
Wholesale Electricity Market Rule Change Proposal Submission Form

**RC_2009_15 Removal of ERA Time Limit to Publish
Investigation Results**

Submitted by

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Submission

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- Please provide your views on the proposal, including any objections or suggested revisions.**

Background

Market Rule 2.16.9F requires that the Economic Regulation Authority (ERA) publish the results of specified investigations within 20 Business Days, including investigations it is obliged to undertake on receipt of:

- advice from the IMO under Market Rule 2.16.9B(b) that prices offered by a Market Generator in its Portfolio Supply Curve may not reflect the Market Generator's reasonable expectation of the short run marginal cost of generating the relevant electricity and that the behaviour relates to market power; or
- notification from a Rule Participant under Market Rule 2.16.8 of behaviour that potentially reduces the effectiveness of the market, including behaviour related to market power.

In conducting its investigation, Market Rule 2.16.E requires that the ERA examine the IMO's advice, any explanation provided by the Market Participant, any data already in its possession or additional data that it may request from the relevant Market Participant under Market Rules 2.16.6.

Rule Change Proposal

RC_2009_15 would amend Market Rule 2.16.9F to retain an obligation on the ERA to publish the results of its investigations, but would remove the requirement for this to occur within 20 Business Days.

It is argued that RC_2009_15 is desirable as:

- every investigation will be unique and will have its own complexities that affect the time needed to undertake and complete the investigation;
- the existence of a time constraint could have negative impacts if the matter is not able to be properly investigated within the specified timeframe; and
- there is no incentive for the ERA to delay or stall an investigation.

The rule change proposal notes that the Australian Energy Regulator (AER) and the Market Surveillance Administrator (Alberta, Canada), which perform a similar regulatory role to the ERA, do not have prescribed time limits for the conclusion of investigations with respect to the interactions of market participants and key stakeholders.

Further, RC_2009_15 notes that an examination of five electricity investigations published by the AER on its web site revealed that the average time taken to complete an investigation (from event occurrence to report or notice publication) was approximately 200 business days.

Alinta's views

Alinta is prepared to support RC_2009_15.

Alinta notes that the IMO has also advised that if the ERA were to conclude that prices in the Portfolio Supply Curve under investigation were not consistent with reasonable expectations of the short run marginal cost, remedial action would be limited to seeking a civil penalty for a breach of Market Rule 6.6.3. While the amount of the civil penalty would be distributed amongst Market Customers in accordance to their market fees, any potential civic penalty does not amount to compensation for additional costs that may be incurred by individual Market Customers.

It is also possible that market behaviour, which was subsequently found to be in breach of Market Rule 6.6.3 (prices above short run marginal cost in an environment where the Market Generator had market power), may continue after (and despite) a request from the IMO for an explanation from the Market Generator. The effect of RC_2009_15 may be to extent the period over which Market Customers incur additional costs.

While there may already be sufficient market scrutiny and incentives for the ERA to conclude its investigations as quickly as possible, Alinta suggests this expectation be monitored should it initiate an investigation following advice received under Market Rule 2.16.9B(b) or a notification under Market Rule 2.16.8.

2. Please provide an assessment whether the change will better facilitate the achievement of the Market Objectives.

Market Rule 2.4.2 states that the IMO must not make Amending Rules unless it is satisfied that the Market Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives. The Wholesale Market Objectives are as follows.

- (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.
- (e) To encourage the taking of measures to manage the amount of electricity used and when it is used.

Alinta considers there is no evidence to suggest that RC_2009_15 would be inconsistent with the Market Objectives.

3. Please indicate if the proposed change will have any implications for your organisation (for example changes to your IT or business systems) and any costs involved in implementing these changes.

The changes to the Market Rules contemplated by RC_2009_15 would not require Alinta to change its IT or business systems, and hence there are no IT or business costs associated with the rule change proposal.

4. Please indicate the time required for your organisation to implement the change, should it be accepted as proposed.

The changes to the Market Rules contemplated by RC_2009_15 would not require Alinta to change its IT or business systems, and hence there is no specific period of time that would be required to implement the changes arising from the rule change proposal.
