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Energy Policy WA

Transmission via email to: energymarkets@energy.wa.gov.au

ALINTA ENERGY SUBMISSION: MARKET COMMITTEE CONSTITUTIONS

Alinta Energy appreciates the opportunity to provide feedback on:

- 2021 Review of the Market Advisory Committee Constitution (refer appendix 1);
- Review of the Gas Advisory Board Constitution (refer appendix 2); and
- Draft Pilbara Advisory Committee Constitution (refer appendix 3).

Thank you for your consideration of Alinta Energy's submission. If you would like to discuss this, please contact Jacinda Papps at jacinda.papps@alintaenergy.com.au or on 0417 065 955.

Yours sincerely

Jacinda Papps

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Appendix 1: 2021 Review of the Market Advisory Committee Constitution

Clause	Issue	Recommendation
1.4	<p>Clause 1.4 refers to appendix 1 of the constitution, which then re-states the Wholesale Market Objectives.</p> <p>Given Project Eagle may change the Wholesale Market Objectives, appendix 1 should be removed to avoid the need to change the constitution (which requires consultation) if the objectives change.</p>	Remove reference to appendix 1 in clause 1.4 and remove appendix 1.
4.8	<p>Alinta Energy notes that restrictions on tenure would usually not be backdated (currently drafted as 1 January 2021).</p> <p>Consideration should be given to aligning the date in this clause with the commencement of the updated constitution.</p> <p>Further, this is inconsistent with the GAB Constitution amendments which has 1 January 2022 as the start date for when restrictions on tenure will apply (refer clause 4.7 of the GAB Constitution).</p>	Amend to align with the commencement of the updated constitution.
3.13	<p>Issue 1:</p> <p>The consultation cover paper states that clause 3.13 has “been amended to reflect that the expenses of small-use customers are covered by the Coordinator”.</p> <p>The proposed drafting of clause 3.13 states:</p> <p><i>Each member, other than small-use customer representatives under clause 3.1(d) of this Constitution,</i></p>	<p>To address issue 3 amend clause 3.13 to:</p> <p>Each member, other than small-use customer <u>consumer</u> representatives under clause 3.1(d) of this Constitution, and observerss must pay their own expenses associated with participating in the Market Advisory Committee.</p> <p>To address issues 1, 2 and 4 add new clause 3.13A:</p> <p><u>Reasonable expenses incurred by small-use consumer representatives will be covered by the</u></p>

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	<p><i>and observer must pay their own expenses associated with participating in the Market Advisory Committee.</i></p> <p>While this states that small-use customer representatives don't have to pay their own expenses, the drafting doesn't address who does pay those expenses.</p> <p>Issue 2:</p> <p>Further to issue 1, traditionally the nominated small-use consumer representatives are staff from Energy Policy WA (or its predecessor policy agencies).</p> <p>To facilitate greater confidence in the decision-making of the MAC, Alinta Energy prefers the small-use consumer representatives to be independent of and without any association to Energy Policy WA or any other government department or entity. However, if this doesn't eventuate, the Constitution should make it clear that if these representatives are employees of EPWA, then any expenses associated with participating in the Market Advisory Committee will not be separately recoverable.</p> <p>Issue 3:</p> <p>Clause 3.13 refers to small-use <u>customer</u> whereas clause 3.1(d) (and the equivalent clause in the WEM rules) refers to small-use <u>consumer</u>.</p> <p>Issue 4:</p> <p>While Alinta Energy is broadly comfortable that the expenses of small-use customers be covered by the Coordinator, there should be a recognition on the MAC constitution that these expenses are reasonable.</p>	<p><u>Coordinator. For the avoidance of doubt, if a small-use consumer representative is employed by the Coordinator's organisation, any expenses associated with participating in the Market Advisory Committee will not be separately recoverable.</u></p>

Clause	Issue	Recommendation
6.5	The current drafting could be interpreted as requiring attendance in-person, with the inclusion of “ <u>and</u> at a location...”.	Amend clause 6.5 to reflect that hybrid meetings are accepted, as follows: Meetings of the Market Advisory Committee may be called or held <u>in-person or virtually, or a combination of the two</u> , using any technology determined by the independent Chair and <u>(if required)</u> at a location nominated by the independent Chair.
8.1 and 8.2	Alinta Energy understood clause 8.2 was meant to allow for communications between members of the MAC and not just to and from members of the MAC and the secretariat. This is why members' email addresses are published here: MAC-Membership-List-21-09-2021.pdf (www.wa.gov.au) As proposed to be amended, clauses 8.1 and 8.2 essentially say the same thing. Given this, Alinta Energy recommends that the clause be redrafted to refer to MAC member's emails (as published) and also require communications between MAC members to include the MAC secretariat.	Amend clause 8.2 as follows: Communications between the members and observers of the Market Advisory Committee and the MAC Secretariat will be via email to <u>the email addresses published on the Coordinator's Website and must copy in the MAC Secretariat on:</u> energymarkets@energy.wa.gov.au .
Appendix 1	Refer to comments for clause 1.4.	Refer to comments for clause 1.4.

Appendix 2: Review of the Gas Advisory Board Constitution

Clause	Issue	Recommendation
1.2	Clause 1.2 refers to appendix 1 of the constitution, which then re-states the GSI Objectives. Given Project Eagle may change seek to amend objectives, appendix 1 should be removed to avoid the need to change	Remove reference to appendix 1 in clause 1.2 and remove appendix 1.

Clause	Issue	Recommendation
	the constitution (which requires consultation) if the objectives change.	
1.3	Reword for clarity	Amend as follows: For the purpose of the GSI Objectives <u>The primary purpose of the:</u> a) the primary purpose of the Gas Bulletin Board (GGB) is to include information relating to short and near term natural gas supply and demand and natural gas transmission and storage capacity in the State, and b) the primary purpose of the Gas Statement of Opportunities (GSOO) is to include information and assessments relating to medium and long term natural gas supply and demand and natural gas transmission and storage capacity in the State.
1.4(c)	The consultation paper notes that several clauses are amended to increase the inclusiveness of the language. Alinta Energy notes that the amendments to the MAC constitution change references from “his or herself” to “themselves” (refer proposed clause 3.11. However, this clause 1.4(c) proposes to amend “its” to “her or his”.	Suggest for inclusivity and consistency, amend to: ...may make Amending Rules in accordance with her or his <u>their</u> rule making powers under Part 8 of the GSI Rules.
2.1	Clause 2.1 says that the GAB is a committee of representatives of “gas market stakeholders”. This is inconsistent with the approach taken in the MAC Constitution.	For consistency with the approach in the MAC Constitution, amend to: The Gas Advisory Board is a committee comprised of stakeholder representatives of gas market

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		<p>stakeholders, convened by the Coordinator, to advise:</p>
<p>3.13</p>	<p>Issue 1:</p> <p>The consultation cover paper states that clause 3.13 has “been amended to reflect that the expenses of small-use customers are covered by the Coordinator”.</p> <p>The proposed drafting of clause 3.13 states:</p> <p style="padding-left: 40px;"><i>Each member, other than small end use customer representatives under clause 3.1(c) of this Constitution, and observer must pay their own expenses associated with participating in the Gas Advisory Board.</i></p> <p>While this states that small-use customer representatives don't have to pay their own expenses, the drafting doesn't address who does pay those expenses.</p> <p>Issue 2:</p> <p>Further to issue 1, traditionally the nominated small-use consumer representatives are staff from Energy Policy WA (or its predecessor policy agencies).</p> <p>To facilitate greater confidence in the decision-making of the GAB, Alinta Energy prefers the small-use consumer representatives to be independent of and without any association to Energy Policy WA or any other government department or entity. However, if this doesn't eventuate, the Constitution should make it clear that if these representatives are employees of EPWA, then any expenses associated with participating in the GAB will not be separately recoverable.</p> <p>Issue 3:</p>	<p>To address issue 3 amend clause 3.13 to:</p> <p style="padding-left: 40px;">Each member, other than small-use customer <u>consumer</u> representatives under clause 3.1(d) of this Constitution, and observers must pay their own expenses associated with participating in the Market Advisory Committee.</p> <p>To address issues 1, 2 and 3 add new clause 3.13A:</p> <p style="padding-left: 40px;"><u>Reasonable expenses incurred by small-use consumer representatives will be covered by the Coordinator. For the avoidance of doubt, if a small-use consumer representative is employed by the Coordinator's organisation, any expenses associated with participating in the Gas Advisory Board will not be separately recoverable.</u></p>

Clause	Issue	Recommendation
	While Alinta Energy is broadly comfortable that the expenses of small end use customers be covered by the Coordinator, there should be a recognition that these expenses are reasonable.	
6.4	The current drafting could be interpreted as requiring attendance in-person, with the inclusion of " <u>and</u> at a location...".	Amend clause 6.4 to reflect that hybrid meetings are accepted, as follows: Meetings of the Gas Advisory Board may be called or held <u>in-person or virtually, or a combination of the two</u> , using any technology determined by the independent Chair and <u>(if required)</u> at a location nominated by the independent Chair.
8.1 and 8.2	Refer to Alinta Energy's comments on clauses 8.1 and 8.2 of the MAC Constitution, contained in Appendix 1 of this document.	Refer to Alinta Energy's proposal contained in Appendix 1 of this document.
8.5	The consultation paper notes that several clauses are amended to increase the inclusiveness of the language. Alinta Energy notes that the like amendments to the MAC constitution change references to "its" to "their" (refer proposed clause 8.5. However, this clause 8.5 proposes to amend "its" to "her or his".	Suggest for inclusivity and consistency, amend to: ...The Coordinator will include in her or his <u>their</u> Rule Change Reports ...
Appendix 1	Refer to comments for clause 1.2.	Refer to comments for clause 1.2.

Appendix 3: Draft Pilbara Advisory Committee Constitution

Clause	Issue	Recommendation
General	The registered NSPs have all nominated a Director for the Pilbara ISOCO. This Constitution is silent as to whether a Director of the Pilbara ISOCO can be a member of the PAC.	Suggest adding a “for the avoidance of doubt” clause to the Constitution stating that being a Director of the Pilbara ISOCO does not exclude that person from being nominated by the represented entity.
2.1	<p>Clause 2.1 states that:</p> <p style="padding-left: 40px;">The Pilbara advisory committee is formed under clause A2.3.1 of the PNR and is a committee of <u>industry</u> representatives convened by the Coordinator to...</p> <p style="text-align: right;">[Emphasis added]</p> <p>The PAC is broader than just industry representatives, further this drafting is inconsistent with the MAC constitution.</p>	<p>Amend as follows:</p> <p style="padding-left: 40px;">The Pilbara advisory committee is formed under clause A2.3.1 of the PNR and is a committee of <u>industry stakeholder</u> representatives convened by the Coordinator to...</p>
3.13	Refer to feedback for clause 3.13 in Appendices 1 and 2.	Refer to Alinta Energy's proposal contained in Appendices 1 and 2.
6.4(d)	<p>Discretionary members are those outlined in clause 3.1(a) of the constitution, of which there will be at least one and not more than six.</p> <p>The quorum rules require “at least 50% of current discretionary members”.</p>	<p>Suggest amending to reflect that you can't have 50% of one member to meet a quorum, as follows:</p> <p style="padding-left: 40px;">...<u>if there is more than one discretionary member, then</u> at least 50% of current discretionary members, <u>otherwise one discretionary member.</u></p>
8.1 and 8.2	Refer to Alinta Energy's comments on clauses 8.1 and 8.2 of the MAC Constitution, contained in Appendix 1 of this document.	Refer to Alinta Energy's proposal contained in Appendix 1 of this document.