



# 2018 MAC Constitution and MAC Appointment Guidelines

Final Report

21 December 2018

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## 1. Background

The Rule Change Panel commenced a preliminary review of the Market Advisory Committee (**MAC**) Constitution and MAC Appointment Guidelines in November 2018. The purpose of the review was to update the MAC Constitution and Appointment Guidelines to ensure consistency with the Wholesale Electricity Market Rules (**Market Rules**) and other amendments detailed in section 2 of this report.

Under clause 2.3.4 of the Market Rules, the Rule Change Panel must invite public submissions when developing or amending the constitution of the MAC. The Rule Change Panel published an invitation for submissions on 13 November 2018.

All documents related to this review can be found on the Rule Change Panel's website at <https://www.erawa.com.au/rule-change-panel/consultations/2018-market-advisory-committee-constitution-and-appointment-guidelines>.

## 2. Proposed Amendments

In the Rule Change Panel's review of the MAC Constitution and Appointment Guidelines, the proposed changes are to:

- amend the term length for discretionary class members appointed in February 2019 so that an approximately even number of discretionary class members' terms will expire each year;
- remove duplication of clauses between the Market Rules, the MAC Constitution and the MAC Appointment Guidelines;
- make typographical changes to maintain consistent referencing, grammar and clarity of the meaning of clauses;
- 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 appropriate industry groups;
- 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;
- remove transitional clauses that are no longer applicable;
- remove obsolete references (e.g. to the IMO);
- clarify that MAC members may resign in writing or by email;
- clarify the situations when the RCP Secretariat must convene the MAC and when it may convene the MAC;
- remove references to the no longer active RCP Secretariat email address and instead refer to the email address on the Rule Change Panel's website;
- explicitly provide the MAC the authority to delegate responsibilities to MAC Working Groups; and
- remove Appendices that are not needed because they are contained in the Market Rules.

Further details are available on the Rule Change Panel's website.

## 3. Consultation

### 3.1 The Market Advisory Committee

On 13 November 2018, the MAC and subscribers to the RulesWatch publication were informed of the publication of an invitation for submissions on the review of the MAC Constitution and MAC Appointment Guidelines. The MAC was also informed about the review at its meeting on 20 November 2018, and that an invitation for submissions had been published earlier.

Details of this MAC meeting, MAC meeting papers and minutes are available on the Rule Change Panel's website at [Market Advisory Committee Meetings - Economic Regulation Authority Western Australia](#).

### 3.2 Submissions Received During the Submission Period

The submission period was held between 13 November 2018 and 10 December 2018, and was open for 20 Business Days. Two submissions were received – from Alinta and Perth Energy. Alinta's submissions proposed additional changes to the MAC Constitution and MAC Appointment Guidelines, whilst Perth Energy's submission objected to one of the proposed changes in the MAC Appointment Guidelines (see Appendix A).

Copies of all submissions received during the submission period are available at: <https://www.erawa.com.au/rule-change-panel/consultations/2018-market-advisory-committee-constitution-and-appointment-guidelines>.

### 3.3 The Rule Change Panel's Response to Submissions Received During the Submission Period

The Rule Change Panel's response to each of the specific issues raised in the submission period is available in Appendix A of this report.

### 3.4 Public Forums and Workshops

No public forums or workshops were held in regard to this review.

## 4. Further Amendments to the MAC Constitution and MAC Appointment Guidelines

In response to the issues raised by Alinta and Perth Energy, the Rule Change Panel has made some further amendments to the MAC Constitution and MAC Appointment Guidelines as outlined in the Rule Change Panel's responses detailed in Appendix A.

Clause 9.7 of the MAC Constitution was added by the Rule Change Panel subsequent to the close of the submissions period. The Rule Change Panel determined that an explicit requirement was needed in the MAC Constitution for the MAC Secretariat to inform the Rule Change Panel of the establishment of a MAC Working Group and to provide a copy of the terms of reference of that MAC Working Group.

The final version of the MAC Constitution and MAC Appointment Guidelines, with all amendments marked up are attached to this report.

## 5. The Rule Change Panel's Assessment

### 5.1 The Market Rules

The Rule Change Panel considers that the proposed amendments to the MAC Constitution and the MAC Appointment Guidelines are consistent with the Market Rules as required under clause 2.3.3 of the Market Rules. The amendments both clarify and enhance the meaning and understanding of the clauses in the MAC Constitution and MAC Appointment Guidelines.

### 5.2 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 amendments to the MAC Constitution or MAC Appointment Guidelines.

## 6. The Rule Change Panel's Decision

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

The Rule Change Panel made the decision on the basis that the proposed amended MAC Constitution and MAC Appointment Guidelines are consistent with the requirements in clauses 2.3.2 and 2.3.3 of the Market Rules.

The Rule Change Panel's assessment is presented in the following sections.

### 6.1 Assessment of the Proposed Changes

The Rule Change Panel's assessment of the proposed amendments is provided in Table 1 for the MAC Constitution and Table 2 for the MAC Appointment Guidelines.

**Table 1: Proposed Amendments to the MAC Constitution and the Rule Change Panel's Assessment**

Clauses to be Amended	Rule Change Panel Assessment
1.1, 1.4, 3.3, 3.4, 3.5, 3.6, 3.10, 3.12, 4.1, 4.2, 4.10, 6.4, 6.5, 6.6, 7.2, Heading Section 9, 9.2, 9.3, 9.4, 9.5, and Appendix 1.	The Rule Change Panel agrees with the typographical corrections, rewordings and insertions for these clauses as they provide greater clarity to the MAC Constitution.
1.2	The Rule Change Panel agrees that moving clause 1.2 to clause 1.4 better fits the narrative structure of the Constitution and thus provides greater clarity.
1.3	The Rule Change Panel agrees that by specifically referencing clause 2.2B.2 of the Market Rules and fully stating the Rule Change Panel's functions improves clarity in the MAC Constitution and provides greater consistency with the Market Rules.

Clauses to be Amended	Rule Change Panel Assessment
1.5	The Rule Change Panel agrees with Alinta’s submission on clause 1.5 (see Appendix A) and has thus decided to remove clause 1.5 as it is superfluous to the MAC Constitution.
1.8	The Rule Change Panel agrees that the rewrite of clause 1.8 improves the clarity of the clause by specifically referring to what the higher order documents are (i.e. the Regulations).
2.1	The Rule Change Panel agrees with the amendments to clause 2.1 as they improve the clarity of the clause, remove references to the IMO, and specifically state when either the AEMO or ERA can request to be advised by the MAC. As a result of removing clause 1.5, an additional typographical change was made to incorporate ‘(ERA)’ into the clause (see Appendix B).
2.5	The Rule Change Panel agrees with the amendments to remove reference to the IMO and make typographical corrections.
Sub-headings in section 3 (new)	The Rule Change Panel endorses the addition of these sub-headings into section 3 as they provide greater ease of navigation for users and give an indication of the subject matter that the clauses relate to.
3.1	The Rule Change Panel agrees with the typographical changes and also the amended words introducing the clause to keep consistency between the MAC Constitution and the MAC Appointment Guidelines. The meaning of the clause is not being changed, only the wording is being modified to provide better clarity to the clause.
3.9	The Rule Change Panel agrees with the clarification that only observers appointed by the Minister or ERA can send proxies to attend MAC meetings in their place.
Heading section 4	The Rule Change Panel agrees with changing ‘Rotating’ to ‘Replacing’ as there are currently no clauses in the MAC Constitution that pertain to rotation of MAC membership.
4.3	The Rule Change Panel agrees with the amendment to remove the requirement for the Rule Change Panel to advise all Rule Participants in writing of a call for nominations for MAC membership, as this is an overly burdensome administrative overhead. Instead, it is accepted that an email to the MAC distribution list (which contains contacts greater than just the MAC members) is sufficient given that the call for nominations is also published on the Rule Change Panel’s website and in RulesWatch.

Clauses to be Amended	Rule Change Panel Assessment
4.5	<p>The Rule Change Panel agrees with removing the transitional provision in clause 4.5 and replacing it with the proposed amendment to even out the distribution of MAC membership term expirations. Alinta proposed alternative drafting that would give the Rule Change Panel discretion as to how it would appoint members to ensure even distribution of expiration of MAC members' terms. Due to the restrictions in clause 4.6 (that terms are for two years) and the implementation of the currently proposed clause 4.5, recurrence of the situation of a highly uneven distribution of term expirations is remote.</p> <p>Thus the Rule Change Panel agrees with the amendments as currently proposed.</p>
4.6	<p>The Rule Change Panel agrees with the amendments to clause 4.6 as they add additional detail that clarifies that the term of a MAC member appointed following an annual composition review is for two years.</p>
4.7	<p>The Rule Change Panel agrees with removing the transitional provision in clause 4.7 and replacing it with a clause that clarifies that if a member is appointed to a vacated position, then the tenure of that appointment is for the remaining time of the original tenure for that appointment. This provides clarity on the length of tenure for a MAC member appointed to a vacancy that arises other than as a result of expiration of tenure.</p>
4.11	<p>The Rule Change Panel agrees with the changes that better clarify what the Rule Change Panel may do if a compulsory class members or discretionary class members has not met the requirements of MAC membership.</p>
4.13	<p>The Rule Change Panel agrees with the changes proposed to allow MAC members to resign by email and to clarify that clause 2.3.13 of the Market Rules is applicable.</p>
4.14	<p>The Rule Change Panel agrees with the amendments to clarify the applicability of clause 2.3.13 of the Market Rules when there is a vacancy on the MAC, and to specify that the term for a discretionary class member appointment will be for the remainder of the original position's tenure. The Rule Change Panel also accepts and has incorporated Alinta's suggestion that the MAC can continue to perform its functions despite any vacancy, which is consistent with the Market Rules and adds clarity to the clause.</p>
5.1 and 5.2 (new)	<p>The Rule Change Panel agrees with the typographical changes and the removal of references to the IMO, and the</p>

Clauses to be Amended	Rule Change Panel Assessment
	<p>clarification that, where two or more MAC members inform the Rule Change Panel that they believe advice from the MAC is required for a Rule Change Proposal or Procedure Change Proposal, that request can be by email to enhance communications between stakeholders and the Rule Change Panel.</p> <p>Alinta pointed out that the newly proposed clause 5.2(a) should be part of clause 5.1, and the Rule Change Panel agrees with this view. Consequently, the Rule Change Panel has decided to combine clauses 5.1 and 5.2, which is similar to how the original clause 5.1 was drafted.</p> <p>Further, the Rule Change Panel agrees to the proposed amendment to clause 5.2(a) to clarify that the Rule Change Panel must convene the MAC where two or more members wish to bring a matter before the MAC.</p> <p>Due to these amendments, the lettering for each sub-clause in clause 5.1 will be re-lettered to be sequential.</p>
Heading Section 6 (unchanged)	The Heading for section 6 'Conduct of Meetings' is not proposed to be changed however the Rule Change Panel notes that this was erroneously titled 'Convening the Market Advisory Committee' in the invitation for submissions and confirms that the original heading title will remain.
6.3	The Rule Change Panel agrees with the rewrite of clause 6.3 and the inclusion of further details to clearly state that the MAC can only make recommendations to the Rule Change Panel if there is a quorum.
6.4	The Rule Change Panel agrees with the changes and clearly listing of the requirements for a quorum at a MAC meeting.
6.7	The Rule Change Panel agrees with deletion of clause 6.7, as the subject matter is provided for in clause 6.6 of the MAC Constitution.
8.1	The Rule Change Panel agrees with the clarification of 'will' to 'must' to clearly state that all written communications regarding the MAC must be sent to the RCP Secretariat.
8.2	The Rule Change Panel agrees with the change to remove the now obsolete RCP Secretariat email address and replace this part of the clause with a reference to the email address published on the Rule Change Panel's website, so that the MAC Constitution will not need to be amended if the email address changes in the future.
8.4	The Rule Change Panel agrees with removal of the start of clause 8.4, and notes that this does not remove the



Clauses to be Amended	Rule Change Panel Assessment
	<p>obligation under clause 2.7.4 of the Market Rules. The change is to pre-empt requiring a MAC Constitution change process should there be an amendment to clause 2.7.4 of the Market Rules.</p>
8.5 and 8.6	<p>The Rule Change Panel agrees to the simplification of these clauses, which describe the requirement for a Rule Change Report and Procedure Change Report (respectively) to summarise the views expressed at the MAC or a MAC Working Group.</p> <p>The Rule Change Panel has added 'Market Advisory Committee' before 'Working Group' to clearly show that these clauses apply to MAC Working Groups.</p>
9.1	<p>The Rule Change Panel agrees with the simplification of the clause to refer directly to clause 2.3.17 of the Market Rules regarding MAC Working Groups, and to correctly reference clause 2.3.17 of the Market Rules.</p>
9.6 (new)	<p>The Rule Change Panel agrees with the addition of clause 9.6, which clearly provides delegation from the MAC to a Working Group to discuss matters within the scope of the Working Group's terms of reference, and places an obligation on the Working Group to report to the MAC.</p>
9.7 (new)	<p>The Rule Change Panel agrees with the addition of clause 9.7 to require the MAC Secretariat to inform the Rule Change Panel if a MAC Working Group is established and to provide the Rule Change Panel with a copy of the terms of reference of the Working Group. This requirement is to ensure that the Rule Change Panel is aware of all MAC Working Groups.</p>
Appendix 2	<p>The Rule Change Panel agrees with the removal of Appendix 2, as the situations where the Rule Change Panel may remove MAC members is specified in clause 2.3.11 of the Market Rules. Additionally, there are no references to Appendix 2 in the MAC Constitution. The Rule Change Panel has assessed that this removes duplication and potential inconsistency of the MAC Constitution with the Market Rules, and thus endorses the removal of this appendix.</p>

**Table 2: Proposed Amendments to the MAC Appointment Guidelines and the Rule Change Panel’s Assessment**

Clauses to be Amended	Rule Change Panel Assessment
1.1, 1.2, 4.1, 4.2, 5.2, 5.3, 6.7, and 7.1.	The Rule Change Panel agrees with the typographical corrections, rewordings and insertions, as they provide greater clarity to the MAC Appointment Guidelines.
2.1	The Rule Change Panel agrees with the typographical changes, and to simplify the reference in clause 2.1(a) to encompass the entirety of section 2.3 of the Market Rules to ensure greater consistency between the documents.
3.1	The Rule Change Panel agrees with the typographical changes and to specifically state when AEMO or the ERA can request advice from the MAC, which provides greater clarity to this clause.
3.2	The Rule Change Panel agrees with the typographical amendments and the rewording of the clause to increase its readability.
3.3	The Rule Change Panel agrees with the additional words to clearly define that clause 3.3 allows observers full speaking rights at MAC meetings and the additional typographical changes.
Sub-headings in section 5 (new)	The Rule Change Panel endorses the addition of these sub-headings into section 5 as they provide greater ease of navigation and give an indication of the subject matter to which the clauses relate to.
6.1	<p>The Rule Change Panel agrees with removing the previous transitional provision in clause 6.1 and replacing it with the proposed amendment to even out the distribution of MAC membership term expirations.</p> <p>Alinta proposed an alternative drafting that would the Rule Change Panel discretion as to how it would appoint members to ensure even distribution of expiration of MAC members’ terms over time. However, due to the restrictions in clause 4.6 of the MAC Constitution that terms are for two years and the implementation of the currently proposed clause 6.1 of the MAC Appointment Guidelines, the situation of a highly uneven distribution of term expirations is remote. Thus the Rule Change Panel agrees with the amendments as currently proposed.</p>
6.2	The Rule Change Panel agrees with the removal of the transitional provisions in clause 6.2 and using clause 6.2 to specify the term limit of compulsory class and discretionary

Clauses to be Amended	Rule Change Panel Assessment
	class members. This provides clarity and consistency between the MAC Constitution and MAC Appointment Guidelines.
6.3	The Rule Change Panel agrees with removing this clause as it is now covered under the revised clause 6.2.
6.4	The Rule Change Panel agrees with removal of the words at the beginning of clause 6.4, as they are now covered under clause 6.2 and are no longer required, and with amending the remainder of the clause to clarify that an entity that is to appoint a compulsory class member must advise the Rule Change Panel of their nominated representative.
6.5	The Rule Change Panel agrees with the amendments as they provide greater clarity that the Rule Change Panel has the power to remove existing members of the MAC where they no longer represent the class to which they were appointed, consistent with clause 2.3.8 of the Market Rules, and to appoint new members accordingly. The Rule Change Panel also agrees with the minor typographical changes which enhance readability.
6.6	The Rule Change Panel agrees with the change that clarifies that the Rule Change Panel's objective when appointing members is to get the best representation from industry over time, and to remove the undefined 'dynamic MAC' statement to enhance the understanding of the clause.
7.2	<p>The Rule Change Panel agrees with all the typographical changes to clause 7.2 as they aid in understanding. The Rule Change Panel also agrees with removing the list of specific industry groups that must be consulted in appointing the MAC, as these entities can change over time. The Rule Change Panel notes that the obligation to contact relevant industry groups is not being removed (required under clause 2.3.10 of the Market Rules), only the reference to the specific groups listed in the MAC Appointment Guidelines.</p> <p>The Rule Change Panel also agrees with the amendment regarding compulsory class members to specify that, where no response is received from the applicable entity, that their current nominee will be renominated for their position. This provides clarity on the continuity of MAC membership for compulsory class members.</p> <p>The Rule Change Panel also agrees with the removal of the now obsolete RCP Secretariat email address, as the contact details are provided in the call for nominations, with direct</p>

Clauses to be Amended	Rule Change Panel Assessment
	contact to compulsory class members and publicly available on the Rule Change Panel's website.
7.3	The Rule Change Panel agrees with the removed words, as they are superfluous and do not contribute to the clarity or meaning of the clause.
7.4	<p>The Rule Change Panel agrees with the typographical changes to clause 7.4, as they aid in the clarity of the clause. The Rule Change Panel agrees to the further clarification in clause 7.4(a) to specify that nominations may be provided in physical or electronic form.</p> <p>The Rule Change Panel also agrees to the removal of the words in clause 7.4(d) as they are superfluous and do not add meaning to the clause.</p>
7.5	<p>The Rule Change Panel has decided to change the proposed amendment to clause 7.5 following the submission by Perth Energy. Perth Energy objected to removal of the ability of an interested party to request a high level assessment of all nominees against the appointment criteria. The Rule Change Panel did not intend to remove the ability for nominees to seek feedback on the assessment of their own application, only to remove the ability of nominees to seek feedback on other nominees' applications. Therefore, the Rule Change Panel decided to retain part of clause 7.5, but with amendments to give effect to the Rule Change Panel's intent.</p>
7.8	<p>The Rule Change Panel agrees with removing the reference to a now obsolete transitional provision (clause 8.1), which itself is being deleted as it is no longer relevant.</p> <p>The Rule Change Panel also agrees with the typographical changes to enhance readability of the clause.</p>
7.8 Table	<p>The Rule Change Panel agrees with the changes to the table that:</p> <ul style="list-style-type: none"> <li>• provide consistency with the styles of other RCP Secretariat documents;</li> <li>• extend the deadline for the close of nominations to include early January, to take account of Christmas and New Year holidays;</li> <li>• remove the shortlisting step, which has not been necessary in the nominations process;</li> <li>• remove a pre-defined scoring system for nominee assessments; and</li> </ul>

Clauses to be Amended	Rule Change Panel Assessment
	<ul style="list-style-type: none"> <li>clarify that the RCP Secretariat informs nominees of the outcome of the assessment rather than the Rule Change Panel.</li> </ul> <p>These changes enhance the understanding of the process, remove unnecessary administration, and provide a better outcome for Market Participants.</p>
7.9 (new)	<p>The Rule Change Panel agrees with the addition of clause 7.9 that clearly states that all communications for the MAC appointment process are to go through the email address published on the Rule Change Panel’s website. This provides certainty and clarity for stakeholders.</p>
Section 8	<p>The Rule Change Panel agrees with removing this transitional section as it is no longer required and does not provide any value to the MAC Appointment Guidelines.</p>

## 6.2 Additional Amendments to the Proposed Amendments

Subsequent to the submissions received, the Rule Change Panel made the following changes to the amendments (detailed in Appendix B):

- MAC Constitution:
  - deletion of clause 1.5 as it is superfluous;
  - addition of words to clause 4.4, as suggested by Alinta;
  - restructure of clause 5.1 and 5.2 (new) into a single clause 5.1 following comments from Alinta;
  - additional clarifying words for clause 8.5 and 8.6 to clearly state the reference to MAC Working Groups;
  - clause 9.7 was added by the Rule Change Panel to ensure that it is kept informed about the formation of any MAC Working Groups;
  - renumber of clauses and subclauses where applicable to give effect to the changes above and keep the formatting consistent.
- MAC Appointment Guidelines:
  - clarification of clause 3.3 that the MAC makes recommendations should there be a consensus on issues;
  - added detail to clarify clause 6.3 to require an entity that is to appoint a compulsory class member whose tenure has lapsed to advise the Rule Change Panel of their nominee;
  - typographical amendments to clause 6.4 and clarification that this clause allows the Rule Change Panel to remove an existing member should they no longer be representative of the class to which they were appointed;
  - rewording of the mechanism in clause 7.5 to allow interested parties to obtain feedback on how that party performed relative to the nomination criteria;

- addition of a missing comma in clause 7.6; and
- removal of a prescribed point scoring rating in clause 7.8 table, row 5.

The Rule Change Panel's assessment of these clauses is contained in Tables 1 and 2 of this report.

### **6.3 Practicality and Cost of 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 costs or issues with the practicality of implementing the proposed amendments to the MAC Constitution or MAC Appointment Guidelines.

## **7. Amended MAC Constitution and Appointment Guidelines**

### **7.1 Commencement**

The amended MAC Constitution and MAC Appointment Guidelines will commence at **8:00 AM on 3 January 2019**.

### **7.2 The Amended MAC Constitution and MAC Appointment Guidelines**

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

## Appendix A. Issues Raised in the Submission Period and the Rule Change Panel's Response

Full submissions are available at: <https://www.erawa.com.au/rule-change-panel/consultations/2018-market-advisory-committee-constitution-and-appointment-guidelines>.

### MAC Constitution

No.	Submitter	Comment/change requested	Rule Change Panel's response
1.	Alinta	Clause 1.5: This clause requires various parties to ensure amendments to Market Procedures are consistent with the market objectives, rules, Act and Regulations. Alinta considers that this clause is superfluous for the MAC Constitution and better addressed in other documentation (for example, the Market Procedure for Procedure Administration).	The Rule Change Panel agrees with Alinta's submission that the clause is superfluous, and thus will be removed from the MAC Constitution.
2.	Alinta	Clause 4.5: Alinta considers that this clause could be drafted in a way that a future consultation process is not required to remove it. For example:  The Rule Change Panel may appoint discretionary class members in such a manner as to ensure that the expiration of the terms of MAC members are evenly distributed.	The Rule Change Panel acknowledges Alinta's proposed change and agrees with the sentiment. However, the currently proposed transitional amendment currently rectifies the uneven distribution of the expiry of MAC membership terms, and the Rule Change Panel considers it a remote possibility that this uneven distribution would recur in the future.  This issue could be addressed if future changes are made to the composition of the MAC.  In addition, the restriction on term limits imposed by clause 4.6 complicates how the Rule Change Panel would be able to utilise the discretion suggested by Alinta.  Thus the Rule Change Panel disagrees with implementing this change at this time.

No.	Submitter	Comment/change requested	Rule Change Panel's response
3.	Alinta	Clause 4.14: Alinta suggests that the clause would benefit from the inclusion of the words "for the avoidance of doubt, the MAC can continue to perform its functions despite any vacancy". This is consistent with the wording in clause 2.3.13 of the Market Rules.	The Rule Change Panel agrees with Alinta's suggested change, as it clarifies the issue, and thus will be adopted into the amendments to the MAC Constitution.
4.	Alinta	Clauses 5.1 and 5.2: Alinta questions whether these clauses accurately reflect clause 2.3.15 of the Market Rules? Specifically, Alinta considers that the obligation under clause 5.2(a) is a "must" obligation (as outlined in clause 2.3.15(d) of the Market Rules. As such, this obligation should be moved to 5.1.	The Rule Change Panel agrees with Alinta's interpretation, and will thus move the proposed clause 5.2(a) of the MAC Constitution into clause 5.1.

## MAC Appointment Guidelines

No.	Submitter	Comment/change requested	Rule Change Panel's response
5.	Alinta	<p>Clause 6.1: Alinta considers that this clause could be drafted in a way that a future consultation process is not required to remove it. For example:</p> <p style="padding-left: 40px;">The Rule Change Panel may appoint discretionary class members in such a manner as to ensure that the expiration of the terms of MAC members are evenly distributed.</p>	<p>The Rule Change Panel acknowledges Alinta's proposed change and agrees with the sentiment. However, the currently proposed transitional amendment currently rectifies the uneven distribution of the expiry of MAC membership terms, and the Rule Change Panel considers it a remote possibility that this uneven distribution would recur in the future.</p> <p>This issue could be addressed if future changes are made to the composition of the MAC.</p> <p>In addition, the restriction on term limits imposed by clause 4.6 complicates how the Rule Change Panel would be able to utilise the discretion suggested by Alinta.</p>



No.	Submitter	Comment/change requested	Rule Change Panel's response
			Thus the Rule Change Panel disagrees with implementing this change at this time.
6.	Perth Energy	<p>Perth Energy is concerned with the proposed amendments to clause 7.5 of the MAC Constitution.<sup>[1]</sup> The Rule Change Panel has proposed to remove the requirement for it to provide its high-level assessment of a prospective MAC member's nomination to an interested party.</p> <p>This obligation provides a level of transparency in relation to the nomination assessment process that Perth Energy considers is required to ensure due process and equitable outcomes for the overall benefit of the market.</p> <p>Perth Energy understands that this clause has been used in previous appointment processes, and should continue to be available to interested parties in the future. We consider the Rule Change Panel should be able to fulfil this obligation in a way that does not cause confidentiality issues.</p> <p>Moreover, the Rule Change Panel has not explained its rationale behind the removal of this requirement.</p>	<p>The Rule Change Panel acknowledges Perth Energy's submission. The Rule Change Panel did not intend to remove the ability for nominees to seek feedback on the assessment of their own application, only to remove the ability of nominees to seek feedback on other nominees' applications.</p> <p>Following subsequent discussions with Perth Energy, the Rule Change Panel has decided to keep part of clause 7.5, but to amend it such that an interested party may request from the Rule Change Panel a high level assessment of how they themselves have performed against the appointment criteria.</p> <p>As no other submissions were made discussing removing this part of clause 7.5, retaining this mechanism in this modified form is seen as appropriate by the Rule Change Panel.</p>

<sup>1</sup> This was later clarified with Perth Energy as meaning to refer to clause 7.5 of the MAC Appointment Guidelines as clause 7.5 does not appear in the MAC Constitution.

## Appendix B. Amendments following the Submission Period

The following additional changes have been made following the submission period.

### MAC Constitution

These changes are as follows (~~deleted text~~, added text):

~~1.5. The 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.~~

...

2.1. The Market Advisory Committee is a committee of industry representatives convened by the Rule Change Panel to advise:

(a) the Rule Change Panel regarding Rule Change Proposals;

(b) the Rule Change Panel, AEMO (including in its capacity as System Management) and the Economic Regulation Authority (ERA) regarding Procedure Change Proposals;

(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

(e) the Rule Change Panel regarding matters concerning the evolution of the Market Rules.

...

~~3.1. In accordance with~~ The MAC must be comprised of what is specified in clause 2.3.5 of the Market Rules, ~~the Market Advisory Committee must comprise:~~

...

...

4.14. When a position on the Market Advisory Committee is vacant at any time for any reason, the Rule Change Panel must comply with clause 2.3.13 of the Market Rules and use reasonable endeavours to appoint a suitable person to fill the position. For the avoidance of doubt, the MAC can continue to perform its functions despite any vacancy.

(a) For compulsory class members, the Rule Change Panel will request that a suitably qualified replacement nominee is provided to attend meetings.

(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.

...

- 5.1. The RCP Secretariat (as the secretariat of the Market Advisory Committee) must convene the Market Advisory Committee on behalf of the Rule Change Panel:
- (a) 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) in relation to a Procedure Change Proposal where the Rule Change Panel, AEMO or the 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) 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:~~

- ~~(ad)~~ 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
- ~~(be)~~ where possible, consistent with the provisional schedule of Market Advisory Committee meetings issued annually by the RCP Secretariat.

...

## 6. Conduct of Meetings

[Note – this title is not proposed to be changed but was erroneously titled ‘Convening the Market Advisory Committee’ in the invitation for submissions]

...

- 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 Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee Working Group) has met to consider a Rule Change Proposal.
- 8.6. The Rule Change Panel, 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 Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee Working Group) has met to consider a Procedure Change Proposal.

...

9.7 The Market Advisory Committee Secretariat must inform the Rule Change Panel if the Market Advisory Committee establishes a Working Group, and must provide the Rule Change Panel with a copy of the terms of reference of each Working Group.

## MAC Appointment Guidelines

These changes are as follows (~~deleted text~~, added text):

3.2. The MAC must be comprised of what is specified in clause 2.3.5 of the Market Rules:

...

- (c) at least one and not more than two members representing Network Operators, of whom one must represent Western Power-;

...

3.3. The MAC is an advisory committee and does not vote on issues. The MAC ~~may~~makes 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.

...

6.3. ~~At the lapse of tenure, compulsory class members are to reconfirm their nominated individual representative to serve on the MAC. At the lapse of the tenure of a compulsory class member, the entity that is to appoint the compulsory class member is to advise the Rule Change Panel of their nominated representative to serve on the MAC.~~

6.4. The Rule Change Panel may remove an existing member and ~~then~~ appoint a new members into a compulsory class ~~and/or~~ discretionary class positions, if necessary, when an existing members ~~is/are~~ no longer representative of the class to which ~~they/he~~ or she have/has been appointed. This includes situations where the member's employment changes or upon occurrence of any of the events listed in clause 2.3.11 of the Market Rules.

...

7.5. Nominee details provided to the Rule Change Panel will be kept private. If requested by an interested party, the Rule Change Panel may make available information regarding the assessment of that interested party against the appointment criteria.

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, a an entity which is both a Market Generator and Market Customer may nominate individuals for both of these categories.

...

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 ERA; and finalise appointment arrangements by March of every year, using the following assessment steps:

Step	Timing
1. RCP Secretariat assesses the positions up for renewal.	November
2. RCP Secretariat informs the MAC that the annual review is about to commence.	
3. RCP Secretariat prepares a call for nominations for the available discretionary class member positions and seeks reconfirmation from compulsory class entities of their members.	End of November, closing late December/early January
4. 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.	Before close of call for nominations
<p>5. RCP Secretariat prepares an evaluation panel handbook outlining what each panel member is required to do. This includes:</p> <ul style="list-style-type: none"> <li>• assessment of the nominees against the pre-qualification and compliance criteria;</li> <li>• assessment of the nominees against the qualitative criteria using the information provided in the response to the call for nominations; and</li> <li>• rating each nominee against the qualitative criteria using a predefined 0—9 point-rating scale.</li> </ul>	Before close of call for nominations
6. Evaluation 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 meets to determine a consensus score for each of the nominees, and ranks the nominees accordingly.	
8. 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.	
9. The Evaluation Panel prepares and submits a recommendation report to the Rule Change Panel for its review and approval.	February
10. The Rule Change Panel decides the MAC membership, and RCP Secretariat informs the nominees of the outcome of the process.	End of February

Step	Timing
11. All MAC members (incoming and outgoing) to attend a handover MAC meeting.	March MAC meeting

...

## **Appendix C. MAC Constitution and MAC Appointment Guidelines with Marked Up Changes**

# Constitution of the Market Advisory Committee

~~23 May 2017~~ 3 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~~).
- ~~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).~~
- ~~1.31.2.~~ 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) develop~~ing~~ amendments to the Market Rules and replacements for them; and
  - (c) develop~~ing, 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).~~
- ~~1.5. The IMO, Rule Change Panel, Economic Regulation Authority 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 Regulations.~~
- 1.65. This Constitution of the Market Advisory Committee is prepared in accordance with clause 2.3.2 of the Market Rules.
- 1.76. Terms used in this Constitution have the same meaning as defined in the Market Rules.



- 1.87. ~~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

- 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
  - (~~ce~~) ~~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~~ The MAC must be comprised of what is specified in 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.
- 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.

## **4. Appointing and Replacing ~~Rotating~~ 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.
- 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.
- ~~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.
- 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 d~~Details of the nomination process are provided in the Market Advisory Committee Appointment Guidelines published on the Rule Change Panel's website.
- 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.
- 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. T~~he 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.

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. For the avoidance of doubt, the MAC can continue to perform its functions despite any vacancy.

(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

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)aA) ~~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;

(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;

(d)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

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

## 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. 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.

~~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.
- 8.2. Communications between the members and observers of the Market Advisory Committee and the RCP Secretariat ~~will be via email to [rnp.secretariat@rnpwa.com.au](mailto:rnp.secretariat@rnpwa.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).
- 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.
- 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 Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee 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 Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee 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

- 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.
- 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.
- 9.7. The Market Advisory Committee Secretariat must inform the Rule Change Panel if the Market Advisory Committee establishes a Working Group, and must provide the Rule Change Panel with a copy of the terms of reference of each Working Group.



## 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

~~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

- 3.1. The MAC is established pursuant to clause ~~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~~makes 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

- 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.~~
- 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.~~
- 6.4.3. ~~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. At the lapse of the tenure of a compulsory class member, the entity that is to appoint the compulsory class member is to advise the Rule Change Panel of their nominated representative to serve on the MAC.~~
- 6.5.4. The Rule Change Panel may remove an existing member and appoint a new members into a compulsory class or and discretionary class positions, if necessary, when an existing members is are no longer representative of the class to which he or she has 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.
- 6.6.5. 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.

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](mailto: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~~ 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.~~ If requested by an interested party, the Rule Change Panel may make available information regarding the assessment of that interested party against the appointment criteria.

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.
- 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:

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



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 composition for the MAC (taking into account the relevant skills	
	and experiences of the compulsory members and appointed observers).	
10	Prepare a recommendation report to present to the Rule Change Panel for its review and approval.	February.
11	The Rule Change Panel to decide the MAC membership. Following the Rule Change Panel's decision, inform the nominees of the outcome of the assessment process.	End of February.
12	All MAC members (incoming and outgoing) to attend a handover MAC meeting.	March MAC meeting.

<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>



<u>Step</u>	<u>Timing</u>
<p>5. <u>RCP Secretariat prepares an evaluation panel handbook outlining what each panel member is required to do. This includes:</u></p> <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 rating scale.</u></li> </ul>	<u>Before close of call for nominations</u>
<p>6. <u>Evaluation Panel members assess each nominee in accordance with the Evaluation Panel handbook.</u></p>	<u>Following close of call for nominations and before the end of January</u>
<p>7. <u>Evaluation Panel meets to determine a consensus assessment for each of the nominees, and ranks the nominees accordingly.</u></p>	
<p>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></p>	
<p>9. <u>The Evaluation Panel prepares and submits a recommendation report to the Rule Change Panel for its review and approval.</u></p>	<u>February</u>
<p>10. <u>The Rule Change Panel decides the MAC membership, and RCP Secretariat informs the nominees of the outcome of the process.</u></p>	<u>End of February</u>
<p>11. <u>All MAC members (incoming and outgoing) to attend a handover MAC meeting.</u></p>	<u>March MAC meeting</u>

## **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.