



Rule Change Notice

Title: Delegation by IMO

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Standard Rule Change Process

Date: 13 June 2008

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1. THE RULE CHANGE PROPOSAL

1.1. The Submission

On 4 June 2008 the IMO submitted a Rule Change Proposal regarding changes to clauses 2.1.3 and 2.2.3 to the Wholesale Electricity Market Rules (Market Rules).

This Rule Change Notice is published according to Market Rule 2.5.7, which requires the IMO to publish a notice within 7 Business Days of receiving a Rule Change Proposal.

1.1.1. Submission details

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Date submitted:	4/06/2008
Urgency:	Low
Change Proposal title:	Delegation by the IMO

1.2. Details of the Proposal

Clause 2.1.3 of the Market Rules gives the IMO the power to delegate any of its functions under the Market Rules (other than certain powers that are not able to be delegated) to a person or persons that in the IMO's opinion are competent to exercise those functions. Delegations made under this provision do not need to be in any particular form.

Regulation 25 of the *Electricity Industry (Independent Market Operator) Regulations 2004* (the IMO Regulations) also contains a provision allowing the IMO to delegate any power or duty of the IMO under the IMO Regulations or under the Wholesale Electricity Market Regulations. Any such delegation may be made to the persons listed in the Regulation, who include members of the IMO staff. Delegations made under the Regulation must be made in writing.

The delegation power in Regulation 25 specifically states, in subregulation (6), that '[n]othing in this regulation limits the ability of the IMO to perform a function through an officer or agent'. There is no similar provision in the delegation provision in the Market Rules, which appears to be aimed at delegations to persons outside of the IMO umbrella, for example to third parties such as System Management or to committees formed to assist the IMO in relation to particular functions.

Although some decisions are made by the IMO Board, in practice the IMO carries out most of its functions and exercises its powers through appropriately authorised and competent members of its staff. Operational matters, for example, are carried out by operational staff. Some authorisations, such as those that relate to expenditure, are made in formal written documents. Others, however, are found in less formal writings or are given orally and often exist because of past practice.

The IMO has been advised that there are conflicting authorities as to whether it should rely on the power to delegate that derives from the Regulations, in which case all delegations must be written, or the power to delegate that derives from the Market Rules, which does not require that delegations be written and is therefore more flexible.

In order to put the matter beyond doubt, the IMO proposes to amend clauses 2.1.3 to clarify that the power to delegate given by the Market Rules extends to any delegation made to officers or employees of the IMO.

Clause 2.2.3 of the Market Rules, which gives System Management the power to delegate, is phrased in the same way as clause 2.1.3 – it permits System Management to delegate to competent persons but, because it is in the same terms as the IMO delegation provision, could be read to mean only to persons outside of System Management. In order to clarify that the clause was intended to permit delegation to the officers and staff of System Management, the same changes are proposed to be made to clause 2.2.3.

1.3. *The Proposal and the Wholesale Market Objectives*

The IMO submits that clarifying the operation of the power to delegate in the Market Rules will allow the IMO to operate more effectively and efficiently, and potentially reduce the cost of unnecessary bureaucracy.

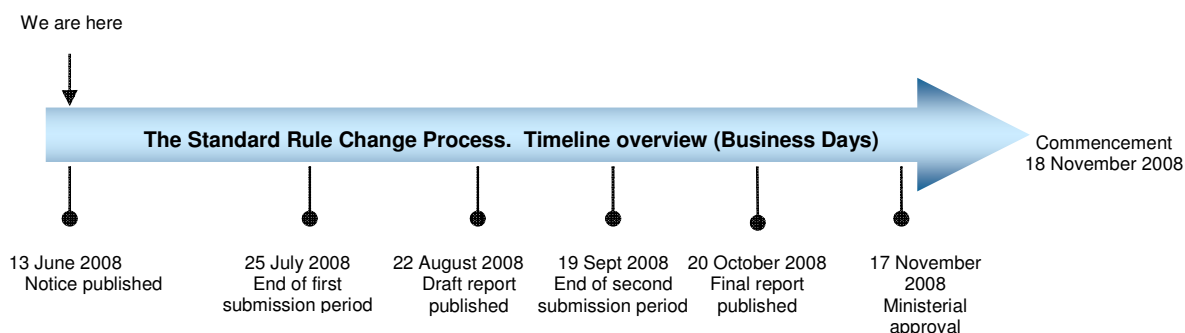
The proposed change would provide certainty and confidence to existing and new participants that the IMO was operating within the scope of the Market Rules and Regulations in the manner in which it organised its internal affairs.

2. WHETHER THE PROPOSAL WILL BE PROGRESSED FURTHER

The IMO has decided to proceed with this proposal on the basis that the IMO's preliminary assessment indicated that the proposal is consistent with the Wholesale Market Objectives.

The IMO has decided to process this Rule Change Proposal using the Standard Rule Change Process, described in section 2.7 of the Market Rules.

As this change relates to a Protected Provision, the IMO is required by clause 2.8.13 of the Market Rules to seek the approval of the Minister for Energy to any change to the Protected Provision that results from the proposal. That approval must be sought after the IMO's Final Report on the Rule Change Proposal is published.



3. CALL FOR SUBMISSIONS

The IMO is seeking submissions regarding this proposal. The submission period is six weeks from the publication date of this notice. Submissions must be delivered to the IMO by close of business on **Friday 25 July 2008**.

The IMO prefers to receive submissions by email to **marketadmin@imowa.com.au** using the submission form available on the IMO website:
http://www.imowa.com.au/10_5_1_MarketRulesChangeSummary.html

Submissions may also be sent to the IMO by fax or post, addressed to:

Independent Market Operator
Attn: Manager Market Administration
PO Box 7096
Cloisters Square, Perth, WA 6850

Fax: (08) 9254 4399

4. PROPOSED AMENDING RULES

The IMO proposes the following new clauses to the Market Rules (~~deleted words~~, added words):

- 2.1.3. The IMO may delegate any of its functions under the Market Rules (other than the power to do the things indicated as not able to be delegated in regulation 17(l) of the Regulations) to a person or body of persons that is, in the IMO's opinion, competent to exercise the relevant functions. A function performed by a delegate is to be taken to be performed by the IMO. A delegate performing a function under this clause 2.1.3 is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown. Nothing in this clause 2.1.3 limits the ability of the IMO to perform a function through an officer, employee or agent.
- 2.2.3. System Management may delegate any of its functions under the Market Rules (other than the power to do the things indicated as not able to be delegated in the Regulations) to a person or body of persons that is, in System Management's opinion, competent to exercise the relevant functions. A function performed by a delegate is to be taken to be performed by System Management. A delegate performing a function under this clause 2.2.3. is to be taken to do so in accordance with the terms of the delegation unless the contrary is shown. Nothing in this clause 2.2.3 limits the ability of System Management to perform a function through an officer, employee or agent.

5. ABOUT RULE CHANGE PROPOSALS

Clause 2.5.1 of the Wholesale Electricity Market Rules (Market Rules) provides that any person (including the Independent Market Operator) may make a Rule Change Proposal by completing a Rule Change Proposal Form and submitting this to the Independent Market Operator (IMO).

The IMO will assess the proposal and, within 5 Business Days of receiving the proposal form, will notify the proponent whether the proposal will be progressed further.

In order for the proposal to be progressed the change proposal must explain how it will enable the Market Rules to better contribute to the achievement of the Wholesale Market Objectives. The market objectives 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.

A Rule Change Proposal can be processed using a Standard Rule Change Process or a Fast Track Rule Change Process. The standard process involves a combined 10 weeks public submission period, while the fast track process involves the IMO consulting with Rule Participants who either advise the IMO that they wish to be consulted or the IMO considers have an interest in the change.