
Agenda item 5a (viii)

Wholesale Electricity Market Rule Change Proposal Form

Change Proposal No: RC_2009_15
Received date: TBC

Change requested by

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Address:	Level 6, Governor Stirling Tower, 197 St George's Terrace
Date submitted:	TBC
Urgency:	High
Change Proposal title:	Removal of ERA Time Limit to Publish Investigation Results
Market Rule(s) affected:	Clause 2.16.9F

Introduction

Market Rule 2.5.1 of the Wholesale Electricity Market Rules provides that any person (including the IMO) may make a Rule Change Proposal by completing a Rule Change Proposal Form that must be submitted to the Independent Market Operator.

This Change Proposal can be posted, faxed or emailed to:

Independent Market Operator

Attn: Manager Market Administration and System Capacity
PO Box 7096
Cloisters Square, Perth, WA 6850

Fax: (08) 9254 4339

Email: marketadmin@imowa.com.au

The Independent Market Operator will assess the proposal and, within 5 Business Days of receiving this Rule Change Proposal form, will notify you whether the Rule Change Proposal will be further progressed.

In order for the proposal to be progressed, all fields below must be completed and the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the wholesale electricity market objectives. The objectives of the market are:

- (a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system;
- (b) to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors;
- (c) to avoid discrimination in that market against particular energy options and technologies, including sustainable energy options and technologies such as those that make use of renewable resources or that reduce overall greenhouse gas emissions;
- (d) to minimise the long-term cost of electricity supplied to customers from the South West interconnected system; and
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used.

Details of the proposed Market Rule Change

1. Describe the concern with the existing Market Rules that is to be addressed by the proposed Market Rule change:

Background

As a part of its role in monitoring the effectiveness of the market, the Economic Regulatory Authority (ERA) must publish the results of its investigations in accordance with clause 2.16.9F within 20 business days of receiving advice from either the IMO under clause 2.16.9B(b) (behaviour that may affect market power) or from a Rule Participant under clause 2.16.8 (behaviour that may reduce the market effectiveness including behaviour related to market power).

Every report to the ERA will be unique and will have its own complexities which will affect the time taken to complete the investigation. There is no benefit in applying a time frame to an investigation for the regulator, and this could have negative impacts if the matter is not properly investigated due to a time constraint. Any incentive to delay or stall the investigation would be in the interest of the entity suspected of the breach not the market regulator.

To be effective and ensure the market is able to appropriately deal with anomalous behaviour, the time limit for the Authority to conduct an investigation and publish the results within 20 business days needs to be removed.

Other similar jurisdictions take significantly longer periods of time (than 20 business days) to complete their investigations. In the case of the Australian Energy Regulator (AER), on examination of the five electricity investigations published on its web site (<http://www.aer.gov.au/content/index.phtml/itemId/656186>), the average time taken to complete an investigation (from event occurrence to report or notice publication) is approximately 200 business days (note, these investigations appear to have been investigated pursuant to section 15 of the *National Electricity Law*).

The AER and the Market Surveillance Administrator (Alberta, Canada) are both similar regulatory authorities to the ERA in that have investigative powers with respect to the interactions of Market Participants and key stakeholders. Neither of these agencies have set time limits for the conclusion of such investigations.

Proposal

The objective of this Rule Change Proposal is to remove the requirement of a time limit on the completion of investigations carried out by the ERA, in response to advice from either the IMO under clause 2.16.9B(b) (behaviour that may affect market power) or from a Rule Participant under clause 2.16.8 (behaviour that may reduce the market effectiveness including behaviour related to market power).

Overview of proposed rule changes

In order to remove this time limit it is proposed to amend clause 2.16.9.F from the Market Rules.

2. Explain the reason for the degree of urgency:

The ERA submits that this rule change be progressed by the Standard Rule Change Process.

3. Provide any proposed specific changes to particular Rules: (for clarity, please use the current wording of the Rules and place a ~~strikethrough~~ where words are deleted and underline words added)

2.16.9F The Economic Regulation Authority must publish the results of its investigations ~~within 20 Business Days from receiving the~~ in response to IMO advice under clause 2.16.9B(b) or from receiving a notification from a Rule Participant under clause 2.16.8.

4. Describe how the proposed Market Rule change would allow the Market Rules to better address the Wholesale Market Objectives:

This rule change will allow the ERA adequate time to appropriately undertake its investigations, therefore will potentially ensure that any anomalous behaviour is effectively discouraged in the market. This will send clear signals to the market against any anticompetitive behaviour therefore minimising the long term cost of electricity by promoting fair and open competition within the market. In greater detail:

- (b) *to encourage competition among generators and retailers in the South West interconnected system, including by facilitating efficient entry of new competitors.*

The ERA submits that the proposed changes, which remove the time limit for publication of investigation results, will potentially promote competition in the South West Interconnected System (SWIS). In particular the proposed changes will remove a current impediment created by the market rules which potentially could restrict the ERA in successfully prosecuting an identified breach of the market rules. This will potentially ensure that any anomalous behaviour is effectively discouraged in the market and will send clear signals to the market against any anticompetitive behaviour. This will remove a potential barrier to entry and ensure that a competitive market is promoted.

- (d) *to minimise the long-term cost of electricity supplied to customers from the South West interconnected system.*

The ERA submits that the proposed changes will assist in minimising the long term cost of electricity by promoting fair and open competition within the market and ensuring that any anomalous behaviour is actively discouraged.

5. Provide any identifiable costs and benefits of the change:

Costs:

- Potential extensions to the time it takes to carry out investigations.

Benefits:

- The ERA will have the ability to properly investigate any reported breaches.
 - Increases the prospect of successfully prosecuting breaches related to inappropriate and anomalous market behaviour.
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