

# Decision to Approve Transition of Operation of WA Gas Retail Market Scheme to AEMO

October 2016

**Economic Regulation Authority**

WESTERN AUSTRALIA

## Economic Regulation Authority

4<sup>th</sup> Floor Albert Facey House  
469 Wellington Street, Perth

**Mail to:**

Perth BC, PO Box 8469  
PERTH WA 6849

**T:** 08 6557 7900

**F:** 08 6557 7999

**E:** [records@erawa.com.au](mailto:records@erawa.com.au)

**W:** [www.erawa.com.au](http://www.erawa.com.au)

National Relay Service TTY: 13 36 77  
(to assist people with hearing and voice impairment)

We can deliver this report in an alternative format for  
those with a vision impairment.

© 2016 Economic Regulation Authority. All rights reserved. This material may be reproduced in whole or in part provided the source is acknowledged.

## Contents

<b>Decision</b>	<b>2</b>
<b>Reasons</b>	<b>2</b>
Background	2
Discussion	3
Legislative Requirements for the Authority's Approval	3
Rule Change C02/16C – AEMO Transition	4
Rule Change C01/16R – Customer Transfer on Non-Business Days	13
Rule Change C03/16R – Explicit Informed Consent for Large Customers	14
<b>Conclusion</b>	<b>15</b>

## Decision

1. In accordance with section 11ZOM of the *Energy Coordination Act 1994* (**Act**), the Economic Regulation Authority (**Authority**) approves the amendments in rule change proposals C02/16C, C01/16R and C03/16R, as submitted to the Authority by the Retail Energy Market Company (**REMC**) on 2 September 2016. These amendments will be effective from 31 October 2016.

## Reasons

### Background

2. The Minister for Energy approved the Western Australian gas retail market scheme (**scheme**) in its original form. The scheme includes:
  - REMCo, which is the formal entity that commenced operating the market on 31 May 2004;<sup>1</sup>
  - the REMCo Constitution, which is the main agreement between gas market participants<sup>2</sup> setting out how REMCo will operate under the *Corporations Act 2001* and binding all REMCo members<sup>3</sup> to comply with the market rules; and
  - the market rules, which include:
    - the REMCo retail market rules, governing the major interactions between gas market participants in the WA gas retail market;
    - the Specification Pack, which is a suite of documents that supports the operation of the REMCo retail market rules; and
    - the FRC Hub Operational Terms and Conditions that govern the communication protocol within the FRC Hub, which is the information system provided by REMCo.<sup>4</sup>

---

<sup>1</sup> REMCo commenced operation in both the WA and SA markets at this time. Subsequent to this, on 1 October 2009, responsibility for administration of the South Australian (**SA**) Gas Retail Market transferred to the Australian Energy Market Operator (**AEMO**).

<sup>2</sup> Gas market participants include users (retailers), network operators, pipeline operators, prescribed persons under the Act, and REMCo.

<sup>3</sup> REMCo members include users (including self-contracting users) and network operators.

<sup>4</sup> 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).

3. Section 11ZOL of the Act specifies that members of an approved retail market scheme may prepare an amendment to the scheme and submit the amendment to the Authority for approval.
4. On 2 September 2016 the Authority received a submission from REMCo seeking approval of three amendments to the scheme:
  - C02/16C – transition of operation of the WA gas retail market scheme from REMCo to the Australian Energy Market Operator (**AEMO**);
  - C01/16R – customer transfer on non-business days; and
  - C03/16R – explicit informed consent for large customers.
5. REMCo's submission details the rationale for the three scheme amendments and provides REMCo's assessment of these amendments in meeting the prerequisites for seeking approval under the Act.<sup>5</sup>

## Discussion

### *Legislative Requirements for the Authority's Approval*

6. In accordance with section 11ZOM of the Act, where an amendment to the scheme 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.
7. The Authority may approve an amendment to the scheme<sup>6</sup> if it is satisfied that:
  - a) if the amendment is made the scheme will:
    - i. comply with the Act; and
    - ii. be suitable for the purposes of ensuring that the retail gas market supplied through a distribution 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.<sup>7</sup>

---

<sup>5</sup> For a copy of REMCo's submission to the Authority, refer to the Authority's website:

<https://www.erawa.com.au/cproot/14461/2/REMCo%20Rule%20Change%20Proposal%20C02-16C%20-%20AEMO%20Transition.PDF>

<sup>6</sup> Pursuant to section 11ZOO(1)(a) of the Act.

<sup>7</sup> Section 11ZOB of the Act.

- b) any other principle, criterion, or requirement that is prescribed for the purposes of this paragraph in the Act has been met.
- 8. The Act<sup>8</sup> requires that rule amendments for a distribution system scheme are not to be submitted without consulting potentially affected scheme members, including:
  - a) a gas transmission operator whose pipeline is used to transport gas into that system; and
  - b) a prescribed person,<sup>9</sup> including any shipper, swing service provider or self-contracting user.<sup>10</sup>
- 9. The Authority may only approve retail market rule amendments<sup>11</sup> if it is satisfied that such consultation 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 the consultation to provide reasons for not agreeing and any reasons so provided have been considered.
- 10. Section 11ZOP of the Act requires that, when determining whether or not to give an approval under section 11ZOM of the Act, the Authority is to have regard to:
  - a) any principles, criteria, or requirements that are prescribed for the purposes of this paragraph in the Act; and
  - b) such other matters as the Authority considers relevant.

### **Rule Change C02/16C – AEMO Transition**

- 11. Rule change proposal C02/16C proposes to transition WA gas retail market operations from REMCo to AEMO.
- 12. According to the proposal, REMCo, AEMO and WA gas retail market participants have considered the long term future of the WA gas retail market. REMCo noted that whilst its governance model has worked well historically, REMCo lost scale when the South Australian Government required REMCo to transfer its gas retail market operations to AEMO in 2009. REMCo then lost the ability to improve scale when the WA Government awarded operation of the WA Gas Bulletin Board and the Gas Statement of Opportunities to the Independent Market

---

<sup>8</sup> Section 11ZOL(3) of the Act.

<sup>9</sup> Within the meaning in 11ZOD(1)(b) of the Act.

<sup>10</sup> 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 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. Self-contracting users withdraw gas from a sub-network for the sole purpose of supply to a customer that is either itself or a related body corporate.

<sup>11</sup> Under section 11ZOM of the Act.

Operator (**IMO**) in 2010; and transferred the IMO's functions to AEMO and awarded electricity market operations to AEMO in 2015.

13. According to REMCo, this left REMCo and WA gas retail market participants with two options:
  - to retain REMCo, risking increased costs or a need to decrease market services (relative to transitioning), and resulting in increased fees and/or decreased market efficiency for market participants, with flow on effects to WA gas consumers; or
  - to transition operations to AEMO, which would probably result in reduced costs and maintained efficiency but lead to a loss of local interface and put responsiveness at risk.
14. The REMCo Board concluded that the second option was preferred, given the role that the AEMO already plays in the WA gas retail market as a service provider to REMCo and its experience in operating other Australian gas and electricity retail markets.
15. In line with this, rule change proposal C02/16C proposes significant changes to all of the main elements of the existing retail market scheme. This includes changes to the formal entity providing the structure that the scheme is administered through, the agreement made between gas market participants, and the REMCo retail market rules.

## Formal Entity Operating WA Scheme

16. The formal entity currently operating the WA gas retail market scheme is REMCo. Rule change proposal C02/16C proposes transition of responsibility for operation of the scheme from REMCo to the national operator, AEMO.
17. The Authority considers that transfer of responsibility for operating the WA gas retail market should have little impact on market operations because AEMO is already heavily involved in the WA market, providing market operations support and FRC Hub services to REMCo.<sup>12</sup> Additionally, AEMO is now responsible for providing gas information services in WA.<sup>13</sup>
18. AEMO is a large operator with significant experience in gas retail market operations in other jurisdictions. 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.

---

<sup>12</sup> 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. The FRC Hub Services provided to REMCo and the WA gas retail market participants by AEMO allow access to the FRC Hub for business to business and business to market communications.

<sup>13</sup> Along with the transfer of electricity market operation functions from the Independent Market Operator to the AEMO on 30 November 2015, the AEMO became responsible for the Gas Services Information functions in WA, including the operation of the Gas Bulletin Board and preparation of the Gas Statement of Opportunities.

Elsewhere, in NSW, Queensland and SA, AEMO operates the Gas Short Term Trading Market, which is a wholesale market, designed to facilitate short term gas trading, driven by daily prices.

19. REMCo observed that transition of responsibility for operation of the scheme from REMCo to AEMO may lead to the loss of a local interface and responsiveness through centralisation of market operations within the national body. The Authority considers that issues arising due to a reduced local interface generally include:
  - governance of the market at a distance from market participants, leading to reduced personal contact with the operator and less control over important processes (such as rule changes), with decisions possibly taking longer;
  - issues to do with local circumstances and individual participant needs not being recognised at a national level; and
  - the introduction of redundant or conflicting operations to the local market as the result of a push for consistency in operation at a national level.
20. However, AEMO now has an office in Perth, as it is the WA electricity market operator and whilst AEMO endeavours to find efficiencies it accommodates jurisdictional differences.<sup>14</sup>
21. REMCo currently operates under a co-regulatory model, which provides market participants representation on the REMCo Board and the ability to vote on resolutions. The REMCo Board consists of not more than six Directors.<sup>15</sup> AEMO has a different governance model, with government/industry (60/40) ownership and industry representation across all jurisdictions and energy markets. Thus transition to operation by AEMO will result in members still being able to vote but they will have a lower percentage of the vote. Nevertheless, market participants have agreed to transition to AEMO through the REMCo Rule Change Committee and the REMCo Board.
22. Under the co-regulatory model REMCo has provided administrative functions over and above those specified under the scheme, including providing such things as monthly operation and outcome reports, access to updated gas retail market information on its website, and annual stakeholder feedback processes.
23. At the time of transition REMCo's administrative functions will transfer to AEMO, which is not required to provide administrative functions over and above those specified under the scheme. In view of this, REMCo and AEMO have

<sup>14</sup> These jurisdictional differences can be either policy based or brought about by the collective desire of participants within a particular jurisdiction. An example of a difference due to the collective desire of participants within a particular jurisdiction occurs where SA, QLD and NSW/ACT all adopted the National Energy Customer Framework (NECF), but Victoria did not. The National Energy Retail Law and Regulations include an obligation on retailers and distributors to classify customers as residential or business and store this information, which required changes to the aseXML schema. The codes that were introduced were simply RES = Residential, BUS = Business. In the IT system view, these fields are optional, and because Victoria has not adopted the NECF, it doesn't populate them.

<sup>15</sup> Under the Constitution, the REMCo Board comprises one Director nominated by the majority retailer; one Director nominated by the network operator; two independent Directors; and two Directors nominated by Members other than the majority network operator and majority retailer.



undertaken a transition agreement under which AEMO has committed to continuing to provide these functions. Additionally, AEMO will temporarily employ a person in WA to address all WA gas retail market issues for WA gas retail market participants. This transition agreement is not part of the REMCo scheme and is not subject to approval by the Authority. The Authority understands that AEMO has already implemented a process for completing the monthly swing service report and stakeholder feedback mechanisms. Furthermore, whilst AEMO is not required to do so, AEMO already includes WA's monthly churn statistics in its monthly reports.<sup>16</sup>

24. The Authority considers that if responsibility for operation of the scheme transitions from REMCo to the AEMO, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.
25. The Authority therefore considers that the scheme will continue to comply with the Act if responsibility for operation of the scheme transitions from REMCo to AEMO.

### Agreement between Gas Market Participants

26. The REMCo Constitution is currently the main agreement between gas market participants. Rule change proposal C02/16C proposes replacing the REMCo Constitution with a new Western Australian Gas Retail Market Agreement.
27. AEMO has a Constitution but it is not suited to the WA gas retail market as it does not include specific requirements for AEMO to operate the market in accordance with the market rules<sup>17</sup> or for AEMO and all market participants be bound by the market rules and abide by any determination made by the Compliance Panel.<sup>18</sup>
28. 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 WA gas retail market. The Western Australian Gas Retail Market Agreement does not include all of REMCo's objects, which have now been included in the market procedures to ensure that AEMO continues to operate the WA gas retail market in accordance with REMCo's primary aim, guiding principles and objectives.
29. The Authority thus considers that the new Western Australian Gas Retail Market Agreement is highly specified in meeting the requirements of the scheme. Additionally, the inclusion of the REMCo objects within the procedures and the Western Australian Gas Retail Market Agreement will ensure that changes to the objects will be subject to the procedure change process and require approval by the Authority.

---

<sup>16</sup> Refer to the May 2016 Gas Retail Markets Monthly Statistics report as an example: <https://www.aemo.com.au/media/Files/Gas/Data/Gas%20retail%20transfer/2016/Gas%20Retail%20Markets%20%20Monthly%20Retail%20Statistics%20May%202016.pdf>.

<sup>17</sup> The scheme market rules include the retail market procedures, the Specification Pack, and the FRC Hub Operational terms and conditions.

<sup>18</sup> 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.

30. The Authority therefore considers that, with replacement of the REMCo Constitution with the new Western Australian Gas Retail Market Agreement, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.
31. The Authority therefore considers that the scheme will continue to comply with the Act if the Western Australian Gas Retail Market Agreement replaces the REMCo Constitution.

## Market Rules

32. Among the material changes proposed as part of the transition to market operation by AEMO are amendments to Chapter 6, the compliance process, and amendments to Chapter 9, the procedure change process.

## Compliance Procedure

33. Rule change proposal C02/16C proposes establishing and conferring power on the independent Compliance Panel, 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, and the Compliance Panel must meet once a year to be informed of any high impact procedure changes; confirm any compliance guidelines; and confirm any delegations of power to AEMO. Under a new market rule (procedure) 323A(1)(b) any scheme participant can seek a meeting with the Compliance Panel at any time. These changes are illustrated in the table below:

REMCo Process	AEMO Process
REMCo conducts the investigation. <sup>19</sup>	AEMO conducts the investigation.
The REMCo Board makes the first determination: <ul style="list-style-type: none"> <li>The REMCo Board makes determination on material matters; and</li> <li>The REMCo Board has delegated decision making on non-material matters to the CEO.</li> </ul>	The Compliance Panel makes the first determination: <ul style="list-style-type: none"> <li>The Compliance Panel makes determination on material matters; and</li> <li>The Compliance Panel may delegate decision making on non-material matters to AEMO (not to the AEMO Board).</li> </ul>
The Compliance Panel hears matters if the REMCo Board cannot form a quorum or hears appeals of REMCo Board decisions.	The Compliance Panel hears appeals of AEMO decisions.
	Under a new market rule (procedure) 323A(1)(b) any Scheme Participant can seek a meeting with the Compliance Panel at any time.

34. In east coast energy markets, there is generally a separation of compliance and procedure change management functions, as conflicts of interest may arise

<sup>19</sup> Part 6.3 of the REMCo retail market rules imposes a requirement that matters be referred to REMCo before being referred to the Compliance Panel or the Authority to provide a speedy mechanism to resolve minor matters without activating the compliance panel or requiring an investigation by the Authority; and to impose a filter that discourages the referral of vexatious or frivolous claims to the compliance panel or the Authority.

through the requirements to operate the procedures, develop and change the procedures, and comply with the procedures. Therefore, the Authority considers that it is prudent to establish and confer power on an independent body that is responsible for compliance functions and is separate to AEMO.

35. The Authority considers that the changes to the compliance process will not negatively affect the efficiency of the process and may even increase the efficiency of the process, with the Compliance Panel able to make materiality determinations early in the process, and participants able to seek a meeting with the Compliance Panel at any time. REMCo members do not currently have the power to seek meetings with the Compliance Panel.
36. Additionally, the Authority considers that the changes to the compliance process could make it more independent, with the AEMO Board not involved in compliance functions in the same way that the REMCo Board is currently involved.
37. Whilst the changes to the compliance process may affect the nature of the process, they are still largely consistent with the previous process and exist in a form developed and agreed upon by market participants through the REMCo Rule Change Committee and the REMCo Board.
38. The Authority considers that, with the amendments to the compliance process, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.
39. The Authority therefore considers that the scheme will continue to comply with the Act, with the changes to the compliance process.

### **Procedure Change Process**

40. Rule change proposal C02/16C proposes that the REMCo Rule Change Committee will become the 'Procedure Change Committee' and will relinquish the role of decision-making body, instead serving as a consultative committee. AEMO will be required to publish all applications to the Authority for scheme changes and AEMO members will have the ability to make a submission to the Authority for its consideration in approving a scheme change.
41. Procedure change management is one of AEMO's primary gas retail market functions in eastern and southern jurisdictions and AEMO already plays a significant role as secretariat in the current WA rule change process. The Authority therefore considers that it is sensible for AEMO to administer the procedure change management process in the WA gas retail market.
42. In relation to REMCo Rule Change Committee handing over final decision making powers to AEMO, REMCo has observed that:
  - AEMO is an independent body with no incentive to apply to the Authority for procedure changes that are either to the benefit or detriment of a particular market participant;

- the Authority 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; and
  - market participants can make submissions to the Authority if they disagree with any aspects of any submissions that AEMO make to the Authority.
43. The Authority considers that, whilst the Procedure Change Committee will relinquish the role of decision-making body, the opportunity for participants to provide submissions on rule change proposals directly to the Authority may provide an added level of comfort that the AEMO's submission to the Authority accurately reflects participants' views on a proposed amendment.
44. Even with the changes to the procedure change process, it is still largely consistent with the previous process and exists in a form developed and agreed upon by market participants through the REMCo Rule Change Committee and the REMCo Board.
45. The Authority considers that, with the amendments to the procedure change process, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.
46. The Authority therefore considers that the scheme will continue to comply with the Act, with the changes to the procedure change process.

### **Treatment of Small Users**

47. A self-contracting user is a user that withdraws gas from a sub-network solely to supply itself or a related body corporate. Self-contracting users can join REMCo as associate members rather than full members and pay lower fees. Additionally, REMCo provides a low volume interface for users with less than 500 customers, which is an alternative mechanism for sending and receiving 'business to business' and 'business to market' transactions. Small users are thus not required to incur the costs of implementing an electronic business XML gateway, which may be a barrier to entry. However, these options are not currently available through AEMO.
48. To protect the interests of small users rule change proposal C02/16C proposes changes to market rule 362A to give AEMO the discretion to charge small users and self-contracting users lower joining and annual fees; and the discretion to define which users are eligible for lower fees and how much lower the fees should be. Additionally, rule change proposal C02/16C proposes changes to Appendix D, section 9.1 of the Specification Pack, specifying that AEMO must make the low volume interface service available to users that have less than or equal to 500 Meter Installation Registration Numbers (which includes self-contracting users);
49. The requirement for AEMO to protect the interests of small users through ensuring lower fees and making the low volume interface available to them will maintain the measures to reduce barriers to entry that exist in the current WA market.

50. However, the Authority considers that allowing the market operator the discretion to define which users are eligible for lower fees and what these fees should be may be a source of uncertainty and investment risk for new entrants. Along with other costs associated with entering a market<sup>20</sup> changes in eligibility definitions and the cost of market fees may disproportionately affect smaller suppliers, with any unexpected change to the cost base of a small retailer who offers customers stable prices, potentially increasing its risk.
51. Nevertheless, providing the market operator the discretion to define which users are eligible for lower fees and the level of the fees also provides flexibility for AEMO to adapt arrangements to reflect new information and circumstances.
52. Additionally, the National Gas Rules<sup>21</sup> require that in determining the structure of participant fees, AEMO must have regard to the following principles:
- the fee structure should be simple;
  - the components of the fees charged to each registered participant should be reflective of the extent to which the budgeted revenue requirements for AEMO involve that registered participant; and
  - the fee structure should not discriminate unreasonably against a category or categories of registered participants.
53. On balance, the Authority considers that, with the amendments to the scheme to protect the interests of small users, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.
54. The Authority thus considers that the scheme will continue to comply with the Act, with the amendments to the scheme to protect the interests of small users.

## Minor Changes

55. A large number of minor scheme documentation changes are also proposed as part of rule change proposal C02/16R:
- the REMCo retail market rules will become the market procedures;
  - references to 'AEMO' will replace all references to 'REMCo' in the REMCo retail market rules, Specification Pack and Hub Terms and Conditions;
  - updates will be made to the introduction section to the market procedures to reflect the change from REMCo to AEMO;

---

<sup>20</sup> Such as costs associated with setting up new IT systems and call centres and developing a brand and acquiring customers.

<sup>21</sup> Participant Fees are covered in Division 3, pages 123 to 126 <http://www.aemc.gov.au/Energy-Rules/National-gas-rules/Current-rules>

- administrative changes will be made to the Specification Pack and Hub Terms and Conditions; and
  - other aspects of the scheme documentation will be amended, such as fixing referencing and other minor errors, removing spent provisions, removing overlapping provisions that exist in other WA regulatory artefacts; and adjusting definitions to reflect AEMO's usage of terms.
56. The minor scheme changes and in particular changes to the Specification Pack and Hub Terms and Conditions are largely administrative in nature, such that the WA gas retail market technical protocols, systems and interfaces will not change.
57. The Authority considers that this reduces the possibility of material costs associated with the transition for WA gas market participants and consumers.
58. Additionally, the Authority considers that the minor changes will remove inaccuracies and improve the clarity of the scheme.
59. Most of the procedures will stay substantively the same, the Act will still govern the market, and the Authority's approval will still be required for all scheme amendments.
60. The Authority is satisfied that, with the minor amendments to the scheme, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.
61. The Authority is therefore of the view that the scheme will continue to comply with the Act if the minor amendments are made to the scheme for the transition of operation of the WA gas retail market from REMCo to AEMO.

### **Classification and Consultation on AEMO Transition**

62. The REMCo Rule Change Committee agreed that C02/16C is a high impact change because it will have a material impact on REMCo, which will have no remaining functions after the transition and probably be wound up in three to six months.
63. REMCo undertook a consultation process regarding the transition that extended beyond that required under the REMCo retail market rules to all parties that it identified could be affected. In summary, REMCo consulted with:
- all market participants (retailers and network operators, as required by the rules);
  - all other parties that it could identify that could be affected by the transition to operation by AEMO, including government, AEMO, a consumer representative from the Chamber of Commerce and Industry WA, all self-contracting users; and all pipeline operators.



64. REMCo noted that it did not receive any objections in either required round of public consultation on the proposal. REMCo received four submissions in support of the transition in its second round of public consultation from Alinta Energy, Synergy, the Public Utilities Office and Kleenheat.
65. The transition of WA gas retail market operation from REMCo to the national market operator, AEMO, is a significant change to the WA retail gas market. Accordingly, in the interest of conducting a transparent and independent process and in preparation for the Authority's determination, the Authority also undertook a consultation process. The Authority published an issues paper on 22 September 2016 inviting stakeholders to make public submissions by 10 October 2016.
66. The Authority received two submissions of unreserved support for the transition from AEMO and Alinta Energy. The Authority did not receive any objections to the transition.
67. The Authority thus considers that the required consultation occurred with each person and that there was not any dissent to the amendments. Hence, the Authority considers that each person has agreed to the amendments proposed under C02/16C.

### ***Rule Change C01/16R – Customer Transfer on Non-Business Days***

68. Rule change proposal C01/16R proposes adding a note to the REMCo retail market rules to provide clarity on the days, business or otherwise, on which customers with different meter types can transfer between users.
69. Customers with basic meters<sup>22</sup> can transfer between users on business days only,<sup>23</sup> whilst customers with interval meters can transfer on any day.<sup>24</sup>
70. Rule change proposal C01/16R notes that the definition of 'earliest transfer day' in the REMCo retail market rules is ambiguous in that the interpretation of the type of day, business or otherwise, is lacking.
71. Rule change C01/16R thus proposes adding a note to the definition of 'earliest transfer day' in the REMCo retail market rules to clarify the days on which customers with basic meters and interval meters can transfer between users.
72. The Authority considers that in adding the note to the scheme, the scheme will continue to comply with the Act and the amendment will increase clarity with regard to the timing of the earliest transfer day for customers with different meter types.
73. REMCo submitted rule change C01/16R to the Rule Change Committee for consideration, and the Rule Change Committee unanimously agreed that the

---

<sup>22</sup> A basic meter records accumulated energy data at an aggregated level but not at an interval level.

<sup>23</sup> However, the REMCo retail market rules do not prohibit users from seeking a transfer of a basic metered customer on a non-business day if they are willing to pay the gas distribution company (ATCO) who is responsible for meter reading, for the cost of arranging the transfer through a special meter read.

<sup>24</sup> An interval meter is a meter read by means of telemetry, which aggregates the flow of gas across time, recording that flow for each hour.

proposed change is a non-substantial rule change, as it is only a documentation change to clarify the current treatment of the rules and no systems or process changes are required.

74. If the Rule Change Committee unanimously agrees that a rule change is a non-substantial change, REMCo can submit the rule change directly to the Authority for approval.<sup>25</sup> However, REMCo conducted a broad consultation program for proposed rule change C01/16R, as it included this matter in the consultation process for rule change proposal C02/16C (see above).
75. It is the Authority's view that the required consultation occurred with each person and there has not been any dissent to the amendments. The Authority thus considers that each person has agreed to the amendments proposed under C01/16R.
76. The Authority is satisfied that, with the addition of the note to the REMCo retail market rules, the provisions of the scheme will ensure regulation of the market, and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.

### ***Rule Change C03/16R – Explicit Informed Consent for Large Customers***

77. Prospective customers must provide 'explicit informed consent' to authorise a user to obtain confidential meter and address information from the network operator and to transfer the customer.
78. Users in the gas retail market can obtain explicit informed consent from small use customers<sup>26</sup> orally or in writing, whereas they must obtain explicit informed consent in writing only from large customers.<sup>27</sup>
79. Rule change C03/16R proposes aligning the requirements for obtaining explicit informed consent for all customers by amending the requirements in Appendix 6 of the REMCo retail market rules so that all customers can provide explicit informed consent orally or in writing, by a person competent or authorised to give it on the customer's behalf.
80. The Authority considers that the scheme will continue to comply with the Act after aligning the requirements for obtaining explicit informed consent for all customers. It is the Authority's view that the amendment under C03/16R will provide consistent and standardised rules regarding explicit informed consent. It will also provide market participants and their customers with a timely, less costly, and more efficient business process when requesting and providing explicit informed consent.
81. REMCo submitted rule change proposal C03/16R to the Rule Change Committee for consideration and the Rule Change Committee unanimously

---

<sup>25</sup> Under the provisions of Rule 396A.

<sup>26</sup> Small use customers are customers whose consumption of gas is less than 1 Tera joule per annum.

<sup>27</sup> Large customers are those who consume greater than 1 Tera joule per annum.



agreed that the proposed change is a high impact rule change because the proposed amendments to Appendix 6 will affect customer protection mechanisms for large customers. REMCo conducted the two required rounds of consultation along with further consultation involving all WA gas retail market participants and government, as the consultation process for C03/16R ran concurrently with the consultation program for C02/16R.

82. REMCo received two submissions in support of rule change proposal C03/16R, from Synergy and Alinta Energy. Alinta Energy further suggested the use of preferred terminology (i.e. 'orally' rather than 'verbally') as a minor drafting amendment. REMCo endorsed Alinta Energy's proposed amendment and submitted the rule change proposal to the Authority for approval. REMCo did not receive any objections to rule change proposal C03/16R.
83. The Authority considers that the required consultation occurred with each person and there has not been any dissent to the amendments. The Authority therefore considers that each person has agreed to the amendments proposed under C03/16R.
84. The Authority is satisfied that through aligning the requirements for obtaining explicit informed consent for all customers, the provisions of the scheme will ensure regulation of the market and that market operation is open and competitive, efficient, and fair to gas market participants and their customers.

## Conclusion

85. The Authority considers that the proposed amendments to the scheme in rule changes C02/16C, C01/16R and C03/16R meet the requirements for approval in accordance with sections 11ZOO and 11ZOP of the Act. In accordance with section 11ZOM of the Act, the Authority therefore approves the amendments proposed in rule changes C02/16C, C01/16R and C03/16R.
86. The Authority is aware that REMCo and AEMO have agreed to a number of conditions precedent for the transition of WA gas retail market operations from REMCo to AEMO but considers that these are a matter for the parties themselves.