



Constitution of the Market Advisory Committee

15 February 2022

1. Introduction

- 1.1. The Wholesale Electricity Market (**WEM**) 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* (**Act**).
- 1.2. The Coordinator of Energy's (**Coordinator**) functions are specified in clause 2.2D.1 of the WEM Rules and are to:
 - (a) administer the WEM Rules;
 - (b) develop amendments to the WEM Rules and replacements for them;
 - (c) consider and, in consultation with the Market Advisory Committee, progress the evolution and development of the WEM and the WEM Rules;
 - (d) undertake reviews and consultation as required under the WEM Rules;
 - (e) provide MAC Secretariat services to the Market Advisory Committee and support the independent Chair of the Market Advisory Committee (**independent Chair**);
 - (f) develop WEM Procedures, and amendments and replacements for them, where required by the WEM Rules;
 - (g) do anything that the Coordinator determines to be conducive or incidental to the performance of the functions set out in clause 2.2D.1 of the WEM Rules; and
 - (h) carry out any other functions conferred, and perform any obligations imposed, on them under the WEM Rules.
- 1.3. The Coordinator must not make Amending Rules unless they are satisfied that the WEM Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives.
- 1.4. The Wholesale Market Objectives are contained within section 122 of the Act and clause 1.2.1 of the WEM Rules.
- 1.5. This Constitution of the Market Advisory Committee is prepared in accordance with clause 2.3.2 of the WEM Rules.
- 1.6. Terms used in this Constitution have the same meaning as defined in the WEM Rules.
- 1.7. If a provision of this Constitution is inconsistent with a higher order document (the Act, Regulations, WEM Rules or a WEM Procedure), 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 stakeholder representatives convened by the Coordinator to:
 - (a) advise the Coordinator regarding Rule Change Proposals;
 - (b) advise the Australian Energy Market Operator (**AEMO**), the Economic Regulation Authority (**ERA**), the Coordinator and Network Operators regarding Procedure Change Proposals;
 - (c) advise the Coordinator, AEMO and the ERA on the development of Rule Change Proposals where requested by the Coordinator, AEMO or the ERA in accordance with clauses 2.5.1A, 2.5.1B or 2.5.1C of the WEM Rules;
 - (d) advise the Coordinator regarding matters concerning, and the Coordinator's plans for, the evolution and development of the WEM and the WEM Rules; and
 - (e) provide assistance to the Coordinator in their monitoring role under clauses 2.16.13A and 2.16.13B of the WEM 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 WEM 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 WEM.
- 2.4. Market Advisory Committee members do not vote on issues and must endeavour to reach a consensus on any issue before the committee. If, after allowing a reasonable time for discussion, the independent Chair of the Market Advisory Committee determines that a consensus position either will not be achieved, or is unlikely to be achieved within a time which is reasonable in the circumstances, then the independent Chair must provide advice to the Coordinator which reflects any majority view and which includes or is accompanied by the dissenting views.
- 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 Coordinator, ERA, AEMO and Network Operators.

3. Membership Terms

- 3.1. In accordance with clause 2.3.5 of the WEM Rules, the Market Advisory Committee must comprise:
 - (a) at least six and not more than eight members representing Market Participants, excluding Synergy;
 - (b) at least one member and not more than two 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 two independent members nominated by the Minister to represent small-use consumers;
 - (e) two members representing AEMO;
 - (f) one member representing Synergy; and
 - (g) an independent Chair, who must be a person appointed by the Minister under clauses 2.3.8A or 2.3.8D of the WEM Rules.
- 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 WEM Rules.
- 3.3. The ERA may appoint a representative to attend Market Advisory Committee meetings as an observer, as outlined in clause 2.3.7 of the WEM Rules.
- 3.4. The Coordinator or the independent Chair may invite a person to attend Market Advisory Committee meetings as an observer, either for a specified meeting or meetings or until further notice.

Classes of Members

- 3.5. Members who represent a single entity (AEMO, Synergy and Western Power) and the members 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 class members (Market Participants, Network Operators and Contestable Customers) are discretionary class members.

Proxies

- 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 independent Chair's discretion and must not be withheld unreasonably.
- 3.9. Observers appointed by the Minister or the ERA can send proxies to attend meetings in their place.

Meeting Attendance

- 3.10. The Market Advisory Committee may continue to perform its functions under section 2.3 of the WEM Rules despite any vacancy, provided that a quorum is met (see clauses 6.3 and 6.4 of this Constitution).
- 3.11. Each member is required to make themselves reasonably available for all meetings. Members who have not been reasonably available for all meetings may be removed by the Coordinator under clause 4.12 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 to cause detriment to the Coordinator or the market.
- 3.13. Each member, other than small-use consumer representatives under clause 3.1(d) of this Constitution, and observer must pay their own expenses associated with participating in the Market Advisory Committee.

4. Appointing and Replacing Members

- 4.1. The Coordinator may appoint members and terminate membership of the Market Advisory Committee in accordance with clauses 2.3.8 and 2.3.11 of the WEM Rules; section 4 of this Constitution; and the Market Advisory Committee Appointment Guidelines (if one is published by the Coordinator).
- 4.2. In accordance with clause 2.3.5A of the WEM Rules, the Coordinator must use their reasonable endeavours to ensure equal representation of Market Participants that:
- (a) own, control or operate an Energy Producing System or Energy Producing Systems within the South West Interconnected System and
 - (b) sell electricity to customers in the South West Interconnected System, when appointing or removing members.
- 4.3. Compulsory class members who represent AEMO, Synergy or Western Power must be nominated to the Coordinator by the represented entity.
- 4.4. The Coordinator will advertise for nominations for discretionary class members of the Market Advisory Committee on the Coordinator's Website, by email to recipients of Energy Policy WA's weekly RulesWatch newsletter, and via direct contact with appropriate industry groups or any other means the Coordinator considers appropriate. Any company or individual can make nominations.
- 4.5. Each member appointed following an annual composition review will usually be appointed for a term of two years, subject to any earlier termination.
- 4.6. The Coordinator may appoint members following an annual composition review for a term shorter or longer than two years, including to ensure that the terms of half of the members in each class of discretionary members expire each year.
- 4.7. Where a member is appointed to a vacated position on the Market Advisory Committee that is not vacated due to the expiration of the position's term, the term of the replacement member is for the duration of the previous member's remaining length of tenure.
- 4.8. A member may be reappointed to the Market Advisory Committee unless they have been a member for the six or more consecutive years immediately before the proposed reappointment period begins excluding any years before 15 February 2022.
- 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 Coordinator will consult with the independent Chair, and take nominations from Rule Participants and industry groups that they consider relevant to the WEM.
- 4.11. If practicable, and taking into account the requirements of the WEM Rules regarding the Market Advisory Committee composition, the Coordinator will choose members from among those persons nominated.
- 4.12. Each year the Coordinator will review the performance and attendance of all Market Advisory Committee members in consultation with the independent Chair. Following the review, if the Coordinator determines that a member has not met the requirements of members as set out in this Constitution or the Market Advisory Committee Appointment Guidelines (if one is published by the Coordinator), then the Coordinator may:
 - (a) for a compulsory class member, request the party that has appointed the member to nominate another member; or
 - (b) for a discretionary class member, terminate the membership of, or decide to not reappoint the member, and must then follow the process to fill the vacancy as set out in clauses 4.10 and 4.11 of this Constitution.
- 4.13. The Coordinator may also remove a member of the Market Advisory Committee at any time in the circumstances described in clause 2.3.11 of the WEM Rules.
- 4.14. A member of the Market Advisory Committee may resign by giving notice to the Coordinator in writing. The Coordinator, subject to clause 2.3.13 of the WEM Rules, may appoint a replacement member for the duration of the previous member's remaining length of tenure.
- 4.15. When a position on the Market Advisory Committee is vacant at any time for any reason, the Coordinator must, in accordance with clause 2.3.13 of the WEM Rules, use reasonable endeavours to appoint a suitable person to fill the position. For the avoidance of doubt, the Market Advisory Committee can continue to perform its functions despite any vacancy.
 - (a) For compulsory class members, the Coordinator will request that a suitably qualified replacement nominee is provided to attend meetings.
 - (b) For discretionary class members, the Coordinator will appoint a suitable representative, as per clauses 4.10 and 4.11 of this Constitution, and in accordance with the requirements of the WEM Rules.

5. Convening the Market Advisory Committee

- 5.1. The independent Chair must convene the Market Advisory Committee:
 - (a) in relation to a Rule Change Proposal, where the independent Chair or the Coordinator 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) in relation to a Procedure Change Proposal, where the independent Chair, the Coordinator, AEMO or the ERA considers that advice is required from the Market Advisory Committee or a Network Operator considers that advice is

required from the Market Advisory Committee on a Procedure Change Proposal they have prepared, in which case the meeting will be called before the due date for submissions on the proposed changes;

- (c) in relation to a Rule Change Proposal or Procedure Change Proposal, where two or more members of the Market Advisory Committee have informed the independent Chair in writing that they consider that advice is required from the Market Advisory Committee;
- (d) on any occasion when two or more members of the Market Advisory Committee have informed the independent Chair in writing that they wish to bring a matter regarding the evolution or the development of the WEM or the WEM Rules before the Market Advisory Committee for discussion;
- (e) on any occasion the Coordinator has informed the independent Chair they wish to bring a matter regarding the evolution or the development of the WEM or the WEM Rules before the Market Advisory Committee for discussion; and
- (f) where practicable, consistent with the provisional schedule of Market Advisory Committee meetings issued annually by the MAC Secretariat.

6. Conduct of Meetings

- 6.1. The independent Chair may determine procedures for meetings of the Market Advisory Committee.
- 6.2. The Market Advisory Committee may provide advice or make recommendations to the Coordinator on an issue. Any advice or recommendations made by the Market Advisory Committee must be based on the consensus achieved by members in accordance with clause 2.4 of this Constitution.
- 6.3. The Market Advisory Committee can only make a recommendation to the Coordinator if a quorum of members is present at the relevant discussion.
- 6.4. A quorum requires at least:
 - (a) 50% of total current members;
 - (b) one member representing small-use consumers;
 - (c) two discretionary class members representing Market Participants that own, control or operate an Energy Producing System or Energy Producing Systems in the South West Interconnected System; and
 - (d) two discretionary class members representing Market Participants that sell electricity to customers in the South West Interconnected System,to be present at the meeting.
- 6.5. Meetings of the Market Advisory Committee may be called or held in-person or virtually, or a combination of the two, using any technology determined by the independent Chair and (if required) at a location nominated by the independent Chair.
- 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.

7. Role of the MAC Secretariat and independent Chair

- 7.1. The MAC Secretariat will provide secretariat services to the Market Advisory Committee and support the independent Chair, including in performing the functions in sections 7.2 and 7.3 of this Constitution.
- 7.2. The MAC Secretariat will:
 - (a) develop and issue a provisional schedule of meetings (under the direction of the independent Chair) 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 Coordinator's Website. The MAC Secretariat will endeavour to issue papers to all members and observers, at least five Business Days before each meeting, except for any late papers approved by the independent Chair;
 - (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) publish the minutes on the Coordinator's Website.
- 7.3. The independent Chair may develop and submit Rule Change Proposals based on advice received from the Market Advisory Committee regarding the development of the WEM and the WEM Rules.
- 7.4. The independent Chair may, at their discretion, approve late papers for a Market Advisory Committee meeting.

8. Interaction between the Market Advisory Committee, the Coordinator and the independent Chair

- 8.1. All written communications related to the activities of the Market Advisory Committee from the members and observers of the Market Advisory Committee must be sent to the MAC Secretariat via e-mail to: energymarkets@energy.wa.gov.au.
- 8.2. Communications between the members and observers of the Market Advisory Committee and the MAC Secretariat will be via email to the email addresses published on the Coordinator's Website and must copy in the MAC Secretariat on: energymarkets@energy.wa.gov.au.
- 8.3. The Coordinator will provide the independent Chair, members and observers of the Market Advisory Committee with information in their possession that is directly relevant to the issues being addressed (subject to clause 10.2.4 of the WEM Rules).
- 8.4. After the publication of a notice of a Rule Change Proposal, the Coordinator will notify the independent Chair, and members and observers of the Market Advisory Committee (in accordance with clause 2.7.4 of the WEM Rules) via email, as to whether the Coordinator considers that advice on the proposal is required from the Market Advisory Committee and the reasons why.
- 8.5. The Coordinator will include in their Draft Rule Change Reports (in accordance with clause 2.7.7 of the WEM Rules) a summary of the views expressed by the members

of the Market Advisory Committee (or Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee Working Group) has met to consider a Rule Change Proposal.

- 8.6. The Coordinator will include reasons in their Final Rule Change Reports (in accordance with clause 2.7.8(bA) of the WEM Rules) if they have decided not to follow partially or fully the advice received from the Market Advisory Committee.
- 8.7. The Coordinator, ERA, Network Operators and AEMO will include in their Procedure Change Reports (in accordance with clause 2.10.13 of the WEM Rules) a summary of the views expressed by the members of the Market Advisory Committee (or Market Advisory Committee Working Group), where the Market Advisory Committee (or Market Advisory Committee Working Group) has met to consider a Procedure Change Proposal.

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

- 9.1. The Market Advisory Committee may establish and disband Working Groups as per clause 2.3.17 of the WEM Rules.
- 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 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 to the Market Advisory Committee at least once every two months, unless otherwise 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 MAC 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.
- 9.6. Once a Working Group has been established, the Market Advisory Committee delegates to the Working Group the ability to discuss the matters within the scope of the Working Group's terms of reference. The Working Group must report back to the Market Advisory Committee with any recommendations that it determines.

- 9.7. The independent Chair must, through the MAC Secretariat, inform the Coordinator if the Market Advisory Committee establishes a Working Group, and must provide the Coordinator with a copy of the terms of reference for each Working Group.