, AEMO;

⁹ Under Part 2B of the Act.

¹⁰ Refer to section 11ZOB of the Act.

¹¹ Refer to section 11ZOL (3) of the Act.

¹² Refer to Section 11Z00 (2) of the Act.

¹³ Refer to section 11ZOM of the Act.

- replacement of the REMCo Constitution with a new Western Australian Gas Retail Market Agreement;
- changes to the retail market rules under the scheme, including:
 - changes to aspects of the current compliance process;
 - changes to aspects of the current rule change process; and
 - changes related to the treatment of small users (i.e. retailers) under the scheme; and
- changes to the governance model of the gas retail market operator.

Considerations related to each issue are set out below.

Transition from State to National Operation

In its rule change proposal to the Economic Regulation Authority, REMCo has proposed transitioning from operation of the Western Australian gas retail market by a state based entity to the national market operator, AEMO.

REMCo considered that the benefit of transition to operation by a national body is likely to be lower cost operations, as the national operator will be able to spread overhead costs across all markets and seek efficiencies in operating multiple markets.

REMCo proposed a transition to the national operator, given the role that AEMO already plays in the Western Australian gas retail market as a service provider to REMCo,¹⁴ and its experience in operating other Australian gas and electricity retail markets.¹⁵

REMCo noted that the consequences of not making the transition would be that the state based operator would probably incur increased costs or need to decrease market services, relative to transitioning. According to REMCo, this would probably result in increased fees

¹⁴ AEMO provides market operations and FRC Hub services to REMCo and the WA gas retail market participants. The FRC Hub Services provided by AEMO allow access to the FRC Hub for Business to Business and Business to Market communications. The Market Operations Services provided by AEMO include such things as: service reporting, management of metering data, disputes and enforcement, reporting and audits, Rule Change process, market support, supporting REMCo's compliance activities, supporting REMCo's Compliance Panel and Rule Change Committee, evaluation of applications to join the market, ongoing monitoring of participant readiness and compliance, maintenance of the Information Pack, Technical Working Group and Balancing Load Settlement Team secretariat, operational decision making (where delegated by REMCo), and as requested projects.

¹⁵ Currently, the AEMO has an integrated role as Victorian Gas Market and system operator, operating the Retail and Wholesale Gas Markets in South-East Australia, and the Victorian Gas Declared Transmission System. Elsewhere, in New South Wales, Queensland and South Australia , AEMO operates the Gas Short Term Trading Market, which is a wholesale market system designed to facilitate short term gas trading, driven by daily prices. In WA, along with the transfer of electricity market operation functions from the Independent Market Operator to the AEMO on 30 November 2015, the AEMO also became responsible for the Gas Services Information functions, including the operation of the Gas Bulletin Board and preparation of the Gas Statement of Opportunities.

and/or decreased market efficiency for market participants, with flow on effects to Western Australian gas consumers.

However, REMCo considered that the benefit of retaining REMCo as the Western Australian gas retail market operator would be in keeping the local interface and responsiveness that it currently has, though REMCo noted that AEMO now also has a local office in Perth.¹⁶

The ERA invites interested parties to raise any considerations related to the transition from state based operation of the gas retail market to national operation.

Issue 1

- a) What are the advantages and disadvantages of moving from state based operation of the gas retail market scheme to national operation?

Replacement of the REMCo Constitution

Currently, clause 16 of the REMCo Constitution acts as the required agreement between gas retail market participants. The constitution requires REMCo to operate the Western Australian gas retail market in accordance with the market rules¹⁷ and its members to be bound by the market rules and abide by any determination made by the Compliance Panel. The Compliance Panel exists to hear and make determinations on matters referred to it by REMCo or a participant regarding alleged breaches, interpretation or any other matter in relation to the market rules.¹⁸

The AEMO also has a constitution.¹⁹ However, according to REMCo, the AEMO Constitution does not appear to meet the requirements for an agreement between the gas

¹⁶ The ERA understands that REMCo and AEMO are discussing steps to ensure that AEMO remains responsive to WA participants, which may include appointing a temporary WA Gas Retail Market Manager to be a point of contact for WA gas retail market participants, with responsibility for addressing any market issues; and undertaking and publishing the results of a regular WA gas retail market stakeholder feedback process. However, if these measures are pursued, they will not be part of the Retail Market Scheme, requiring approval for amendment by the Economic Regulation Authority.

¹⁷ Clause 16.1 of the REMCo Constitution requires that: “the Company shall operate in accordance with and observe the roles, function, powers and obligations set out in the respective market rules as amended from time to time.”

¹⁸ The current members of the compliance panel include Mr Richard Lilly (Chairman), Mr Murray Meaton, and Mr Frank Oliver. REMCo has developed a set of recommended procedures for use by the Compliance Panel, a copy of which is available on REMCo’s website. The Compliance Panel may adopt the recommended procedures, modify these procedures, or develop and use its own, entirely different procedures. The Compliance Panel has the power to request a gas market participant or REMCo to provide information relevant to a matter being considered by the Compliance Panel; make determinations on matters referred to it under the Retail Market Rules; make orders in accordance with the Retail Market Rules. In fulfilling its functions, the Compliance Panel may:

- appoint any officer or employee of REMCo, or any other person as the Compliance Panel thinks fit, to act as agent of the Compliance Panel in carrying out its investigations or other functions; or
- employ, or otherwise seek advice or assistance from an external investigator, auditor, accountant, lawyer or other expert, or such other person as the Compliance Panel thinks fit..

¹⁹ <https://www.aemo.com.au/About-AEMO/Board-and-governance/Membership>

retail market participants, as required under the Act. With the proposed transition, the AEMO scheme will need an agreement between gas retail market participants specifically requiring:

- AEMO to operate the Western Australian gas retail market in accordance with the market rules (which will become the market procedures); and
- that AEMO and all Western Australian gas retail market participants be bound by the market rules (i.e. the market procedures) and abide by any determination made by the Compliance Panel.

In view of this, REMCo has proposed to replace the existing REMCo Constitution with a new Western Australian Gas Retail Market Agreement, provided in **Appendix 1**.

According to REMCo, it used the terms employed in the REMCo Constitution as the basis for drafting the new Western Australian Gas Retail Market Agreement. However, the new Western Australian Gas Retail Market Agreement takes a different form to the REMCo Constitution, which included the REMCo objects and covered additional items to the agreement, such as the income and property of the company, meetings of Members, the powers and duties of the Directors, and proceedings of the REMCo Board.

In contrast, the focus of the new Western Australian Gas Retail Market Agreement is specifically on providing the agreement required under the Act for membership of the Western Australian gas retail market, with its terms covering such topics as new participants, registration, and exit provisions. The new Western Australian Gas Retail Market Agreement does not include the REMCo objects, which are more highly specified than the AEMO's objects in its constitution.

Consequently, REMCo has proposed to insert a modified version of the REMCo objects (**modified objects**) into the market procedures to ensure that AEMO continues to operate the Western Australian gas retail market in accordance with REMCo's primary aim, guiding principles and objectives (refer to **Appendix 2**). Changes to the modified objects will thus still be subject to the procedure change process and require approval by the Economic Regulation Authority.

An explicit requirement for REMCo to "act in a way that treats members fairly and equitably, without discrimination" is not included in the modified objects. However, this requirement is included in section 4.4 of the new Western Australian Gas Retail Market Agreement, which specifies that the AEMO "act in a manner which treats all scheme participants fairly and equitably and does not unfairly discriminate between the interests of scheme participants." As with the market procedures, the ERA is required to approve any changes to the Western Australian Gas Retail Market Agreement.

The ERA invites interested parties to raise any considerations related to the replacement of the REMCo Constitution with the new Western Australian Gas Retail Market Agreement, and the placement of the REMCo's objects within other elements of the scheme.

Issue 2

- a) What are the advantages and disadvantages of the new Western Australian Gas Retail Market Agreement in its proposed form?

- b) Do stakeholders have any suggestions for improvement of the proposed Western Australian Gas Retail Market Agreement?

Proposed Changes to the Retail Market Rules

The REMCo gas retail market rules (**market rules**) govern the major interactions between REMCo, gas users, pipeline operators, and prescribed persons under the Act in the Western Australian retail gas market.

In contrast, AEMO is subject to governance under the National Gas Rules and the Retail Market ‘procedures’ are the eastern and southern jurisdiction equivalent to Western Australia’s market rules. In line with the use of this nomenclature, under the REMCo rule change proposal, the Western Australian gas retail market rules will be referred to as the Western Australian gas retail market procedures, with all references to the term ‘rules’ replaced with the term ‘procedures.’

With the transition, the market rules will become version 1 of the market procedures, references to ‘AEMO’ will replace all references to ‘REMCo,’ updates will be made to the introduction section to the market procedures to reflect the change from REMCo to AEMO, and numerous minor changes will be made to the market rules (i.e. procedures).²⁰

Among the material changes to the existing market rules will be amendments to Chapter 6, relating to the compliance process, and Chapter 9, relating to the procedure change process.²¹

The Compliance Process

REMCo currently administers the rules compliance process in accordance with chapter 6 of the market rules and the ‘REMCo (Board) Compliance Procedures’.²² REMCo’s Chief Executive Officer and the REMCo Board handle apparent rule breaches through a 5-stage process that allows for filtering of apparent breaches based on materiality. This process is briefly summarised in **Appendix 3**. REMCo itself can be the subject of a breach. An independent Compliance Panel exists to consider all material alleged Rule breaches.²³

²⁰ These changes include: fixing referencing and other minor errors; removing spent provisions; removing overlapping provisions that exist in other WA regulatory artefacts; adjusting definitions to reflect AEMO’s usage of terms; and picking up two other changes that have been agreed by the RCC (i.e. low impact C01/16R – customer transfer on non-business days; and High impact Rule Change, C03/16R – EIC – verbal consent for large customers); and minor typographical errors identified during the Proposed Rule Change consultation process.

²¹ Most of the Procedures will stay substantively the same, including: Chapter 1 (interpretation and administration); Chapter 2 (the databases); Chapter 3 (MIRN transactions); Chapter 4 (metering); Chapter 5 (allocation, reconciliation, and swing); Chapter 7 (reporting and audits); Chapter 8 (administration); Chapter 10 (general provisions); and Appendices 1 to 10.

²² For REMCo (Board) Compliance Procedures refer to: [http://www.remco.net.au/attachments/article/17/REMCo%20Board%20Compliance%20Procedures%20v5%20\(20-06-14\).pdf](http://www.remco.net.au/attachments/article/17/REMCo%20Board%20Compliance%20Procedures%20v5%20(20-06-14).pdf). Refer to the flow chart summary of the compliance process for alleged breaches in ‘Schedule A’ (page 23) for a simpler summary of this process.

²³ The ERA understands that the use of the Compliance Panel has not been required to date. For the Recommended REMCo Compliance Panel Procedures refer to: [http://www.remco.net.au/attachments/article/18/REMCo_Compliance_Panel_Procedures\(V2\).pdf](http://www.remco.net.au/attachments/article/18/REMCo_Compliance_Panel_Procedures(V2).pdf)

In contrast, AEMO does not usually undertake management and enforcement of compliance with the market procedures in eastern and southern jurisdictions.²⁴

In view of this, REMCo has suggested establishing and conferring power on the independent Compliance Panel (as it currently exists), with all decisions on alleged breaches and rule interpretations made by this Panel. The Panel will be able to delegate power to AEMO to make determinations as to whether a matter is material or not, as currently occurs with the REMCo Board and REMCo Chief Executive Officer.

Under the proposal, the Compliance Panel must meet once a year to:

- be informed by AEMO of any high impact procedure changes²⁵;
- confirm any compliance guidelines; and
- confirm any delegations of power to AEMO.

Other aspects of the procedure compliance regime will remain unchanged.

REMCo considers that the proposed changes will maintain the efficiency of the current compliance arrangements, whilst also increasing the independence of the process.

The ERA invites interested parties to raise any considerations related to the proposed changes to the compliance process.

Issue 3

- a) What are the advantages and disadvantages of the proposed compliance process, and in particular, conferring power on the independent Compliance Panel, with all decisions on alleged breaches and rule interpretations made by this Panel?
- b) If the proposed amendments are made to the compliance process, will the provisions of the scheme be suitable for its purpose, which is to ensure that the retail gas market is regulated and operates in a manner that is:
 - open and competitive,
 - efficient, and
 - fair to gas market participants and their customers?
- c) Do stakeholders have any suggestions for improvement of the proposed compliance process?

²⁴ Though AEMO has monitored compliance on behalf of the AER, as a service, and performed the function of investigating possible breaches of the Rules or Procedures, in conjunction with the AER.

²⁵ A “non-substantial” change is one that does not have an effect on the operations of REMCo, interested persons or prescribed persons, and merely corrects typographical errors, grammatical errors, cross-referencing errors and other similar trivial defects. A “low impact change” is one that does not have a material impact on the information technology systems of REMCo, market participants, pipeline operators or prescribed persons; consumer protection mechanisms under the Rules; or REMCo, participants, pipeline operators or prescribed persons. A “high impact” change is a one that is not classified as having a “non-substantial impact” or a “low impact”

The Rule Change Process

Chapter 9 of the market rules sets out the process for making any changes to the rules and the obligations relating to the REMCo Rule Change Committee (refer to **Appendix 4** for a summary of the main aspects of the current rule change process).²⁶ The REMCo Rule Change Committee comprises representatives of member companies and provides a forum for analysis and discussion of any proposed changes to the scheme.²⁷ The REMCo Rule Change Committee plays a significant role as a decision-making body in the current rule change process.

Procedure change management is one of the primary gas retail market services that AEMO administers in the eastern and southern jurisdictions. The AEMO also plays a significant role as Secretariat in the current Western Australian rule change process.²⁸

Under the rule change proposal, with the change from market rules to market procedures, the REMCo Rule Change Committee will become the ‘Procedure Change Committee’. Additionally, REMCo has proposed that the new committee will relinquish the role of decision-making body, and will instead serve as a consultative committee.

AEMO will be required to consult with the Procedure Change Committee on proposed changes to the AEMO retail market scheme. The Procedure Change Committee will make recommendations to the AEMO, but the AEMO will make all determinations and decisions, including whether to apply to the ERA for approval of a change to the scheme. The Economic Regulation Authority’s approval will still be required for any amendments to the Scheme.

The AEMO will be required to publish all applications to the ERA for scheme changes, and AEMO members are to have the ability to make a submission to the ERA for its consideration in approving a scheme change. All other aspects of the scheme change process will remain unchanged.

In relation to handing final decision making powers to the AEMO, and the use of the new Procedure Change Committee as a consultative forum, the ERA notes REMCo’s observations that:

- AEMO is an independent body with no incentive to apply to the ERA for procedure changes that are either to the benefit or detriment of a particular market participant;
- the ERA is an independent body that will only approve procedure changes if they are consistent with the requirements of the Act, which includes accounting for the views of all market participants (among other things); and

²⁶ Established under Market Rule 383.

²⁷ The REMCo Rule Change Procedures provide a simpler summary of the processes and procedures for REMCo and the REMCo Rule Change Committee to develop proposed changes to the Scheme. Refer to: [http://www.remco.net.au/attachments/article/16/REMCo%20Rule%20Change%20Procedures%20v3%20\(01-01-16\).pdf](http://www.remco.net.au/attachments/article/16/REMCo%20Rule%20Change%20Procedures%20v3%20(01-01-16).pdf) See REMCo Rule Change Process Flowchart (page 6).

²⁸ The AEMO operations team currently provides Rule Change Committee Secretariat services to REMCo, with duties including: minuting Committee meetings; preparing and distributing the agenda and papers for Committee meetings; updating the Issues Register (used to register and monitor the progress of issues requiring attention from the Committee) and Rule Change Register (used to log and monitor progress of issues through the formal Rule Change process) for distribution at the next Committee meeting; following up on any actions for REMCo arising from Committee meetings; and preparing updates on Committee activity for the REMCo Board. The Secretariat also creates and maintains agenda, meeting minute and Committee paper templates; an e-mail distribution list for the Committee; and ensures that the Committee minutes are available and accessible for seven years after the date of the meeting, as required by Market Rule 388(4).

- market participants can make submissions to the ERA if they disagree with any aspects of any submissions that AEMO make to the ERA.

There is currently no provision for market participants to make submissions directly to the ERA, though it is not specifically restricted. To date, REMCo has provided evidence of its consultation process and any submissions received as part of that process directly to the Economic Regulation Authority.

The ERA invites interested parties to raise any considerations related to the proposed changes to the rule (i.e. procedure) change process.

Issue 4

- a) What are the advantages and disadvantages of the proposed procedure change process?
- b) If the proposed amendments are made to the procedure change process will the provisions of the scheme be suitable for its purpose, which is to ensure that the retail gas market is regulated and operates in a manner that is:
 - open and competitive,
 - efficient, and
 - fair to gas market participants and their customers?
- c) Do interested parties have any suggestions for improvement of the proposed procedure change process?

The Treatment of Small Users

Self-Contracting Users

A self-contracting user is a user that withdraws gas from a subnetwork solely to supply itself or a related body corporate. Currently, under the REMCo Constitution, self-contracting users can join REMCo as associate members, rather than full members, and pay a lower annual service fee of 20 per cent of the members' annual service fee.²⁹

However, the AEMO Constitution does not provide an allowance for associate members with lower annual service fees. Accordingly, REMCo has proposed a change to market rule 362A, that will give AEMO the discretion to charge small users and self-contracting users lower joining and annual fees. Additionally, it will give AEMO the discretion to define which users are eligible for lower fees, and how much lower the fees should be.

Changes to the market procedures, including procedure 362A, will be subject to the procedure change process requiring approval by the Economic Regulation Authority.

²⁹ Refer to Section 7A of the Constitution. Associate Members have fewer rights under the REMCo Constitution, e.g., they are not entitled to vote at a General Meeting of REMCo or to nominate a Director. However, given the AEMO Director Appointment process to the AEMO Board, this will not be an issue following the transition. For the AEMO Director Appointment Process, refer to <https://www.aemo.com.au/About-AEMO/Board-and-governance/Director-appointment-process>.

Provision of a Low Volume Interface

The REMCo low volume interface provides users with less than 500 customers an alternative mechanism for sending and receiving ‘business to business’ and ‘business to market’ transactions, such that these users are not required to incur the costs of implementing an electronic business XML gateway, which may be a barrier to entry.

The low volume interface uses the existing gas retail market system infrastructure and hardware. Appendix D, section 9.1 of the ‘FRC Business to Business System Interface Definitions,’ which are part of the Specification Pack, defines the low volume interface, and there are requirements for use of the low volume interface set out in the Specification Pack.

However, the Specification Pack does not currently require REMCo to actually provide the low volume interface. Provision of the low volume interface is instead a requirement imposed in the Western Australian market through a REMCo Board decision.

Thus, in order to ensure that AEMO continues to make the low volume interface available to small users, REMCo has proposed a change to Appendix D, section 9.1, specifying that AEMO must make the low volume interface service available to users that have less than or equal to 500 Meter Installation Registration Numbers³⁰ (which includes self-contracting users).

Changes to the Specification Pack will be subject to the procedure change process requiring approval by the Economic Regulation Authority.

The ERA invites interested parties to raise any considerations related to the proposed treatment of small users.

Issue 5

- a) What are the advantages and disadvantages of the proposed changes to the market procedures to give AEMO discretion to:
 - charge small users and self-contracting users lower joining and annual fees?
 - define which users are eligible for lower fees, and how much lower the fees should be?
- b) What are the advantages and disadvantages of the proposal to include the requirement that AEMO makes the low volume interface service available to users that have less than or equal to 500 MIRNS, as part of the market procedures?
- c) Given the proposed treatment of small users outlined above, will the provisions of the scheme be suitable for its purpose, which is to ensure that the retail gas market is regulated and operates in a manner that is:
 - open and competitive,
 - efficient, and
 - fair to gas market participants and their customers?

³⁰ A Meter Installation Registration Number is a unique 10-digit number that is assigned by a Network Operator to each delivery point in its gas distribution system.

- d) Do stakeholders have suggestions for improvement to the changes planned to maintain lowered barriers to entry for small users in the Western Australian gas retail market?
- e) Are there any other barriers to entry to the Western Australian gas retail market for small users that the ERA should consider in making its determination on the proposed transition of operation of the Western Australian gas retail market from REMCo to AEMO?

Changes to the Governance Model

REMCo currently operates under a co-regulatory model, which provides Western Australian gas retail market participants representation on the REMCo Board and the ability to vote on resolutions. Under this model, REMCo has provided administrative functions over and above those specified under the scheme, including such things as monthly operation and outcome reports, access to updated gas retail market information on its website, and annual stakeholder feedback processes.

The AEMO has a different governance model, with Government/industry (60/40) ownership, and industry representation across all jurisdictions and energy markets. The proposed transition will result in members still being able to vote but they will have a lower percentage of the vote due to AEMO's membership structure. REMCo's administrative functions will be transferred to AEMO at the time of transition, and AEMO will not be required to provide the administrative functions over and above those specified under the scheme, that were provided by REMCo.

The ERA invites interested parties to raise any considerations related to this change in governance models.

Issue 6

- a) What are the advantages and disadvantages of the new governance model?
- b) Is the level of specification in the scheme suitable for its purpose, which is to ensure that the retail gas market is regulated and operates in a manner that is:
 - open and competitive,
 - efficient, and
 - fair to gas market participants and their customers?

Other Matters

The ERA invites interested parties to raise any other matters relevant to REMCo's rule change proposal to transition operation of the Western Australian gas retail market from REMCo to AEMO that are not already raised in this issues paper.

Issue 7

- a) Are there any other relevant matters not raised in this issues paper that the ERA should consider in the context of its determination on the transition of responsibility for operation of the scheme from REMCo to AEMO?

Appendices

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Appendix 1 Proposed Western Australian Gas Retail Market Agreement

Appendix 2 AEMO Objects, REMCo Objects and Proposed Modified Objects inserted into Market Procedures

AEMO Objects	REMCo Objects	Proposed Modified Objects to be Inserted into Market Procedures
<p>AEMO's Objects are to perform:</p> <ul style="list-style-type: none"> (a) functions under the National Electricity Law (NEL) and National Gas Law (NGL); (b) functions conferred by statute, legislative instruments, or direction of the COAG Energy Council; (c) transitional functions from the predecessor companies; (d) some specifically listed functions; (e) consultancy and other services related to Objects (a) to (d); (f) functions to prepare for Objects (a) and (b); and (g) any incidental/ancillary functions necessary to attain Objects (a) to (f). <p>The objective of the NGL is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas.</p>	<p>REMCo's Primary Aim is to develop and operate cost efficient and effective gas retail market operations that are fair and equitable; and to facilitate gas retail market competition.</p> <p>REMCo's Guiding Principles are to:</p> <ul style="list-style-type: none"> (a) minimise cost to market participants; (b) deliver benefits to consumers; (c) promote convergence; (d) minimise barriers to entry; (e) ensure fair, reasonable, and commercially sustainable cost recovery; (f) provide the necessary market services; (g) review and enhance operations; and (h) consult with the WA Government. <p>REMCo's Objectives are to:</p> <ul style="list-style-type: none"> (a) ensure arrangements that: <ul style="list-style-type: none"> • have the flexibility to promote convergence; • achieve the best price/service mix; • are neutral between market participants; • maintain confidentiality 	<p>7A. Administration of the Scheme</p> <p>AEMO must, in developing and operating the retail market scheme for a distribution system to which the scheme and these procedures relates, act in accordance with the following principles to the extent practicable:</p> <ul style="list-style-type: none"> (a) seek to minimise the costs of participating in the gas retail market; (b) have regard to the best interests of the gas market, including participants and customers within the distribution system; (c) seek to ensure that the retail market scheme achieves an appropriate balance between cost and quality of service; (d) promote and facilitate convergence of the Western Australian gas retail market with the other gas and electricity retail markets in Australia; (e) seek to minimise barriers to competition; (f) ensure fair, reasonable, and commercially sustainable cost recovery arrangements; (g) review and enhance market services and arrangements during operation of the retail

	<ul style="list-style-type: none"> (b) act in best interests of the market, including market participants and consumers; (c) operate in a transparent and accountable manner; (d) be flexible and responsive to Members; (e) comply with all legislations; and (f) act in a way that treats Members fairly and equitably, without discrimination. 	<ul style="list-style-type: none"> market scheme, as required; (h) be flexible and responsive to participants; (i) consult with Government on the development and operation of the retail market scheme; and (j) operate in a transparent and accountable manner, subject to protection of commercial confidentiality.
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Appendix 3 Summary of REMCo's 5-Stage Process for Handling Apparent Rule Breaches

This process is briefly summarised as follows:

1. Publication of the apparent rule breach – if REMCo becomes aware of an alleged rule breach, other than through the lodgement of a formal notice by a participant, pipeline operator or prescribed person, the REMCo CEO (or a delegate) will make an initial assessment of whether the alleged rule breach is likely to be considered material;
 - o if not considered material - then REMCo will notify participants, pipeline operators, prescribed persons, and the ERA of the alleged breach; and that it will take no further action.³¹
 - o If considered material, REMCo must publish a notice to participants, pipeline operators, prescribed persons, and the ERA setting out any apparent breaches of the rules within 5 business days after the apparent breaches come to the attention of REMCo management.³²
2. Allegation of material breach – A participant, pipeline operator or prescribed person who believes an apparent breach of the rules was material may lodge a formal notice (a “complaint”) with REMCo if it reasonably believes that another participant, pipeline operator, prescribed person, or REMCo has materially breached the rules. This notice can be lodged at any time, either in response to the publication of an apparent rule breach by REMCo (as above) or otherwise.
 - a. if REMCo does not receive a complaint in relation to an apparent rule breach notice, REMCo will resolve not to take any further action in relation to the matter, and notify all users, network operators and interested parties.
 - b. if a complaint is lodged in relation to an apparent rule breach, REMCo will publish a notice to the ‘respondent’ (i.e., who is alleged to have materially breached the rules), and any other parties that REMCo believes may have been affected by the alleged breach: notifying them of the allegation; and requesting submissions on whether they believe the circumstances contained in the allegation amount to a breach of the rules; and if so, whether they believe that breach was material.
3. Investigation - the aim of this stage is to ensure that sufficient evidence is before the REMCo Board to allow it to make an informed decision on whether the alleged breach took place, and if so, whether it was material. Affected parties and respondents can make submissions at this stage.
4. Materiality decision – the REMCo Board considers alleged breaches. If REMCo Board do not consider an alleged breach material and affected parties agree, it takes no further action. If affected parties disagree, they can appeal to the Compliance Panel.

³¹In assessing the materiality of the alleged rule breach, the REMCo CEO (or his delegate) must have regard to the matters listed in Schedule E of the REMCo (Board) Compliance Procedures.

³²Prior to publishing the apparent breach notice, REMCo may undertake limited enquiries with any relevant parties to help understand and explain the nature and the substance of the issue.

5. Compliance Panel - if REMCo Board considers an alleged breach material, then it refers it to the Compliance Panel. If REMCo is a respondent to a complaint then the REMCo Board is necessarily in a position of potential conflict of interest and can refer the matter to the Compliance Panel.

Appendix 4 Summary of Main Aspects of the Current Rule Change Process

The main aspects of the current rule change process are summarised as follows:

- A market participant or an interested party initiates a change to the rules;
- The party that is proposing the change prepares a ‘Proposed Rule Change’ document, and the REMCo Rule Change Committee makes an initial assessment of whether the change should be progressed as non-substantial, low impact, or high impact;
- Where the REMCo Rule Change Committee unanimously agrees that a rule change is non-substantial (such as a typographical error) then the rule change may be submitted directly to the Authority and does not require further consultation;
- For low impact rule changes (which are changes other than non-substantial changes that do not have material impacts) and high impact rule changes, REMCo prepares an ‘Impact and Implementation Report’ for the REMCo Rule Change Committee to consider. An Impact and Implementation Report is not required for non-substantial amendments.
- The REMCo Rule Change Committee considers the Proposed Rule Change and Impact and Implementation Report and determines whether each change is a non-substantial, low impact, or high impact change.
- For high impact changes:
 - if the REMCo Rule Change Committee accepts the proposed change, then REMCo conducts a consultation on the proposed change (a 20 business day period);
 - after the consultation period, the REMCo Rule Change Committee will consider any submissions received and REMCo will prepare a Recommendation Report on behalf of the REMCo Rule Change Committee to be provided to the REMCo Board to allow them to determine whether to endorse the proposed change;
 - the REMCo Board will assess the Recommendation Report, and if it endorses the change, seek submissions from market participants and interested parties on the proposed change.
- For low impact changes, REMCo will publish the Proposed Rule Change for a 10 business day ‘objection period.’ If there are no objections from market participants on the rule change, then the REMCo Rule Change Committee recommends the rule change to REMCo for submission to the ERA for approval.
- If there are no objections received during the consultation processes in the above point, then REMCo may consider submitting the high impact or low impact changes to the ERA for approval. Non-substantial rule changes may be submitted by REMCo

to the ERA for approval immediately after approval from the REMCo Rule Change Committee.

REMCo must submit all proposed changes to the scheme to the ERA for approval, and REMCo can only implement the changes to the scheme once the ERA has approved the changes.