



System Management

Procedure Change Report
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INTRODUCTION

This document is the Procedure Change Report for System Management proposed amendments to the Power System Operating Procedure: Dispatch.

- This proposal was first published on the IMO website on 22 January 2010.
- A request for submissions to the proposal was published on 22 January 2010 with a deadline of 19 February 2010.
- This Procedure Change Report is submitted to the IMO for publication on 4 March 2010.
- This proposed amended procedure is to commence at 8 am on 1 April 2010.
- Commencement is pending approval by the IMO. Market Rule 2.10.14 requires the IMO to make its decision within 10 Business days of this Report being published.

THE WORDING OF THE AMENDMENT TO THE POWER SYSTEM OPERATING PROCEDURE

The amended procedure is attached to this Report.

THE REASON FOR THE AMENDMENT TO THE POWER SYSTEM OPERATING PROCEDURE

The Procedure Change Proposal amendments to section 10.5 of the Dispatch Power System Operating Procedure were proposed to clarify the mechanics of the arbitration process which may be initiated following a failure of System Management and Verve Energy to reach agreement on matters provided for in clause 7.6A of the Market Rules.

THE MARKET ADVISORY COMMITTEE

The Market Advisory Committee (MAC) did not meet regarding this procedure change proposal.

However, these proposed amendments have been subject to formal public consultation which concluded on 19 February 2010.

SUBMISSIONS

System Management received three submissions regarding this procedure, from Landfill Gas and Power, Alinta Sales Pty Ltd and Perth Energy.

Landfill Gas and Power submitted:

“LGP supports the proposed amendment as it clarifies the dispute process to be followed by System Management, Verve Energy and the IMO and has been agreed by System Management and Verve.

LGP considers that the change is administrative only with no material bearing on the Market Objectives other than to improve their integrity via improved clarity.’

System Management supports the view expressed by Landfill Gas and Power.

Alinta Sales Pty Ltd submitted:

‘Firstly, it is unclear to Alinta whether Market Rule 7.6A.5(b) provides a head of power for System Management to develop a procedure to govern the arbitration process to be followed by the IMO.

Specifically, Alinta notes that the procedures that may be developed by System Management under Market Rule 7.6A appear to relate only to:

1. the format and time resolution of data to be provided by Verve Energy to System Management under Market Rules 7.6A.2(a);
2. the format and time resolution of data to be provided by System Management to Verve Energy under Market Rule 7.6A.2(b) and (c); and
3. the information required to be provided by Verve Energy under Market Rule 7.6A.2(d) to support System Management develop the information in Market Rule 7.6A.2(c).

Secondly, it appears that the use of word ‘agreement’ in the second sentence of Market Rule 7.6A.5(b) may not be consistent with the intent of the first sentence of that rule, or with the general operation of Market Rule 7.6A to which Market Rule 7.6A.5(b) refers.

Specifically, the first sentence in Market Rule 7.6A.5(b) requires only that both System Management and Verve use reasonable endeavours to address any issues arising from the ‘application’ of the procedures developed by System Management.

No other part of Market Rule 7.6A suggests that System Management must obtain Verve’s agreement to either the procedures that System Management may develop under Market Rule 7.6A or to the application of these procedures (assuming there was ambiguity in procedures, which appears unlikely given their scope).

Therefore, it appears that the role of the IMO under Market Rule 7.6A.5(b) should only be to determine whether System Management and/or Verve Energy have used reasonable endeavours to address any issues arising from the application of the procedures operating under Market Rule 7.6A.

Consequently, Alinta considers that rather than amending the Dispatch PSOP, it may be appropriate for Market Rule 7.6A.5(b) to be amended along the following lines:

At the meetings described in (a), System Management and the Electricity Generation Corporation must use best endeavours to address any issues arising from the application of the procedures operating under this clause 7.6A. ~~Where agreement cannot be reached either party may seek arbitration by the IMO.~~ If System Management or the Electricity Generation Corporation consider that the other has not used best endeavours to address an issue, System Management or the Electricity Generation Corporation, as applicable, may request that the IMO review whether the actions of each were reasonable.

System Management's response to Alinta's submission:

First issue

It is the proposed changes which are subject to approval by the IMO pursuant to clause 2.10.14 of the Market Rules. The changes to the arbitration mechanism are limited to mechanical or procedural changes to aid the workability of the existing (approved) arbitration process. System Management therefore considers that Alinta's comments concerning a lack of heads of power for such an arbitration process is outside the scope of this procedure change.

Second issue

In considering the second part of Alinta's submission, System Management believes that the intent of Market Rule 7.6A.5(b) may instead be directed to the IMO intervening between the Electricity Generation Corporation ("**EGC**") and System Management to assist the parties to reach agreement (or to determine resolution of the matter if agreement cannot be reached) in relation to any failure of the parties to agree an issue that the parties are compelled to review under MR 7.6A.5(a).

System Management notes that Alinta's suggestion to consider amendments to MR 7.6A.5 would reduce the role of the IMO in an arbitration process. The IMO would not be an arbiter of substantive issues but instead a reviewer of an administrative requirement (that being that the parties use best endeavours in attempting to resolve any issues in relation to the review under MR 7.6A.5(a)).

Accordingly, any review of whether a party used best endeavours would not necessarily resolve any outstanding issue or disagreement between EGC and System Management in relation to the review process set out in 7.6A.5(a). At best, a decision by the IMO that either of the parties had failed to use best endeavours might imply a requirement that the parties return to the process set out in MR 7.6A.5(a).

There may potentially be no resolution of any failure by EGC and System Management to reach agreement (even if they were required to return to the

MR 7.6A.5(a) process) as on Alinta's interpretation, there appears to be no power vested in the IMO to resolve the substantive issue or disagreement between EGC and SM. Even if the parties were compelled to return to the review process and use best endeavours to address any issues, there would be no certainty that the issues would in fact be resolved.

System Management is appreciative of Alinta's submission, however on this occasion have not chosen to adopt Alinta's suggested amendments based on the above.

Perth Energy submitted:

'Perth Energy considers that apart from the changes relating to extension of time frames, the changes proposed are not material and could be considered to be clarifying changes. For example, 7.6A.5(b) of the Market Rules already specifically state that "...either party may seek arbitration by the IMO" in the case of any issues arising from the application of the dispatch procedures. The current Dispatch Procedure does not specifically mention the IMO as being the arbitrator, but when read in conjunction with the Market Rules the intent is quite clear. However, Perth Energy welcomes the clarification proposed to the procedures to align them to the Market Rules and remove any potential for doubt or confusion in interpreting the procedures.

With regard to the extension of various timeframes, Perth Energy agrees that it is sensible to allow parties sufficient time to provide considered responses and decisions in relation to the arbitration. Perth Energy notes that the wording of the procedure does not hinder parties to provide their responses and decisions earlier than the mandated timeframes allow and trusts that the parties will act as quickly as possible where quick resolution of a dispute is necessary for system security reasons.'

System Management agrees with the views expressed by Perth Energy.

AMENDMENT TO THE POWER SYSTEM OPERATION PROCEDURE FOLLOWING PUBLIC CONSULTATION

There has been no further amendment to the Power System Operation Procedure following the conclusion of the consultation process.

System Management's amendments to clause 10.5 are included below and reflect those set out in the Procedure Change Proposal [PPCL0015]. Deleted wording is shown in "strike through" and new wording has been bolded and underlined.

Section 10.5 Failure to Agree on an issue within the Procedure

1. The requirements for System Management and EGC to address and reach agreement on any issues arising from the application of this procedure are specified in the Market Rules [MR 7.6A.5(b)].
2. Where agreement cannot be reached **under clause 7.6A.5(b) of the Market Rules** and arbitration is required **either party may refer the issue to the IMO for a binding decision**. The party seeking arbitration must, within 7 days of the event or within 7 days of the party becoming aware of the event, provide the IMO with a report setting out:
 - a. a description of the issue in dispute;
 - b. the background to the dispute and a description of the endeavours of the parties to resolve the issue; and
 - c. the position of both parties on the issue, including what is required to resolve the dispute.
3. The party submitting the report must provide a copy of the report to the other party at the same time the report is submitted to the IMO.
4. **The IMO must notify both parties of receipt of the report from the party seeking arbitration, as provided under subsection 2, within one Business Day of receipt. Notification will be provided via email.**
5. **At the same time as notifying both parties of the receipt of the report, the IMO must request that** the other party ~~must~~ submit its own report on the issue. **The report must include:**
 - a. **details of any areas of disagreement with the facts and opinions expressed in the report of the party seeking arbitration; and**
 - b. **any other matters which the other party believes are relevant and wishes the IMO to take into consideration.**

The other party must submit its report on the issue to the IMO within ~~2~~ **4 Business Days of the notification being issued under subsection 4. At the same time the report is submitted to the IMO a copy must be provided to the party seeking arbitration. In the case where the other party fails to submit a report within 4 Business Days, the IMO will take the issues raised in the party seeking arbitration report to have been agreed by the other party.** ~~of the receipt of the report noted in subsection (5)~~
6. **The IMO must review the issues as submitted by the two parties under subsections (3) and (5).** In reviewing the issue, the IMO must have regard to the following:
 - a. the content of this procedure;
 - b. the Market Rules and procedures; and
 - c. the appropriateness of any section of this procedure relevant to the issue, and its alignment with market objectives, Market Rules and other procedures.

7. The IMO may seek further information from either party, and this information must be provided within 25 Business Days of receipt of the request **from the IMO.**
8. The IMO must provide its draft recommendation to **the EGC and System Management** within ~~two weeks of the receipt of the report in~~ **10 Business Days after both parties are notified of receipt of the report** under subsection 4. Both parties have 2 Business Days to provide the IMO with comments on the draft recommendation.
9. The IMO must, within ~~12~~ **10 Business Days of receiving comments providing the draft recommendation to the EGC and System Management,** issue a binding decision

IMPLEMENTATION

System Management recommends this amended procedure commence at 8 am 1 April 2010.

The above date, in System Management's opinion, allows sufficient time after the date of publication of the IMO's approval of the Procedure Change Proposal under clause 2.10.14, for Rule Participants to implement changes required by this Proposal.

Commencement is pending approval by the IMO. Market Rule 2.10.14 requires the IMO to make its decision within 10 Business days of this Report being published. This decision will include the final commencement date.