
Wholesale Electricity Market Rule Change Proposal Form

Change Proposal No: RC_2009_28
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Change requested by

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Date submitted:	20 July 2009
Urgency:	Standard Rule Change Process
Change Proposal title:	Market Advisory Committee Constitution and Operating Practices
Market Rule(s) affected:	2.3.1, 2.3.2, 2.3.5, 2.3.10, 2.3.14, 2.3.17, 2.7.4, 2.7.5, 2.10.8, 2.10.9, 2.10.3(d) and new clause 2.3.1A

Introduction

Clause 2.5.1 of the Wholesale Electricity Market Rules (Market Rules) provides that any person (including the Independent Market Operator (IMO)) may make a Rule Change Proposal by submitting a completed Rule Change Proposal form to the IMO.

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

Independent Market Operator

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

Fax: (08) 9254 4339

Email: market.development@imowa.com.au

The IMO will assess the proposal and, within five 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 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:

During the annual review of the composition of the Market Advisory Committee (MAC) for the 2009 calendar year, a number of areas of the Wholesale Electricity Market Rules (Market Rules) and MAC Constitution were identified that could benefit from improvement.

In particular, while there is a requirement for the Independent Market Operator (IMO) to annually review the composition of the MAC neither the Market Rules nor the MAC Constitution contains any defined processes or formal criteria for undertaking the review. The IMO does have internal procedures detailing the review process, however these are currently not transparent to interested stakeholders and so the IMO's decisions over appointments to the MAC may not be clear and distinct.

The IMO determined that a project be established to review the relevant provisions in the Market Rules and MAC Constitution. In particular, the issues that the IMO addressed were:

- **Representation and Proxies** – Should appointments be on an individual basis or should appointees represent the organisations they work for?;

The Market Rules only state that the appointment is of a representative. Consequently, a number of interpretations regarding the definition of a representative have been made since the establishment of the MAC.

- **Appointment Process** - What formal process should be followed for annually reviewing the composition of the MAC?;

There is a requirement for the IMO to annually review the composition of the MAC in the Market Rules (clause 2.3.9), however neither the Market Rules nor the MAC

Constitution contain any defined processes or formal criterion for undertaking the review.

- **Eligibility Criteria and Key Skills** - What should the formal criteria be for assessment of nominees to the MAC membership?;
- **Tenure** - How often should the IMO review of the composition of the MAC and what is the most optimal length of service of members?;
- **Responsibilities** – What should MAC members responsibilities be and how should the IMO facilitate their ability to achieve these?;
- **Removal and Replacement of Members** - Are there better processes to selecting MAC members so as to achieve the best possible MAC representation, based on the current practices in other jurisdictions?;
- **Reappointment** – Should there be any restrictions on reappointment to the MAC?;
- **Operating Practices** - What are the optimal operating practices for the MAC with regards to the frequency of meetings, voting rights, types of membership and the optimal size and mix?; and
- **MAC Working Groups** - What is the reporting relationship between MAC and its Working Groups and what is the optimal representation for MAC Working Groups?

At the 29 April MAC meeting the IMO presented the MAC Constitution and Operating Practices Concept Paper (CP_2009_03) which summarised the broad issues which needed to be addressed to ensure:

- A continual high standard of representation on the MAC; and
- That the MAC operates in the best interests of the Wholesale Electricity Market.

The Concept Paper outlined a number of recommendations to address each of these issues, based on the review of the composition and operation of similar committees in other jurisdictions and industries.

The IMO invited MAC members to provide additional comment on the recommendations. The IMO received submissions from five MAC members. The IMO's recommendations, including the revisions resulting from the submissions received, are outlined in Appendix 1.

Further details on the original Concept Paper and the outcomes of the consultation with the MAC are also available on the IMO's website: <http://www.imowa.com.au/ConceptPapers.html>.

Outlined below are the amendments to the Market Rules the IMO considers necessary to enact the recommendations outlined in Appendix 1. In particular, the IMO proposes:

- Amending clause 2.3.1(b) to allow the MAC appointed Working Groups to advise the IMO and/or System Management on Procedure Change Proposals;

- To state that the MAC is a non voting committee (proposed new clause 2.3.1A);
- Amending clause 2.3.2 to include details of the interaction between the MAC and its Working Groups in the MAC constitution;
- Redrafting clause 2.3.5 to refer to Market Generators, Market Customers and small-use consumers rather than generators ,customers and small consumers;
- Amending clause 2.3.10 to reflect the proposed new appointment process (as outlined in proposed amended MAC constitution);
- Removing unnecessary overlap between the Market Rules and MAC Constitution in clause 2.3.14;
- Expanding clause 2.3.17 to allow other interested stakeholders to be either full or observer members of MAC appointed Working Groups e.g. Office of Energy and potential developers who are not Rule Participants;
- Amending clause 2.7.4, 2.7.5, 2.10.8 and 2.10.9 to remove the current “significance” test for convening a meeting of the MAC with regards to Rule Change Proposals and Procedure Change Proposals; and
- Amending clause 2.10.3 (d) to include a summary of the views of the Working Group in Procedure Change Reports;

Note that these changes proposed by the IMO constitute one part of a suite of changes which also includes amending the MAC constitution and developing a document outlining the “Market Advisory Committee Appointment Guidelines”. The other proposed changes are out for public consultation at the same time as this Rule Change Proposal and should be considered as a whole.

The IMO considers that these changes will improve the clarity of the Market Rules and ensure that the MAC operates in the best interests of the Market.

2. Explain the reason for the degree of urgency:

The IMO proposes that this Rule Change Proposal be progressed through 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)

- 2.3.1. The Market Advisory Committee is a committee of industry representatives convened by the IMO:

- (a) to advise the IMO regarding Rule Change Proposals;
- (b) to advise the IMO and System Management regarding Procedure Change Proposals, if required, or if requested by any Working Groups established under clause 2.3.17; ~~and~~
- (c) to advise the IMO regarding market operation and SWIS operation matters; and
- (d) to advise the IMO regarding market evolution matters.

2.3.1A. The Market Advisory Committee is a non voting committee.

2.3.2. The IMO must develop and publish a constitution for the Market Advisory Committee detailing:

- (a) the process for convening the Market Advisory Committee;
- (b) the terms of reference of the Market Advisory Committee;
- (c) the membership terms of Market Advisory Committee members;
- (d) the process for appointing and replacing Market Advisory Committee members by the IMO;
- (e) the conduct of Market Advisory Committee meetings;
- (f) the role of the Market Advisory Committee secretariat; ~~and~~
- (g) interaction between the Market Advisory Committee and the IMO; and
- (h) interaction between the Market Advisory Committee and any Working Groups established under clause 2.3.17.

2.3.5. Subject to clause 2.3.13., the Market Advisory Committee must comprise:

- (a) three members representing ~~generators~~ Market Generators, of whom one must represent the Electricity Generation Corporation;
- (b) one member representing Contestable Customers;
- (c) at least one and not more than two members representing Network Operators, of whom one must represent the Electricity Networks Corporation;
- (d) three members representing ~~retailers~~ Market Customers, of whom one must represent the Electricity Retail Corporation;
- (e) one member nominated by the Minister to represent small-use consumers;
- (f) one member representing System Management;
- (g) one member representing the IMO; and

- (h) a chairperson of the Market Advisory Committee, who must be a representative of the IMO.
- 2.3.10. When appointing and removing members of the Market Advisory Committee, the IMO must consult with, and take nominations from Rule Participants and industry groups, that it considers relevant to the wholesale electricity market, and, if practicable, must choose members from persons nominated.
- 2.3.14. The IMO must provide a secretariat for the Market Advisory Committee. ~~The secretariat must:~~
- ~~(a) schedule meetings and maintain the diary of the Market Advisory Committee; and~~
 - ~~(b) prepare and publish the minutes of each meeting of the Market Advisory Committee.~~
- 2.3.15. The secretariat must convene the Market Advisory Committee:
- (a) on any occasion where these Market Rules require a meeting to discuss a Rule Change Proposal;
 - (aA) on any occasion where these Market Rules require a meeting to discuss a Procedure Change Proposal, if considered necessary by any Working Groups established under clause 2.3.17;
 - (b) not less than once every six months so as to raise and discuss issues with respect to the operation of the market; and
 - (c) on any occasion when two or more members of the Market Advisory Committee have informed the secretariat in writing that they wish to bring a matter regarding market operation, market evolution or the operation of these Market Rules before the Market Advisory Committee for discussion.
- 2.3.17. The Market Advisory Committee may nominate a Working Group comprised of Representatives of Rule Participants and other interested stakeholders to assist the Market Advisory Committee in advising the IMO.
- 2.7.4. Within one Business Day after the publication of a notice of a Rule Change Proposal in accordance with clause 2.5.7, the IMO must notify the members and observers of the Market Advisory Committee as to whether the IMO considers the Rule Change Proposal ~~to be significant enough to require~~ convening a meeting of the Market Advisory Committee and the reasons why.
- 2.7.5. The IMO must convene a meeting of the Market Advisory Committee concerning a Rule Change Proposal before the due date for submissions in relation to the Rule Change Proposal if:

- (a) the IMO considers that advice on the Rule Change Proposal to be significant is required from the Market Advisory Committee; or
 - (b) two or more members of the Market Advisory Committee have informed the IMO in writing that they consider that advice on the Rule Change Proposal is significant required from the Market Advisory Committee.
- 2.10.8. Within one Business Day after the publication of a Procedure Change Proposal notice in accordance with clause 2.10.4 or 2.10.5, as applicable, the IMO must notify all members and observers of the Market Advisory Committee as to whether the IMO considers the Procedure Change Proposal ~~to be significant enough to~~ requires convening the Market Advisory Committee and the reasons why.
- 2.10.9. The IMO must convene a meeting of the Market Advisory Committee concerning the Procedure Change Proposal before the due date for submissions in relation to the Procedure Change Proposal if:
- (a) the IMO considers that advice on the Procedure Change Proposal to be significant is required from the Market Advisory Committee; or
 - (b) two or more members of the Market Advisory Committee have informed the IMO in writing that they consider that advice on the Procedure Change Proposal is significant required from the Market Advisory Committee.
- 2.10.13. The Procedure Change Report must contain:
- (a) the wording of the proposed Market Procedure or amendment to or replacement for the Market Procedure;
 - (b) the reason for the proposed Market Procedure or amendment to or replacement for the Market Procedure;
 - (c) all submissions received before the due date for submissions, a summary of those submissions, and the response of the IMO or System Management, as applicable, to the issues raised in those submissions;
 - (d) a summary of the views expressed by the Market Advisory Committee, or Working Group specifically appointed by the Market Advisory Committee under clause 2.3.17 to consider such Procedure Change Proposals;

...

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

The IMO considers that the proposed Amending Rules will improve the integrity of the Market Rules by better clarifying the operating practices of the MAC.

The proposed changes to the Market Rules will reinforce the proposed new operating practices of the MAC, as outlined in the MAC Constitution. In particular, the changes will ensure that the standard of representation of the MAC remains consistently high, and that it operates in the best interests of the Wholesale Electricity Market.

The IMO considers that the proposed changes and are consistent with the Wholesale Market Objectives.

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

Costs:

The proposed changes will not require changes to the Wholesale Electricity Market Systems.

The proposed changes to the process for appointing MAC members may have some additional administrative costs associated with the preparation of CVs, cover letters etc. The IMO expects that these will only be minor as the requirements will clearly be outlined in the “Market Advisory Committee Appointment Guidelines”.

Benefits:

The proposed changes, in conjunction with the proposed amended MAC Constitution, will:

- Ensure that the standard of representation on the MAC remains consistently high and that it operates in the best interests of the WEM;
- Ensure that the annual review process is clear and transparent;
- Clarify the role of the MAC and Working Groups in providing advice on procedure change and rule change proposals;
- Allow interested stakeholders to be either full or observer members on MAC appointed Working Groups; and
- Remove unnecessary overlap between the Market Rules and MAC Constitution.

Appendix 1 – The IMO’s recommendations

The IMO recommended the following changes to the MAC Constitution and operating practices, as revised following consultation with the MAC, as outlined below:

Representation and proxies

- discretionary class membership will be of individuals representative of a class. Members will be expected to act in an appropriate way so as to properly represent the class whom they were chosen to represent i.e. Market Generator, Market Customer or Contestable Customer class;
- compulsory class membership will be of individuals, representative of the entity to which they correspond to. Compulsory class members will need to demonstrate their eligibility against the criteria for membership and necessary skills, knowledge and experience;
- with the agreement of the Chairperson, compulsory class members will be able to send appropriate proxies with similar skills and experience to represent the entity at meetings;
- discretionary class members will not be able to send a proxy by right as they have been chosen for their personal skills, qualities and qualifications. They will however be able to recommend an appropriate proxy (from any organisation which belongs to the same class as the appointee) who must have similar skills and experience. Permission for the attendance by proxies will be at the Chairperson’s discretion;

Appointment Process

- an entity will be able to nominate an individual for as many categories relevant to the entity and for which the nominee meets the eligibility criteria. For example an entity which is both a generator and a retailer may nominate individuals for both of these categories;
- the IMO will only be able to appoint one individual from an entity to serve on the MAC at any one time (excluding the Chairperson);
- the IMO will create a document which clearly outlines the guidelines for appointment, the background of the MAC, the role of members, and the process for appointment and review, which will be provided to all serving and new members and made publically available on the IMO web site;
- nominees will be required to provide a current CV and covering letter outlining their relevant experience and which addresses the eligibility criteria. The nominees details provided to the IMO will be kept private. An assessment of all the nominees against the appointment criteria may be made public if requested;

Eligibility Criteria and Key Skills

- the keys skills will be defined as a collective for the committee and are including the MAC Appointment Guidelines to improve the transparency of the IMO's decision making. In particular, the IMO will take into account, but is not limited to, the following expected skills knowledge and experience of the MAC (as a body):
 - Knowledge and/or demonstrated experience of energy sector issues;
 - Broad understanding of the technical, design and commercial aspects of the WEM;
 - Ability to contribute to the MAC and the Wholesale Market Objectives;
 - Ability to work as a member of a small team;
 - Ability to assess proposed rule and procedure changes against the Wholesale Market Objectives;
 - Demonstrated ability to understand the subject matter proposals made to the MAC;
 - Ability to consider market design issues and options for market evolution;
 - Understanding of the Market Rules and other relevant legislation; and
 - Knowledge of the powers and obligations of both the IMO and System Management and the frameworks in which they operate.
- the MAC Appointment Guidelines will specify that the IMO will have regard to both the nominations received and the collective skills necessary for the MAC to perform its functions when appointing members;
- the IMO will expect nominations of people at a middle management level or above;

Tenure

- membership for the 2010 MAC for both discretionary and compulsory classes will be for either one or two years (with the opportunity for reappointment after this time period has lapsed). The IMO will determine six members (or half) of the MAC by ballot to serve a single year membership in 2010, the remaining MAC members will have a two year initial term. The ballot will be designed so that not everyone in a particular class will be rotate out in a single year. This will ensure consistency in decision making;
- MAC members, irrespective of class, be appointed for two years (after 2010 members have expired);

- membership of discretionary classes will be rotated every two years to ensure new and existing Market Participants have an opportunity to be represented on the MAC and that the MAC evolves as the market matures;
- the IMO will reserve the right to appoint new members into compulsory and discretionary class positions, if necessary, when members are no longer representative of the class;
- along with the rotation of members whose tenure has lapsed, each year the IMO will undertake a review of the performance of all members with regards to the conduct of their responsibilities (which will be outlined in the MAC Constitution);

Responsibilities of Members

- the MAC Constitution will include further details of the responsibilities of members, such as that discretionary class members will act in the interests of their class, that all MAC members will act in the best interests of the market, be expected to prepare for the meetings and actively contribute to discussions;
- the MAC Constitution will include a provision to remove both compulsory and discretionary class members who fail to meet these stated responsibilities as part of the IMO's annual review;

Removal and Replacement of Members

- the MAC Constitution will specify the number of meetings that a member, or approved proxies (for compulsory classes), can miss before they will be potentially removed from the MAC. For example, three or four meetings during the year. Attendance of proxies (in the case of discretionary classes) will not count towards attendance. The MAC Constitution will include a provision to remove members who fail to attend the specified number of meetings, amongst other considerations, as part of the IMO's annual review;
- if a member wishes to resign from a discretionary or compulsory class the IMO will appoint a replacement member, in accordance with the defined process, for the duration of the previous member's remaining length of tenure;

Reappointment

- there will be no restrictions on reappointment to the MAC, but in making appointments the IMO's objective will be to get the best representation of industry over time to ensure a dynamic MAC;
- members will be able to be reappointed based on the IMO's assessment of individuals against the appointment criteria to ensure that they still conform and are representative of their class;

Operating Practices

- other persons will, at the discretion of the Chairperson, be allowed to attend MAC meetings from time to time. For example, this may include the Market Administration team and others when providing expert advice on rule changes etc;
- the Market Rules will state that the MAC is a non-voting committee;
- clause 2.3.5 of the Market Rules will be redrafted to refer to Market Generators and Market Customers rather than generators and retailers;
- the MAC Constitution will be updated to note that the IMO will provide meeting papers at least five days before the MAC meeting (this will allow members adequate time to prepare for the meeting);
- the MAC Chairperson will be given the discretion to approve late papers for a MAC meeting;

MAC Working Groups

- clause 2.3.17 of the Market Rules will be expanded to allow other interested stakeholders to be either full or observer members of MAC appointed Working Groups i.e. Office of Energy and potential developers;
- the terms of references for all Working Groups be reviewed and updated for consistency. Specifically noting that:
 - each Working Group will report to the MAC at least once every two months; and
 - each Working Group will refer any other issues that are out of scope of the group back to the MAC.
- the MAC Constitution be amended to recognise the formal relationship between the MAC and its Working Groups;
- clause 2.3.1 (b) of the Market Rules will be expanded to allow the MAC appointed Working Groups to advise the IMO and/or System Management on Procedure Change Proposals;
- that clause 2.10.13 (d) be amended to refer to “a summary of the views expressed by the Market Advisory Committee, or Working Group specifically appointed by the MAC to consider such Procedure Change Proposals”;
- the IMO will note on its webpage that anyone can contact the MAC chair or secretariat to have an issue raised at a MAC meeting; and
- to formalise the appointment process for Working Groups the appropriate Terms of Reference will be updated.