



Independent Market Operator

**Rule Change Notice
Title: Deregistration of Rule
Participants who no longer meet
registration requirements.**

Ref: RC_2010_31

Standard Rule Change Process

Date: 21 March 2011

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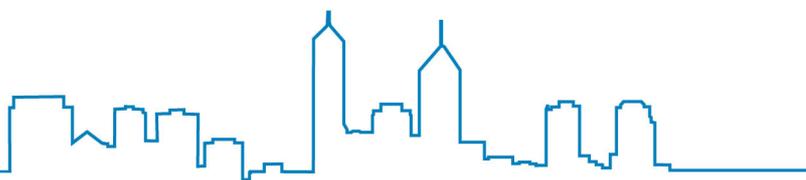
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DOCUMENT DETAILS

IMO Notice No.: RC_2010_31
Report Title: Rule Change Notice: De-registration of Rule Participants who no longer meet registration requirements.
Release Status: Public
Confidentiality Status: Public domain
Published in accordance with Market Rule 2.5.7

Independent Market Operator

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1. THE RULE CHANGE PROPOSAL

1.1. The Submission

On 18 March 2011 the Independent Market Operator (IMO) submitted a Rule Change Proposal regarding amendments to clauses 2.17.1 and 2.31.13 and new clauses 2.32.7A, 2.32.7B, 2.32.7C, 2.32.7D, 2.32.7E and 2.32.7F and the glossary of the Wholesale Electricity Market Rules (Market Rules).

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

1.1.1 Submission details

| | |
|-------------------------------|--|
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| Address: | Level 3, Governor Stirling Tower, 197 St Georges Terrace, Perth |
| Date submitted: | 18 March 2011 |
| Urgency: | Medium |
| Change Proposal title: | De-registration of Rule Participants who no longer meet registration requirements |
| Market Rules affected: | 2.17.1, 2.31.13 new clauses 2.32.7A, 2.32.7B, 2.32.7C, 2.32.7D, 2.32.7E, 2.32.7F and the glossary. |

1.2. Details of the Proposal

Background

The IMO notes in its Rule Proposal that generally, anyone subject to the Wholesale Electricity Market Rules (Market Rules) is required to register as a Rule Participant (there are some exemptions available). Since different Market Rules relate to different types of participants, a number of Rule Participant classes are defined (clause 2.28.1). In general, a Rule Participant can belong to more than one class, except where this is explicitly restricted. Rule Participants who trade, or intend to trade, in the Wholesale Electricity Market (WEM) are required to register as a Market Participant (i.e. Market Generator or a Market Customer).

Under the Market Rules there are currently two avenues for Rule Participant de-registration, these are:

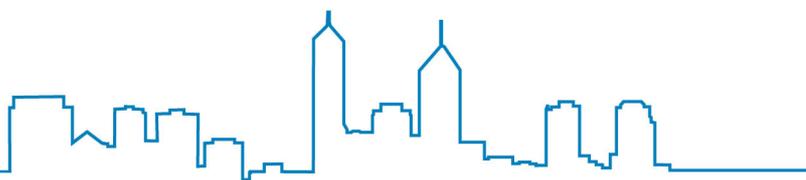
1) The Rule Participant applying to the IMO to be de-registered:

- Prior to an applicant applying to be de-registered as a Rule Participant they must have undertaken the following steps where they are also a Market Participant:
 - i. ensure any Facilities registered do not hold Capacity Credits; and

- ii. apply to have its Facilities de-registered or transferred to another Rule Participant);
- Once the relevant Facility(s) has been transferred or de-registered by the IMO, the Rule Participant can apply to be de-registered. De-registration as a Rule Participant will only be effective from the date on which all (if any) outstanding debts to the market have been settled (clause 2.31.16).
- When all accounts have been settled and de-registration is effective, the IMO will repay any credit support held and, upon provision of a release form for execution by IMO Directors, release the fixed and floating charge.
- As per clause 2.31.16 of the Market Rules a Rule Participant's obligations will cease from the end of the first Business Day in which:
 - i. their application to de-register from a Rule Participant class has been accepted by the IMO;
 - ii. the Rule Participant has de-registered all their facilities applicable to the class to be de-registered from;
 - iii. all outstanding disputes, investigations and enforcement actions have been resolved and settled;
 - iv. all outstanding debts to the IMO have been paid; and
 - v. the Rule Participant has received final payment for the amounts owed to it by the IMO.
- The IMO may deny an application for de-registration (for reasons set out in clause 2.31.13 of the Market Rules). The IMO's decision to deny an application for de-registration may be appealed to the Electricity Review Board (ERB) (clause 2.17.1(e)).
- It should be noted that this de-registration process attracts the following fees:
 - i. Rule Participant de-registration application fee: \$290 per application; and
 - ii. Either- Facility de-registration application fee: \$250 per application or Facility transfer application fee: \$320 per application.

2) The IMO applying to the Electricity Review Board (ERB) for the Rule Participant to be de-registered:

- Where a Rule Participant has been suspended for 90 days, the IMO may apply to the ERB for a de-registration order in accordance with the Regulations;
- Where the IMO receives notice that the ERB has made a decision in accordance with the Regulations that a Rule Participant be de-registered, the relevant Rule Participant ceases to be a Rule Participant from the time specified in the notice. The IMO must de-register all of the Facilities registered by the Rule Participant by the time specified in the notice (clause 2.32.7);



- It should be noted that applying to the ERB for a de-registration order is a lengthy and costly process.

The de-registration of a Rule Participant does not affect any rights, obligations or liabilities arising under or in connection with these Market Rules prior to the time the Rule Participant ceases to be a Rule Participant.

The Market Procedure: Registration and De-registration of Rule Participants outlines the processes that need to be followed by:

- Applicants when registering as a Rule Participant;
- Rule Participants when wishing to register in an additional Rule Participant class or wishing to de-register from one or more classes; and
- The IMO when processing applications for Rule Participant registration or de-registration.

Issue

While there are two processes outlined in the Market Rules for Rule Participant de-registration, to de-register a Rule Participant (in either the Market Generator or Market Customer class) who no longer meets the requirements of its original registration (for example, no longer satisfies the criteria outlined in clause 2.28.19 of the Market Rules), the IMO needs to undertake a lengthy and costly process of going to the ERB to de-register that Rule Participant. This assumes that the Rule Participant is either unwilling- or even unable - to pay the de-registration application fees to de-register themselves. Even if the IMO removes the fees for de-registration¹ it should be noted that there are some instances where the IMO would still need to initiate the de-registration process.

In situations where the Rule Participant no longer meets the requirements of its original registration, the IMO considers that it should be able to de-register the Rule Participant without the need to go to the ERB.

Proposal

The IMO proposes to be able to de-register a Rule Participant if it is clear that the Rule Participant no longer meets the requirements of its original registration as stated in clause 2.28.19 of the Market Rules.

The IMO proposes the following process:

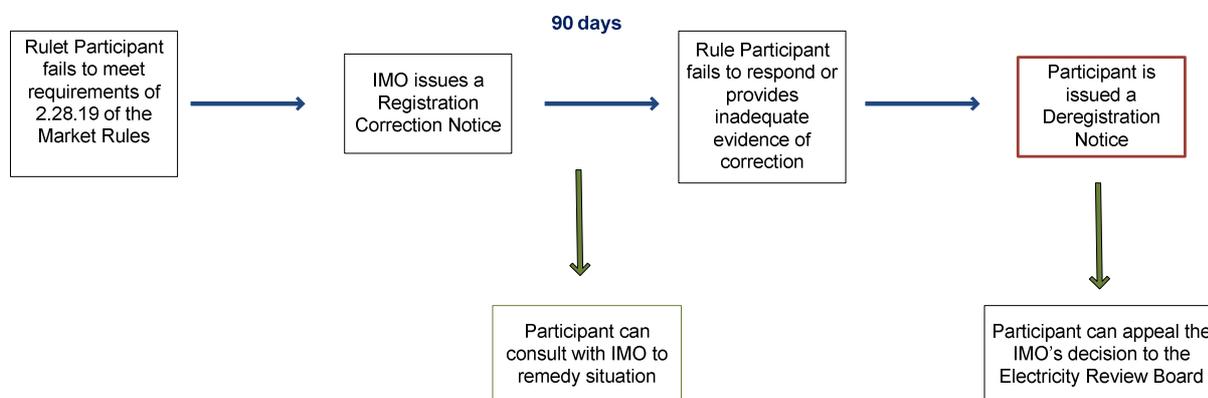
- The IMO will identify that the Rule Participant no longer meets the criteria for registration outlined in clause 2.28.19;
- The IMO will prepare and issue a Registration Correction Notice which includes a proposed date for de-registration. This notice will allow 90 days for the Rule Participant

¹ The IMO has indicated that it will review this as part of its fee setting process in 2011.

to make submissions to the IMO stating any reason why the IMO should not de-register the participant and how it can correct the situation;

- In cases where the IMO does not receive any submissions from the Rule Participant at the end of the 90 day period (outlined in the Registration Correction Notice), or the Rule Participant does not provide the IMO with sufficient evidence proving that it has the potential to remedy the situation, the IMO will issue a De-registration Notice formally notifying the Rule Participant that it will cease to be registered from the time and date specified in that De-registration Notice. The IMO must also de-register all of the Facilities (if there are any) registered by the Rule Participant by the time specified in the notice (clause 2.32.7), unless these Facilities hold Capacity Credits;
- In situations where the Rule Participant makes a submission (on the Registration Correction Notice) the IMO must consider it before making a decision;
- In accordance with the other de-registration processes within the Market Rules, this proposal does not affect any rights, obligations or liabilities arising under or in connection with these Market Rules prior to the time the Rule Participant ceases to be a Rule Participant; and
- The Rule Participant will be able to appeal the IMO's decision to de-register it to the ERB (this will be facilitated by adding the clause which enables the IMO to make a decision to de-register a Rule Participant to the list of Reviewable Decisions. The IMO acknowledges the need to liaise with the Office of Energy to ensure that this amendment is also reflected in the Electricity Industry (Wholesale Electricity Market) Regulations 2004).

For a graphical representation of the process, please see below.



1.3. The Proposal and the Wholesale Market Objectives

The IMO considers the change proposal to allow the IMO to de-register a Rule Participant, without applying to the ERB, when the Rule Participant no longer meets the requirements of its original registration has the following impacts on the Wholesale Market Objectives:

| Impact | Market Objectives |
|---|-------------------|
| Allow the Market Rules to better address the objective. | a |
| Consistent with objective. | c, b, d, e |
| Inconsistent with objective. | |

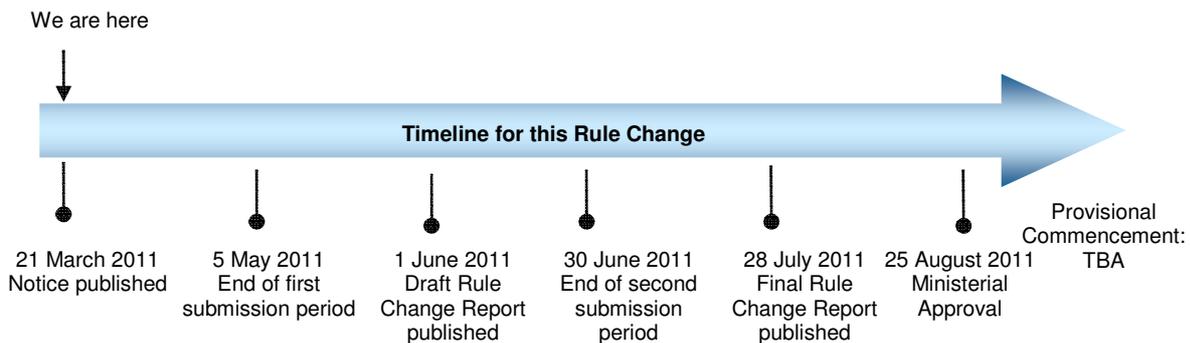
The IMO considers that the proposed amendments will promote Market Objective (a) by ensuring that the IMO does not need to undertake a lengthy and costly process of applying to the ERB should it wish to de-register Rule Participants. The IMO considers that its proposed process is a more economically efficient process than the status quo.

2. WHETHER THE PROPOSAL WILL BE PROGRESSED FURTHER

The IMO has decided to proceed with this proposal on the basis that Market Participants should be given an opportunity to provide submissions as part of the rule change process.

This Rule Change Proposal will be processed 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 30 Business Days from the publication date of this Rule Change Notice. Submissions must be delivered to the IMO by **5:00pm on Thursday 5 May 2011**.

The IMO prefers to receive submissions by email to market.development@imowa.com.au using the submission form available on the IMO website: <http://www.imowa.com.au/rule-changes>.

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

Independent Market Operator
 Attn: General Manager, Development
 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 text~~, added text):

2.17.1. Decisions by the IMO made under the following clauses are Reviewable Decisions:

- (a) clause 2.3.8;
- (aA) clause 2.5.9;
- (aB) clause 2.6.4(f);
- (aC) clause 2.7.8(e);
- (aD) clause 2.10.13;
- (aE) clause 2.10.14;
- (b) clause 2.13.28;
- (c) clause 2.28.16;
- (d) clauses 2.30.4 and 2.30.8;
- (e) clause 2.31.10;
- (eA) Clause 2.32.7E(b);
- (f) clause 2.34.7;
- (g) clause 2.34.11;
- (h) clauses 2.37.1 to 2.37.3;
- (i) clause 2.37.6 and 2.37.7;
- (j) clause 4.9.9;
- (k) clause 4.15.1;
- (l) clause 4.27.7;
- (m) clause 4.28.7;
- (n) clauses 5.2.6 and 5.2.7;
- (o) clause 5.3.6; and
- (p) clause 10.2.1.

2.31.13. The IMO may only reject an application if:

...

- (e) in the case of an application to register as a Rule Participant in any class where the person has previously been de-registered as a Rule Participant

following an order from the Electricity Review Board or de-registered by the IMO under clause 2.32.7E(b), the IMO is not satisfied that person has remedied the reason for or underlying cause of the prior de-registration;

...

2.32.7A The IMO may at any time review whether a Rule Participant registered in the classes outlined in clause 2.28.1(b) or (c) continues to meet the criteria specified in clause 2.28.19.

2.32.7B If the IMO becomes aware that a Rule Participant registered in the classes outlined in clause 2.28.1(b) or (c) no longer meets the criteria to be a Rule Participant, as outlined in clause 2.28.19, the IMO may issue a Registration Correction Notice to that Rule Participant.

2.32.7C Each Registration Correction Notice must include:

- (a) the reason for the issue of the Registration Correction Notice;
- (b) A request that the Rule Participant correct the circumstances that are the subject of the Registration Correction Notice;
- (c) A request to provide evidence to the IMO that it should remain registered as a Rule Participant;
- (d) A date and time for response, which must be at least 90 Days from the date of the Registration Correction Notice;
- (e) A date and time from which the de-registration of the Rule Participant will become effective, should that Rule Participant not provide sufficient evidence under paragraphs (b) or (c).

2.32.7D Where the IMO has issued a Registration Correction Notice it may extend the deadline for:

- (a) correcting the circumstances that are the subject of the notice; or
 - (b) responding to the notice
- for any period that it considers is appropriate in the circumstances.

2.32.7E The IMO must consider any evidence or submissions provided by a Rule Participant in response to a Registration Correction Notice and determine whether:

- (a) It is satisfied that the Rule Participant should remain registered. If so, the IMO will notify the Rule Participant that no further action will be taken; or

- (b) It is not satisfied that the Rule Participant should remain registered. If so, the IMO will issue a De-registration Notice notifying the Rule Participant that it will cease to be registered from the time and date specified in the De-registration Notice and the Rule Participant will cease to be registered with effect from that date and time.

2.32.7F Where the IMO de-registers a Rule Participant it must also de-register all of the Facilities registered by the Rule Participant by the time specified in the De-registration Notice. For the avoidance of doubt, the IMO must not de-register a Rule Participant, if that Rule Participant holds Capacity Credits for any of its Facilities.

Chapter 11: Glossary

De-registration Notice: means the notice issued by the IMO under clause 2.32.7E(b)

Registration Correction Notice: means a notice issued by the IMO under clause 2.32.7B

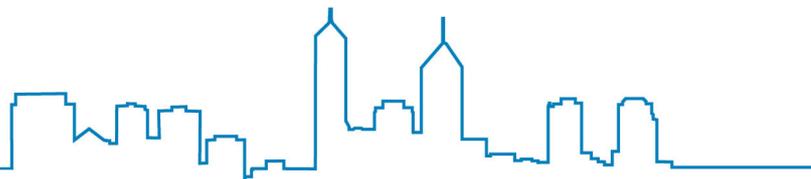
5. ABOUT RULE CHANGE PROPOSALS

Any person (including the IMO) may make a Rule Change Proposal by completing a Rule Change Proposal Form and submitting this to the IMO (Clause 2.5.1 of the Market Rules).

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.

