

# Agenda

**Meeting Title:** BRCP WEM Procedure Review Working Group  
**Meeting Number:** 2023\_12\_18 – Meeting 1  
**Date & Time:** Monday, 18 December 2023 2:00PM – 3:00PM (AWST)  
**Location:** Online, via TEAMS.  
**DMS:** D270608

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Item	Action	Time
<b>1. Welcome by Chair</b> 1.1 Conflicts of interest 1.2 Competition law obligations 1.3 Meeting protocol 1.4 Meeting apologies/attendance	Noting	5 minutes
<b>2. Project scope and timeline</b>	Noting	10 minutes
<b>3. Topics for BRCP Procedure review</b>	Discussion	35 minutes
<b>4. Next steps</b> 4.1 Date of next meeting	Discussion	5 minutes
<b>5. General business</b>	Discussion	5 minutes
<b>Meeting close</b>		

Please note this meeting will be recorded.

## Item 1.2: Competition and consumer law obligations

Members of the MAC's BRCP WEM Procedure Review Working Group (**Members**) note their obligations under the *Competition and Consumer Act 2010* (Cth) (**CCA**).

If a Member has a concern regarding the competition law implications of any issue being discussed at any meeting, please bring the matter to the immediate attention of the Working Group's Chair.

Part IV of the CCA (titled "Restrictive Trade Practices") contains several prohibitions (rules) targeting anti-competitive conduct. These include:

1. **Cartel conduct:** cartel conduct is an arrangement or understanding between competitors to fix prices; restrict the supply or acquisition of goods or services by parties to the arrangement; allocate customers or territories; and or rig bids.
2. **Concerted practices:** a concerted practice can be conceived of as involving cooperation between competitors which has the purpose, effect or likely effect of substantially lessening competition, in particular, sharing Competitively Sensitive Information with competitors such as future pricing intentions and this end:
  - a. a concerted practice, according to the ACCC, involves a lower threshold between parties than a contract arrangement or understanding; and accordingly; and
  - b. a forum like the MAC is capable being a place where such cooperation could occur.
3. **Anti-competitive contracts, arrangements understandings:** any contract, arrangement or understanding which has the purpose, effect or likely effect of substantially lessening competition.
4. **Anti-competitive conduct (market power):** any conduct by a company with market power which has the purpose, effect or likely effect of substantially lessening competition.
5. **Collective boycotts:** where a group of competitors agree not to acquire goods or services from, or not to supply goods or services to, a business with whom the group is negotiating, unless the business accepts the terms and conditions offered by the group.

A contravention of the CCA could result in a significant fine (up to \$500,000 for individuals and more than \$10 million for companies). Cartel conduct may also result in criminal sanctions, including jail terms for individuals.

**Sensitive Information** means and includes:

1. commercially sensitive information belonging to a Member's organisation or business (in this document such bodies are referred to as an **Industry Stakeholder**); and
2. information which, if disclosed, would breach an Industry Stakeholder's obligations of confidence to third parties, be against laws or regulations (including competition laws), would waive legal professional privilege, or cause unreasonable prejudice to the Coordinator of Energy, the State of Western Australia or the Economic Regulation Authority.

## **Guiding Principles – What not to discuss**

In any circumstance in which Industry Stakeholders are or are likely to be in competition with one another, a Member must not discuss or exchange with any of the other Members information that is not otherwise in the public domain about commercially sensitive matters, including without limitation the following:

1. The rates or prices (including any discounts or rebates) for the goods produced or the services produced by the Industry Stakeholders that are paid by or offered to third parties;
2. The confidential details regarding a customer or supplier of an Industry Stakeholder;
3. Any strategies employed by an Industry Stakeholder to further any business that is or is likely to be in competition with a business of another Industry Stakeholder, (including, without limitation, any strategy related to an Industry Stakeholder's approach to bilateral contracting or bidding in the energy or ancillary/essential system services markets);
4. The prices paid or offered to be paid (including any aspects of a transaction) by an Industry Stakeholder to acquire goods or services from third parties; and
5. The confidential particulars of a third-party supplier of goods or services to an Industry Stakeholder, including any circumstances in which an Industry Stakeholder has refused to or would refuse to acquire goods or services from a third party supplier or class of third party supplier.

## **Compliance procedures for meetings**

If any of the matters listed above is raised for discussion, or information is sought to be exchanged in relation to the matter, the relevant Member must object to the matter being discussed.

If, despite the objection, discussion of the relevant matter continues, then the relevant Member should advise the Working Group's Chair and cease participation in the meeting/discussion and the relevant events must be recorded in the minutes for the meeting, including the time at which the relevant Member ceased to participate.

## Item 3: Topics for BRCP Procedure review

The ERA Secretariat has developed the following list of topics to explore in the review of the BRCP Procedure. The Working Group Chair is seeking Members' feedback on the proposed areas, and to identify any additional areas that may benefit from review.

Order	Topic
1	Implications of adopting a BESS as the Benchmark Capacity Provider and determining the new Flexible BRCP
2	Aim of the BRCP Procedure
3	Method to estimate costs of the Benchmark Capacity Providers
4	Cost recovery period
5	Discount rate (used for annualisation)
6	Transmission connection costs
7	Network Access Quantity

### 1. Implications of adopting BESS as Benchmark Capacity Provider and determining the new Flexible BRCP

The BRCP Procedure must reflect the Coordinator of Energy's determination of the Peak Benchmark Capacity Provider and Flexible Capacity Provider, including the location of the technology and the introduction of the Flexible Capacity product.

The Coordinator's draft findings indicate a grid scale 200MW / 800MWh battery energy storage system (BESS) connecting at a 330 kV as both Peak and Flexible Benchmark Capacity Providers.<sup>1</sup> The Coordinator's determination will be finalised by 31 January 2024.

### 2. Aim of the BRCP Procedure

The BRCP Procedure will need to balance the need to provide:

- Certainty to investors and market participants on how the BRCP will be determined annually; and
- Flexibility to respond to changing market conditions, such as changing transmission connection costs and the weighted average cost of capital.

Members may provide feedback on how prescriptive the BRCP Procedure must be to balance these needs. What level of prescription and detail is required to provide current and future Market Participants certainty, while fulfilling the need for flexibility to address changing market conditions without incurring administration costs associated with reviewing the BRCP Procedure to account for these changes?

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<sup>1</sup> Energy Policy WA, 2023, *BRCP Reference Technology Review – Consultation Paper*, ([online](#)).

### **3. Method to estimate costs of the Benchmark Capacity Provider**

The review is assessing appropriate methods to estimate the capital costs and fixed operation and maintenance (O&M) costs associated with the Benchmark Capacity Providers, such as a BESS. The ERA may engage an independent consultant with expertise in the technology determined as the Benchmark Capacity Provider to support its analysis.

- a. Are there any cost components that differ between the two Benchmark Capacity Providers?
- b. What is an appropriate cost estimation method? Should the estimation method be stipulated in the BRCP Procedure? Is there substantial uncertainty in estimating cost components? What cost components must be excluded?

Members may provide feedback on the components of these costs and the methods for forecasting the Benchmark Capacity Providers' costs.

### **4. Cost recovery period**

Annualising the Benchmark Capacity Providers' capital costs and fixed O&M costs requires an estimate of a period to annualise costs over (that is, an appropriate cost recovery period). This can be different to the physical or economic life of the reference technology. Given that the BRCPs are to provide appropriate price signals for future investment in additional capacity:

- a. What is an appropriate cost recovery period?
- b. What are the principles underlying that cost recovery period?

### **5. Discount rate**

The BRCP Procedure must provide guidance on how to convert the reference technology's capital costs into an annualised cost that can be recovered over an appropriate cost recovery period (that is, a long-term required rate of return over the life of the asset). The review will:

- a. Review the appropriateness of the weighted average cost of capital (WACC) that has been used historically.
- b. Explore the impact of rapid technological advancements associated with lithium-ion BESS technology and annuity requirements. A tilted-annuity approach may address the issue of technological advancement that lowers costs of entry into the future.

### **6. Transmission connection costs**

The ERA will rely on Western Power to estimate the transmission associated cost components for the reference technology, for example, the transmission works and connections required to connect a grid-scale BESS in an unconstrained part of the network. The ERA will assess:

- a. Appropriate methods for determining transmission costs, whether this be based on actual costs and also the determination process when no actual data is available.
- b. Options to validate these transmission cost estimation methods (and the estimates themselves), such as through an independent consultant.

### **7. Network Access Quantity (NAQ)**

There is the possibility of the NAQ affecting expected capacity credit allocation of the BRCP reference technology if it is expected to be located in a constrained part of the network. The

review will need to outline in the Procedure how the ERA's BRCP determinations will address NAQ on capacity credit allocations for the reference technology.

- a. How will this affect expected capacity credits assigned to both flexible and peak capacity providers?
- b. The BRCP is determined prior to the start of a reserve capacity cycle whereas NAQ is determined towards the end of Year 1 of the relevant reserve capacity cycle. This timing may be problematic for annual BRCP determinations as NAQs will not have been determined at the time that the BRCP must be determined. How will the Procedure provide clarity on this?