

## Invitation for Submissions: 2018 Review of the MAC Constitution and Appointment Guidelines

Under clause 2.3.4 of the Wholesale Electricity Market Rules (**Market Rules**), the Rule Change Panel must invite public submissions when developing or amending the Market Advisory Committee (**MAC**) Constitution. The Rule Change Panel has conducted an initial review of the MAC Constitution and the MAC Appointment Guidelines, and proposes amendments to these documents to:

1. amend the term length for discretionary class members appointed in February 2019 so that an approximately even number of discretionary class members will expire each year;<sup>1</sup>
2. remove duplication of clauses between the Market Rules, the MAC Constitution and the MAC Appointment Guidelines;
3. make typographical changes to maintain consistent referencing, grammar and clarity of the meaning of clauses;
4. remove the requirement to manually write letters to Rule Participants and instead publish a call for nominations on the Rule Change Panel's website, email all contacts on the MAC distribution list, and directly contact the appropriate industry groups;
5. refine the terms of appointment so that, where a MAC members resigns or is removed, the term of any replacement will only be for the remainder of the previous member's tenure;
6. remove transitional clauses that are no longer applicable;
7. remove obsolete references (e.g. the IMO);
8. clarify that MAC members may resign in writing or by email;
9. clarify the situations when the RCP Secretariat must convene the MAC and when it may convene the MAC;
10. remove references to the no longer active RCP Secretariat email address and instead refer to the email address on the Rule Change Panel's website;
11. explicitly provide for the MAC to delegate responsibilities to MAC Working Groups; and
12. remove Appendices that are not needed because they are contained in the Market Rules.

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<sup>1</sup> The term for 7 discretionary class members are currently set to expire in February 2019, and 2 in February 2020. It is proposed to amend the term of discretionary class members so that one Market Generator representative and one Market Customer representative from the 2019 MAC Composition Review can be appointed for a one year term, which would mean that the term for 4 discretionary class members would expire in 2020 and 5 in 2021.

## Invitation for submissions

The proposed amendments to the MAC Constitution and MAC Appointment Guidelines are presented in the attachments and are annotated with ~~deleted text~~ and added text.

The Rule Change Panel has provided explanations of material changes in comment boxes before the affected clauses. Formatting changes, removal of obsolete references and typographical changes are not explained in commentary boxes as these changes are not material.

The Rule Change Panel is seeking submissions regarding:

1. the proposed amendments to the MAC Constitution and MAC Appointment Guidelines; and
2. any other proposals for amendments to the MAC Constitution and MAC Appointment Guidelines.

The submission period is 20 Business Days from the publication date of this notice.<sup>2</sup> Submissions must be delivered to the Rule Change Panel by **5.00pm (WST) on Monday 10 December 2018**.

The Rule Change Panel prefers to receive submissions by email to [support@rcpwa.com.au](mailto:support@rcpwa.com.au).

Written submissions may also be sent to the Rule Change Panel by post to:

Rule Change Panel  
Attn: Executive Officer  
PO Box 8469  
PERTH BC WA 6849

STEPHEN ELIOT

**EXECUTIVE OFFICER, RULE CHANGE PANEL**

13 November 2018

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<sup>2</sup> The Market Rules do not specify the length of time for consultation on changes to the MAC Constitution. The Rule Change Panel considers that a 20 Business Day submission period is appropriate because this is consistent with the 20 Business Day submission period required under the Gas Services Information Rules for amendments to the Gas Advisory Board Constitution.

# Constitution of the Market Advisory Committee

23 May 2017-2 January 2019

## 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)*.

The previous clause 1.2 is proposed to be moved to clause 1.4 to fit the narrative structure of the Constitution as clause 1.3 discusses the Wholesale Market Objectives.

- ~~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).~~

Clause 1.2 is proposed to be expanded to specifically include a reference to clause 2.2B.2 of the Market Rules and to fully reflect the Rule Change Panel's functions as required under the Market Rules.

- ~~1.31.2. The Rule Change Panel's functions include~~ are specified in clause 2.2B.2 of the Market Rules and are to:

- ~~(a) administer the Market Rules;~~
- ~~(b) developing~~ amendments to the Market Rules and replacements for them; and
- ~~(c) developing, amending and replacing~~ Market Procedures, and amendments and replacements for them, where required by the Market Rules;
- ~~(d) do anything that the Rule Change Panel determines to be conducive or incidental to the performance of the functions set out in clause 2.2B.2 of the Market Rules; and~~
- ~~(e) carry out any other functions conferred, and perform any obligations impose,~~ on it under the Market Rules.

- 1.43. The Rule Change Panel 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.

- 1.4. The Wholesale Market Objectives are contained within section 122 of the Act and clause 1.2.1 of the Market Rules (see Appendix 1 of this Constitution).

- 1.45. The ~~IMO~~, Rule Change Panel, Economic Regulation Authority (**ERA**) and AEMO must ensure that any amendments they make to Market Procedures are:

- (a) consistent with the Wholesale Market Objectives; and
  - (b) consistent with the Market Rules, the Act, and the 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.

Clause 1.8 was rewritten to improve readability and provide specifics of the higher order documents to the MAC Constitution.

- 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, higher order document (the Act, Regulations, Market Rules or a Market Procedure), then the provision in the higher order document prevails to the extent of the inconsistency.

## 2. Terms of Reference

Clause 2.1 is proposed to be amended to include when AEMO must consult with the MAC (clause 2.5.1A of the Market Rules) and when ERA must consult with the MAC (clause 2.5.1B of the Market Rules).

- 2.1 The Market Advisory Committee is a committee of industry representatives convened by the Rule Change Panel to advise:
- (a) ~~to advise~~ the Rule Change Panel regarding Rule Change Proposals;
  - (b) ~~to advise~~ the ~~IMO,~~ Rule Change Panel, AEMO (including in its capacity as System Management) and the ~~Economic Regulation Authority~~ ERA regarding Procedure Change Proposals; ~~and~~
  - (c) AEMO on development of Rule Change Proposals, where requested by AEMO;
  - (d) ERA on development of Rule Change Proposals, where requested by ERA; and
  - (~~ee~~) ~~to advise~~ the Rule Change Panel 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~~ ERA 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 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 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~~ ERA 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 meetings but do not formally participate in making any recommendations.

#### Classes of Members

- 3.5. Members who represent a single entity (System Management, 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 class members (Market Generators, Market Customers, Network Operators and Contestable Customers) are discretionary class members.

### Proxies

- 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.

Clause 3.9 is proposed to be amended to clarify that it only applies to the observers appointed by the Minister or ERA.

- 3.9. Observers appointed by the Minister or ERA can send proxies to attend meetings in their place.

### Meeting Attendance

- 3.10. The Market Advisory Committee may continue to perform its functions under clause~~section~~ 2.3 of the Market Rules despite any vacancy, provided that the~~a~~ quorum is met (see (noted in clauses 6.3 and 6.4 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 under clause 4.11 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 to cause detriment to the Rule Change Panel 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.

The heading to section 4 of the MAC Constitution is proposed to be amended as MAC members are not rotated but rather assessed and replaced based on for their appropriateness against specified criteria.

## 4. Appointing and ~~Rotating~~ Replacing Members

- 4.1. The Rule Change Panel may appoint members and terminate membership of the Market Advisory Committee in accordance with 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.
- 4.2. In accordance with clause 2.3.5A of the Market Rules, the Rule Change Panel must use its reasonable endeavours to ensure equal representation of Market Generators and Market Customers when appointing or removing members.

Clause 4.3 is proposed to be amended to remove the requirement to contact all Rule Participants in writing, which is currently required to be done manually through letters. With this change, calls for nominations will be published on the Rule Change Panel's website, and an email will be sent to all people on the MAC distribution list and all people registered for RulesWatch. Relevant industry groups will be directly contacted for any MAC nominations (as required by clause 2.3.10 of the Market Rules).

- 4.3. The Rule Change Panel will advertise for nominations for the Market Advisory Committee on the Rule Change Panel's website, in writing to all Rule Participants by email via the Market Advisory Committee distribution list, and via direct contact with appropriate industry groups. Any company or individual can make nominations.
- 4.4. An individual may be nominated for the Market Advisory Committee in as many categories as are relevant to the entity they represent and for which the nominee meets the eligibility criteria.

Clause 4.5 is proposed to be deleted as it was a transitional provision that is no longer applicable. A new clause 4.5 is proposed to add in a transitional clause to allow the Rule Change Panel to appoint one Market Generator and one Market Customer for one year in 2019. This is so that the expiration of the terms of MAC members are more evenly distributed (i.e. 4 in one year and 5 the next, rather than the current situation of 7 one year and 2 in the next).

~~4.5. For the calendar year beginning on 1 January 2010 Market Advisory Committee members 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. Of the discretionary class members whose terms expire in February 2019, the Rule Change Panel may appoint one Market Generator representative and one Market Customer Representative for a one-year term; and the remaining appointments for a two-year term.

Clause 4.6 is proposed to be amended to clarify that a MAC member's term is for two years following a composition review. Clause 4.7 is amended to work in conjunction with clause 4.6 so that appointments made that are not a result of expiration of a term are only for the remainder of the previous member's term.

- 4.6. Thereafter, each member ~~is appointed for~~following an annual composition review has a two-year term of two years. (subject to the exception specified in clause 4.7), subject to any earlier termination.
- 4.7. ~~The term of appointment~~Where a member is appointed to a vacated position on the Market Advisory Committee that is not vacated due to the expiration of the position's term, the term of the replacement member is for members appointed in 2017 will end in February 2019: the duration of the previous member's remaining length of tenure.
- 4.8. There are no restrictions on the number of times a member can be reappointed to the Market Advisory Committee.
- 4.9. With the exception of AEMO, no more than one individual from the same employing organisation can be a member of the Market Advisory Committee at any one time.
- 4.10. When appointing and removing members of the Market Advisory Committee, the Rule Change Panel 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 will choose members from among those persons nominated. ~~Further details~~Details of the nomination process are provided in the Market Advisory Committee Appointment Guidelines published on the Rule Change Panel's website.

Clause 4.11 is proposed to be amended to clarify how the Rule Change Panel will approach addressing members who have not met the requirements of MAC membership in the case of compulsory class members versus discretionary class members.

- 4.11. Each year the Rule Change Panel will review the performance and attendance of all Market Advisory Committee members. Following the review, if the Rule Change Panel may terminate the membership of, or decide to not reappoint, any member determines that it considers a member has 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: then the Rule Change Panel may:
- (a) for a compulsory class member, request the party that has appointed the member to nominate another member; or
- (b) for a discretionary class member, terminate the membership of, or decide to not reappoint the member, and must then follow the process to fill the vacancy as set out in clause 4.10 of this Constitution.
- 4.12. The Rule Change Panel 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.

Clause 4.13 is proposed to be amended to explicitly allow resignation from the MAC by email and the applicability of clause 2.3.13 of the Market Rules (the Rule Change Panel's obligation to use reasonable endeavours to appoint a person to fill a vacancy).

- 4.13. A member of the Market Advisory Committee may resign by giving notice to the Rule Change Panel in writing. ~~As soon as practicable, or by email.~~ The Rule Change Panel will, subject to clause 2.3.13 of the Market Rules, may appoint a replacement member for the duration of the previous member's remaining length of tenure.

Clause 4.14 is proposed to be amended to ensure the Rule Change Panel's obligations under clause 2.3.13 about use of reasonable endeavours to appoint someone suitable, and clarifying that a replacement for a discretionary class member is only for the remaining length of the previous member's tenure.

- 4.14. When a position on the Market Advisory Committee is vacant at any time, for any reason, the Rule Change Panel ~~will use its~~ must comply with clause 2.3.13 of the Market Rules and use reasonable endeavours to appoint a suitable person to fill the position.
- (a) ~~For compulsory class members, the Rule Change Panel will request that a suitably qualified replacement nominee is provided to attend meetings, and~~
- (b) ~~For discretionary class members, the Rule Change Panel will appoint a suitable representative, as per clause 4.10 of this Constitution, and in accordance with the requirements of the Market Rules and the Market Advisory Committee Appointment Guidelines. The term of the replacement member is for the duration of the previous member's remaining length of tenure.~~

## 5. Convening the Market Advisory Committee

Clauses 5.1 and 5.2 are proposed to be amended to clarify when the RCP Secretariat must convene the MAC and when it may convene the MAC.

- 5.1. The RCP Secretariat (as the secretariat of the Market Advisory Committee) ~~will~~ must convene the Market Advisory Committee on behalf of the Rule Change Panel:
- (a) ~~on behalf of the Rule Change Panel~~, in relation to a Rule Change Proposal where the Rule Change Panel 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;
- (b) ~~a) on behalf of the Rule Change Panel~~, in relation to a Procedure Change Proposal where the ~~IMO~~, Rule Change Panel, AEMO or the ~~Economic Regulation Authority~~ ERA 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; and
- (c) ~~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 in writing or by email that they consider that advice is required from the Market Advisory Committee;

### 5.2. The RCP Secretariat may convene the Market Advisory Committee:

- (a)e) on any occasion when two or more members of the Market Advisory Committee have informed the RCP Secretariat in writing or by email that they wish to bring a matter before the Market Advisory Committee for discussion; and
- (b)d) where possible, consistent with the provisional schedule of Market Advisory Committee meetings issued annually by the RCP Secretariat.

## 6. Convening the Market Advisory Committee

- 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.

Clauses 6.3 is proposed to be amended to clarify that the MAC can only make recommendations when there is a quorum of members. The amendment to clause 6.4 is to more clearly lay out the quorum requirements for MAC meetings.

- 6.3. The Market Advisory Committee can only make a recommendation to the Rule Change Panel if ~~Unless~~ a quorum of members is present at the time, ~~no recommendations will be made.~~
- 6.4. A quorum requires at least:
  - (a) 50 percent of total current members to be present at the meeting;
  - (b) including at least one member representing Market Generators; and
  - (c) one member representing Market Customers ~~in that quorum.~~
- 6.45. The Chairperson may, in relation to any matter under consideration ~~in~~ by 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.
- 6.56. 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.
- 6.67. 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 Secretariat.

Deletion of clause 6.7 is proposed because its subject matter is already covered by clause 6.6.

~~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 will provide secretariat services to the Market Advisory Committee.

~~7.2. As the secretariat for the Market Advisory Committee,~~ The RCP Secretariat 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 website. The RCP Secretariat will endeavour to issue papers to all members and observers, at least five Business Days before each meeting ~~(subject to, except for any approved late papers in accordance with clause 6.8 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~~section 10.2 of the Market Rules), publish the minutes on the Rule Change Panel's website.

## 8. Interaction between the Market Advisory Committee and the Rule Change Panel and RCP Secretariat

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~~must be sent to the RCP Secretariat.

The proposed amendment to clause 8.2 is to remove the reference to an old email address and allow the Rule Change Panel to update the RCP Secretariat email address without needing to change the Constitution if the contact email address changes.

8.2. Communications between the members and observers of the Market Advisory Committee and the RCP Secretariat ~~will be via email to [rcp.secretariat@rcpwa.com.au](mailto:rcp.secretariat@rcpwa.com.au) wherever practical~~the email address published on the Rule Change Panel's website.

8.3. The Rule Change Panel 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).

The proposed amendment to clause 8.4 does not seek to remove the obligation of 'within one business day' as this requirement is enshrined in clause 2.7.4 of the Market Rules, but removes the need to amend the MAC Constitution should this requirement change under the Market Rules.

- 8.4. ~~Within one Business Day a~~After the publication of a notice of a Rule Change Proposal the Rule Change Panel 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 considers that advice on the proposal is required from the Market Advisory Committee and the reasons why.

The proposed amendments to clauses 8.5 and 8.6 include MAC Working Groups and removes old references to the IMO.

- 8.5. The Rule Change Panel 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 (or Working Group), where the Market Advisory Committee (or Working Group) 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~~ERA 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 (or Working Group), where the Market Advisory Committee (or Working Group) 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 ~~B~~**etween the Market Advisory Committee and Delegated Working Groups**

Clause 9.1 is proposed to be amended to explicitly state that the MAC can disband Working Groups, and that the MAC's powers relating to MAC Working groups is correctly referenced to clause 2.3.17 of the Market Rules.

- 9.1. The Market Advisory Committee may establish and disband Working Groups ~~made up of representatives from the industry to assist the Market Advisory Committee in dealing with any matter (in accordance with~~ as per clause 2.3.17 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, unless otherwise 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-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.

Clause 9.6 is proposed to be added to explicitly provide the delegation from the MAC to the Working Group to discuss matters within the Working Group's terms of reference, and to report to the MAC on any recommendations.

9.6. Once a Working Group has been established, the Market Advisory Committee delegates to the Working Group the ability to discuss the matters within the scope of the Working Group's terms of reference. The Working Group must report back to the Market Advisory Committee with any recommendations that it determines.

## 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 is proposed to be removed as the situations in which the Rule Change Panel may remove members is in clause 2.3.11 of the Market Rules, and that this is not referenced anywhere within this Constitution.

## 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

~~23 May 2017~~ January 2019

## 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~~ These guidelines have been developed to inform industry groups, Rule Participants and nominees of the selection and appointment processes applied by the 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 considers will contribute to good governance and the effective operation of the MAC.
- 1.3. The Rule Change Panel 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 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~~ section 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

It is proposed to add to clause 3.1 detailing when the MAC must advise AEMO and the ERA respectively.

- 3.1. The MAC is established pursuant to ~~clauses~~ section 2.3 of the Market Rules. The MAC is a committee of industry representatives convened by the Rule Change Panel to advise:
  - (a) ~~to advise~~ the Rule Change Panel regarding Rule Change Proposals;

- ~~(b) to advise the IMO,~~ Rule Change Panel, AEMO (including in its capacity as System Management) and the Economic Regulation Authority (ERA) regarding Procedure Change Proposals; ~~and~~
- (c) AEMO on the development of Rule Change Proposals, where requested by AEMO;
- (d) ERA on development of Rule Change Proposals, where requested by ERA; and
- ~~(ee) to advise the Rule Change Panel regarding matters concerning the evolution of the Market Rules.~~

3.2. ~~In accordance with~~The MAC must be comprised of what is specified in 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 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 respectively.

3.3. The MAC is an advisory committee and does not vote on issues. The MAC may make recommendations to the Rule Change Panel 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 at MAC meetings.

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 members should collectively possess the skills, knowledge and experience specified in clause 4.2 of these guidelines. The 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 Panel 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 2004*, Metering Code, Access Code and Technical Rules along with any other relevant regulatory instruments; and
  - (e) knowledge of the powers and obligations of the ~~IMO~~, Rule Change Panel, ~~Economic Regulation Authority ERA~~, AEMO (including in its capacity as 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.

### Compulsory class members

- 5.2. Compulsory class members are:
- (a) individuals who represent a single entity; ~~and~~
  - (b) the member nominated by the Minister to represent small-use consumers.
- 5.3. During their inaugural appointment compulsory class members must demonstrate their eligibility against the criteria for membership and necessary skills, knowledge and experience.
- 5.4. During subsequent annual reviews, the Rule Change Panel will require updated details of ~~updates to~~ compulsory class members' skills, knowledge and experience ~~will be required to be provided to the Rule Change Panel~~, where substantive changes have occurred. This is to allow the Rule Change Panel 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.

### Discretionary class members

- 5.35. Discretionary class members are individuals that represent a class of participants ~~but~~ and are not compulsory class members.
- 5.6. 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).

5.7. Discretionary class members must demonstrate their eligibility against the criteria for membership and necessary skills, knowledge and experience.

## 6. Term of Appointment

Clauses 6.1 and 6.2 are proposed to be removed as they are transitional provisions that are no longer relevant. Instead, new transitional provisions are included mirroring clauses 4.5 and 4.6 of the MAC Constitution to allow the Rule Change Panel to more evenly distribute the expiration of MAC members' terms by allowing one Market Generator and one Market Customer representative to be appointed for a one-year term in February 2019.

- 6.1. ~~Membership on the MAC for the 2010 year for both discretionary and compulsory class members was for either one or two years with the opportunity for reappointment after this time period lapsed. Of the discretionary class members whose terms expire in February 2019, the Rule Change Panel may appoint one Market Generator Representative and one Market Customer Representative for a one-year term; and the remaining appointments for a two-year term.~~
- 6.2. ~~For the calendar year beginning 1 January 2010, the term of membership was determined by the IMO conducting a ballot. Half of the then current members were appointed for one year and the remaining members were appointed for a two-year term. The ballot was designed so that no particular class of membership 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 were eligible for reappointment to an additional two-year term if they met the appointment criteria at the time. Subject to clause 6.1, the term of appointment of compulsory class members and discretionary class members is two years.~~

Clauses 6.3 is proposed to be removed as it is no longer relevant as clause 6.2 states that discretionary class members have a term of two years.

- 6.3. ~~Since then, the term of appointment of discretionary class members is two years (subject to the exception specified in 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.~~
- 6.43. ~~Compulsory class membership, since inaugural membership has expired, is for two years (subject to the exception specified in clause 8.2) to ensure consistency of representation. At the lapse of tenure, compulsory class members are able to reconfirm their nominated individual representative to serve on the MAC.~~
- 6.54. The Rule Change Panel may remove and then appoint new members into compulsory class and discretionary class positions, if necessary, when members are no longer representative of the class to which they have been appointed. 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.
- 6.65. There are no restrictions on the number of times a member can be reappointed to the MAC, but ~~in making appointments~~ the Rule Change Panel's objective in making

appointments is to get the best representation of the industry over time ~~to ensure a dynamic MAC that is representative of the market.~~

- 6.7.6. MAC members will be ~~re~~appointed based on the 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 Panel will review the performance and attendance of MAC members. If any changes are required ~~these~~this will be addressed ~~at the same time as part of~~ the Rule Change Panel's ~~commences the~~ annual appointment process for discretionary and compulsory class members whose tenure has lapsed.

Clause 7.2(a) is proposed to be amended to remove the explicit industry groups that need to be contacted, but the obligation to consult with industry groups is not removed.

Clause 7.2(b) is proposed to be amended to allow automatic re-nomination of a compulsory class member who has not explicitly been re-nominated. The reference to the obsolete RCP Secretariat email address is also being removed.

- 7.2. On completion of the annual review, the Rule Change Panel 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. a 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~~
    - ~~iii. 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. Where no response is received from the applicable entity, it will be assumed that the compulsory class member is renominated for their position. An updated resume must be provided to the Rule Change Panel, where the individual's skills, knowledge or experience have changed substantively since the last review. ~~Reconfirmation may be provided to the Rule Change Panel via email to rcp.secretariat@rcpwa.com.au.~~
- 7.3. The Rule Change Panel will advertise for nominations for discretionary class positions on the Rule Change Panel's website and via direct contact with appropriate industry groups. The Rule Change Panel will also send an email notification to stakeholders and entities on its market advisory mailing list ~~maintained by the Rule Change Panel.~~
- 7.4. Any company or individual can nominate ~~themselves~~themselves or someone else. Nominations must:
- (a) be in writing in physical or electronic form;
  - (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 Rule Change Panel’s website, outlining the skills set of the 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 Panel by the published due date.
- 7.5. Nominee details provided to the Rule Change Panel will be kept private. ~~A high-level assessment of all the nominees against the appointment criteria may be made available by the Rule Change Panel 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 AEMO, the Rule Change Panel can only appoint one individual from any one entity to serve on the MAC at any one time.

Clause 7.8 proposes to remove the reference to a transitional provision (previously clause 8.1) which itself is proposed to be removed as it is no longer relevant.

- 7.8. The Rule Change Panel 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 clause 8.1)ERA; and~~ finalise appointment arrangements by March of every year, using the following assessment steps:

The table in clause 7.8 is proposed to be deleted and replaced. There are no substantive changes apart from the following:

- the table has been reformatted to be consistent with other RCP Secretariat document styles and for ease of reading;
- the timing for the close of nominations is now late December to early January to account for Christmas and New Year holidays;
- the shortlisting step in the evaluation process has been removed as it has proved to not be necessary, as all nominations are ranked as part of the evaluation process; and
- it is clarified that the RCP Secretariat rather than the Rule Change Panel informs nominees of the outcome of the assessment process.

Step	Event	Date
1	<del>RCP Secretariat assesses the positions up for renewal.</del>	November
2	<del>RCP Secretariat informs the MAC that the annual review is about to commence.</del>	November



12	All MAC members (incoming and outgoing) to attend a handover MAC meeting.	March MAC meeting.
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<u>Step</u>	<u>Timing</u>
1. <u>RCP Secretariat assesses the positions up for renewal.</u>	<u>November</u>
2. <u>RCP Secretariat informs the MAC that the annual review is about to commence.</u>	
3. <u>RCP Secretariat prepares a call for nominations for the available discretionary class member positions and seeks reconfirmation from compulsory class entities of their members.</u>	<u>End of November, closing late December/early January</u>
4. <u>RCP Secretariat establishes an internal evaluation panel (comprising members from across the ERA) to assess all nominations received and ensure a high standard of probity is maintained.</u>	<u>Before close of call for nominations</u>
5. <u>RCP Secretariat prepares an evaluation panel handbook outlining what each panel member is required to do. This includes:</u> <ul style="list-style-type: none"> <li>• <u>assessment of the nominees against the pre-qualification and compliance criteria;</u></li> <li>• <u>assessment of the nominees against the qualitative criteria using the information provided in the response to the call for nominations; and</u></li> <li>• <u>rating each nominee against the qualitative criteria using a predefined 0 – 9 point rating scale.</u></li> </ul>	<u>Before close of call for nominations</u>
6. <u>Evaluation Panel members assess each nominee in accordance with the Evaluation Panel handbook.</u>	<u>Following close of call for nominations and before the end of January</u>
7. <u>Evaluation Panel meets to determine a consensus score for each of the nominees, and ranks the nominees accordingly.</u>	
8. <u>To ensure an appropriate balance of skills and experience for the MAC, the Evaluation Panel reviews the skills and qualifications of the nominees and the current MAC members to determine the best overall composition for the MAC.</u>	

<u>Step</u>	<u>Timing</u>
9. <u>The Evaluation Panel prepares and submits a recommendation report to the Rule Change Panel for its review and approval.</u>	<u>February</u>
10. <u>The Rule Change Panel decides the MAC membership, and RCP Secretariat informs the nominees of the outcome of the process.</u>	<u>End of February</u>
11. <u>All MAC members (incoming and outgoing) to attend a handover MAC meeting.</u>	<u>March MAC meeting</u>

Proposed to remove all of section 8 as the transitional provisions are no longer required. Clause 7.9 is proposed to be added to specify that all communications about the MAC appointment process are to go through the contact email address published on the Rule Change Panel's website.

## **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 clause 7.8 will be adjusted accordingly.~~
- ~~8.2. — The term of appointment of members appointed in 2017 will end in February 2019.~~
- 7.9. — All communications with the Rule Change Panel and RCP Secretariat regarding the MAC appointment process are to be sent to the email address published on the Rule Change Panel's website.