



Independent Market Operator

Rule Change Notice

**Title: Removal of ERA Time
Limit to Publish
Investigation Results**

Ref: RC_2009_15

Standard Rule Change Process

Date: 31 March 2009

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1. THE RULE CHANGE PROPOSAL

1.1. The Submission

On 25 March 2009 the Economic Regulation Authority (ERA) submitted a Rule Change Proposal regarding amendments to clause 2.16.9F to the Wholesale Electricity Market Rules (Market Rules).

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

1.1.1 Submission details

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Date submitted:	25 March 2009
Urgency:	High
Change Proposal title:	Removal of ERA Time Limit to Publish Investigation Results
Market Rule(s) affected:	Clause 2.16.9F

1.2. Details of the Proposal

The ERA submits that as a part of its role in monitoring the effectiveness of the market, it 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 2.16.9.B.(b) (behaviour that may affect market power) or from a Rule Participant under clause 2.16.8 (behaviour that may reduce the market effectiveness).

The ERA contends that 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. The ERA submits that any incentive to delay or stall the investigation would be in the interest of the entity suspected of the breach not the market regulator.

The ERA submits that to be effective and ensure the market is able to appropriately deal with anomalous behaviour, the time limit for the ERA to conduct an investigation and publish the results within 20 business days needs to be removed. The ERA notes that every report will be unique and will have its own complexities which will affect the time taken to complete the investigation.

In its submission the ERA noted that 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), both similar regulatory authorities to the ERA, that also have investigative powers with respect to the interactions of market participants and key stakeholders do not have set time limits for the conclusion of such investigations.

The ERA proposes to remove the time limit on the completion of investigations carried out by the ERA, in response to a report of possible inappropriate and anomalous market behaviour in accordance with clause 2.16.9.(b), which is currently contained in clause 2.16.9.F of the Market Rules.

1.3. The Proposal and the Wholesale Market Objectives

(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 encourage 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 affectively 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.

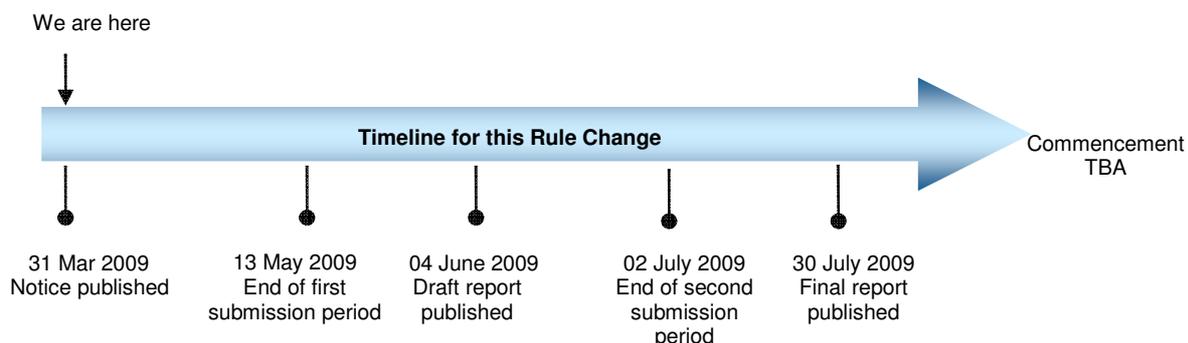
The ERA considers that the proposed changes are consistent with the other market objectives.

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.

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 **Wednesday 13 May 2009**.

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 and System Capacity
PO Box 7096
Cloisters Square, Perth, WA 6850

Fax: (08) 9254 4399

4. PROPOSED AMENDING RULES

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

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.

5. ABOUT RULE CHANGE PROPOSALS

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