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1. INTRODUCTION

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Clause 2.5.1 of the Wholesale Electricity Market Rules provides that any person (including the Independent Market Operator) may make a Rule Change Proposal by completing a Rule Change Proposal Form and submitting this to the Independent Market Operator (IMO).

In order for the proposal to be progressed, the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the wholesale electricity market objectives. The objectives of the market 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
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used

A Rule Change Proposal can be processed using a Standard process or a Fast

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- The second Public Submission period is for a minimum of 20 Business Days from the date the Draft Rule Change Report is published.
- Within 20 Business Days after the end of the second Public Submission period, the IMO must publish a Final Rule Change Report.

The key dates in processing this Rule Change Proposal are

- The Rule Change Notice for this proposal was published on the IMO website on 1 June 200_v.
- The first Public Submission period on the Rule Change Proposal ended on 31 July 200_v.
- This Draft Rule Change Report is published on 2 August 200_v.
- The second Public Submission period is from 2 August to 25 September 200_v.
- The Final Rule Change Report will be published by the IMO on 23 October 200_v.
- The Minister decision on the Final Rule Change Report and the Market Rule

2. THE RULE CHANGE PROPOSAL

Discretion

The IMO submitted, on 11 June 200_v, a Rule Change Proposal regarding changes to clause 2.13.10 of the Wholesale Electricity Market Rules.

2.13.10 Discretion Decision

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Date submitted: 11/0 /200_v
Urgency: High
Change Proposal title: Discretion of IMO to Decide Whether to Issue Warning.

Discretion

The IMO's proposed Rule Change will give the IMO discretion whether to issue a warning letter once it has completed an investigation into an alleged rule breach.

Clause 2.13.10 of the Wholesale Electricity Market Rules provides that if an investigation into an alleged rule breach leads the IMO to reasonably believe that a breach of the Market Rules or Market Procedures has taken place, the IMO must issue a warning to the person concerned.

The warning must

- Identify the clauses that the IMO believes were breached
- Describe the behaviour that comprises the alleged breach
- Request an explanation
- Request that the breach be rectified by a specified time

The IMO submitted that this process can be inappropriate where the event is minor or has already been corrected by the time the IMO becomes aware of it. It also may discourage Rule Participants from volunteering information about behaviour which may constitute a rule breach, and to that extent prevent the IMO from being able to engage constructively with Rule Participants to provide assistance in the development of compliance systems.

By contrast, when, under clause 2.13.21, an alleged breach of the rules by the IMO is investigated by a person appointed by the Minister, that appointee has discretion, at the end of its investigation, whether to issue a warning to the IMO.

The IMO considers that the investigation processes followed by the IMO and by the Minister's appointee should be aligned, and that the IMO should have the same discretion as is given to the Minister's appointee.

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The proposed change would also bring the Market Rules closer in design to the National Electricity Law. That Law, and the National Electricity Rules made pursuant to it, give the Australian Energy Regulator (AER) both the option to investigate an alleged breach and the option to apply for a penalty if it finds that a breach has occurred.

The proposed additional flexibility would not preve

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The IMO decided to proceed with the proposal on the basis of its preliminary assessment which indicated that the proposal was consistent with the Market Objectives. This preliminary assessment was published in a Rule Change Notice on 1 June 200.

3. SUBMISSIONS

IMO received one submission, from Synergy. A summary of the submission is listed below. The submission can be found on the IMO website.

Market Advisory Committee

The Rule Change Proposal was presented to the Market Advisory Committee (MAC)

4. THE IMO'S ASSESSMENT AND DECISION

Assessment

4.1 Summary

MAC and Synergy supported the changes. There were no responses indicating concern with the proposed changes.

4.2 The IMO's Assessment

According to clauses 2.4.2 of the Market Rules "The IMO must not amend or replace unless satisfied that the Market Rules, as proposed, do not end or replaced, are consistent with the proposed Market Objectives".

The IMO's assessment against each of the Market Objectives is as follows

- (a) To promote the economic efficiency, safety and reliability of production and supply of electricity and electricity related services in the South West Interconnected System.

The IMO considers that reducing bureaucracy will decrease compliance costs for Participants and result in more economically efficient operation of the Market in the South West Interconnected System. This is consistent with the operation of objective (a) of the Market Objectives.

- (b) To encourage competition among generators and retailers in the South West Interconnected System, including by facilitating efficient entry of new competitors.

The IMO considers that the burden of compliance should be minimised, especially regarding new competitors in the Market who generally have fewer resources to deal with compliance matters. The compliance culture of these Participants should be encouraged, but the current Rules require the IMO to take a rigid and bureaucratic approach when a flexible one would be better suited to certain circumstances.

Granting this discretion to the IMO when dealing with non-compliance by Rule Participants would result in a better process for handling minor rule breaches, especially in the early days of the market, but would not prevent the IMO from taking more serious steps should that be appropriate in the circumstances.

The IMO considers that the proposed changes, therefore, are consistent with the operation of objective (b) of the Market Objectives.

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- (c) to avoid discrimination against particular energy operations and technologies, including sustainable energy operations and technologies such as those that are use of renewable resources or to reduce overall greenhouse gas emissions.

The IMO considers that the proposed changes do not impact on, and therefore are consistent with, the operation of objective (c) of the Market Objectives.

- (d) to ensure the long-term costs of electricity supplied to customers from the South Island inter-connected system

The IMO considers that the proposed changes will reduce compliance bureaucracy and as a result long-term costs of compliance both for the IMO

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The IMO's proposed decision is to

- Accept the proposed changes to clause 2.3.10 as proposed.

The IMO has made its draft decision on the basis that the resulting amended Rules will allow the Market Rules to better address the Market Objectives.

The wording of the relevant amending Rule is presented in section of this Report.

Clause 2.13.10 is a protected provision, as specified in clause 2. .13 of the Market Rules. The proposed changes will therefore, as pres

6. PROPOSED AMENDING RULES

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2.13.10 If the IMO becomes aware of an alleged brea