



Addition of new clause 3.21A.5A

In its Draft Rule Change Report, the IMO included new clause 3.21A.5A, to ensure that the Commissioning Test process is not being inappropriately used by Market Generators to avoid Capacity Cost Refunds, and that if it were to be the case, such behaviour would be considered to be in breach of the “good faith” clause in the Market Rules (clause 3.21A.5).

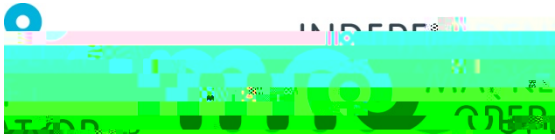
In its Draft Rule Change Report the IMO noted that legally, an alleged breach of clause 3.21A.5 (the good faith clause) would be easier to prove than an alleged breach of the new clause 3.21A.5A. As such, the IMO noted that it will work with the Public Utilities Office to determine whether it is appropriate to allow the IMO to seek Category C Civil Penalties for breaches of the current clause 3.21A.5 (and therefore by inference for breaches of the new clause 3.21A.5A).

Verve Energy considers that the addition of clause 3.21A.5A in the proposed Amending Rules is unnecessary detail and is the type of prescriptive detail that the IMO should be seeking to avoid in its drafting. Additionally, Verve Energy considers that it is inappropriate to list just one example of what would be considered to be a breach of a good faith provision.

Should Category C Civil Penalties apply to clause 3.21A.5?

Following the release of the Draft Rule Change Report, the IMO issued an addendum to that report specifically seeking the views of interested stakeholders on the issue of whether Category C Civil Penalties should apply to clause 3.21A.5.

Verve Energy notes that there are a number of other “good faith” clauses in the Market Rules which have Category C Civil Penalties associated with them, for example:



aligning the commencement date with the commencement of other regulatory amendments



Market Objective	Comments
(a) to promote the economically efficient, safe and reliable production and supply of electricity and electricity related services in the South West interconnected system.	Verve Energy considers that the Rule Change Proposal will promote the economically efficient production and supply of electricity. Specifically, productive efficiency requires that demand be served by the least-cost sources of supply, and that there be incentives for producers to achieve least-cost supply through a better management of cost drivers. As such,