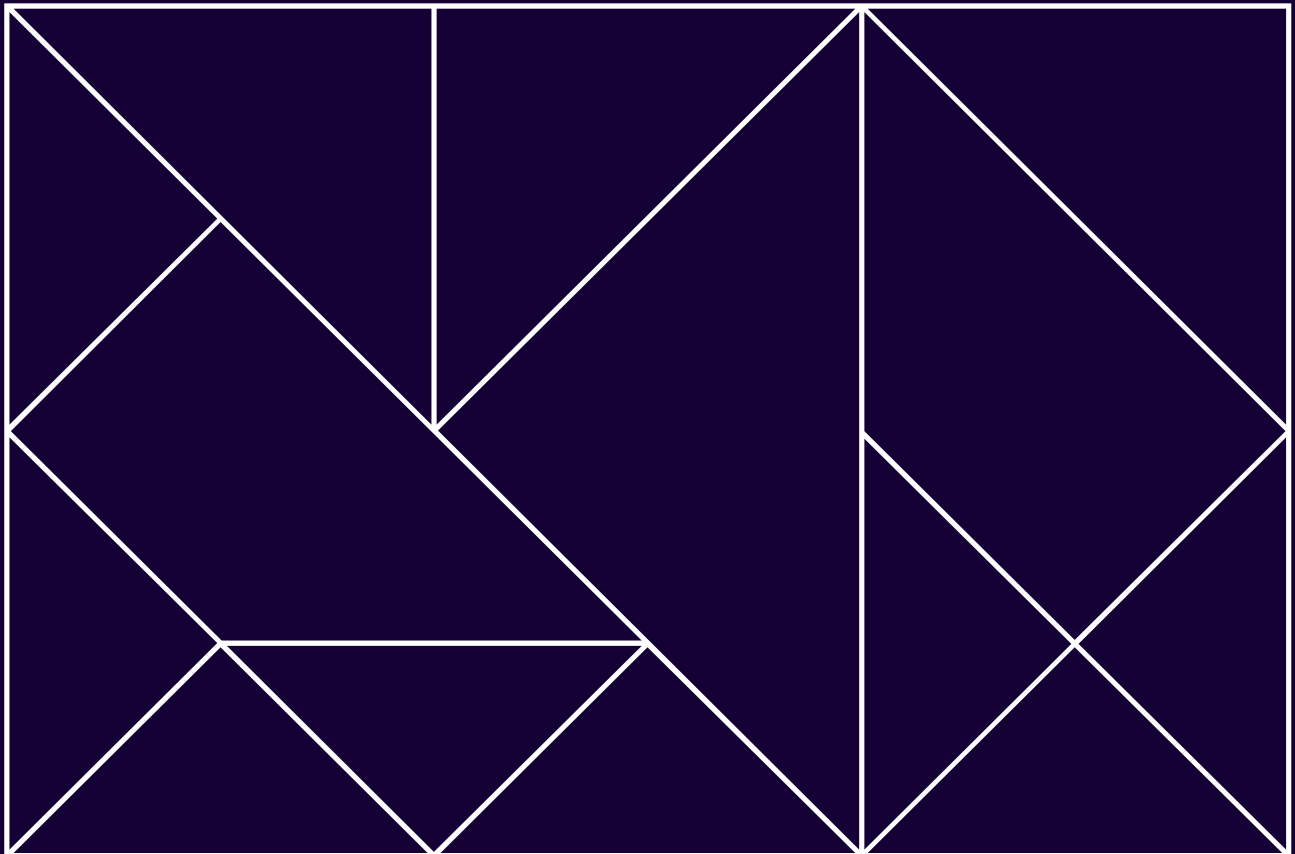


6 May 2024

Independent Review of WEM Procedure Change Process

Consultation Paper



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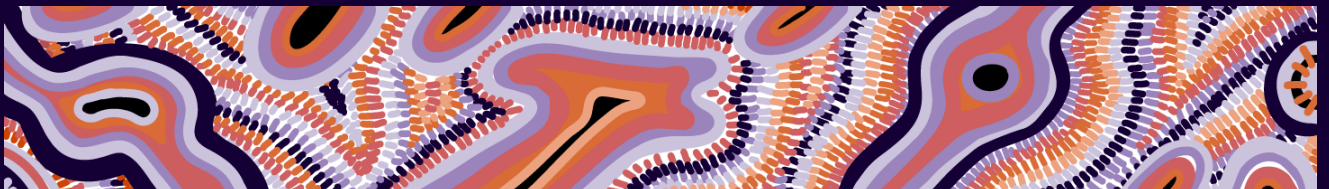
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ACIL Allen acknowledges Aboriginal and Torres Strait Islander peoples as the Traditional Custodians of the land and its waters. We pay our respects to Elders, past and present, and to the youth, for the future. We extend this to all Aboriginal and Torres Strait Islander peoples reading this report.



Goomup, by Jarni McGuire

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Request for Submissions

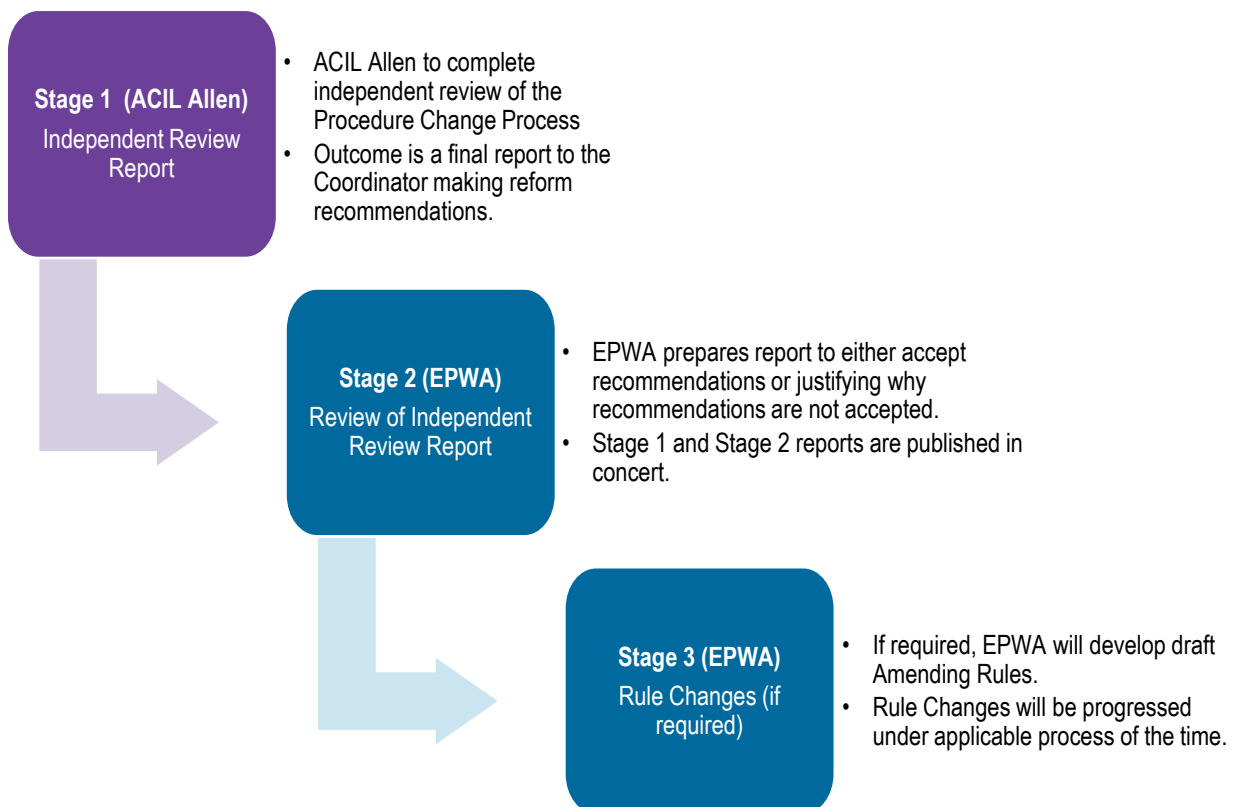
Overview

The Procedure Change Process governs the way Wholesale Electricity Market (“WEM”) procedures are to be developed, amended and replaced under the WEM Rules. This process is outlined under section 2.10 of the WEM Rules.

Under clause 2.16.13F of the WEM Rules, the Coordinator of Energy (“Coordinator”) must ensure that an independent person carries out an audit of the WEM Procedure Change Process no less than every 3 years.

The Review is being undertaken in three stages, as outlined below (**Figure 1.1**).

Figure 1.1 Procedure Change Process Review: Overview



To fulfill the requirements for an independent audit under the WEM Rules, ACIL Allen has been engaged by the Coordinator to undertake Stage 1 of the review, and recommend any changes necessary to ensure that the Procedure Change Process:

- is fit for purpose given the changes to the nature and content of WEM Procedures and the changes to the Procedure Administrators;
- ensures stakeholders have an appropriate opportunity to initiate Procedure changes and provide input into Procedure Change Proposals;
- provides clear and appropriate responsibilities to Procedure Administrators in processing requests for changes by stakeholders;
- is simple, clear and inclusive; and
- has a prescribed timeframe and clear criteria for decisions on Procedure Change Proposals.

For further information see the Scope of Work for the Procedure Change Review available at the Coordinator's website: [Wholesale Electricity Market Procedure Change Process Review](#).

The outcome of Stage 1 will be a series of recommendations delivered via a final report to the Coordinator by 1 July 2024.

Any changes made to the Procedure Change Process will be at the Coordinator's discretion following further work conducted by Energy Policy WA (EPWA) during Stage 2 and 3. Further information on this can be found in the Scope of Work for the Procedure Change Review available at the Coordinator's website: [Wholesale Electricity Market Procedure Change Process Review](#).

The most relevant aspects of the Scope of Work are provided in the Appendix A.

Call for Submissions

This paper is the **Consultation Paper** for Stage 1 of the Procedure Change Process Review. The Consultation Paper presents a series of initial recommendations and observations for comment.

You are invited to provide feedback in written via email. ACIL Allen encourages you to provide any further comments. Feedback will support the finalisation of ACIL Allen's advice to the Coordinator to be submitted by 1 July 2024.

Stakeholder submissions received in response to the Consultation Paper will be published on the Energy Policy WA website. Please advise if you do not wish for your submission to be published.

The consultation process closes at 5pm 30 May 2024. Submissions should be emailed to ACIL Allen's Project Manager, Ryan Buckland, at r.buckland@acilallen.com.au.

For further information on the review or to discuss the initial reform suggestions and other findings, please contact Ryan as above or on +61 8 9449 9621.

Consultation Paper

Background and Context

1

The content of WEM Procedures and the Procedure Change Process are defined in WEM Rules 2.9 and 2.10 respectively. Further background on the procedures, the Procedure Change Process, and other relevant context, is provided below.

1.1 The WEM procedures

1.1.1 Hierarchy of WEM Governance

The hierarchy of WEM governance is summarised below. As indicated by the table, the procedures are subordinate to the WEM Rules

Table 1.1 Instruments that govern or guide WEM matters

Instrument	Purpose	Change process
<i>Electricity Industry Act 2004</i>	Outlines the general principles and rules of the law.	Difficult to amend. Requires drafting of a Bill which is then debated by the Legislative Assembly and Legislative Council before being assented to and gazetted by the Crown. Amended infrequently.
Electricity Industry (Wholesale Electricity Market) Regulations 2004	More specific set of rules and requirements to enforce the provisions of the EI Act.	Requires Parliamentary processes to amend (Legislative Council only). Amended infrequently.
WEM Rules	Very specific set of rules and requirements to govern the operation of the SWIS and the electricity market, including matters such as Reserve Capacity and Essential System Services, and detailing the functions of the Coordinator, AEMO, the ERA and Network Operators.	Easier to amend than the WEM Regulations. Requires approval from the Coordinator/Minister. Amended through the Rule Change Process, which requires two rounds of public consultation under the Standard Process (noting EPWA is currently utilising transitional arrangements to make the majority of Rule Changes).
WEM Procedures	Highly specific set of requirements with more procedural, administrative and methodological detail than the WEM Rules. Their scope is constrained by the WEM Rules.	Relatively easy to amend through the Procedure Change Process. Requires approval from the Procedure Administrator, who also makes the change. Requires one round of public consultation.
WEM Guidelines	Provide clarity on various matters and to provide further administrative details. Their scope is constrained by the WEM Rules.	Easy to amend, no public consultation required.

At present there is no criteria under the WEM Rules or other regulatory instruments to guide when matters can be relegated to procedures or when they should be contained within the Rules. The content and form of procedures is also left to the discretion of Procedure Administrators, although clause 2.9.3 states that WEM Procedures must:

- be developed, amended or replaced in accordance with the process in the WEM Rules
- be consistent with the Wholesale Market Objectives¹
- be consistent with the WEM Rules, the Electricity Industry Act 2004, and the Electricity Industry (Wholesale Electricity Market) Regulations 2004

There is also a wide range of length of procedures, with some spanning close to 50 pages. The WEM Rules in their entirety span 917 pages.

1.1.2 Purpose of WEM Procedures

At WEM commencement in 2006, the WEM Rules were designed to cover governance matters, and any matter that had a material policy, strategic or financial impact on consumers or Rule Participants, while procedural or administrative matters were relegated to procedures.

The creation of a class of governance instrument which sits below the WEM Rules was driven by the desire for greater flexibility and adaptability in those aspects of the governance of the electricity system which were more procedural and administrative in nature.

Today, there are 66 WEM procedures, administered by four Procedure Administrators (see below). The WEM procedures cover a range of matters including how market communications are distributed to how the Benchmark Reserve Capacity Price is calculated and determined in each Capacity Year. A full list of the procedures is provided in the [Scope of Works](#) (Appendix A)..

1.1.3 Procedure Administrators

The WEM Rules confer the responsibility to make WEM Procedures on specific Procedure Administrators. Currently, there are four Procedure Administrators under the Rules:

- the Australian Energy Market Operator (AEMO),
- the Economic Regulation Authority (ERA),
- the Coordinator, and
- Network Operators (presently Western Power).

Procedure Administrators must manage the development of, amendment of, and replacement for, WEM Procedures which the WEM Rules require them to develop (clauses 2.9.2A, 2.9.2B, 2.9.2CA, 2.9.2CB of the WEM Rules). As such, changes to the procedures can be initiated and enacted by a Procedure Administrator according to the Procedure Change Process.

1.2 Procedure Change Process

The Procedure Change Process is prescribed in section 2.10 of the WEM Rules, which outlines the steps Procedure Administrators must take when undertaking a procedure development, amendment, or replacement.

The Procedure Administrator for a relevant WEM procedure that is required to be developed or that need to be changed (i.e. amendment or replacement) is responsible for initiate a Procedure Change Process.

¹ Soon to be replaced by the State Electricity Objective

Under section 2.10 of the WEM Rules, a Procedure Change Process is initiated by a Procedure Change Proposal by publishing a Procedure Change Proposal on its website along with a call for submissions. The due date for submissions must be 20 Business Days from the date the call for submissions is published (clause 2.10.7 of the WEM Rules). Procedure Administrators can extend these timeframes.

There is no form or standard approach to preparing a Procedure Change Proposal report. Each of the Procedure Administrators has its own approach to preparing a Procedure Change Proposal and the associated report. Some are short and specific, while others are broad-ranging, contain underpinning evidence and modelling, and canvas a variety of options². This approach is permitted under the WEM Rules so long as a series of matters are addressed in some way, being (clause 2.10.6 of the WEM Rules):

- (a) a proposed WEM Procedure or an amendment to or replacement for a WEM Procedure, indicating the proposed amended words, or a proposed WEM Procedure; and
- (b) the reason for the proposed WEM Procedure or an amendment to or replacement for a WEM Procedure or proposed WEM Procedure.

Following the closing date for submissions, the Procedure Administrator must prepare a Procedure Change Report (clause 2.10.10 of the WEM Rules). The content of the Procedure Change Report is outlined in clause 2.10.13. There is no timing given in the Rules as to how soon after the closure of submissions the Procedure Change Report must be published.

The WEM Procedure: Procedure Administration (WPPA), made in accordance with clause 2.9.5 of the WEM Rules and managed by the Coordinator, outlines the process by which all WEM Procedures are to be developed, amended and replaced.

Paragraph 2.5.1 of the WPPA states that:

once it has published a Procedure Change Proposal under step 2.3 [of the WPPA], the Responsible Procedure Administrator must notify all members of the MAC and advise them whether it considers that the MAC should be convened in relation to the Procedure Change Proposal, giving reasons why. This notification must be made by email, within one Business Day of publishing the Procedure Change Proposal.

Procedure Change Process: Initiation by party other than a Procedure Administrator

Rule Participants (as defined in the WEM Rules) are also able to notify the relevant Procedure Administrator where they consider an amendment to, or replacement of, a WEM Procedure would be appropriate (clause 2.10.2 of the WEM Rules).

Where a Rule Participant proposes a procedure change, the relevant Procedure Administrator has 20 Business Days to determine whether the suggest amendment to, or replacement of, a WEM procedure is appropriate, and it must publish details of whether it will be progressed on their website and reasons for that decision (clause 2.10.2A of the WEM Rules).

A Procedure Administrator is not bound by any instrument to act on an affirmative decision made during its review of a Procedure Change Request, only to indicate its level of support and whether it will be progressed in the future.

² One current example is the Benchmark Reserve Capacity Prices Procedure administered by the ERA. While this is a significant change prompted by the WEM Rules, the Procedure Change Proposal report is 34 pages in length with seven appendices of 35 pages total (including an Excel model) and 16 consultation questions.

1.3 Role of the Market Advisory Committee in the Procedure Change Process

The Market Advisory Committee is a committee convened under the WEM Rules. It is intended to provide advice to the Coordinator of Energy on matters relevant to the WEM.

1.3.1 Market Advisory Committee

Under clause 2.3.1(b) of the WEM Rules, the MAC has the role to provide advice to Procedure Administrators regarding Procedure Change Proposals where requested or required to do so.

Under clause 2.10.9 of the WEM Rules, the independent Chair of the MAC must convene a meeting of the MAC concerning any Procedure Change Proposal before the due date for submissions (specified in clause 2.10.7 of the WEM Rules) if:

- (a) the independent Chair, the Coordinator, AEMO or the ERA considers that advice on the Procedure Change Proposal is required from the MAC;
- (aA) a Network Operator considers that advice on the Procedure Change Proposal prepared by a Network Operator is required from the MAC; or
- (b) two or more members of the MAC have informed the independent Chair in writing that they consider that advice on the Procedure Change Proposal is required from the MAC.

There is also a standing agenda item for MAC meetings for AEMO to provide an update on the outcomes of the AEMO Procedure Change Working Group. ACIL Allen provides some observations on the role of the MAC in the Procedure Change Process in Section 2.

1.3.2 AEMO Procedure Change Working Group

At the 14 June 2017 meeting of the MAC, the MAC agreed to establish a permanent Working Group, chaired by AEMO, to assist the MAC in fulfilling its obligation under clause 2.3.1(b) of the WEM Rules, to provide advice to AEMO regarding Procedure Change Proposals.³

At this meeting, it was agreed that AEMO would provide a report at each MAC meeting on the activities on the Working Group⁴.

There are no permanent members of the Working Group, other than a representative of AEMO who is designated as the Chair of the Working Group. The Working Group meets as needed. The AEMO Procedure Change Working Group met three times in 2021, once in 2022, three times in 2023 and once in 2024 (through end April).

Meeting notices and papers are published on the AEMO website, as well as meeting outcomes (not formal minutes). Meetings have a varied length, from 30 minutes to two or more hours.

Outcomes of the meeting suggest a high interest in the content of the meetings (suggested by the number of attendees) with mixed levels of participation and engagement in the content by these attendees (suggested by the limited discussion and questioning noted in meeting outcomes in some circumstances). Often measures are put and passed without feedback in this forum.

Other Procedure Administrators are to liaise directly with the MAC regarding changes to the procedures for which they have responsibility, if required.

³ <https://www.wa.gov.au/government/document-collections/aemo-procedure-change-working-group>

⁴ https://www.wa.gov.au/system/files/2021-05/mac_minutes_Final--1_2017--2017-06-28.pdf

Identified Issues and Reform Proposals

2

This section provides ACIL Allen's initial perspectives on the Procedure Change Process, and reform proposals to address issues which have been identified in the independent review to date, are described in this section.

2.1 Overview

ACIL Allen collected feedback on the current Procedure Change Process through direct stakeholder engagement with members of the Market Advisory Committee and Procedure Administrators. The feedback received supported the development of this Consultation Paper.

The initial stakeholder engagement included:

- An initial survey of MAC members and Procedure Administrators (all of whom are MAC members)
- Direct stakeholder engagement with individual MAC members, including the Chair,
- Direct stakeholder engagement with Procedure Administrator organisations: AEMO, EPWA, and Western Power.⁵

Alongside this, ACIL Allen has completed a review of the Procedure Change Process as described in the WEM Rules, as well as associated documentation made available during Procedure Change Proposal processes themselves. ACIL Allen also reviewed minutes of the MAC and the meeting papers and outcomes of the AEMO Procedure Change Working Group for the past three years (as the period of immediate interest to the Review).

Through this stage of the review, ACIL Allen has found that the Procedure Change Process is largely working as intended, however has made a number of observations about refinements that can be made and developed reform proposals to address these. ACIL Allen seeks feedback on these observations and reform proposals ahead of the development of its final report to the Coordinator.

The WEM and SWIS are in the midst of the most substantial and wide-ranging reforms since the market was introduced in 2006. This has seen changes to most levels of the governance framework for the electricity sector in the south west, including the impending introduction of the State Electricity Objective. These changes flow from the Energy Transformation Strategy reform process, which commenced in 2019 and is currently being led by Energy Policy WA.

As it stands, the Minister for Energy (supported by the Coordinator) has taken on substantial additional powers to make changes to the WEM Rules, with these powers set to be extended through to October 2027 through changes to the Electricity Industry (Wholesale Electricity Market) Regulations 2004.

⁵ Procedure Administrator ERA did not make itself available for this part of the review.

In this environment, the ability for parties to respond to changes which are imposed by the governance architecture which sits “above” their respective responsibility is likely to be valuable. Procedure Administrators responded as such during the stakeholder survey and stakeholder engagement activities undertaken to support this paper.

Measures which limit or curtail this flexibility must be considered in the context of the change which is underway across the market, and in the various levels of the governance architecture.

Within this report, you are requested to provide feedback on the questions posed in highlighted boxes denoted in purple, grey or blue, depending on the nature of the question, that is:

- **Observations**, are ACIL Allen’s initial perception of Procedure Change Process’ issues or requirements that ACIL Allen is seeking stakeholders perspective on the matter, and are denoted in purple boxes.
- **Reform Proposals**, are ACIL Allen’s initial recommendations to be provided to the Coordinator. Reform Proposals are designed to respond to specific issues identified in the review to date, and are denoted in grey boxes.
- **Requests for Feedback**, where no observation or reform proposals are made but stakeholder feedback is welcome to assist in the review, are denoted in blue boxes.

2.2 Interim Overall Finding

At a headline level, **ACIL Allen finds no evidence the Procedure Change Process is not working as designed, or intended, or in the interests of the market as a whole.** Stakeholders were broadly consistent in their views – in the survey and in stakeholder meetings – that the current Procedure Change Process as defined in the WEM Rules was fit for purpose.

Therefore, absent evidence to the contrary provided in responses to this Consultation Paper, ACIL Allen is unlikely to recommend significant changes to the WEM Rules with respect to the Procedure Change Process.

ACIL Allen Observation 1

Interim overall finding

The Procedure Change Process is working as designed and intended, and in the interests of the market as a whole. Therefore, there are no fundamental changes to Procedure Change Process the WEM Rules required.

Do you agree with this interim overall finding? Why or why not?

If you do not agree, what evidence are you able to provide of adverse market outcomes in relation to the Procedure Change Process?

Like all processes, there are opportunities to enhance and refine a range of matters which are important to the delivery of market outcomes and efficient operations which are of the benefit to the market as a whole. This is the focus of the remainder of this section.

2.3 Issues and Opportunities for Reform

ACIL Allen seeks market views on the following issues and reform proposals.

2.3.1 Considering the flexibility / oversight trade-off of the current Procedure Change Process

Role of the MAC in Procedure Change Proposals

As highlighted above, the MAC is responsible for considering and providing advice on Procedure Change Proposals under the WEM Rules. The MAC resolved in 2017 – two years prior to the commencement of the Energy Transformation Strategy process – to delegate the responsibility of oversight and feedback on AEMO’s procedures to a working group. The same meeting resolved that procedures overseen by the ERA would continue to be dealt with by the MAC.

This permits a level of flexibility and speed in the review and action of Procedure Change Proposals, as it allows Procedure Administrators to propose their own Procedure Changes, and respond to the Procedure Change Proposals of others, without strict adherence to the structures of the MAC.

Stakeholders have noted the current process can result in Procedure Administrators effectively “running their own show”. Prima facie, this goes against regulatory design principles, where independent oversight and approvals pathways are typically used. However, this view must be balanced against the fact the matters which can be addressed in procedures are dictated by, and subservient to, the WEM Rules, the Electricity Sector Regulations, and broader Government legislation / policy. The relationship to Government policy is more indirect, but given Clause 2.9.3 of the WEM Rules (see Section 1.2), procedures must align with the WEM Objectives, which in turn reflect the intended outcomes of the WEM, which in turn are a function of Government policy.

There is a clear trade-off at play: enhancing the role of the MAC in the Procedure Change Process would by its nature result in a more structured consideration of proposals. However, binding the Process to the meeting schedule and machinations of the MAC would reduce the flexibility and adaptability of the procedures, and the Procedure Change Process, compared to the current approach.

Two proposals have been considered. These are:

- **All Procedure Changes to be approved by the MAC:** The MAC would need to approve procedure changes, either formally or by exception. This would introduce (or re-introduce) formal oversight over the Procedure Change Process and mandate there to be input from a party besides the Procedure Administrator.
- **Enable escalation of Procedure Change Proposals to the MAC:** Introduce a mechanism as per the Pilbara Networks Rules (PNR) (Rule A2.10.6A of Appendix 2 of the PNR) whereby the Coordinator may direct that a Procedure Change be managed under the Rule Change Process.

ACIL Allen is unlikely to propose either of these changes on current evidence, as the balance of views provided by stakeholders suggests the flexibility afforded by the current practice is valued, and would be reduced through the introduction of more structure in line with the above. However, ACIL Allen seeks the views of market participants on this matter.

ACIL Allen Observation 2 The case for greater formal oversight

ACIL Allen is aware of the trade-off implicit in the current Procedure Change Process practice, where the role of the MAC in the WEM Rules is delegated to an AEMO Procedure Change Working Group. This results in less oversight than may be typical in a regulatory framework. However, this results in a level of flexibility and adaptability which may be curtailed with greater formal oversight.

Do you agree with this observation? Why or why not?

Introduction of explicit justification for Procedure Change Proposals

During stakeholder engagement, it was proposed by some stakeholders that a checklist for Procedure Changes was a potential reform to improve the oversight and governance of the Procedure Change Process. This was because, in the view of some stakeholders, Procedure Administrators were in a position of being able to make any changes they deem fit without necessarily facing the scrutiny of those impacted by changes to procedures.

However, ACIL Allen's initial perspective is this is not a necessary change. The current Procedure Change Process requires Procedure Administrators to justify their decision-making, and is open to scrutiny through both the AEMO Procedure Change Working Group process, consideration by the MAC, and other mechanisms within the WEM Rules. In addition, the breadth of WEM Procedure content, style and subject matter is such that any checklist would need to be general in nature, which may reduce the effectiveness of the feedback mechanisms in built into the process (ie this may result in proposals simply "ticking the box" rather than the current approach of consultation, feedback and refinement).

To the extent there are issues associated with a lack of consistent Procedure Change Process justifications used by Procedure Administrators, these can be addressed through other mechanisms proposed in this paper. However, ACIL Allen is interested in the perspectives of market participants on the above matters.

ACIL Allen Observation 3 Adopting a justification template for Procedure Change Proposals

It has been suggested to ACIL Allen there is an opportunity to introduce criteria into the decision-making process for Procedure Change Proposals, in an effort to enhance the level of scrutiny over changes proposed by Procedure Administrators. ACIL Allen does not believe this intervention is warranted.

Do you agree with this observation? Why or why not?

If you do believe specific criteria should be introduced, what should they be? What role would these criteria play compared to other governance mechanisms, both existing and proposed in this Consultation Paper?

2.3.2 Limited practical oversight of Procedure Change Proposals

ACIL Allen observed through the survey process and during stakeholder engagement that there was limited market engagement in the Procedure Change Process. A number of respondents to the

survey indicated they could not comment on detailed questions as they had not been part of the process, or did not feel they were informed adequately on how the process worked. Others said they felt procedures were best left to those with the technical background and knowledge.

ACIL Allen confirmed this general view through its review of the meeting outcomes of the AEMO Procedure Change Working Group, and review of the minutes of MAC meetings. It is noted other Procedure Administrators have alternative processes, such as the ERA which has convened (through the MAC) a specific working group to support its current Benchmark Reserve Capacity Price Procedure Change Proposal process.

In the documents associated with the AEMO Procedure Change Working Group, ACIL Allen observed there is limited feedback and engagement on procedure change matters despite (in this instance) AEMO providing background papers, slide packs, and being available for questioning. In formulating its Procedure Change Reports and enacting change, it appears AEMO's primary feedback channel is via the Procedure Change Proposal reports and submissions from interested parties.

Regarding the MAC, ACIL Allen notes the MAC has delegated responsibility for its advisory role on procedures to the AEMO Procedure Change Working Group. Given this, it may be no surprise that there has been limited formal discussion of Procedure Change Proposals at the MAC over the last three years (noting discussion is also limited at Working Group meetings). The exception to this appears to be a discussion on the impact of an imposition of fuel stockholding requirements which has been imposed via a procedure under the responsibility of AEMO.

ACIL Allen considers there are opportunities to improve the **practical** oversight of the Procedure Change Process, and Procedure Change Proposals, through minor amendments to the WEM Rules, procedures and administration of the MAC. This differs from changes which would support the **formal** oversight of the process, which is discussed below.

These are discussed below.

Lack of standardised approach to presenting information

The form and function of a Procedure Change Proposal report prepared by a Procedure Administrator differs depending on a variety of factors. As a result, it is not always immediately clear to a Rule Participant or other interested party:

- What is proposed to be changed
- Why the proposed change or changes are being made
- What are the anticipated outcomes, impacts, and their relationship to the WEM Objectives

While some level of flexibility and adaptability in form and function of a Procedure Change Proposal report is inevitable, the lack of a standardised presentation of critical information for market participants to be aware of when considering a Procedure Change Proposal may contribute to disengagement.

Creation of a standardised presentation of these items may also provide an efficient means by which Procedure Change Proposals can be summarised for the MAC, and for other interested parties. This would apply to all Procedure Administrators.

It is considered the benefits for market participants, and their capacity to make informed decisions regarding their level of support for Procedure Change Proposals, are likely to outweigh the costs to the market for the additional time this may take Procedure Administrators to prepare. This could be offset by granting some additional time (business days) for Procedure Administrators to respond to Procedure Change Proposals initiated by third parties.

Reform Proposal 1 Introducing a standard presentation of Procedure Change Proposals

ACIL Allen is likely to recommend the introduction, via the WEM Procedure: Procedure Administration, of a standardised covering sheet which sits on top of Procedure Change Proposal reports. This cover sheet would require Procedure Administrators to summarise three aspects of the Procedure Change Proposal, being:

- What is proposed to be changed
- Why the proposed change or changes are being made
- What the anticipated outcomes and impact are, and how do these better achieve the WEM Objectives

Do you agree with this proposal? Why or why not?

No flexibility in Procedure Change pathway regardless of simplicity or complexity of Procedure Change Proposal

The range of matters dealt with by the Procedure Change Process is vast, ranging from modifications to the constraints imposed on an equation through to the complete redevelopment and redrafting of a procedure document. There are two examples of this extreme in recent AEMO Procedure Change Proposals, being:

- Minor: AEPC_2023_03. This saw AEMO undertake a Procedure Change Proposal process to modify the market commitment notification algorithm for an error found in the underlying code, which was leading to the issuance of incorrect information on the availability of Essential System Services.
- Major: AEPC_2023_01. This saw AEMO completely redraft a new procedure for supplementary capacity under the WEM Rules, following the completion of the 2022-23 supplementary capacity review.

Stakeholder feedback generally supported the retention of the current Procedure Change Process, including there being no need or support for a process which may exempt certain kinds of Procedure Change Proposals from the standard Procedure Change Process. Notwithstanding, it is evident the combination of simple and complex matters which must be interrogated through a singular Procedure Change Process may give rise to inefficient outcomes. Or alternatively, given general stakeholder support for the status quo, this would support a notion that the Procedure Change Process as currently defined is adequate for **complex** procedure change matters.

Therefore, ACIL Allen considers it appropriate to determine whether there are opportunities to make more efficient the overall Procedure Change Process through creation of a “Minor Amendments” pathway for certain classes of Procedure Change Proposal. This would be restricted to Procedure Change Proposals which are minor or typographical in nature, such as changing the variable limits within an algorithm, correcting clear errors or omissions, or making amendments to terminology which are caused by changes to the WEM Rules.

In this circumstance, a Procedure Change Proposal could proceed on an expedited timeline (5-10 business days), or potential exemption from the Procedure Change Process altogether. In this circumstance, the Procedure Change could be made by a Procedure Administrator with notification made to Rule Participants (or persons, if Reform Proposal 1 is carried) as per the current process. A Rule Participant (or person) could then counter that the change needed to be progressed through the standard Procedure Change Process pathway.

Such a change would improve market engagement in the Procedure Change Process, while simultaneously reducing the administrative burden on Procedure Administrators. This is balanced against the risk that the Minor Amendments pathway could be misused by Procedure Administrators, noting this would likely be a breach of other aspects of the WEM Rules and so would be unlikely to take place.

Reform Proposal 2 Development of a Minor Amendments pathway for Procedure Change Proposals

ACIL Allen is likely to recommend the Coordinator develop a new class of Procedure Change Proposal, whereby a Procedure Administrator is able to make changes to a WEM procedure which address typographical errors, changes in terms or abbreviations, which correct or clarify drafting in response to identified issues, and other minor matters which do not require consideration of impact on market outcomes.

These Procedure Change Proposals would be able to be made at any time by a Procedure Administrator, with the same notification obligations as per the current Procedure Change Process. Rule Participants (or persons, if the above Reform Proposal is progressed) would then be able to request initiation of a standard Procedure Change Proposal process in the event changes were deemed to require this.

Do you agree with this proposal? Why or why not?

Where do you suggest “the line” should be drawn on what is considered to be a Minor Amendment to a procedure?

Limited discussion of Procedure Change Proposals at the MAC

ACIL Allen observes that the MAC's primary oversight role in the Procedure Change Process has become a standing item at meetings of the MAC, under the "Update on Working Groups" item. This item contains a comprehensive list and status of all Procedure Change Proposals which are active or have been resolved since the last meeting of the MAC.

ACIL Allen observes in the minutes of meetings of the MAC that limited discussion takes place on this item.

To the extent this is a function of the position of the item within the MAC's standing agenda, this could be reviewed and uplifted to enhance the prominence of the MAC's role in this respect.

Reform Proposal 3 Uplifting Procedure Change Proposals in the MAC agenda

ACIL Allen is likely to recommend the Chair of the MAC make a change to the standing agenda item regarding WEM procedures to make it a standalone item in the agenda, rather than a sub-item as part of an update on Working Groups. The purpose of this change is to uplift the MAC's consideration of Procedure Changes a level in the standing agenda.

Do you agree with this proposal? Why or why not?

2.3.3 Observed asymmetry in Procedure Change Process

There are a number of asymmetries in the Procedure Change Process which at face value do not appear to have a basis in the WEM Rules, the Market Objectives, or any other underlying rationale or purpose.

Restriction in Procedure Change Proposal initiation

Procedure Change Proposals can only be initiated by a Procedure Administrator or a Rule Participant, as defined in the WEM Rules. This differs from a Rule Change Proposal, which can be initiated by a person (not defined in the WEM Rules but taken to mean any individual).

The basis for this distinction is unclear. This also creates asymmetry whereby a member of the MAC who is not a Rule Participant (such as a Small Use Customer representative) cannot initiate a Procedure Change Proposal unless they register as a Rule Participant as a Market Participant.

All things being equal, the inability for non-Rule Participants to initiate Procedure Change Proposals may result in matters which are identified as opportunities for reform being stifled, made more complex or longer in duration, or mean they are not raised at all. This also results in the outcome of some members of the MAC being unable to provide advice or direction that other members of the MAC can.

Balanced against this is the restriction may reflect that those parties most directly impacted by procedures are those best placed to identify issues or opportunities, and so the quality and impact of Procedure Change Proposals from these groups may be higher than if the process was open to all individuals.

In ACIL Allen's view, it is more likely than not this restriction is an oversight rather than a deliberate design feature, and so should be changed to better align the Procedure Change Process with the Rule Change Process. This is also in keeping with the WEM Objectives and broader State

Government policy directions with respect to the WEM insofar as it will empower energy consumers.

Reform Proposal 4 Changing who can initiate Procedure Change Proposals

ACIL Allen is likely to recommend a change to the WEM Rules which will expand the class of entity which can initiate a Procedure Change Proposal from Rule Participant to "person". This will align the Procedure Change Process with the Rule Change Process and correct what ACIL Allen believes is an oversight in the current WEM Rules.

Do you agree with this proposal? Why or why not?

No obligation to act on Procedure Change Proposals initiated by non-Procedure Administrators

Procedure Change Proposals can be initiated by non-Procedure Administrators under clause 2.10.2 of the WEM Rules. Under these Rules, the relevant Procedure Administrator must follow the Procedure Change Process, and must conclude at the end of this process whether it supports or does not support the Procedure Change Proposal put forward. In its statement of support the Procedure Administrator must also state what it intends to do about the Procedure Change Proposal.

However, the WEM Rules place no obligation on the Procedure Administrator to act upon its findings, only to state that a change will be made in the future. This is due to the application of WEM Rule 2.10.2A(b), which states (emphasis added):

- (b) **publish details of whether a Procedure Change Proposal will be progressed** with respect to the suggested amendment to or replacement of a WEM Procedure and the reasons for that decision on AEMO's, the Economic Regulation Authority's, the Coordinator's or the Network Operator's website, as applicable.

As a result, subsequent obligations on Procedure Administrators to progress through the Procedure Change Process do not automatically apply.

ACIL Allen has been unable to find instances of where this chain of events has occurred (ie a Procedure Change Proposal has been initiated by a third party, and has not progressed beyond a notification of support by a Procedure Administrator). However, in the event this was to take place, the current WEM Rules provide no incentive structure or capacity to influence for the third party Procedure Change Proposal initiator.

The lack of such an instrument or mechanism limits the effectiveness of this provision of the WEM Rules, as a Procedure Administrator may decide for any reason to not progress a proposal even if it is in the interests of the market to do so.

Reform Proposal 5 Changing who can initiate Procedure Change Proposals

ACIL Allen is likely to recommend a change to the WEM Rules which would introduce a time limit on when a Procedure Administrator would be required to act upon an affirmative confirmation of a Procedure Change Proposal initiated by a third party, under clause 2.10.2 of the WEM Rules. This time limit would be set based on feedback provided by Procedure Administrators.

Do you agree with this proposal? Why or why not?

If you are a Procedure Administrator, what do you believe to be an appropriate time limit to act upon a third party Procedure Change Proposal which is supported for adoption?

Inconsistent presentation of active procedures by Procedure Administrators

During the consultation process, the primary feedback from stakeholders was that they did not consider themselves knowledgeable about the Procedure Change Process. Despite this, they expressed confidence in the current process, and trusted that Procedure Administrators were conducting due diligence.

While there is a level of trust, stakeholders did support enhanced visibility of existing and future procedures. Under clause 2.9.2D of the WEM Rules, AEMO must develop and maintain a list of all procedures that AEMO is required to develop and maintain, including a brief description of the procedure and its head of power. Other Procedure Administrators are only required to publish their Procedures on their respective websites.

Stakeholders considered that all Procedure Administrators should have the same requirements as AEMO. ACIL Allen supports this view, as improving the visibility and availability of instruments which govern the market improves market outcomes.

Reform Proposal 6 Standardising publishing of procedures

ACIL Allen is likely to recommend a change to the WEM Rules which would extend the procedure publishing requirements imposed on AEMO under clause 2.9.2D of the WEM Rules to all Procedure Administrators.

Do you agree with this proposal? Why or why not?

2.3.4 Other matters referred to in the Scope of Work for the Procedure Change Process Review

ACIL Allen has summarised its position on the remaining matters raised in the Scope of Work (see Appendix A) as of specific interest to the Coordinator.

Table 2.1 Addressing the specific questions in the Scope of Works

Scope of Works item	Comments
Who should be able to propose changes to the WEM Procedures and what process/ timeframes should be followed once a proposal is made?	Addressed in Section 2.3.3
Are the requirements for submitting Procedure Change Proposals sufficient and clear?	Yes, this was supported unanimously by stakeholders. All stakeholders were aware of the availability of documentation and the general outline of the process to change procedures even if they were not fully informed on the exact mechanics.
Are the timelines for commencing and progressing Procedure Change Proposals appropriate?	In the main the status quo is supported by stakeholders. Where an amendment is required is in relation to third party requests, which has been addressed via a proposal in Section 2.3.3
Is the role of the MAC in reviewing Procedure Change Proposals appropriate?	Discussed in Section 2.3.2 and Error! Reference source not found..
Is the required content for Procedure Change Reports adequate and clear?	Addressed in Section 2.3.2.
What level of guidance needs to be in the WEM Rules on the form and content of WEM Procedures?	The status quo is supported by stakeholders. When stakeholders commented on this they supported the view that Procedure Administrators should be given licence and ownership of the drafting of procedures to best meet the intent of the establishment and operation of the procedure according to the WEM Rules. It was noted however some standardisation of the information presented during the Procedure Change <u>Process</u> and associated documents would be useful.
Is the requirement to publish WEM Procedures under clauses 2.9.2D and 2.9.2F appropriate and clear?	Addressed in Section 2.3.3.
Should the AEMO's requirement to maintain a descriptive list of WEM Procedures under clause 2.9.2D be standardised to all Procedure Administrators?	Addressed in Section 2.3.3.
What is the distinction between WEM Procedures and guidelines?	The status quo is supported by stakeholders. When stakeholders were in a position to comment, they were confident the material covered by guidelines was sufficiently benign or administrative that it did not warrant moving "up" the governance hierarchy of the market. This suggests no distinction, definition or standardisation of material is required.
Is a governance process needed for the guidelines and, if so, what should the process be?	The status quo is supported by stakeholders, in line with the above.
Whether any exceptions to the use of the Procedure Change Process should be allowed.	Addressed in Section 2.3.2.

Procedure Criteria

3

A secondary item within the Scope of Works is the development of a criteria, or series of criteria, which could be used by the Coordinator to assess whether the current or future content of a WEM procedure is placed appropriately within the governance hierarchy of the WEM / electricity sector.

As it stands, no such criteria exists. The content of procedures is at the discretion of Procedure Administrators, and is developed in response to the requirements of the WEM Rules.

This section seeks feedback on the factors which could influence what should be included in the WEM Rules vs procedures. This will in turn be provided as a recommendation of the independent review, and will be used by Energy Policy WA to support a review of the content of WEM Procedures in the future.

3.1 The Electricity Sector Governance Hierarchy

In a general sense, each level of the governance hierarchy of the WEM / electricity sector is less flexible than the one below it:

- Changes to legislation requires a Bill to be developed, scrutinised and passed by both the Legislative Assembly and Legislative Council of the Parliament, and are gazetted by the Crown;
- Changes to Regulations requires consideration of the Legislative Council only, and are gazetted by the Crown;
- Changes to the WEM Rules typically requires the change to pass through the Rule Change Process, but even in the current architecture requires a level of public consultation, scrutiny and debate. Changes must be gazetted by the Minister for Energy (a delegated authority of the Crown);
- Changes to WEM Procedures require the Procedure Change Process, which involves public consultation, scrutiny and debate to a lesser extent than the WEM Rules. Changes are not gazetted, and are actioned by a Procedure Administrator (a delegated authority of the Minister for Energy) at the conclusion of the Procedure Change Process;
- Changes to WEM guidelines can be enacted at any time.

This process is by design, as each cascading level of governance is intended to deal with issues of higher significance to the delivery of Government policy and is therefore harder to change in response to cyclical issues (or issues of the day). The burden of proof for change is also higher as the instruments progress, with legislation requiring the highest burden of proof.

It follows that as the governance hierarchy progresses from top to bottom, the matters dealt with by each instrument should transition from “why”, to “who” and “what”, and finally to “how”.

3.2 Adopting WEM Procedure Content Criteria

ACIL Allen believes the above architecture provides a useful insight into the kinds of material which should be contained within WEM Procedures, versus what should be contained within the WEM Rules.

Given the above, at a high level, **the WEM Procedures should be limited to how a directive or action required by the WEM Rules is delivered by the party which is mandated to deliver it.**

This overarching criteria can be supplemented by a range of additional suggestions as to when it is likely to be most appropriate to maintain a WEM Procedure versus introducing a WEM Rule. Ultimately, the WEM Procedures should enhance transparency, streamline processes and facilitate consistent application of the WEM Rules to ensure that market participants can operate within a clear and predictable framework.

In comparison, the WEM Rules are generally static and have limited need for change or refinement over time – particularly at the conclusion of the implementation of the Energy Transformation Strategy. The WEM Rules are intended to provide a stable framework for market operations, ensuring consistency and predictability in market governance. Matters that provide for the framework of the market should be contained within the WEM Rules.

In line with this thinking, ACIL Allen proposes to recommend the following criteria to the Coordinator:

- WEM Procedures should facilitate implementation within the market framework. A WEM Procedure should not place obligations on a Rule Participant to take action which is outside of the scope of the WEM Rule it is addressing, which would imply the material should be a WEM Rule instead.
- WEM Procedures should provide clarity on Rule implementation to ensure compliance and consistency. Actions required or determined by a WEM Procedure should always be subservient to the WEM Rules, and should not contradict, overlap with, or circumvent the actions required or determined by WEM Rule.
- WEM Procedures should be primarily “administrative” in nature, in that it provides scope for the entity assigned to make use of information provided to it to make clearly documented decisions. Other material or direction should be part of the WEM Rules.
- WEM Procedures should be used where minor matters involving instructions or other aspects of the governance or decision-making imposed are changed regularly. This is to ensure that market governance remains adaptable, while maintaining the stability of the WEM Rules.
- WEM Procedures should not have a material impact on WEM operation, beyond what is necessary for efficient and effective market administration. ‘Material’ impacts could include introducing changes to market behaviour, having a cost or price impact, and impacts to reliability and security.

Given the above, ACIL Allen seeks market participant feedback on the criteria for the content within the governance hierarchy which should be contained in WEM Procedures versus what should be contained within WEM Rules.

Stakeholder Questions Criteria for Procedure Content

1. Do you agree with the criteria above? Are there other items which should be added to this list?
2. Are there any examples of content within WEM Procedures which you believe would be more appropriately addressed in the WEM Rules or vice versa? Please share these, and your reasons why.

Appendices

Scope of Work for the Procedure Change Review

A

The full Scope of Work for the Procedure Change Process Review is available on the [Energy Policy WA website](#). The most relevant aspects of the Scope of Work are provided below.

Figure A.1 Project Scope of Works Pull Out

3. Project Scope

3.1 Purpose

The purpose for the Procedure Change Process Review is to:

- (1) review the effectiveness of the current Procedure Change Process, including the process set out in section 2.10 of the WEM Rules and the WEM Procedure Administration Procedure established under clause 2.9.5 of the WEM Rules, and recommend any changes necessary to ensure that the Procedure Change Process:
 - (a) is fit for purpose given the changes to the nature and content of WEM Procedures and the changes to the Procedure Administrators;
 - (b) ensures stakeholders have an appropriate opportunity to initiate Procedure changes and provide input into Procedure Change Proposals;
 - (c) provides clear and appropriate responsibilities to Procedure Administrators in processing requests for changes by stakeholders;
 - (d) is simple, clear and inclusive; and
 - (e) has a prescribed timeframe and clear criteria for decisions on Procedure Change Proposals; and
- (2) develop a Procedure Change Process that addresses the findings of the review conducted under (1) and which meets the above objectives (a) to (e).

Item (1) will be completed by an independent consultant to satisfy the requirements of clause 2.16.13F of the WEM Rules. Item (2) will be carried out by Energy Policy WA (EPWA). This is detailed further in section 3.3.

3.2 Guiding Principles

The guiding principles for the Procedure Change Process Review are that the Procedure Change Process should:

- (1) meet the new State Electricity Objective that is expected to become operational during 2024;
- (2) be cost-effective, timely, simple, predictable, consistent, flexible, and transparent;
- (3) ensure stakeholders have an appropriate opportunity to initiate Procedure changes and provide input into Procedure Change Proposals;
- (4) provide clear and appropriate timeframes and criteria for the decision-makers in the Procedure Change Process;
- (5) provide for independent review of decisions; and
- (6) provide clear and appropriate criteria for when a matter should be addressed in the WEM Rules or the WEM Procedures.

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