

2017 MAC Constitution and Appointment Guidelines Final Report

22 May 2017

1. Background

The Rule Change Panel was established in November 2016 and commenced the functions to administer the Wholesale Electricity Market Rules (Market Rules) on 3 April 2017. The RCP Secretariat¹, who provides assistance to the Rule Change Panel, is also responsible for providing secretariat services to the Market Advisory Committee (MAC). Prior to November 2016 the Independent Market Operator (IMO) was responsible for these functions.

Under clause 2.3.2 of the Market Rules, the Rule Change Panel is responsible for the development of a constitution for the MAC.

Under clause 2.3.3 of the Market Rules, the constitution of the MAC is required to be consistent with the Market Rules.

Accordingly, the Rule Change Panel has reviewed the MAC Constitution and the associated Appointment Guidelines to reflect the changes to the Market Rules on 26 November 2016. The Rule Change Panel has also taken the opportunity to make some other minor amendments.

While the MAC Constitution and the associated Appointment Guidelines may benefit from a broader review, the current review is limited to changes that will ensure the MAC Constitution is consistent with the Market Rules.

2. Consultation

Under clause 2.3.4 of the Market Rules, the Rule Change Panel must invite public submissions when developing or amending the MAC Constitution. On 10 April 2017, the Rule Change Panel published the proposed amended MAC Constitution and the associated Appointment Guidelines and invited public submissions. The submission period was held between 10 April 2017 and 27 April 2017.

Submissions were received from Perth Energy and the Australian Energy Market Operator (AEMO).

Perth Energy supported the proposed amendments given the scope of the review was limited to ensure the MAC Constitution is consistent with the Market Rules.

AEMO supported the proposed amendments and made some minor suggestions for further amendments to improve the MAC Constitution and its consistency with the Market Rules.

Both submissions are available on the Rule Change Panel's website.

The Rule Change Panel's responses to AEMO's submission are summarised in Appendix A.

3. Further Amendments to the MAC Constitution

In response to the issues raised by AEMO, the Rule Change Panel has made some further amendments to the MAC Constitution and the MAC Appointment Guidelines in accordance with the Rule Change Panel's responses outlined in Appendix A. The final version of the MAC

¹ Under the Market Rules, the RCP Secretariat is the executive officer of the Rule Change Panel made available by the ERA in accordance with the Panel Regulations.

Constitution and the associated Appointment Guidelines, with all amendments in mark up, are attached to this report.

4. The Rule Change Panel's Assessment

4.1 The Market Rules

The Rule Change Panel considers that the proposed amended MAC Constitution and the associated Appointment Guidelines are consistent with the Market Rules, as required under clause 2.3.3

Specifically, the Rule Change Panel considers that the proposed amended MAC Constitution is consistent with clause 2.3.2 of the Market Rules which details the requirements of the MAC Constitution.

4.2 Implementation

The Rule Change Panel notes that the proposed changes are administrative in nature and do not require any system or process changes. No Market Participants have identified any issues with the practicality of implementation of the proposed amended MAC Constitution or the associated Appointment Guidelines.

5. The Rule Change Panel's Decision

The Rule Change Panel's decision is to approve the proposed amended MAC Constitution and the associated Appointment Guidelines as published with this report.

The Rule Change Panel made the decision on the basis that the proposed amended MAC Constitution and the associated Appointment Guidelines are consistent with the requirements under clause 2.3.2 of the Market Rules.

6. Amended MAC Constitution and Appointment Guidelines

6.1 Commencement

The amended MAC Constitution and Appointment Guidelines will commence at **8:00 am** on **23 May 2017**.

6.2 The Amended MAC Constitution and Appointment Guidelines

The amended MAC Constitution and Appointment Guidelines are attached to this report and will be available on the Rule Change Panel's website from the commencement date.

Appendix A. The Rule Change Panel's Response to Submissions

| Clause | Issue/Suggestion | Response |
|----------------------------|--|--|
| Various | Suggest removing historical references in both documents (MAC Constitution and MAC Appointment Guidelines) to appointment processes from 2010. | <p>The Rule Change Panel notes that the references to the appointment process in 2010 help to clarify the intention that none of the discretionary member classes will be completely rotated out in a single year.</p> <p>For this reason the Rule Change Panel has decided to retain these references, at least until it undertakes its broader review of the documents later in the year. However, the Rule Change Panel has further amended clauses 4.4 (renumbered to 4.5) and 4.5 (renumbered to 4.6) of the MAC Constitution and clauses 6.1, 6.2, 6.3 and 6.4 of the MAC Appointment Guidelines to change different references from the future tense into past or present tense to clarify the order of events.</p> |
| MAC Constitution | | |
| 4.1 | adding "...in accordance with the clauses <u>2.3.8 and</u> 2.3.11 of the Market Rules..." | <p>The Rule Change Panel agrees that clause 2.3.8 of the Market Rules, which provides the head of power for the Rule Change Panel to appoint and remove members of the MAC, should be referenced in clause 4.1 of the MAC Constitution.</p> <p>The Rule Change Panel has further amended clause 4.1 of the MAC Constitution accordingly.</p> |
| 4.5 (renumbered to 4.6) | Replacing "step" with "clause" for consistency with other cross-references within the document | The Rule Change Panel has further amended clause 4.5 by replacing "step" with "clause". |

| Clause | Issue/Suggestion | Response |
|---|---|---|
| 4.10 (former 4.9 and renumbered to 4.11) | Insert a comma: "... may terminate the membership of, or decide to not reappoint, any member that..." | The Rule Change Panel has further amended clause 4.10 by including a comma as suggested. |
| Section 4 | For completeness, replicate the requirement of clause 2.3.5A of the Market Rules into this section (indicating the need to use reasonable endeavours to maintain balance between Market Customers and Market Generators). | <p>The Rule Change Panel agrees that the requirements under clause 2.3.5A of the Market Rules should be included in the MAC Constitution.</p> <p>The Rule Change Panel has amended section 4 by including a new clause 4.2 (and renumbering all following clauses in section 4 accordingly) incorporating the provision of clause 2.3.5A of the Market Rules.</p> |
| Section 8 heading | Update to 'Interaction between the Market Advisory Committee, and the Rule Change Panel and RCP Secretariat' | <p>The Rule Change Panel notes that this section is not intended to cover the interactions between the RCP Secretariat and the Rule Change Panel, but only the interactions between the MAC and each of the two other parties.</p> <p>Therefore the Rule Change Panel has decided to not amend the heading of the MAC Constitution.</p> |
| 8.1 | Update to "... will be sent to the <u>RCP Secretariat</u> " | The Rule Change Panel notes that in this case the term "secretariat" refers to the secretariat of the MAC which is provided by the RCP Secretariat. However, to avoid confusion the Rule Change Panel has further amended clause 8.1 by incorporating the suggested change. |

| Clause | Issue/Suggestion | Response |
|-----------------------------------|--|---|
| MAC Appointment Guidelines | | |
| 6.3, 6.4, 7.8, 8.1 | Replacing “step” with “clause” for consistency with other cross-references within the document | The Rule Change Panel has further amended clauses 6.3, 6.4, 7.8 and 8.1 by replacing “step” with “clause”. |
| 6.5 | Update to “... listed <u>in</u> clause 2.3.11 ...” | The Rule Change Panel has further amended clause 6.5 by incorporating the suggested change. |
| 7.2 | The Western Australian Sustainable Energy Association has ceased operation. Suggest removing or replacing. | <p>At the 1 May 2017 MAC meeting, the Rule Change Panel sought suggestions from MAC members for a suitable organisation to replace the Western Australian Sustainable Energy Association as a potential source of nominations for discretionary class members.</p> <p>Two suggestions were made: the Clean Energy Council and the WA Independent Power Association (WA IPA).</p> <p>The Clean Energy Council is a body representing the clean energy industry in Australia with over 550 businesses as members.</p> <p>WA IPA represents the interests of independent power generators and retailers operating in Western Australia. WA IPA has eight members.</p> <p>The Rule Change Panel has decided to replace the Western Australian Sustainable Energy Association with the Clean Energy Council in the MAC Appointment Guidelines due to its focus on clean energy and the significantly greater number of members. The Rule Change Panel has further amended clause 7.2 to reflect this decision.</p> |

Constitution of the Market Advisory Committee

~~1 June 2016~~ ~~TBA~~ 23 May 2017

1. Introduction

- 1.1 The Wholesale Electricity Market Rules (Market Rules) are made under the *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (Regulations) and in accordance with section 123 of the *Electricity Industry Act 2004* (the Act).
- 1.2 The Wholesale Market Objectives are as contained within section 122 of the Act and clause 1.2.1 of the Market Rules (see Appendix 1 of this Constitution).
- 1.3 The Rule Change Panel's ~~IMO's~~ functions include:
 - a) developing amendments to the Market Rules and replacements for them; and
 - b) developing, amending and replacing Market Procedures, where required by the Market Rules.
- 1.4. The Rule Change Panel~~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.
- 1.5. The IMO, Rule Change Panel, Economic Regulation Authority and AEMO must ensure that ~~any proposed~~ amendments they make to Market Procedures are:
 - a) consistent with the Wholesale Market Objectives; and
 - b) consistent with the Market Rules, the Act, and Regulations.
- 1.6. This Constitution of the Market Advisory Committee is prepared in accordance with clause 2.3.2 of the Market Rules.
- 1.7. Terms used in this Constitution have the same meaning as defined in the Market Rules.
- 1.8. This Constitution has been issued under the Market Rules and as such, if a provision of a document which is higher in order of precedence, such as those noted in clause 1.5(b) of this Constitution, is inconsistent with a provision of this Constitution, then the provision in the higher order document prevails to the extent of the inconsistency.

2. Terms of Reference

- 2.1. The Market Advisory Committee is a committee of industry representatives convened by the Rule Change Panel~~IMO~~:
 - a) to advise the Rule Change Panel~~IMO~~ regarding Rule Change Proposals;

- b) to advise the IMO, Rule Change Panel, the Australian Energy Market Operator (AEMO) and (including in its capacity as System Management) and the Economic Regulation Authority regarding Procedure Change Proposals; and
- ~~c) to advise AEMO regarding market operation and South West interconnected system operational matters; and~~
- ~~d)c)~~ to advise the Rule Change Panel~~IMO~~ regarding matters concerning the evolution of the Market Rules.

- 2.2. In carrying out its functions, the Market Advisory Committee must have regard to the Wholesale Market Objectives as set out in clause 1.2.1 of the Market Rules and any recommendations made by the Market Advisory Committee must be consistent with the Wholesale Market Objectives.
- 2.3. Market Advisory Committee members or their proxies are required to act in the best interests of the Wholesale Electricity Market.
- 2.4. Market Advisory Committee members do not vote on issues. Any recommendations of the Market Advisory Committee are based on a consensus of the views expressed by the members, excluding observers.
- 2.5. The Market Advisory Committee may establish Working Groups comprised of representatives of Rule Participants and other interested stakeholders to assist it in advising the IMO, Rule Change Panel, Economic Regulation Authority and AEMO.

3. Membership Terms

- 3.1. In accordance with clause 2.3.5 of the Market Rules, the Market Advisory Committee must comprise:
 - a) at least three and not more than four members representing Market Generators;
 - b) one member representing Contestable Customers;
 - c) at least one and not more than two members representing Network Operators, of whom one must represent Western Power;
 - d) at least three and not more than ~~nt~~ four members representing Market Customers;
 - e) one member nominated by the Minister to represent small-use consumers;
 - f) one member representing System Management;
 - g) one member representing AEMO;
 - h) one member representing Synergy; and
 - i) a Chairperson, who must be a representative of the IMO~~person appointed by the chairperson of the Rule Change Panel.~~
- 3.2. The Minister may appoint a representative to attend Market Advisory Committee meetings as an observer, as outlined in clause 2.3.6 of the Market Rules.
- 3.3. The Economic Regulation Authority may appoint a representative to attend Market

Advisory Committee meetings as an observer, as outlined in clause 2.3.7 of the Market Rules.

- 3.4. Observers are entitled to speak at meetings of the Market Advisory Committee but do not formally participate in making any recommendations.
- 3.5. Members who represent a single entity (System Management, ~~the IMO~~, AEMO, Synergy, and Western Power) and the member nominated by the Minister to represent small-use consumers are compulsory class members.
- 3.6. Members who represent a class of participants but are not compulsory members (Market Generators, Market Customers, Network Operators, ~~small-use consumers~~, and Contestable Customers) are discretionary class members.
- 3.7. Compulsory class members who are unable to attend a meeting can send an appropriate proxy with similar skills and experience to attend meetings in their place.
- 3.8. Discretionary class members who are unable to attend a meeting can request the attendance of an appropriate proxy (from any organisation which belongs to the same class as the member) who must have similar skills and experience. Discretionary class members cannot send a proxy by right. Permission for the attendance by proxies will be at the Chairperson's discretion.
- 3.9. Observers can send proxies to attend meetings in their place.
- 3.10. The Market Advisory Committee may continue to perform its functions under clause 2.3 of the Market Rules despite any vacancy, provided that the quorum (noted in clause 6.3 of this Constitution) is met.
- 3.11. Each member is required to make him or herself reasonably available for all meetings. Members who have not been reasonably available for all meetings may be removed by the Rule Change Panel~~IMO~~ under clause ~~4.94.119~~ of this Constitution. Proxies sent by compulsory class members count towards attendance by the compulsory class members. Proxies sent by discretionary class members do not count towards attendance by the discretionary class members.
- 3.12. Each member and observer is required to:
 - a) be prepared for all Market Advisory Committee meetings, to read the papers and to actively contribute to discussions; and
 - b) not use their position or information gained as a member or observer improperly to gain an advantage for themselves or anyone else, or cause detriment to the Rule Change Panel~~IMO~~ or the market.
- 3.13. Each member and observer must pay their own expenses associated with participating in the Market Advisory Committee.
- 3.14. At the discretion of the Chairperson, other persons may be allowed to attend Market Advisory Committee meetings as observers from time to time.

4. Appointing and Rotating Members

- 4.1. The Rule Change Panel~~IMO~~ may appoint members and terminate membership of the

Market Advisory Committee in accordance with ~~the~~ clauses 2.3.8 and 2.3.11 of the Market Rules, section 4 of this Constitution and the Market Advisory Committee Appointment Guidelines published by the Rule Change Panel~~IMO~~.

4.1.4.2. In accordance with clause 2.3.5A of the Market Rules the Rule Change Panel must use its reasonable endeavors to ensure equal representation of Market Generators and Market Customers when appointing or removing members.

4.2.4.3. The Rule Change Panel~~IMO~~ will advertise for nominations for the Market Advisory Committee on the Rule Change Panel's website~~Market Web Site~~, in writing to all Rule Participants and via direct contact with appropriate industry groups. Any company or individual can make nominations.

4.3.4.4. An individual may be nominated for the Market Advisory Committee infer as many categories as are relevant to the entity they represent and for which the nominee meets the eligibility criteria.

4.4.4.5. For the calendar year beginning on 1 January 2010 Market Advisory Committee members will be~~were~~ appointed for a one or two-year term as determined by a ballot conducted by the IMO in accordance with the Market Advisory Committee Appointment Guidelines.

4.5.4.6. Thereafter, each member will be~~is~~ appointed for a two-year term (subject to the exception specified in clause 4.67), subject to any earlier termination.

4.7. The term of appointment for members appointed in 2017 will end in February 2019.

4.6.4.8. There are no restrictions on the number of times a member can be reappointed to the Market Advisory Committee.

4.7.4.9. With the exception of AEMO~~Western Power~~, no more than one individual from the same employing organisation can be a member of the Market Advisory Committee at any one time.

4.8.4.10. When appointing and removing members of the Market Advisory Committee, the Rule Change Panel~~IMO~~ will consult with, and take nominations from, Rule Participants, and industry groups, that it considers relevant to the Wholesale Electricity Market. If practicable, and taking into account the requirements of the Market Rules regarding the Market Advisory Committee composition, the Rule Change Panel~~IMO~~ will choose members from among those persons nominated. Further details of the nomination process are provided in the Market Advisory Committee Appointment Guidelines published on the Rule Change Panel's website~~Market Web Site~~.

4.9.4.11. Each year the Rule Change Panel~~IMO~~ will review the performance and attendance of all Market Advisory Committee members. Following the review the Rule Change Panel~~IMO~~ may terminate the membership of, or decide to not reappoint, any member that it considers has ve~~not~~ met the requirements of members as set out in this Constitution or the Market Advisory Committee Appointment Guidelines, and may appoint a replacement member.

4.10.4.12. The Rule Change Panel~~IMO~~ may also remove a member of the Market Advisory Committee at any time in the circumstances described in clause 2.3.11 of the Market

Rules.

~~4.11.~~4.13. A member of the Market Advisory Committee may resign by giving notice to the Rule Change Panel~~IMO~~ in writing. As soon as practicable, the Rule Change Panel~~IMO~~ will appoint a replacement member for the duration of the previous member's remaining length of tenure.

~~4.12.~~4.14. When a position on the Market Advisory Committee is vacant at any time, for any reason, the Rule Change Panel~~IMO~~ will use its reasonable endeavours to appoint a suitable person to fill the position. For compulsory class members, the Rule Change Panel~~IMO~~ will request that a suitably qualified replacement nominee is provided to attend meetings, and for discretionary class members, the Rule Change Panel~~IMO~~ will appoint a suitable representative in accordance with the requirements of the Market Rules and the Market Advisory Committee Appointment Guidelines.

5. Convening the Market Advisory Committee

5.1. The RCP Secretariat~~IMO~~ (as the secretariat of the Market Advisory Committee) will convene the Market Advisory Committee:

a) on behalf of the Rule Change Panel, in relation to a Rule Change Proposal where the Rule Change Panel~~IMO~~ considers that advice is required from the Market Advisory Committee, in which case the meeting will be called before the due date for submissions on the proposed changes;

aA) on behalf of the Rule Change Panel, in relation to a Procedure Change Proposal where the ~~IMO, Rule Change Panel, IMO or AEMO~~ or the Economic Regulation Authority considers s that advice is required from the Market Advisory Committee, in which case the meeting will be called before the due date for submissions on the proposed changes;

b) on behalf of the Rule Change Panel, in relation to a Rule Change Proposal or Procedure Change Proposal where two or more members of the Market Advisory Committee have informed the Rule Change Panel~~IMO~~ in writing that they consider that advice is required from the Market Advisory Committee;

~~c) — not less than once every six months;~~

~~d)c)~~ c) on any occasion when two or more members of the Market Advisory Committee have informed the RCP Secretariat~~IMO~~ in writing that they wish to bring a matter before the Market Advisory Committee for discussion; and

~~e)d)~~ d) where possible, consistent with the provisional schedule of Market Advisory Committee meetings issued annually by the RCP Secretariat~~IMO~~.

6. Conduct of Meetings

6.1. The Chairperson may determine procedures for meetings of the Market Advisory Committee.

6.2. The Market Advisory Committee may make recommendations on an issue if a

consensus is achieved. Any recommendations made by the Market Advisory Committee must be based on the consensus decision of members, excluding the opinion of observers.

- 6.3. Unless a quorum of members is present at the time, no recommendations will be made. A quorum requires 50 percent of total current members to be present at the meeting, including at least one member representing Market Generators and one member representing Market Customers in that quorum.
- 6.4. The Chairperson may, in relation to any matter under consideration in the Market Advisory Committee, require all members and observers to treat the matter as confidential until advised otherwise. All members and observers must comply with that requirement.
- 6.5. Meetings of the Market Advisory Committee may be called or held using any technology determined by the Chairperson and at a location nominated by the Chairperson.
- 6.6. Meetings of the Market Advisory Committee are recorded for the purpose of ensuring the accuracy of meeting minutes. These recordings are therefore considered temporary and once the minutes of a meeting are confirmed the recordings from that meeting are no longer considered necessary and will be periodically deleted by the [RCP SecretariatIMO](#).
- 6.7. A communication between Market Advisory Committee members constituting a quorum under clause 6.3 of this Constitution by telephone or audiovisual means is a valid meeting of the Market Advisory Committee, but only if each participating member or observer is capable of communicating with every other member or observer instantaneously at all times during the meetings.
- 6.8. The Chairperson may, at his or her discretion, approve late papers for a Market Advisory Committee meeting.

7. Role of the Market Advisory Committee Secretariat

- 7.1. The [RCP Secretariat IMO](#) will provide secretariat services to the Market Advisory Committee.
- 7.2. As the secretariat for the Market Advisory Committee, the [RCP SecretariatIMO](#) will:
 - a) develop and issue a provisional schedule of meetings annually and maintain the diary of the Market Advisory Committee;
 - b) compile the meeting papers and send them by email to all members and observers of the Market Advisory Committee and publish the papers on the [Rule Change Panel's websiteMarket Web Site](#). The [RCP SecretariatIMO](#) will endeavour to issue papers to all members and observers, at least five Business Days before each meeting (subject to any approved late papers in accordance with clause 6.87 of this Constitution);
 - c) prepare the minutes of each Market Advisory Committee meeting and endeavour to send them by email to all members and observers of the Market Advisory Committee within ten Business Days of the meeting; and
 - d) subject to the confidentiality status of the matters in meeting minutes (in

accordance with clause 10.2 of the Market Rules), publish the minutes on the [Rule Change Panel's website](#)~~Market Web Site~~.

8. Interaction between the Market Advisory Committee and the [Rule Change Panel](#) and ~~CP/~~[RCP Secretariat](#)~~IMO~~

- 8.1. All written communications related to the activities of the Market Advisory Committee from the members and observers of the Market Advisory Committee will be sent to the [RCP Secretariat](#).
- 8.2. Communications between the members and observers of the Market Advisory Committee and the [RCP/RCP Secretariat](#) ~~IMO~~ will be via email to market.development@imowa.com.au ~~rcp.secretariat@rcpwa.com.au~~ —wherever practical.
- 8.3. The [Rule Change Panel](#) ~~IMO~~ will provide the members and observers of the Market Advisory Committee with information in its possession that is directly relevant to the issues being addressed (subject to clause 10.2.4 of the Market Rules).
- 8.4. Within one Business Day after the publication of a notice of a Rule Change Proposal the [Rule Change Panel](#) ~~IMO~~ will notify the members and observers of the Market Advisory Committee (in accordance with clause 2.7.4 of the Market Rules) via email, as to whether the [Rule Change Panel](#) ~~IMO~~ or ~~AEMO~~ considers that advice on the proposal is required from the Market Advisory Committee and the reasons why.
- 8.5. The [Rule Change Panel](#) ~~IMO~~ will include in its Rule Change Reports (in accordance with clauses 2.7.7 and 2.7.8 of the Market Rules) a summary of the views expressed by the members of the Market Advisory Committee, where the Market Advisory Committee has met to consider a Rule Change Proposal, or where a Working Group has been appointed by the Market Advisory Committee to consider a Rule Change Proposal, a summary of the views expressed by that Working Group.
- 8.6. The ~~IMO, Rule Change Panel, Economic Regulation Authority and~~ [IMO, Rule Change Panel, Economic Regulation Authority and](#) ~~and~~ [AEMO \(including in its capacity as System Management\)](#) will include in their Procedure Change Reports (in accordance with clause 2.10.13 of the Market Rules) a summary of the views expressed by the members of the Market Advisory Committee, where the Market Advisory Committee has met to consider a Procedure Change Proposal, or where a Working Group has been appointed by the Market Advisory Committee to consider a Procedure Change Proposal, a summary of the views expressed by that Working Group.

9. Governance Arrangements Between the Market Advisory Committee and Delegated Working Groups

- 9.1 The Market Advisory Committee may establish Working Groups made up of representatives from the industry to assist the Market Advisory Committee in dealing with any matter (in accordance with clause 2.3.1 of the Market Rules). The Market Advisory Committee may establish or disband any Working Group at any time.
- 9.2 The Market Advisory Committee must determine the scope of work and terms of reference for each Working Group. The Market Advisory Committee may approve any

amendments to the Terms of Reference or membership of any [Working Group](#) at any time.

9.3 The terms of reference for a Working Group, will be tailored to the specific requirements of each Working Group and would typically include the:

- a) background (reason for the establishment of the Working Group);
- b) purpose and scope of work of the Working Group;
- c) roles and responsibilities of members of the Working Group;
- d) membership of the Working Group;
- e) administration, secretariat and meeting arrangements for the Working Group; and
- f) reporting arrangements to the Market Advisory Committee.

9.4 Working Groups must report back to the Market Advisory Committee at least once every two months or as specified in the terms of reference for the Working Group. Reporting will be via the Working Group secretariat. The Working Group will report to the Market Advisory Committee at other times requested by the Market Advisory Committee. Day-to-day interaction between the Market Advisory Committee and the Working Group will be via the [RCP Secretariat](#).

9.5 Working Groups must refer issues outside the scope of the Working Group's terms of reference back to the Market Advisory Committee for consideration.

Appendix 1 Wholesale Market Objectives

The Wholesale Market Objectives, as outlined in section 122 of the *Electricity Industry Act 2004* and clause 1.2.1 of the Market Rules 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.

Appendix 2 Removal of Members

The occurrence of any of the following events will entitle the [Rule Change Panel](#) to remove a member of the Market Advisory Committee (in accordance with clause 2.3.11 of the Market Rules):

- (a) the person becomes an undischarged bankrupt; or
- (b) the person becomes of unsound mind or his or her estate is liable to be dealt with in any way under law relating to mental health; or
- (c) in the [Rule Change Panel's](#) reasonable opinion the person no longer represents the person or class of persons that they were appointed to represent in accordance with clause 2.3.5 of the Market Rules; or
- (d) the person is not actively participating in the Market Advisory Committee; or
- (e) the person breaches any part of this constitution of the Market Advisory Committee.

MARKET ADVISORY COMMITTEE APPOINTMENT GUIDELINES

~~1 June 2016~~ TBA ~~23 May 2017~~

1. Scope and Purpose

- 1.1. The purpose of these guidelines is to provide transparency as to the process to be followed for the appointment of members to the Market Advisory Committee (MAC). They have been developed to inform industry groups, Rule Participants and nominees of the selection and appointment processes applied by the [IMO Rule Change Panel](#).
- 1.2. These guidelines set out the details of:
 - a) the background to the MAC;
 - b) the requisite skills, knowledge and experience of MAC members;
 - c) the requirements for representation of MAC members;
 - d) the terms of appointment for MAC members;
 - e) the steps involved in the appointment process; and
 - f) any other matters that the [Rule Change Panel](#) ~~IMO~~ considers will contribute to good governance and the effective operation of the MAC.
- 1.3. The [Rule Change Panel](#) ~~IMO~~ seeks a balanced representation and a diverse mix of knowledge and experience among members of the MAC. These guidelines set out how the [Rule Change Panel](#) ~~IMO~~ aims to achieve this.

2. Related Documents

- 2.1. This document has been developed in accordance with, and should be read in conjunction with the following:
 - a) clauses 2.3.1 to 2.3.17 of the Wholesale Electricity Market Rules (Market Rules); and
 - b) the MAC Constitution.

3. Background to the Market Advisory Committee

- 3.1. The MAC is established pursuant to clause 2.3 of the Market Rules. The MAC is a committee of industry representatives convened by the [Rule Change Panel](#)~~IMO~~:
- a) to advise the [Rule Change Panel](#)~~IMO~~ regarding Rule Change Proposals;
 - b) to advise the IMO, [Rule Change Panel](#), ~~the Australian Energy Market Operator (AEMO) and (including in its capacity as~~ System Management) ~~and the~~ [Economic Regulation Authority](#) regarding Procedure Change Proposals; ~~and~~
 - ~~c) to advise AEMO regarding market operation and South West interconnected system operation matters; and~~
 - ~~d)c)~~ to advise the [Rule Change Panel](#)~~IMO~~ regarding matters concerning the evolution of the Market Rules.
- 3.2. In accordance with clause 2.3.5 of the Market Rules, the MAC must comprise:
- a) at least three and not more than four members representing Market Generators;
 - b) one member representing Contestable Customers;
 - c) at least one and not more than two members representing Network Operators, of whom one must represent Western Power ;
 - d) at least three and not more than four members representing Market Customers;
 - e) one member nominated by the Minister to represent small-use consumers;
 - f) one member representing System Management;
 - g) one member representing the AEMO;
 - h) one member representing Synergy; and
 - i) a Chairperson, who must be a ~~representative of the IMO~~[person appointed by the chairperson of the Rule Change Panel](#).
- The Minister and the Economic Regulation Authority ~~(ERA)~~ may also each appoint a representative to attend MAC meetings as an observer, as outlined in clauses 2.3.6 and 2.3.7 of the Market Rules.
- 3.3. The MAC is an advisory committee and does not vote on issues. The MAC may make recommendations to the [Rule Change Panel](#)~~IMO~~ if a consensus is achieved. Any recommendations made by the MAC are based on the consensus decision of members, excluding the opinion of observers. Observers on the MAC otherwise have full speaking rights.
- 3.4. The MAC must have regard to the Wholesale Market Objectives in carrying out its functions.

4. Skills, Knowledge and Experience of Members

- 4.1. The applicants for appointment to the MAC should collectively possess the skills, knowledge and experience specified in clause 4.2 of these guidelines. The ~~IMO's~~[Rule](#)

Change Panel's appointment process will ensure that there is balanced representation of skills, knowledge and experience across the MAC.

- 4.2. The Rule Change PanelIMO will take into account, but is not limited to, the following expected skills, knowledge and experience of the MAC (as a whole) when making appointment decisions:
- a) knowledge and/or demonstrated experience relating to energy sector issues;
 - b) broad understanding of the technical, design and commercial aspects of the Wholesale Electricity Market;
 - c) ability to contribute to the MAC, including;
 - i. ability to work as a member of a small team;
 - ii. ability to assess proposed rule and procedure changes against the Wholesale Market Objectives;
 - iii. ability to understand the subject matter in proposals made to the MAC; and
 - iv. ability to consider market design issues and options for the evolution of the Market Rules;
 - d) understanding of the Market Rules and other relevant legislation including the Electricity Industry Act 2004, Electricity Industry (Wholesale Electricity Market) Regulations, Metering Code, Access Code and Technical Rules along with other relevant regulatory instruments; and
 - e) knowledge of the powers and obligations of the IMO, Rule Change Panel, Economic Regulation Authority, AEMO and System Management and the frameworks in which they operate.
- 4.3. Applicants are not required to be full time employees of an entity that is a participant in the class which membership is being sought.

5. Representation of MAC Members

- 5.1. MAC members are required to act in the best interests of the Wholesale Electricity Market.
- 5.2. Compulsory class members are individuals who represent a single entity, and the member nominated by the Minister to represent small-use consumers. During their inaugural appointment compulsory class members must demonstrate their eligibility against the criteria for membership and necessary skills, knowledge and experience. During subsequent annual reviews, details of updates to compulsory class members' skills, knowledge and experience will be required to be provided to the Rule Change PanelIMO, where substantive changes have occurred. This is to allow the Rule Change PanelIMO to consider the skills and experience of the compulsory class members when making discretionary appointment decisions to ensure that the combined skills and experience of the MAC is well balanced.

- 5.3. Discretionary class members are individuals that represent a class of participants but are not compulsory class members. Discretionary class members are expected to act in a way that properly reflects the interests of the group that they have been chosen to represent i.e. Market Generators, Market Customers or Contestable Customers. Discretionary class members must demonstrate their eligibility against the criteria for membership and necessary skills, knowledge and experience.

6. Term of Appointment

- 6.1. Membership on the MAC for the 2010 year for both discretionary and compulsory class members ~~will be~~ was for either one or two years with the opportunity for reappointment after this time period ~~has~~ lapsed.
- 6.2. For the calendar year beginning 1 January 2010, the term of membership ~~will be~~ was determined by the IMO conducting a ballot. Half of the then current members ~~were~~ will be appointed for one year and the ~~remainder will be~~ remaining members were appointed for a two-year term. The ballot ~~will be~~ was designed so that no particular class of membership ~~will be~~ would be completely rotated out in a single year. For example all Market Generator representatives would not be up for renewal in a single year. Members chosen by ballot for a one year term ~~will be~~ were eligible for reappointment to an additional two-year term if they ~~meet~~ met the appointment criteria at the time.
- 6.3. ~~Thereafter~~ Since then, the term of appointment of discretionary class members ~~will be~~ is two years (subject to the exception specified in ~~step~~ clause 8.2). This is to ensure consistency in decision making and that all sections of the industry are adequately represented as the market matures.
- 6.4. Compulsory class membership, ~~after~~ since inaugural membership has expired, is for two years (subject to the exception specified in ~~step~~ clause 8.2) to ensure consistency of representation. At the lapse of tenure, compulsory class members ~~will be~~ are able to reconfirm their nominated individual representative to serve on the MAC.
- 6.5. The Rule Change Panel ~~IMO~~ may appoint new members into compulsory and discretionary class positions, if necessary, when members are no longer representative of the class. This includes situations where the member's employment changes to being employed by an entity outside of the member's class of representation or upon occurrence of any of the events listed in clause 2.3.11 of the Market Rules.
- 6.6. There are no restrictions on the number of times a member can be reappointed to the MAC, but in making appointments the ~~IMO's~~ Rule Change Panel's objective is to get the best representation of the industry over time to ensure a dynamic MAC that is representative of the market.
- 6.7. MAC members will be reappointed based on the ~~IMO's~~ Rule Change Panel's assessment of individuals against the appointment criteria outlined in section 4 of this guideline to ensure that they conform to the requirements and are representative of their class.

7. The Nominations and Appointment Process

- 7.1. Each year the [Rule Change PanelIMO](#) will review the performance and attendance of MAC members. If any changes are required these will be addressed at the same time the [Rule Change PanelIMO](#) commences the annual appointment process for discretionary and compulsory class members whose tenure has lapsed.
- 7.2. On completion of the annual review the [Rule Change PanelIMO](#) will:
- a) for discretionary class members whose tenure has lapsed, seek nominations from industry groups and Rule Participants with respect to the position (i.e. Market Customer or Market Generator representative). Industry consultation includes, but is not limited to:
 - i. Chamber of Commerce and Industry of Western Australia;
 - ii. Chamber of Minerals and Energy of Western Australia; and
 - ~~ii.iii. ii. [Western Australian Sustainable Energy Association](#)~~
~~[Clean Energy Council](#)~~; and
 - b) for compulsory class members whose tenure has lapsed, seek reconfirmation from a senior executive of the applicable entity that the member will continue to represent that entity. An updated resume must be provided to the [Rule Change PanelIMO](#), where the individual's skills, knowledge or experience have changed substantively since the last review. Reconfirmation may be provided to the [Rule Change PanelIMO](#) via email to market.development@imowa.com.au or rcp.secretariat@rcpwa.com.au.
- 7.3. The [Rule Change PanelIMO](#) will advertise for nominations for discretionary class positions on the ~~Market Web Site~~ [Rule Change Panel's website](#) and via direct contact with appropriate industry groups. The [Rule Change PanelIMO](#) will also send an email notification to stakeholders and entities on its market advisory mailing list maintained by the [Rule Change PanelIMO](#).
- 7.4. Any company or individual can nominate themselves or someone else. Nominations must:
- a) be in writing;
 - b) address the eligibility criteria for appointment to the MAC as set out in the Market Rules, MAC Constitution and these guidelines;
 - c) have attached a completed MAC application form, available on ~~the Market Web Site~~ [the Rule Change Panel's website](#), outlining the skills set of applicants with respect to the class(es) of nomination;
 - d) include contact details of the nominee (to demonstrate evidence of the persons willingness for appointment); and
 - e) be received by the [Rule Change PanelIMO](#) by the published due date.
- 7.5. Nominee details provided to the [Rule Change PanelIMO](#) will be kept private. A high-level assessment of all the nominees against the appointment criteria may be made available by the [Rule Change PanelIMO](#) if requested by an interested party.

- 7.6. An individual may be nominated for as many categories relevant to the entity to which they belong and for which the nominee meets the eligibility criteria. For example an entity which is both a Market Generator and Market Customer may nominate individuals for both of these categories.
- 7.7. With the exception of ~~Western Power~~AEMO, the ~~Rule Change Panel~~IMO can only appoint one individual from any one entity to serve on the MAC at any one time.
- 7.8. The ~~Rule Change Panel~~IMO will consider nominations received, determine the appropriate composition of the MAC (taking into account the skills, experience and knowledge of any existing or reconfirmed compulsory class members and observers appointed by the Minister or Economic Regulation Authority), and (subject to the exception specified in step clause 8.1) finalise appointment arrangements by March of every year, using the following assessment steps:

| Step | Event | Date |
|------|---|--|
| 1 | IMO <u>RCP Secretariat</u> assesses the positions up for renewal. | November |
| 2 | IMO <u>RCP Secretariat</u> informs the MAC that the annual review is about to commence. | November |
| 3 | IMO <u>RCP Secretariat</u> prepares a call for nominations for the available discretionary class membership positions and seeks reconfirmation from compulsory class entities of their members. | End of November, closing late December. |
| 4 | IMO <u>RCP Secretariat</u> -establishes an internal evaluation panel (comprising members from across the <u>Economic Regulation Authority</u> organisation) to assess all nominations received and ensure a high standard of probity is maintained. | Before close of call for nominations. |
| 5 | IMO <u>RCP Secretariat</u> prepares an Evaluation Panel handbook outlining what each panel member is required to do. This includes: <ul style="list-style-type: none"> Assessment of the nominees against the pre-qualification and compliance criteria; Assessment of the nominees against the qualitative criteria using the information provided in the response to the call for nominations; and Rating each nominee against the qualitative criteria using a pre-defined rating 0 - 9 point rating scale. | Before close of call for nominations. |
| 6 | <u>Evaluation</u> Panel members assess each nominee in accordance with the Evaluation Panel handbook. | Following close of call for nominations and before the end of January. |
| 7 | Evaluation Panel meeting to determine a consensus score for each of the nominees. | |
| 8 | Evaluation Panel create a shortlist of candidates for each class based on the consensus qualitative ranking. | |
| 9 | To ensure an appropriate balance of skills and experience the Evaluation Panel will undertake the second stage assessment including reviewing the relevant qualifications, years of experience and backgrounds of nominees to determine the best possible | |

| Step | Event | Date |
|-----------------------------|---|--|
| | composition for the MAC (taking into account the relevant skills and experiences of the compulsory members and appointed observers). | |
| 10 | Draft a recommendation report to present to the MAC Chair for review. | |
| 11 | Evaluation panel to reassess its recommendations (if required). | |
| 10 12 | Prepare a recommendation report to present to the <u>Rule Change Panel</u> IMO Board for its review and approval. | February Board <u>meeting</u> . |
| 11 13 | The <u>Rule Change Panel</u> IMO Board to decide the MAC membership. Following the <u>Rule Change Panel's</u> Board's decision, inform the nominees of the outcome of the assessment process. | End of February. |
| 12 14 | All MAC members (incoming and outgoing) to attend a handover MAC meeting. | March MAC meeting. |

8. Transitional Arrangements for the 2017 Review

8.1. For the calendar year beginning 1 January 2017, the Rule Change Panel will conduct its review of the composition of the MAC between May 2017 and August 2017, and the timeframes shown in ~~step~~clause 7.8 will be adjusted accordingly.

8.2. The term of appointment of members appointed in 2017 will end in February 2019.