

Framework for Rule Change Proposal Prioritisation and Scheduling

1 January 2020

1. Background

On 23 November 2016, the Rule Change Panel (**Panel**) was established to undertake the administration of, and decision-making for changes to the Wholesale Electricity Market Rules (**Market Rules**) and the Gas Services Information Rules (**GSI Rules**). The Panel commenced its rule-making functions on 3 April 2017.

The Panel is responsible for the development of amendments and replacement of the Market Rules and GSI Rules.¹ The Panel must:

- be satisfied that the Amending Rules as proposed to be amended or replaced are consistent with the Wholesale Market Objectives or GSI Objectives;²
- have regard to:³
 - any applicable statement of policy principles given to the Panel by the Minister;
 - the practicality and cost of implementing the Rule Change Proposal (**Proposal**);
 - the views expressed in submissions on the Proposal;
 - the views expressed by the Market Advisory Committee (**MAC**) or Gas Advisory Board (**GAB**); and
 - any technical studies that the Panel considers necessary.

Any person may make a Proposal.⁴ The Panel must publish a Rule Change Notice for a Proposal within seven Business Days of receiving it (or any clarification requested by the Panel).⁵ The Market Rules and GSI Rules do not allow the Panel to extend this deadline.

Proposals can then be progressed under the Standard Rule Change Process or Fast Track Rule Change Process. The default timeframes are:

- For the Standard Rule Change Process:
 - at least 30 Business Days from the publication of the Rule Change Notice until the end of the first submission period;⁶

¹ See clause 2.2B.2 of the Market Rules and subrule 125(1) of the GSI Rules.

² See clause 2.4.2 of the Market Rules and subrule 127 of the GSI Rules. The Wholesale Market Objectives and GSI Objectives are reproduced in the Appendix to this paper.

³ See clause 2.4.3 of the Market Rules and subrule 128(1) of the GSI Rules.

⁴ See clause 2.5.1 of the Market Rules and subrule 129 of the GSI Rules.

⁵ See clause 2.5.7 of the Market Rules and subrule 132(2)(b) of the GSI Rules.

⁶ See clause 2.5.7 of the Market Rules and subrule 132(6) of the GSI Rules.

- no more than 20 Business Days from the closure of the first submission period until publication of the Draft Rule Change Report;⁷
- at least 20 Business Days from the publication of the Draft Rule Change Report until the end of the second submission period;⁸ and
- no more than 20 Business Days from the closure of the second submission period until publication of the Final Rule Change Report.⁹
- For the Fast Track Rule Change Process:
 - no more than 15 Business Days from the publication of the Rule Change Notice until the end of the consultation period;¹⁰ and
 - no more than 20 Business Days from the publication of the Rule Change Notice until publication of the Final Rule Change Report.¹¹

The Panel may decide to extend these timeframes, but is required to publish a notice of extension explaining the reasons for the delay.¹²

2. Overview of the Framework

The purpose of this framework is to manage the Panel's workload in an efficient manner to produce the best outcomes for the market and consumers. This framework establishes the processes to:

- allocate resources to the Panel, including the options to acquire additional resources on a short- or long-term basis if the available resources are insufficient to progress a Proposal within the default timeframes (see section 3); and
- prioritise each Proposal in a way that offers the greatest benefits in terms of the Wholesale Market Objectives and GSI Objectives (see section 4); and
- manage the Panel's work program based on its resource availability and priorities, including deciding when additional resources are required to support the Panel.

3. Resources

Ideally, all Proposals will be progressed in accordance with the default timeframes, except for very large or complex Proposals, where additional time for analysis and consultation may be needed regardless of resource availability.

The default timelines cannot be guaranteed because the workload of the Panel, the Executive Officer and RCP Support¹³ is not within the control of the Panel and is likely to be highly variable due to:

- variability in the quantity and timing of Proposals; and
- variability in the size, complexity and subject matter of Proposals.

⁷ See clause 2.7.6 of the Market Rules and subrule 136(1) of the GSI Rules.

⁸ See clause 2.7.6(b) of the Market Rules and subrule 136(1)(b) of the GSI Rules.

⁹ See clause 2.7.7A of the Market Rules and subrule 137(1) of the GSI Rules.

¹⁰ See Clause 2.6.3 of the Market Rules and subrule 133(3) of the GSI Rules.

¹¹ See clause 2.6.3A of the Market Rules and subrule 134(1) of the GSI Rules.

¹² See clauses 2.5.10 and 2.5.12 of the Market Rules and rule 141 of the GSI Rules.

¹³ The Economic Regulation Authority (**ERA**) provides the Executive Officer, RCP Support and other resources to support the Panel, in accordance with the subregulation 23(2) of the *Energy Industry (Rule Change Panel) Regulations 2016*.

Due to the complexity of the Market Rules and GSI Rules, the speed at which Proposals are progressed is dependent on the availability of skilled and experienced resources. It would be inefficient for the ERA to permanently employ the necessary experienced analysts to manage any conceivable workload peaks within the default timeframes. On the other hand, there are risks to the Western Australian energy markets if RCP Support is significantly under-resourced.

The budget for rule change activities is addressed in the Government budget estimates for the ERA.

The ERA provides the Executive Officer to the Panel, along with a mixture of dedicated and shared resources to provide the necessary services. The resources allocated to support the Panel as at 31 July 2019 include:

- four full-time staff members;¹⁴
- a variable share (depending on requirements) of a Principal Analyst; and
- an annual consultancy budget.¹⁵

If the Panel needs to urgently progress a Proposal, then the ERA may be able to provide additional resources to the Panel, subject to its overall budget limitations, either through the reallocation of internal resources or by procuring external resources with the required skills and experience from consultants or legal firms. However, the costs of such external resources would likely be high and would need to be balanced against the benefits of progressing a Proposal without delay.

The ERA may also, in exceptional circumstances, seek an increase to its budget from Treasury outside of the normal annual budget cycle.

4. Prioritising Proposals

The Panel will undertake an assessment process to prioritise each Proposal.

RCP Support will undertake the assessment as soon as possible in the lifecycle of a Proposal, ideally at the Pre-Rule Change Proposal stage. However, the initial priority assessment for a Proposal may need to be revised over time as circumstances change. For example:

- a change in market activity may increase/decrease the financial effects of a design flaw in the Market Rules or GSI Rules, potentially increasing/decreasing the urgency of a Proposal to address the problem;
- the progression of a high urgency Proposal requiring changes to one of AEMO's IT systems may affect the prioritisation of a lower urgency Proposal that depends on the same IT systems, if concurrent processing of the Proposals would result in material cost savings for the market; and
- the assessment of some Proposals is likely to be significantly impacted by Government reform programs (e.g. the Energy Transformation Strategy) or ERA reviews.

¹⁴ The full-time staff include the Executive Officer, an Assistant Director, a Principal Analyst and an Assistant Analyst. The ERA had also commenced procuring an additional full-time staff member as of 31 July 2019.

¹⁵ The consultancy budget covers legal advice on Proposals (particularly on drafting of Amending Rules) and for any consultants to deal with specific Proposals (e.g. a part-time staff member was employed in 2018/19).

4.1 Factors Impacting the Priority of a Proposal

The following factors will impact the priority of a Proposal:

- the urgency rating of the Proposal (see section 4.2);
- the submission date of the Proposal;
- the estimated resource requirements (by resource type and working days) to process the Proposal, including:
 - internal resources (e.g. analyst, the Executive Officer);
 - specialist consultancy requirements (e.g. legal support, consultants);
 - external assistance (e.g. support from AEMO, support from the ERA, MAC or GAB workshops or working groups);
- other factors, including:
 - any specific timing considerations (e.g. the need to align commencement of Amending Rules with the Reserve Capacity Cycle, ERA reviews);
 - IT and process implementation cycles for AEMO and Market Participants; and
 - interdependencies with any Government-led reforms (e.g. the Energy Transformation Strategy).

4.2 Urgency Ratings

Each Proposal is assigned an urgency rating to help prioritise the Proposals and to determine the appropriate level of response if available resources are insufficient to progress a Proposal within the default timeframes.

4.2.1 Questions to Consider in Assigning an Urgency Rating

The urgency ratings are determined by considering the following questions:

- (1) Are the proposed amendments necessitated by external events (e.g. legislative or regulatory changes)?
- (2) Is the Proposal seeking to address a market failure or a market improvement (e.g. imperfect competition or information asymmetries)?
- (3) How bad, in terms of the Wholesale Market Objectives or GSI Objectives, might the outcomes be if the Proposal is delayed?
- (4) How good, in terms of the Wholesale Market Objectives or GSI Objectives, might the outcomes be if the Proposal is progressed promptly?
- (5) What are the likely implementation and ongoing operational costs?
- (6) What are the likely cost-benefit outcomes from the Proposal?

The Panel will not have started its formal assessment of a Proposal when the Proposal is assessed for its urgency rating. Therefore, consideration of the above questions will be based on rough initial estimates and judgement calls. Assigning a higher urgency rating to a Proposal will not impact the outcome of the Proposal.

4.2.2 The Urgency Rating Scale

The urgency rating of a Proposal is a major input to the prioritisation process but is not the only factor considered (see section 4.1). The urgency ratings are specified as follows.

Urgency	Description	Resourcing Implications
1	<p>Essential</p> <p>The Proposal:</p> <ul style="list-style-type: none"> • is a legal necessity; • addresses unacceptable outcomes for the Wholesale Electricity Market or the gas market; or • addresses a serious threat to: <ul style="list-style-type: none"> ○ power system security and reliability; or ○ security, reliability or availability of the supply of natural gas in the State. 	Do not delay – acquire additional resources, and request an increase to the ERA budget from Treasury if necessary.
2	<p>High</p> <p>The Proposal is compelling and is:</p> <ul style="list-style-type: none"> • likely to have a large net benefit; and/or • necessary to avoid serious perverse market outcomes. 	Do not delay – acquire additional resources if available, subject to overall ERA budget limitations.
3	<p>Medium</p> <p>The net benefit of the Proposal:</p> <ul style="list-style-type: none"> • may be large but needs more analysis to determine; or • is material but not large enough to warrant a High rating. 	Delay up to 3 months if budgeted resources are unavailable.
4	<p>Low</p> <p>The Proposal has minor net benefit (e.g. reduced administration costs).</p>	Delay up to 6 months if budgeted resources are unavailable.
5	<p>Housekeeping</p> <p>The Proposal has negligible market benefit (e.g. it improves the readability of the Market Rules or GSI Rules).</p>	Delay up to 12 months if budgeted resources are unavailable.

4.2.3 The Process to Assign an Urgency Rating

The usual process for assigning an urgency rating to a Proposal is as follows.

- (1) the proponent is to suggest an urgency rating for their Proposal, usually at the Pre-Rule Change Proposal stage;
- (2) RCP Support is to seek the advice of the MAC or GAB on the urgency rating for the Pre-Proposal or Rule Change Proposal, and in doing so, is to provide the MAC or GAB with the questions listed in section 4.2.1 and the rating scale in section 4.2.2;
- (3) the MAC or GAB is to form a consensus view on the urgency rating for the Proposal, usually during discussion of the Pre-Rule Change Proposal at a MAC or GAB meeting, and is to consider the importance of each question listed in section 4.2.1 relative to the Proposal;

- (4) RCP Support is to form an independent view of the urgency rating for the Proposal, which may differ from what was suggested by the proponent and/or the MAC or GAB;
- (5) RCP Support is to provide the Panel with its recommended urgency rating for the Proposal, the reasons for its recommendation, and the views of the proponent and the MAC or GAB (particularly where these views differ from RCP Support's recommendation); and
- the Panel is to decide on the urgency rating for the Proposal, which RCP Support will then use to prioritise and schedule the Proposal.

RCP Support or the proponent of a Proposal may propose to revise the urgency rating for a Proposal if the timelines indicated in the table above are not met or if circumstances change at any stage during the rule change process. RCP Support will consult with the MAC or GAB before proposing a new urgency rating to the Panel.

4.3 Special Cases

Some Proposals need to be treated as 'special cases' because they are or will be affected by interdependencies with Government-led reform programs (such as the Energy Transformation Strategy) or an ERA review:

- Amending Rules made by the Minister may supersede a Proposal, either by implementing the proposed amendments or by rendering them irrelevant. In these cases, the Panel will need to reject the Proposal using the normal rule change process. Although the rejection is effectively only a housekeeping task, it should be processed promptly to avoid any unnecessary confusion.
- Uncertainty about the future of Government reforms may make it impossible for the Panel to assess a Proposal. For example, if a proposed but unconfirmed Government reform would supersede the changes in a Proposal, then it will be difficult to determine what benefits of the Proposal will accrue and for how long, and therefore whether the Proposal will have a positive net benefit. In these cases, it may be appropriate to put the Proposal on hold until the Government's policy direction and implementation plans are better understood. However, a deadline should be set for any extension to ensure that the Proposal is not placed on hold indefinitely.
- Some Proposals may contain multiple components, of which only some are affected by proposed Government reforms. In these cases, the Panel may decide to progress those elements that can be progressed prior to the Government Reform and reject the remaining components, to avoid any unnecessary delay to the former for the sake of the latter. A new Proposal can then be made for the rejected components following the Government reforms, if necessary.

5. Scheduling

The Executive Officer is responsible for managing the RCP Support work plan and for any associated reporting to the Panel, MAC and GAB. The work plan will be reviewed and updated:

- whenever new Proposals are submitted;
- whenever resource availability changes;
- periodically to reflect progress made in processing Proposals; and
- in response to changes to the status of the Government's reform programs, ERA reviews or other relevant external events.

5.1 Prioritisation of Proposals

In developing the work plan, the Executive Officer will aim to prioritise Proposals by urgency rating and then submission date, subject to consideration of the following qualifying factors:

- resource availability and workflow practicalities – for example:
 - it may sometimes be necessary to progress lower priority Proposals over higher priority Proposals to allocate resources efficiently and avoid resourcing bottlenecks; and
 - it may be practical to work on lower rated Proposals during the consultation periods for higher rated Proposals;
- Panel availability;
- AEMO availability;
- MAC or GAB availability;
- timing for IT and process development and testing by AEMO and Market Participants;
- the need to coordinate with any Government-led reforms or ERA reviews; and
- special timing considerations (e.g. a small delay to a High rated Proposal may be acceptable provided the Amending Rules can be commenced before the relevant Reserve Capacity Cycle deadline).

The Panel may ask the Executive Officer to change the prioritisation and scheduling of Proposals if it considers that the changes are likely to better achieve the Wholesale Market Objectives or GSI Objectives.

5.2 Monitoring and Reporting

The Executive Officer is responsible for:

- six weekly reporting to the Panel on the RCP Support work plan via the 'Workflow Summary' and the 'Summary of Rule Change Proposals';
- regular reporting to the MAC and GAB on the RCP Support work plan via the 'Overview of Rule Change Proposals';
- monitoring for potential failures to meet the required processing timeframes for each Proposal (given its urgency rating) and reporting any concerns to the Panel; and
- coordinating any remedial actions under this framework to address resourcing shortfalls.

Remedial action will be required if Proposals cannot be progressed using budgeted resources within the timeframes permitted for their urgency rating. Remedial action may include:

- liaising with the ERA to increase the use of shared resources or to 'borrow' other ERA resources;
- engaging consultants to perform specialist tasks, where appropriate;
- procuring additional resources through short-term contracts;
- deferring consideration of some Proposals; and
- if the scale of the problem is large enough (e.g. due to submission of a very large Essential or High urgency Proposal, or a severe and ongoing resource shortage) and it cannot be addressed within the ERA's overall budget limitations, liaising with the Panel and the ERA to prepare a Treasury submission to procure additional resources.

5.3 Interaction with Annual Budgeting Cycle

The ERA commences preparing its annual budget in February each year so that it can seek changes to its budget as part of the Government's annual budget estimates process, which occurs in April each year.

The ERA's annual budget process includes an assessment of whether sufficient resources are allocated to the Panel to meet its likely workload. The Panel and the ERA use the outcomes of this assessment to determine if any changes are needed to the resourcing levels for the next financial year.

Appendix: The Wholesale Market Objectives and the GSI Objectives

Wholesale Market Objectives

The Wholesale Market Objectives are specified in clause 1.2.1 of the Market Rules as follows:

The objectives of the market 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.

GSI Objectives

The GSI Objectives are specified in subrule 2(1) of the GSI Rules as follows:

In accordance with section 6 of the GSI Act, the objectives of the Gas Bulletin Board (the GBB) and the Gas Statement of Opportunities (the GSOO) (the GSI Objectives) are to promote the long term interests of consumers of natural gas in relation to:

- (a) the security, reliability and availability of the supply of natural gas in the State;
- (b) the efficient operation and use of natural gas services in the State;
- (c) the efficient investment in natural gas services in the State; and
- (d) the facilitation of competition in the use of natural gas services in the State.