

Wholesale Electricity Market Rule Change Proposal Form

Change Proposal No: RC_2009_15
Received date: 25 March 2009

Change requested by

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Address:	Level 6, Governor Stirling Tower, 197 St George's Terrace
Date submitted:	25 March 2009
Urgency:	High
Change Proposal title:	Removal of ERA Time Limit to Publish Investigation Results
Market Rule(s) affected:	Clause 2.16.9F

Introduction

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

This Change Proposal can be posted, faxed or emailed to:

Independent Market Operator

Attn: Manager Market Administration and System Capacity
PO Box 7096
Cloisters Square, Perth, WA 6850

Fax: (08) 9254 4339

Email: marketadmin@imowa.com.au

Details of the proposed Market Rule Change

1. Describe the concern with the existing Market Rules that is to be addressed by the proposed Market Rule change:

Background

As a part of its role in monitoring the effectiveness of the market, the Economic Regulatory Authority (ERA) must publish the results of its investigations in accordance with clause 2.16.9F within 20 business days of receiving advice from either the IMO under clause 2.16.9.B.(b) (behaviour that may affect market power) or from a Rule Participant under clause 2.16.8 (behaviour that may reduce the market effectiveness).

There is no benefit in applying a time frame to an investigation for the regulator, and this could have negative impacts if the matter is not properly investigated due to a time constraint. Any incentive to delay or stall the investigation would be in the interest of the entity suspected of the breach not the market regulator.

To be effective and ensure the market is able to appropriately deal with anomalous behaviour, the time limit for the authority to conduct an investigation and publish the results within 20 business days needs to be removed. Every report to the ERA will be unique and will have its own complexities which will affect the time taken to complete the investigation.

Other similar jurisdictions take significantly longer periods of time (than 20 business days) to complete their investigations. In the case of the Australian Energy Regulator (AER), on examination of the five electricity investigations published on its web site (<http://www.aer.gov.au/content/index.phtml/itemId/656186>), the average time taken to complete an investigation (from event occurrence to report or notice publication) is approximately 200 business days (Note, these investigations appear to have been investigated pursuant to section 15 of the *N tion Electricity L*).

The AER and the Market Surveillance Administrator (Alberta Canada), who are both similar regulatory authorities, that also have investigative powers with respect to the interactions of market participants and key stakeholders do not have set time limits for the conclusion of such investigations.

2. Explain the reason for the degree of urgency:

The ERA submits that this rule change be progressed by the Standard Rule Change Process.

3. Provide any proposed specific changes to particular Rules: (for clarity, please use the current wording of the Rules and place a ~~strike through~~ where words are deleted and underline words added)

2.16.9F The Economic Regulation Authority must publish the results of its investigations ~~within 20 Business Days from receiving the~~ in response to IMO advice under clause 2.16.9B(b) or from receiving a notification from a Rule Participant under clause 2.16.8.

4. Describe how the proposed Market Rule change would allow the Market Rules to better address the Wholesale Market Objectives:

to encourage competition among generators and retailers in the most interconnected system including facilitating efficient entry of new competitors

The ERA submits that the proposed changes, which remove the time limit for publication of investigation results, will encourage competition in the South West Interconnected System (SWIS). In particular the proposed changes will remove a current impediment created by the market rules
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5. Provide any identifiable costs and benefits of the change:

Costs

- Potential extensions to the time it takes to carry out investigations.

Benefits

- The ERA will have the ability to properly investigate any reported breaches.
 - Increases the prospect of successfully prosecuting breaches related to inappropriate and anomalous market behaviour; and
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