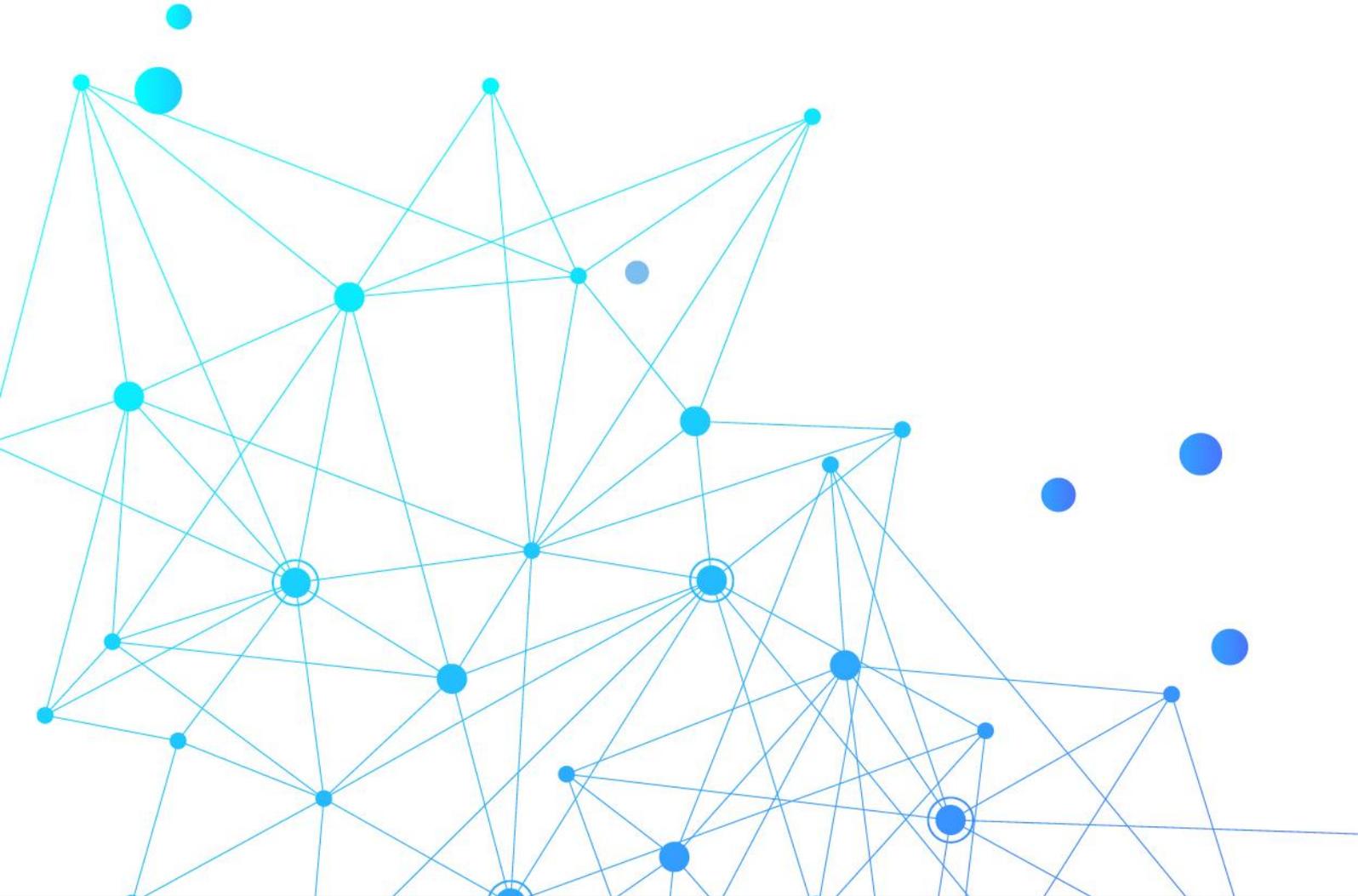




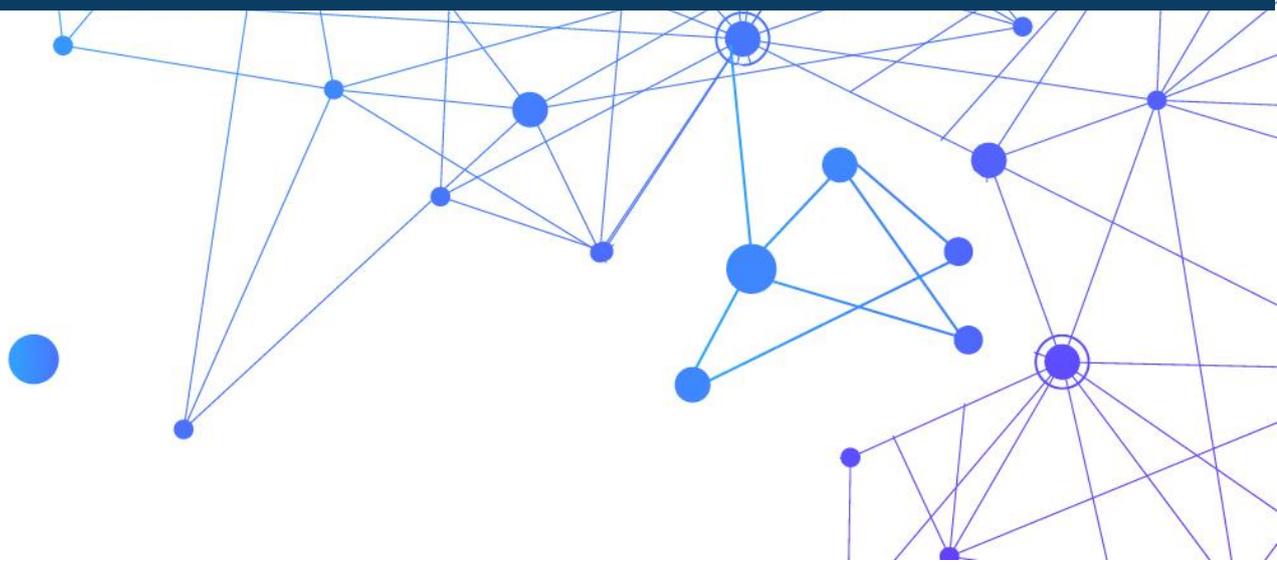
Energy Transformation Taskforce



Improving the Technical Rules Change Management Process

Information paper

July 2019



Contents

1.	Introduction.....	2
1.1.	Energy Transformation Strategy	2
1.2.	Purpose and scope	2
1.3.	Matters out of scope.....	3
1.4.	Consultation	4
2.	Current situation	4
2.2.	Change management process	5
2.3.	Technical Rules Committee	6
3.	A new change management process.....	6
3.1.	Continuing design elements	6
	<i>Approving body</i>	6
	<i>Chair of the Technical Rules Committee</i>	7
	<i>Technical Rules Committee as an advisory body</i>	7
	<i>Consultation</i>	7
	<i>Cost recovery</i>	8
3.2.	Modified Design Elements	8
	<i>Standing Technical Rules Committee</i>	8
	<i>Sub-Committees</i>	8
	<i>ERA must seek the advice of the Technical Rules Committee</i>	8
	<i>Composition of the Technical Rules Committee</i>	9
	<i>Additional criteria for rejection of an amendment proposal</i>	9
	<i>Criteria for the approval of an amendment proposal</i>	9
3.3.	New design elements.....	10
	<i>Parties who can submit an amendment proposal</i>	10
	<i>Managing the flow of amendment proposals</i>	10
	<i>Refining amendment proposals</i>	10
	<i>Technical support for the Technical Rules Committee</i>	11
	<i>Executive Officer</i>	11
	<i>Payment of consumer representative</i>	11
	<i>Cost recovery by AEMO from ERA</i>	11
4.	Next steps and timing	11

1. Introduction

1.1. Energy Transformation Strategy

The energy sector is undergoing an unprecedented transformation in the way electricity is supplied and used. More households and small businesses than ever are installing solar photovoltaic and battery systems to control electricity bills. At the same time, large-scale renewable generators are supplying an increasing amount of our electricity needs.

The intermittent and in some cases uncontrolled nature of these energy sources is presenting challenges to maintain the security, reliability and affordability of the power system, particularly in the South West Interconnected System (SWIS).

To address these challenges, on 6 March 2019, the Hon Bill Johnston MLA, Minister for Energy announced the McGowan Government's Energy Transformation Strategy. This is the Western Australian Government's strategy to respond to the energy transformation underway and to plan for the future of our power system. The delivery of the Strategy is being overseen by the Energy Transformation Taskforce (Taskforce), which was established on 20 May 2019. The Taskforce is supported by the Energy Transformation Implementation Unit (ETIU), a dedicated unit within the Department of Treasury.

More information on the Energy Transformation Strategy, the Taskforce, and ETIU can be found on the Energy Transformation website at <http://www.treasury.wa.gov.au/Energy-Transformation/>.

1.2. Purpose and scope

The Energy Transformation Strategy is being delivered under three work streams. The Improving the Technical Rules Change Management project forms part of the Delivering the Future Power System work stream of the Energy Transformation Strategy, as shown in **Figure 1** below.

This project will make amendments to the change management framework for the Technical Rules to permit any interested party to submit a change proposal for consideration by the Economic Regulation Authority (ERA). It will also undertake modifications to improve the timeliness, efficiency and equity of the process.

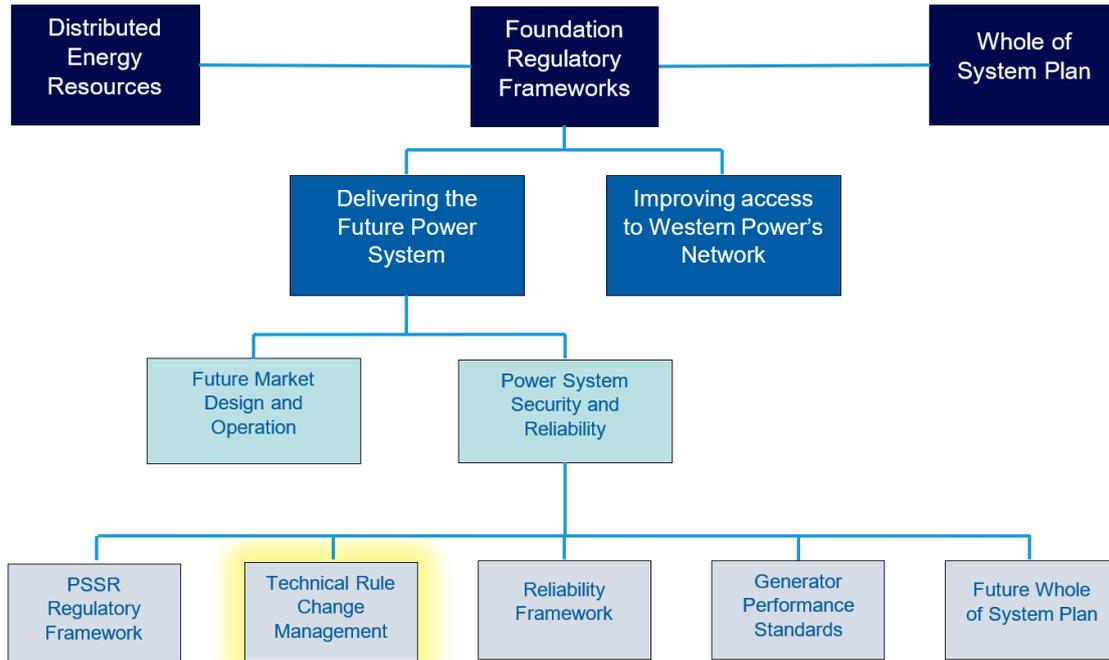
The project is being conducted in three phases.

Phase 1: Assessment of options to address deficiencies with the Technical Rules change process, concluding with a decision by the Taskforce on a revised high-level change management framework for further development under Phase 2. The publication of this paper completes Phase 1.

Phase 2: Further development of the framework identified in Phase 1, including a detailed assessment of code and rule changes required, concluding with a decision by the Taskforce on detailed drafting instructions for the relevant instruments. Phase 2 will be complete by the end of 2019.

Phase 3: Public consultation on, and implementation of, the changes identified within Phase 2. Changes required affect instruments that have dependencies with other Energy Transformation Strategy projects, and as such, will be coordinated with these project timelines. Phase 3, including consultation on specific changes to instruments through the release of draft rules and regulations, is expected to be complete in early 2020. The amended instruments will then be presented to the Minister for Energy and gazetted.

Figure 1: The Technical Rules Change Management project in the context of the Energy Transformation Strategy program structure.



Western Power is currently the only party required to have Technical Rules, and as such, this paper is principally focused on the process for amending these rules. Notwithstanding, the provisions for establishing and managing Technical Rules, as laid out in Chapter 12 of the *Electricity Networks Access Code 2004* (Access Code), are for any covered network, and there exists the possibility that changes made here may affect future covered networks. The proposals contained in this paper were developed with this future impact in mind.¹

1.3. Matters out of scope

The scope of this paper is limited to the process for amending the Technical Rules. It does not directly address matters relating to the content of Western Power’s Technical Rules, compliance with the rules, or the wider regulatory framework in which the rules exist. These matters are being considered as part of separate, but related, projects being

¹ The Hon Ben Wyatt MLA, former Minister for Energy made the decision to cover the North West Interconnected System (NWIS), with coverage taking effect on 1 January 2020 under a new ‘light-handed’ access regime. The potential for changes to the Technical Rules change management process to affect the NWIS will depend on the regulatory framework chosen for NWIS coverage. ETIU will monitor the progress of the new light-handed access regime for the NWIS to ensure changes to the Access Code are complimentary.

undertaken by the Taskforce, Western Power and the Australian Energy Market Operator (AEMO) that will be subject to further consultation.

1.4. Consultation

The ETIU consulted with AEMO, the ERA and Western Power in developing its proposals for improving the change management process for Western Power's Technical Rules and making it more timely, efficient and equitable.

On 17 June 2019 the former Power System Operation Working Group of the Market Advisory Committee was consulted on the changes outlined in section 3. Comment from industry was subsequently incorporated into recommendations to the Taskforce. Further stakeholder feedback is expected to be received in response to Phase 2 of the project, which comprises detailed proposals for changes to the Access Code and Wholesale Electricity Market (WEM) Rules to implement the revised change management process.

2. Current situation

2.1. Regulatory framework and problem identification

Technical Rules provide the standards, procedures and planning criteria governing the design, construction and operation of a covered electricity network and the standards for the facilities, loads and generators that connect to the network to meet reliability, power quality and safety standards.

Chapter 12 of the Access Code provides for each network operator of a covered network to develop a set of Technical Rules, and for these rules to be amended over time, subject to the approval of the ERA. Western Power may also permit exemptions from the Technical Rules for connecting parties, and may itself request that the ERA exempt it from aspects of the Technical Rules.

Currently, there is only one covered network in Western Australia, the distribution and transmission networks owned by Western Power in the SWIS. Western Power's Technical Rules commenced on 1 July 2007 and, except for a mandatory review under section 12.56 of the Access Code, have been subject to infrequent and relatively minor changes. By contrast, there have been significant changes to the technologies connecting to the network in recent times, some of which now present as gaps in the Technical Rules. Western Power has also granted 64 exemptions sought by connecting parties, with 31 of these being in the past three years.

Since the inception of the Technical Rules, loads, generators, distributed energy resource providers and other stakeholders have expressed concern that they cannot submit a proposal to change the Technical Rules. Notwithstanding changes to the Technical Rules made by Western Power, or exemptions it has granted in response to user requests, concern has been expressed by stakeholders that Western Power has no clear incentive to proactively propose changes that may benefit users, unless such changes also benefit Western Power.

The Technical Rules change management process also differs markedly from the WEM Rules, where any person can submit a proposal to amend the WEM Rules for consideration by the independent Rule Change Panel.

2.2. Change management process

Proposed amendments to the Technical Rules are subject to the review and approval of the ERA. A proposal to amend the Technical Rules can be submitted at any time, but only by:

- the service provider of the covered network;
- a service provider of an interconnected network; or
- the Chair of the Technical Rules Committee.

While the Access Code nominally allows the above three parties to submit a proposal to amend Western Power's Technical Rules, in practice, change requests have only been submitted by Western Power.

Once an amendment proposal has been received, the ERA must consider the proposal in accordance with sections 12.50 to 12.54 of the Access Code. The ERA may reject a proposal to amend the Technical Rules if it considers the proposal is misconceived or lacking in substance or has been made on trivial or vexatious grounds. In assessing an application to amend the Technical Rules, the ERA must consider whether any proposed amendments are consistent with Chapter 12 of the Access Code and the Code Objective (reproduced below). If the ERA considers the amendment is substantial, it must consult publicly in accordance with Appendix 7 of the Access Code.

Code objective

2.1 The objective of this Code ("**Code objective**") is to promote the economically efficient:

- (a) investment in; and
- (b) operation of and use of,

networks and services of networks in Western Australia in order to promote competition in markets upstream and downstream of the networks.

{Note: This Code sets out more specific objectives that also apply in relation to the performance of certain functions under the Code, for example, section 6.4 sets out objectives for the *price control* in an *access arrangement*.}

Following the above considerations, the ERA must not approve a proposed amendment if it considers that the amendment will have a material adverse effect on the service provider or a user (12.54(b)).

Based on the time periods for public consultation and decision-making processes, stipulated in Appendix 7 of the Access Code, the ERA has the following time limits to publish its final decision, from when the issues paper is published, and submissions requested.

- Up to 13 weeks (for a single step process)
- Up to 23 weeks (for a two-step process – draft decision and then a final decision)

The public consultation obligations on the ERA require it to publicly state its reasoning and the considerations that informed its assessment of substantial proposed amendments.

2.3. Technical Rules Committee

As an advisory body, the Technical Rules Committee provides non-binding advice to the ERA. The ERA may, at any time, establish a Technical Rules Committee for a covered network, and may also dissolve a Technical Rules Committee.

The Technical Rules Committee must at least include a representative of the following.

- The covered network service provider
- Each service provider of any interconnected networks
- The Coordinator of Energy²
- Users of the network
- Any other person the ERA considers appropriate

The representative of the Coordinator of Energy chairs the Technical Rules Committee. The ERA may provide directions to the Technical Rules Committee in relation to the procedures it must follow and the manner in which it must perform its functions. The ERA may appoint a representative to observe any aspect of the operation of the Technical Rules Committee, but is not permitted to participate in its deliberations.

Importantly, in practice the Technical Rules Committee is not a standing committee and is only convened at the direction of the ERA. Once the first Technical Rules have been established, the ERA is not required to establish a Technical Rules Committee to provide advice on any subsequent amendment proposals, but may do so at its discretion.

3. A new change management process

This section sets out the modifications to be undertaken in improving the change management process to make it more timely, efficient and equitable. The section is separated into design elements proposed to continue unchanged, those proposed to be modified, and those that are new.

3.1. Continuing design elements

Approving body

Under section 104(2)(l) of the *Electricity Industry Act 2004* (EI Act), the ERA is responsible for approving the Technical Rules, including amendments. Under the Access Code, rules are to be submitted to the ERA and only the ERA has the power to determine whether a proposal should be rejected on the grounds that it is trivial, vexatious, misconceived or lacking in substance. The ERA will continue in this role.

Some industry participants have suggested that such a role could be undertaken by the Rule Change Panel to align the amendment process fully with that of the WEM Rules. While the Taskforce does not offer a view as to whether the Rule Change Panel is better

² The Coordinator of Energy is a statutory position established under section 4 of the *Energy Coordination Act 1994* and is currently held by the Executive Director of the Public Utilities Office.

placed to undertake the rule approval function, some issues have been identified with this approach.

Firstly, the EI Act does not currently contain heads of power to permit such a role for the Rule Change Panel without amendments to the EI Act and subordinate instruments. The Taskforce does not consider that a change to the legislation at this time is warranted.

Furthermore, under such a rule change model, the cost of the amendment process would effectively shift from network users to Market Participants under the current framework. The allocation of costs to Market Participants is inappropriate as proposals to amend the Technical Rules are likely to come primarily from network users. For these reasons, this proposal has not been considered further.

Chair of the Technical Rules Committee

The representative of the Coordinator of Energy will continue to be the Chair of the Technical Rules Committee. The Technical Rules Committee reports to the ERA through its Chair³ and vice versa.

Given organisational experience with the Technical Rules, it has been suggested that a Western Power representative could Chair the Technical Rules Committee. However, the Taskforce considers that a representative of the Coordinator of Energy should retain this role to ensure a greater level of independence given that Western Power is likely to have a material interest in the outcome of proposals to amend the Technical Rules.⁴

Technical Rules Committee as an advisory body

The Technical Rules Committee will continue to be an advisory committee, and the requirement for the ERA to consider any advice provided by the Technical Rules Committee will remain.

Consideration was given to the Technical Rules Committee having a more formal role to assist the ERA in assessing proposals to amend the Technical Rules, for example, by segregating applications that should be progressed for further assessment and consultation, and those that may be rejected on the grounds that they are ill-conceived or vexatious, or materially similar to recently considered submissions. While this could relieve the ERA of more administrative functions, limitations under s104(l) of the EI Act prohibit any party other than the ERA from making determinations on proposals to amend the Technical Rules. The Taskforce does not consider that the benefits of expanding the scope of duties of the Technical Rules Committee warrants amendments to the EI Act.

Consultation

The requirement for the ERA to consult the public on substantial changes to the Technical Rules will remain. This is consistent with the WEM Rules amendment process, and an assessment of the process to-date has not uncovered any material issues that might suggest the need to deviate from this requirement.

³ Section 12.21 of the Access Code.

⁴ Western Power is also able to make independent submissions to the ERA on amendment proposals under section 12.22 of the Access Code.

The ERA has recently raised concerns that the timing requirements for delivering decisions, under the process stipulated in Appendix 7 of the Access Code, do not allow sufficient time for the more complex proposed amendments. This will be explored further under Phase 2.

Cost recovery

The methods by which the ERA recovers its costs in its role in administering and approving Technical Rules are outlined in the *Economic Regulation Authority (Electricity Networks Access Funding) Regulations 2012*.

Costs associated with assessing proposals to amend the Technical Rules are recovered by charging the service provider, with the service provider then recovering these costs through its Access Arrangement submission as an operating cost. Costs are then passed onto network users through approved network charges. As proposals to amend the Technical Rules are most likely to be submitted by either the network service provider or network users, this cost recovery mechanism remains appropriate.

3.2. Modified design elements Standing Technical Rules Committee

The Technical Rules Committee will become a standing committee, rather than an ad hoc committee. This results in greater continuity of membership and provides the benefits of consistency, efficiency and timeliness. The Committee could also consider emerging matters beyond the scope of immediate proposals to amend the Technical Rules, so they are prepared when the ERA seeks advice on new rule change proposals.

Sub-Committees

While there is nothing specific in the Access Code that prohibits the use of sub-committees, amendments will be made to the Access Code to make it explicit that the Technical Rules Committee can, with the approval of the ERA, establish sub-committees. For example, Western Power suggests separate sub-committees to deal with transmission and with distribution matters. It may also be desirable to have sub-committees to deal with energy storage, wind power and inverters.

ERA must seek the advice of the Technical Rules Committee

Currently there is no requirement for the ERA to seek the advice of the Technical Rules Committee for any proposal to amend the Technical Rules. Changes to the Access Code will be made to oblige the ERA to seek the advice of the Technical Rules Committee for any proposals to amend the Technical Rules that the ERA does not reject. This is to ensure that industry representatives⁵ have the opportunity to comment on all amendment proposals before they go to general consultation under Appendix 7.

⁵ Previously, the ERA has used its powers to appoint additional representatives to the Technical Rules Committee so a wide range of industry interests can be represented. For example, in 2008, 12 additional members and three observers were present at meetings. Industry representatives are usually able to consult with other members of industry, so a broad range of comment is made at meetings.

Composition of the Technical Rules Committee

The composition of the Technical Rules Committee is outlined in section 12.19 of the Access Code (see section 2.3 above).

Given the movement of System Management functions from Western Power to AEMO, it is appropriate that the range of representatives be expanded to include AEMO, in its role as system manager. This change will also necessitate changes to the WEM Rules to allow for AEMO to undertake this role and enable its costs to be considered for inclusion in its allowable revenue and recovered through its market fees.

The ERA can currently appoint any other persons to the committee it considers appropriate.⁶ The Taskforce proposes that this flexibility continue to facilitate the participation of consumer representatives and other expertise as required.

Additional criteria for rejection of an amendment proposal

The Taskforce considers that, in addition to the criteria stipulated in section 12.51 of the Access Code permitting the ERA to reject proposals that are trivial, vexatious or lacking in substance, the ERA should also be permitted to reject a proposal to amend the Technical Rules if it overlaps or is materially similar to an existing rule or other proposed rule that has recently been rejected.

Criteria for the approval of an amendment proposal

As outlined in section 2.2 above, the ERA must have regard to a wide range of matters before approving a technical rule amendment proposal. These include the Code Objective and Chapter 12 of the Access Code, which includes the Technical Rules Objectives (reproduced below).

Objectives of the technical rules

12.1 The objectives for *technical rules* are that they:

- (a) are reasonable; and
- (b) do not impose inappropriate barriers to entry to a market; and
- (c) are consistent with *good electricity industry practice*; and
- (d) are consistent with relevant *written laws* and *statutory instruments*.

The Taskforce intends to expand the objectives of the Technical Rules to include considerations of reliability and security of the electricity network and system. This is consistent with the WEM Objectives and allows the ERA to appropriately consider emerging system security and reliability issues relating to the installation of new technologies, such as battery storage and behind the meter generation.

Chapter 12, section 12.54(b), of the Access Code states that the ERA must approve a proposed amendment only if it considers that the amendment will not have a material

⁶ Section 12.19(b) of the Access Code.

adverse effect on the service provider or a user. As this section currently stands, an amendment proposal may not be approved if it has a materially adverse effect on a single user, even if there is a potentially greater benefit to the majority of users and/or electricity consumers. The Taskforce considers that section 12.54(b) should be removed and replaced with criteria that allow the ERA to consider the overall benefits that a proposal may offer.

3.3. New design elements

Parties who can submit an amendment proposal

The Taskforce considers that proposals to amend the Technical Rules should be able to be submitted to the ERA by any interested party. This responds to a critical problem with the current Technical Rules change management framework; namely that, effectively, only Western Power can submit a proposal to amend the Technical Rules. The rationale for this improvement to the framework is established in section 2.1 of this paper.

Managing the flow of amendment proposals

The decision to permit any person to submit proposals to amend the Technical Rules may result in a risk that, at times, the volume of amendment proposals proves challenging for the ERA to manage. It is proposed that flexibility be allowed in the framework for the ERA to develop processes to manage the flow of applications and manage costs.

Without wishing to limit the range of options available, methods for managing this issue may include a rotating interval for receiving proposals (e.g. a 4-week period every 6 months) or the joint consideration of materially similar applications. The ERA should also be able to prioritise proposals based on substance, rather than consider them on a 'first-in, first-served' basis.

As part of the process for managing the flow of amendment proposals, it is intended that the ERA be permitted to publish guidelines that establish a process and format for amendment proposals, and that the ERA is permitted to reject amendment proposals that do not adhere to these guidelines.

ETIU will work with the ERA and other stakeholders under Phase 2 to develop an appropriate process for managing ongoing proposals to amend the Technical Rules.

Refining amendment proposals

Under the current section 12.53 of the Access Code, the ERA may either approve or not approve a proposal to amend the Technical Rules. There is no provision to allow the ERA to liaise with the proponent and the Technical Rules Committee to refine a proposal that has some inherent merit; either before and/or after the public consultation phase (as is the case for the WEM Rule Change Panel).

Going back to the start of the process to consider and consult on a variation of an amendment proposal is inefficient and time consuming. The Taskforce proposes that the process be amended to allow for refinement of worthy amendment proposals, between when they are submitted to the ERA and when the ERA makes its decision.

Technical support for the Technical Rules Committee

While there is nothing that prohibits it, it is proposed that Chapter 12 of the Access Code be amended to specifically allow the Technical Rules Committee to recommend the ERA should seek technical advice on a particular technical matter and request that advice is made available to the Committee.

It is considered appropriate that the ERA has control of expenditure on consultants to advise the Technical Rules Committee, as these costs will ultimately be born through the existing cost recovery methods from network users.

Executive Officer

Under the current framework there is no formal secretariat or Executive Officer role to support the Technical Rules Committee. In the past, this has been undertaken by the Public Utilities Office (and its predecessor organisations) to support the Coordinator of Energy in carrying-out their functions. Given the ad hoc nature of the Technical Rules Committee, this has previously been a workable, although not ideal, arrangement.

The Taskforce considers that such an arrangement would not remain workable under a standing committee, and hence this role should be funded, with an Executive Officer appointed through the ERA and funded through existing cost recovery provisions.

Payment of consumer representative

While the appointment of a consumer representative is not a requirement under the Access Code, it may be reasonable for the ERA to appoint such a representative to the Technical Rules Committee. Experience in past committees has shown that consumer representation is challenging, particularly for standing committees with ongoing commitments. In the absence of remuneration, it may be difficult to attract a consumer representative. As such, the Taskforce considers that, if the ERA appoints a consumer representative, that the representative may be paid by the ERA for their participation.

Cost recovery by AEMO from ERA

The Taskforce supports the concept that the AEMO can recover its costs both as a representative on the Technical Rules Committee and in its potential to make proposals to amend the Technical Rules. Given its involvement in these activities are to support market and system operation functions, amendments will be made to the WEM Rules to allow for this to occur.

4. Next steps and timing

The publication of this paper represents the end of Phase 1 and the commencement of Phase 2 of the Improving the Technical Rules Change Management Process project.

Detailed assessment of the changes required to implement each of the recommendations will be undertaken over the coming months, with recommendations provided to the Taskforce by the end of 2019. An Information Paper is expected to be published shortly thereafter. Draft amendments to the Access Code and WEM Rules will be provided for public comment early in 2020.

During Phase 2 of the project, further targeted consultation will be undertaken with stakeholders affected by the recommendations to ensure that the detailed policy development is fit-for-purpose and delivers efficient outcomes.

Those wishing to engage the policy team throughout Phase 2 are encouraged to contact the ETIU on (08) 6551 2397 or at energytransformation@treasury.wa.gov.au.