

Competition and Consumer Law Obligations

Members of the MAC's Power System Security and Reliability Standards Working Group (Members) note their obligations under the *Competition and Consumer Act 2010* (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 Chairperson.

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

- (a) 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.
- (b) 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 concerted practice, according to the ACCC, involves a lower threshold between parties than a contract arrangement or understanding; and accordingly; and
 - a forum like the MAC is capable being a place where such cooperation could occur.
- (c) anti-competitive contracts, arrangements understandings : any contract, arrangement or understanding which has the purpose, effect or likely effect of substantially lessening competition.
- (d) 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.
- (e) 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 gaol terms for individuals.

Sensitive Information means and includes:

- (a) commercially sensitive information belonging to a Member's organisation or business (in this document such bodies are referred to as an Industry Stakeholder); and
- (b) 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 or the State of Western Australia).

Guiding Principle – 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:

- (a) 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;
- (b) the confidential details regarding a customer or supplier of an Industry Stakeholder;
- (c) 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);
- (d) 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
- (e) 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 Chairperson and cease participation in the meeting/di



PSSR Standards Working Group

Overview and plan for 2024

14 December 2023

Working to join the energy sector for
brighter energy future.

PSSR Standards Working Group members

Name	Company
Dora Guzeleva	(Chair) Energy Policy WA
Hugh Ridgway	Alinta Energy
Tessa Liddelow	Shell Energy
Rhiannon Bedola	Synergy
Noel Schubert	Expert Consumer Panel
Luke Skinner	Expert Consumer Panel
Patrick Peake	Perth Energy
Mena Gilchrist	AEMO
Toby Price	AEMO
Aditi Varma	ERA
Sabina Roshan	Western Power
Daniel Cassidy	Western Power
Bronwyn Gunn	Energy Policy WA
Sanna Pember	Energy Policy WA

Stages of Work:



Stages of Work:

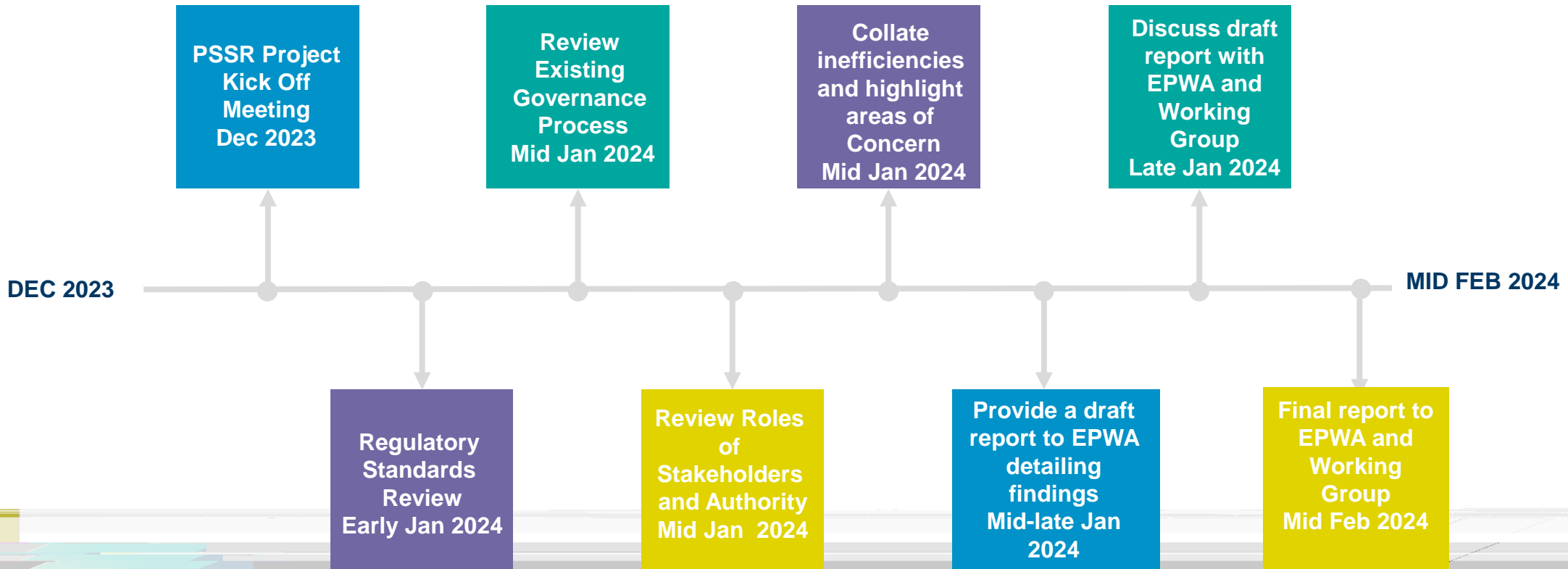
Stage 1: Assess Existing Instruments

The first step in the analysis will be to undertake a comprehensive assessment of the various PSSR related provisions in each of the regulatory instruments. This will include identifying:

- the relevant standards and definitions;
- the role of AEMO and Western Power in implementing each standard across planning and operational timeframes;
- the monitoring, compliance and enforcement framework; and
- their governance arrangements (i.e. how are they set and/or changed).

Stages of Work:

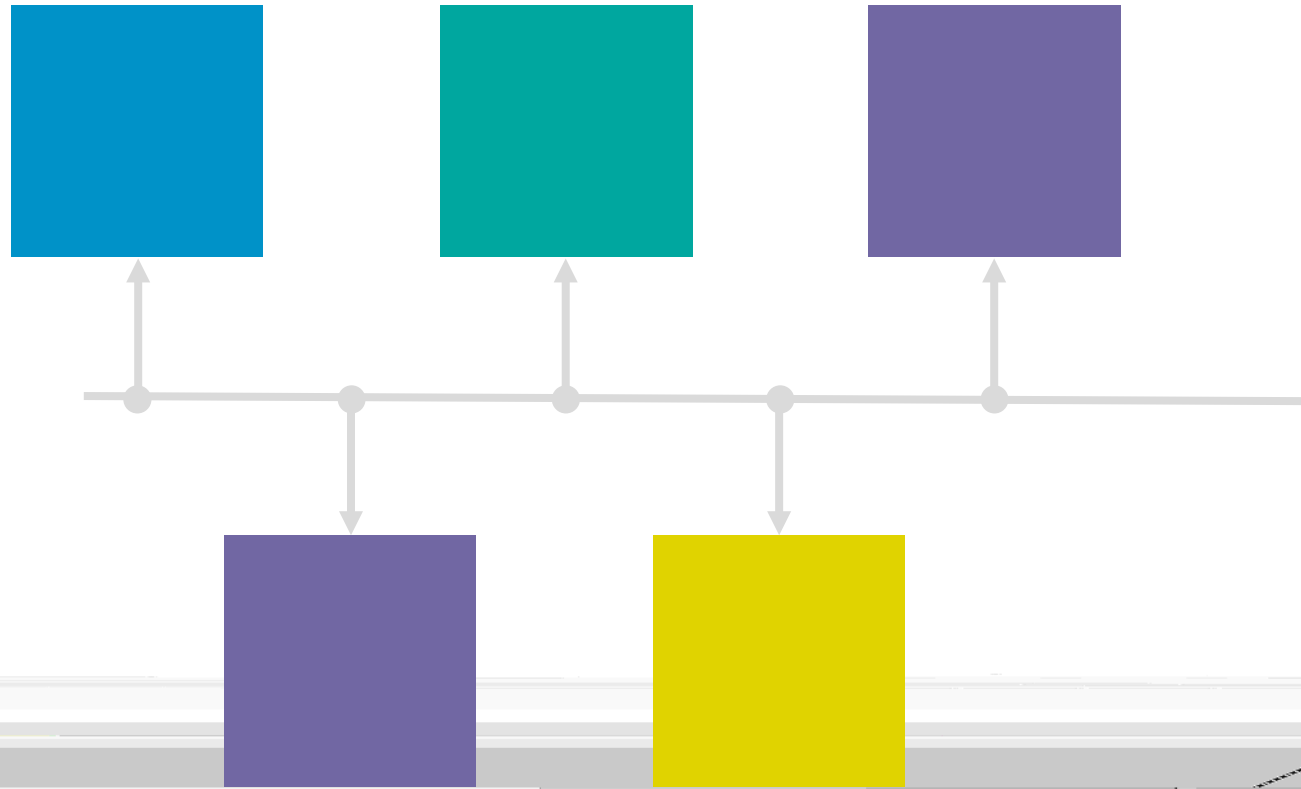
Stage 1: Assess Existing Instruments



Determine if existing standards are effective to ensure power system security and reliability

Stages of Work:

Stage 2: Gap Analysis



Stages of Work:

Stage 3: Developing end to end standard under centralised governance framework

A single end-to-end PSSR standard governed by the Coordinator of Energy under the ESMR will need to be developed. It will need to meet the needs of the power system as the energy transition continues.

A universal set of metrics with associated targets and supporting reporting requirements is likely to be required. Consideration of the application and coordination of standards across the different planning and operational timeframes will be needed to ensure required outcomes are achieved.

The end to end PSSR standard will need to be supported by a contemporary, centralised governance framework.

- **Draft and consult on Electricity System and Market Rules to implement policy positions and detailed design.**
- **A single end-to-end PSSR standard governed by**
 - **Direct en**

Working Group Guiding Principles

Participate as a general industry representative rather than representing company interests.

Coordinate input from across your organisation and keep internal stakeholders (particularly MAC representatives) up to date.

Keep feedback specific and targeted to the issues under consideration – time is limited and there is a lot of content to cover.

Assist with analysis or feedback as requested by the Chair

