

# Constitution of the Market Advisory Committee

23 May 2017

## 1. Introduction

- 1.1 The Wholesale Electricity Market Rules (Market Rules) are made under the *Electricity Industry (Wholesale Electricity Market) Regulations 2004* (Regulations) and in accordance with section 123 of the *Electricity Industry Act 2004* (the Act).
- 1.2 The Wholesale Market Objectives are as contained within section 122 of the Act and clause 1.2.1 of the Market Rules (see Appendix 1 of this Constitution).
- 1.3 The Rule Change Panel's functions include:
  - a) developing amendments to the Market Rules and replacements for them; and
  - b) developing, amending and replacing Market Procedures, where required by the Market Rules.
- 1.4 The Rule Change Panel must not make Amending Rules unless it is satisfied that the Market Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives.
- 1.5 The IMO, Rule Change Panel, Economic Regulation Authority and AEMO must ensure that any amendments they make to Market Procedures are:
  - a) consistent with the Wholesale Market Objectives; and
  - b) consistent with the Market Rules, the Act, and Regulations.
- 1.6 This Constitution of the Market Advisory Committee is prepared in accordance with clause 2.3.2 of the Market Rules.
- 1.7 Terms used in this Constitution have the same meaning as defined in the Market Rules.
- 1.8 This Constitution has been issued under the Market Rules and as such, if a provision of a document which is higher in order of precedence, such as those noted in clause 1.5(b) of this Constitution, is inconsistent with a provision of this Constitution, then the provision in the higher order document prevails to the extent of the inconsistency.

## 2. Terms of Reference

- 2.1 The Market Advisory Committee is a committee of industry representatives convened by the Rule Change Panel:
  - a) to advise the Rule Change Panel regarding Rule Change Proposals;

- b) to advise the IMO, Rule Change Panel, AEMO (including in its capacity as System Management) and the Economic Regulation Authority regarding Procedure Change Proposals; and
  - c) to advise the Rule Change Panel regarding matters concerning the evolution of the Market Rules.
- 2.2. In carrying out its functions, the Market Advisory Committee must have regard to the Wholesale Market Objectives as set out in clause 1.2.1 of the Market Rules and any recommendations made by the Market Advisory Committee must be consistent with the Wholesale Market Objectives.
- 2.3. Market Advisory Committee members or their proxies are required to act in the best interests of the Wholesale Electricity Market.
- 2.4. Market Advisory Committee members do not vote on issues. Any recommendations of the Market Advisory Committee are based on a consensus of the views expressed by the members, excluding observers.
- 2.5. The Market Advisory Committee may establish Working Groups comprised of representatives of Rule Participants and other interested stakeholders to assist it in advising the IMO, Rule Change Panel, Economic Regulation Authority and AEMO.

### **3. Membership Terms**

- 3.1. In accordance with clause 2.3.5 of the Market Rules, the Market Advisory Committee must comprise:
- a) at least three and not more than four members representing Market Generators;
  - b) one member representing Contestable Customers;
  - c) at least one and not more than two members representing Network Operators, of whom one must represent Western Power;
  - d) at least three and not more than four members representing Market Customers;
  - e) one member nominated by the Minister to represent small-use consumers;
  - f) one member representing System Management;
  - g) one member representing AEMO;
  - h) one member representing Synergy; and
  - i) a Chairperson, who must be a person appointed by the chairperson of the Rule Change Panel.
- 3.2. The Minister may appoint a representative to attend Market Advisory Committee meetings as an observer, as outlined in clause 2.3.6 of the Market Rules.
- 3.3. The Economic Regulation Authority may appoint a representative to attend Market Advisory Committee meetings as an observer, as outlined in clause 2.3.7 of the Market Rules.

- 3.4. Observers are entitled to speak at meetings of the Market Advisory Committee but do not formally participate in making any recommendations.
- 3.5. Members who represent a single entity (System Management, AEMO, Synergy, and Western Power) and the member nominated by the Minister to represent small-use consumers are compulsory class members.
- 3.6. Members who represent a class of participants but are not compulsory members (Market Generators, Market Customers, Network Operators and Contestable Customers) are discretionary class members.
- 3.7. Compulsory class members who are unable to attend a meeting can send an appropriate proxy with similar skills and experience to attend meetings in their place.
- 3.8. Discretionary class members who are unable to attend a meeting can request the attendance of an appropriate proxy (from any organisation which belongs to the same class as the member) who must have similar skills and experience. Discretionary class members cannot send a proxy by right. Permission for the attendance by proxies will be at the Chairperson's discretion.
- 3.9. Observers can send proxies to attend meetings in their place.
- 3.10. The Market Advisory Committee may continue to perform its functions under clause 2.3 of the Market Rules despite any vacancy, provided that the quorum (noted in clause 6.3 of this Constitution) is met.
- 3.11. Each member is required to make him or herself reasonably available for all meetings. Members who have not been reasonably available for all meetings may be removed by the Rule Change Panel under clause 4.11 of this Constitution. Proxies sent by compulsory class members count towards attendance by the compulsory class members. Proxies sent by discretionary class members do not count towards attendance by the discretionary class members.
- 3.12. Each member and observer is required to:
  - a) be prepared for all Market Advisory Committee meetings, to read the papers and to actively contribute to discussions; and
  - b) not use their position or information gained as a member or observer improperly to gain an advantage for themselves or anyone else, or cause detriment to the Rule Change Panel or the market.
- 3.13. Each member and observer must pay their own expenses associated with participating in the Market Advisory Committee.
- 3.14. At the discretion of the Chairperson, other persons may be allowed to attend Market Advisory Committee meetings as observers from time to time.

#### **4. Appointing and Rotating Members**

- 4.1. The Rule Change Panel may appoint members and terminate membership of the Market Advisory Committee in accordance with clauses 2.3.8 and 2.3.11 of the Market Rules, section 4 of this Constitution and the Market Advisory Committee Appointment Guidelines published by the Rule Change Panel.

- 4.2. In accordance with clause 2.3.5A of the Market Rules the Rule Change Panel must use its reasonable endeavors to ensure equal representation of Market Generators and Market Customers when appointing or removing members.
- 4.3. The Rule Change Panel will advertise for nominations for the Market Advisory Committee on the Rule Change Panel's website, in writing to all Rule Participants and via direct contact with appropriate industry groups. Any company or individual can make nominations.
- 4.4. An individual may be nominated for the Market Advisory Committee in as many categories as are relevant to the entity they represent and for which the nominee meets the eligibility criteria.
- 4.5. For the calendar year beginning on 1 January 2010 Market Advisory Committee members were appointed for a one or two-year term as determined by a ballot conducted by the IMO in accordance with the Market Advisory Committee Appointment Guidelines.
- 4.6. Thereafter, each member is appointed for a two-year term (subject to the exception specified in clause 4.7), subject to any earlier termination.
- 4.7. The term of appointment for members appointed in 2017 will end in February 2019.
- 4.8. There are no restrictions on the number of times a member can be reappointed to the Market Advisory Committee.
- 4.9. With the exception of AEMO, no more than one individual from the same employing organisation can be a member of the Market Advisory Committee at any one time.
- 4.10. When appointing and removing members of the Market Advisory Committee, the Rule Change Panel will consult with, and take nominations from, Rule Participants and industry groups, that it considers relevant to the Wholesale Electricity Market. If practicable, and taking into account the requirements of the Market Rules regarding the Market Advisory Committee composition, the Rule Change Panel will choose members from among those persons nominated. Further details of the nomination process are provided in the Market Advisory Committee Appointment Guidelines published on the Rule Change Panel's website.
- 4.11. Each year the Rule Change Panel will review the performance and attendance of all Market Advisory Committee members. Following the review the Rule Change Panel may terminate the membership of, or decide to not reappoint, any member that it considers has not met the requirements of members as set out in this Constitution or the Market Advisory Committee Appointment Guidelines, and may appoint a replacement member.
- 4.12. The Rule Change Panel may also remove a member of the Market Advisory Committee at any time in the circumstances described in clause 2.3.11 of the Market Rules.
- 4.13. A member of the Market Advisory Committee may resign by giving notice to the Rule Change Panel in writing. As soon as practicable, the Rule Change Panel will appoint a replacement member for the duration of the previous member's remaining length of tenure.

- 4.14. When a position on the Market Advisory Committee is vacant at any time, for any reason, the Rule Change Panel will use its reasonable endeavours to appoint a suitable person to fill the position. For compulsory class members, the Rule Change Panel will request that a suitably qualified replacement nominee is provided to attend meetings, and for discretionary class members, the Rule Change Panel will appoint a suitable representative in accordance with the requirements of the Market Rules and the Market Advisory Committee Appointment Guidelines.

## **5. Convening the Market Advisory Committee**

- 5.1. The RCP Secretariat (as the secretariat of the Market Advisory Committee) will convene the Market Advisory Committee:
- a) on behalf of the Rule Change Panel, in relation to a Rule Change Proposal where the Rule Change Panel considers that advice is required from the Market Advisory Committee, in which case the meeting will be called before the due date for submissions on the proposed changes;
  - aA) on behalf of the Rule Change Panel, in relation to a Procedure Change Proposal where the IMO, Rule Change Panel, AEMO or the Economic Regulation Authority considers that advice is required from the Market Advisory Committee, in which case the meeting will be called before the due date for submissions on the proposed changes;
  - b) on behalf of the Rule Change Panel, in relation to a Rule Change Proposal or Procedure Change Proposal where two or more members of the Market Advisory Committee have informed the Rule Change Panel in writing that they consider that advice is required from the Market Advisory Committee;
  - c) on any occasion when two or more members of the Market Advisory Committee have informed the RCP Secretariat in writing that they wish to bring a matter before the Market Advisory Committee for discussion; and
  - d) where possible, consistent with the provisional schedule of Market Advisory Committee meetings issued annually by the RCP Secretariat.

## **6. Conduct of Meetings**

- 6.1. The Chairperson may determine procedures for meetings of the Market Advisory Committee.
- 6.2. The Market Advisory Committee may make recommendations on an issue if a consensus is achieved. Any recommendations made by the Market Advisory Committee must be based on the consensus decision of members, excluding the opinion of observers.
- 6.3. Unless a quorum of members is present at the time, no recommendations will be made. A quorum requires 50 percent of total current members to be present at the meeting, including at least one member representing Market Generators and one member representing Market Customers in that quorum.

- 6.4. The Chairperson may, in relation to any matter under consideration in the Market Advisory Committee, require all members and observers to treat the matter as confidential until advised otherwise. All members and observers must comply with that requirement.
- 6.5. Meetings of the Market Advisory Committee may be called or held using any technology determined by the Chairperson and at a location nominated by the Chairperson.
- 6.6. Meetings of the Market Advisory Committee are recorded for the purpose of ensuring the accuracy of meeting minutes. These recordings are therefore considered temporary and once the minutes of a meeting are confirmed the recordings from that meeting are no longer considered necessary and will be periodically deleted by the RCP Secretariat.
- 6.7. A communication between Market Advisory Committee members constituting a quorum under clause 6.3 of this Constitution by telephone or audiovisual means is a valid meeting of the Market Advisory Committee, but only if each participating member or observer is capable of communicating with every other member or observer instantaneously at all times during the meetings.
- 6.8. The Chairperson may, at his or her discretion, approve late papers for a Market Advisory Committee meeting.

## **7. Role of the Market Advisory Committee Secretariat**

- 7.1. The RCP Secretariat will provide secretariat services to the Market Advisory Committee.
- 7.2. As the secretariat for the Market Advisory Committee, the RCP Secretariat will:
  - a) develop and issue a provisional schedule of meetings annually and maintain the diary of the Market Advisory Committee;
  - b) compile the meeting papers and send them by email to all members and observers of the Market Advisory Committee and publish the papers on the Rule Change Panel's website. The RCP Secretariat will endeavour to issue papers to all members and observers, at least five Business Days before each meeting (subject to any approved late papers in accordance with clause 6.8 of this Constitution);
  - c) prepare the minutes of each Market Advisory Committee meeting and endeavour to send them by email to all members and observers of the Market Advisory Committee within ten Business Days of the meeting; and
  - d) subject to the confidentiality status of the matters in meeting minutes (in accordance with clause 10.2 of the Market Rules), publish the minutes on the Rule Change Panel's website.

## **8. Interaction between the Market Advisory Committee and the Rule Change Panel and RCP Secretariat**

- 8.1. All written communications related to the activities of the Market Advisory Committee from the members and observers of the Market Advisory Committee will be sent to the RCP Secretariat.

- 8.2. Communications between the members and observers of the Market Advisory Committee and the RCP Secretariat will be via email to [rcp.secretariat@rcpwa.com.au](mailto:rcp.secretariat@rcpwa.com.au) wherever practical.
- 8.3. The Rule Change Panel will provide the members and observers of the Market Advisory Committee with information in its possession that is directly relevant to the issues being addressed (subject to clause 10.2.4 of the Market Rules).
- 8.4. Within one Business Day after the publication of a notice of a Rule Change Proposal the Rule Change Panel will notify the members and observers of the Market Advisory Committee (in accordance with clause 2.7.4 of the Market Rules) via email, as to whether the Rule Change Panel considers that advice on the proposal is required from the Market Advisory Committee and the reasons why.
- 8.5. The Rule Change Panel will include in its Rule Change Reports (in accordance with clauses 2.7.7 and 2.7.8 of the Market Rules) a summary of the views expressed by the members of the Market Advisory Committee, where the Market Advisory Committee has met to consider a Rule Change Proposal, or where a Working Group has been appointed by the Market Advisory Committee to consider a Rule Change Proposal, a summary of the views expressed by that Working Group.
- 8.6. The IMO, Rule Change Panel, Economic Regulation Authority and AEMO (including in its capacity as System Management) will include in their Procedure Change Reports (in accordance with clause 2.10.13 of the Market Rules) a summary of the views expressed by the members of the Market Advisory Committee, where the Market Advisory Committee has met to consider a Procedure Change Proposal, or where a Working Group has been appointed by the Market Advisory Committee to consider a Procedure Change Proposal, a summary of the views expressed by that Working Group.

## **9. Governance Arrangements Between the Market Advisory Committee and Delegated Working Groups**

- 9.1 The Market Advisory Committee may establish Working Groups made up of representatives from the industry to assist the Market Advisory Committee in dealing with any matter (in accordance with clause 2.3.1 of the Market Rules). The Market Advisory Committee may establish or disband any Working Group at any time.
- 9.2 The Market Advisory Committee must determine the scope of work and terms of reference for each Working Group. The Market Advisory Committee may approve any amendments to the Terms of Reference or membership of any Working Group at any time.
- 9.3 The terms of reference for a Working Group, will be tailored to the specific requirements of each Working Group and would typically include the:
  - a) background (reason for the establishment of the Working Group);
  - b) purpose and scope of work of the Working Group;
  - c) roles and responsibilities of members of the Working Group;
  - d) membership of the Working Group;

- e) administration, secretariat and meeting arrangements for the Working Group;  
and
- f) reporting arrangements to the Market Advisory Committee.

9.4 Working Groups must report back to the Market Advisory Committee at least once every two months or as specified in the terms of reference for the Working Group. Reporting will be via the Working Group secretariat. The Working Group will report to the Market Advisory Committee at other times requested by the Market Advisory Committee. Day-to-day interaction between the Market Advisory Committee and the Working Group will be via the RCP Secretariat.

9.5 Working Groups must refer issues outside the scope of the Working Group's terms of reference back to the Market Advisory Committee for consideration.



## **Appendix 1 Wholesale Market Objectives**

The Wholesale Market Objectives, as outlined in section 122 of the *Electricity Industry Act 2004* and clause 1.2.1 of the Market Rules 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; and
- (e) to encourage the taking of measures to manage the amount of electricity used and when it is used.

## **Appendix 2 Removal of Members**

The occurrence of any of the following events will entitle the Rule Change Panel to remove a member of the Market Advisory Committee (in accordance with clause 2.3.11 of the Market Rules):

- (a) the person becomes an undischarged bankrupt; or
- (b) the person becomes of unsound mind or his or her estate is liable to be dealt with in any way under law relating to mental health; or
- (c) in the Rule Change Panel's reasonable opinion the person no longer represents the person or class of persons that they were appointed to represent in accordance with clause 2.3.5 of the Market Rules; or
- (d) the person is not actively participating in the Market Advisory Committee; or
- (e) the person breaches any part of this constitution of the Market Advisory Committee.