



Independent Market Operator

Rule Change Notice

**Title: Compliance Standard of
Performance and
Reporting**

Ref: RC_2008_33

Standard Rule Change Process

Date: 12 September 2008

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1. THE RULE CHANGE PROPOSAL

1.1. The Submission

On 11 September 2008 the Independent Market Operator (IMO) submitted a Rule Change Proposal regarding changes to clauses 2.12 and 2.14 of the Wholesale Electricity Market Rules (Market Rules).

This Rule Change Notice is published according to Market Rule 2.5.7, which requires the IMO to publish a notice within 7 Business Days of receiving a Rule Change Proposal.

1.1.1 Submission details

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Date submitted:	<i>11 September 2008</i>
Urgency:	<i>Low</i>
Change Proposal title:	Compliance Standard of Performance and Reporting

1.2. Details of the Proposal

Results from compliance audits conducted on the IMO and System Management are currently not treated equivalently under the Market Rules:

- System Management does not have a formal right of reply to any Market Audit. The IMO has this right;
- the IMO provides a report to the Minister on the compliance of System Management. System Management does not have a formal right of reply to this report; and
- the Market rules do not explicitly provide for the Minister to be provided with a report on the compliance of the IMO, only a report on System Management's compliance.

The IMO submits that although it provides a report to the Minister on its own compliance, the Market Rules should be amended to address the above issues in a formal manner.

Secondly, the IMO submits that at present the standard of performance expected of System Management and the IMO is different from the standard of performance expected of other participants.

The IMO notes that where System Management or the IMO has an obligation under the rules, if they use reasonable endeavours to comply with that obligation then they are not to be taken as having breached the obligation, even if they would otherwise fail to comply.

The IMO submits that the standard of performance for all Participants should be the same, and accordingly it is proposed that the rules that provide the 'reasonable endeavour' exemption for System Management and the IMO should be deleted.

1.3. *The Proposal and the Wholesale Market Objectives*

The IMO submits that the proposal supports market objective (a):

- (a) *to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system;*

The proposal will promote economic efficiency in the Wholesale Electricity Market. This will be achieved by providing for greater equality in the compliance regimes applying to the IMO and System Management, as well as greater equality in the compliance regimes applying to the IMO, System Management and all other Rule Participants.

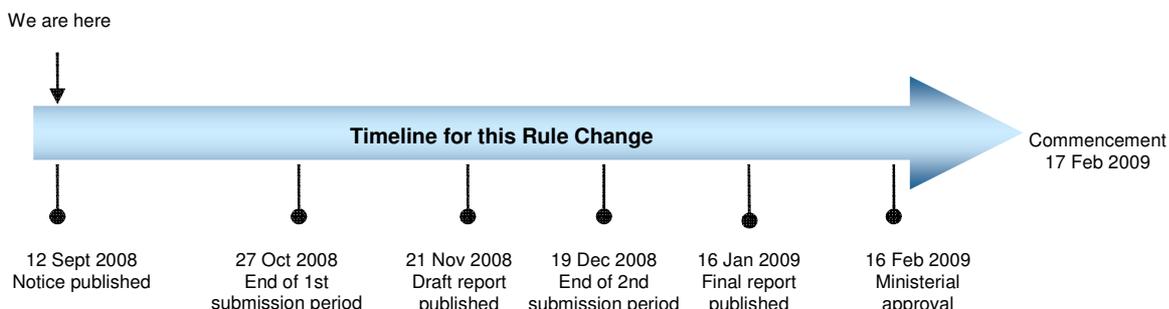
2. WHETHER THE PROPOSAL WILL BE PROGRESSED FURTHER

The IMO has decided to proceed with this proposal on the basis that the IMO's preliminary assessment indicated that the proposal is consistent with the Wholesale Market Objectives.

The IMO has decided to process this Rule Change Proposal using the Standard Rule Change Process, described in section 2.7 of the Market Rules.

As this change relates to a Protected Provision, the IMO is required by clause 2.8.13 of the Market Rules to seek the approval of the Minister for Energy to any change to the Protected Provision that results from the proposal. That approval must be sought after the IMO's Final Report on the Rule Change Proposal is published.

The projected timelines for processing this proposal are:



3. CALL FOR SUBMISSIONS

The IMO is seeking submissions regarding this proposal. The submission period is six weeks from the publication date of this notice. Submissions must be delivered to the IMO by close of business on **Monday 27 October 2008**.

The IMO prefers to receive submissions by email to **marketadmin@imowa.com.au** using the submission form available on the IMO website:
http://www.imowa.com.au/10_5_1_MarketRulesChangeSummary.html

Submissions may also be sent to the IMO by fax or post, addressed to:

Independent Market Operator
Attn: Manager Market Administration
PO Box 7096
Cloisters Square, Perth, WA 6850

Fax: (08) 9254 4399

4. PROPOSED AMENDING RULES

The IMO proposes the following amendments to the Market Rules (~~deleted words~~, added words):

2.12 [Blank] **Standard of Performance**

~~2.12.1. With the exception of the obligations listed in clause 2.12.2, where the IMO has an obligation under these Market Rules to do something:~~

- ~~(a) that obligation is limited to a requirement for the IMO to use reasonable endeavours consistent with these Market Rules, including to give such directions or instructions as are within its power, to comply with that obligation; and~~
- ~~(b) if the IMO fails to do that thing notwithstanding the use of the IMO's reasonable endeavours, the IMO will be taken not to have breached the obligation.~~

~~2.12.2. Clause 2.12.1 does not apply to:~~

- ~~(a) the obligations of the IMO under clauses 2.18 to 2.20;~~
- ~~(b) the obligations of the IMO in relation to the registration of Rule Participants and Facilities in clauses 2.28 to 2.32;~~
- ~~(c) subject to clause 9.24, any payment obligations of the IMO under these Market Rules.~~

~~2.12.3. With the exception of the obligations listed in clause 2.12.4, where System Management has an obligation under these Market Rules to do something:~~

- ~~(a) that obligation is limited to a requirement for System Management to use reasonable endeavours consistent with these Market Rules, including to give such directions or instructions as are within its power, to comply with that obligation; and~~
- ~~(b) if System Management fails to do that thing notwithstanding the use of System Management's reasonable endeavours, System Management will be taken not to have breached the obligation.~~

~~2.12.4. Clause 2.12.3 does not apply to the obligations of System Management under clauses 2.18 to 2.20.~~

~~2.12.5. A reference in this clause 2.12 to an obligation to do something includes an obligation to do or not do any act, matter or thing, to achieve any outcome, to maintain any state of affairs or to ensure that any other person does or does not do any act, matter or thing.~~

2.14.5A. The IMO must annually provide to the Minister a report on the IMO's compliance with the Market Rules and Market Procedures. The report must contain:

- (a) the reports published in clause 2.14.5; and
- (b) the results of any investigations of the IMO's compliance with the Market Rules and Market Procedures carried out by the person appointed under clause 2.13.1.

2.14.6A. Where System Management is subject to an audit in accordance with clause 2.14.6 (b), the IMO must provide System Management with a copy of the report, and System Management must within 20 Business Days of receiving the report either:

- (a) accept the report and any recommendations contained in it; or
- (b) provide the IMO with a separate report setting out the matters raised in the Market Auditor's report which System Management accepts and those which it does not accept and setting out System Management's reasons for that view.

2.14.6B. Where System Management is subject to an audit in accordance with clause 2.14.6 (b), the IMO must publish the Market Auditor's report and any report provided by System Management under clause 2.14.6A(b) within 30 Business Days of System Management receiving the Market Auditor's report.

2.14.7. The IMO must annually ~~provide to the Minister~~ prepare a report for the Minister on System Management's compliance with the Market Rules and Market Procedures. The report must contain:

- a) ~~the results of audits performed under clause 2.14.6(b)~~ reports published in clause 2.14.6B; and

.....

2.14.8. The IMO must provide System Management with the report prepared in accordance with clause 2.14.7, and System Management must within 20 Business Days of receiving the report either:

- (a) accept the report and any recommendations contained in it; or

(b) prepare a separate report setting out the matters raised in the report which System Management accepts and those which it does not accept and setting out System Management's reasons for that view.

2.14.9. The IMO must, within 10 Business Days following the date specified in clause 2.14.8, provide to the Minister the report prepared in accordance with clause 2.14.7 and any report prepared by System Management under clause 2.14.8(b).

5. ABOUT RULE CHANGE PROPOSALS

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

The IMO will assess the proposal and, within 5 Business Days of receiving the proposal form, will notify the proponent whether the proposal will be progressed further.

In order for the proposal to be progressed the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the Wholesale Market Objectives. The market objectives 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.

A Rule Change Proposal can be processed using a Standard Rule Change Process or a Fast Track Rule Change Process. The standard process involves a combined 10 weeks public submission period, while the fast track process involves the IMO consulting with Rule Participants who either advise the IMO that they wish to be consulted or the IMO considers have an interest in the change.