



**Energy Transformation
Implementation Unit**

Dispute resolution

GPS and Monitoring Plans for existing generators

**WRIG Meeting
26 November 2020**



Process for determining GPS for existing generators

Access Standard

- Access (Contracted) Standard must be used (if available)

If not

Reference Standard

- Reference Standard must be used (if available)

If not

Negotiated Standard

- For new standards, the minimum for the relevant Technical Requirement must be accepted*
- WP/AEMO can agree to something below the minimum for any standard

*subject to PSSR being maintained



Dispute resolution is a last resort...

- WEM Rules processes for negotiation are intended to allow for balance between power system security and reliability, and existing generator needs.
 - When negotiating, WP/AEMO must accept the minimum for a relevant Technical Requirement if proposed (subject to PSSR being maintained)
 - WP/AEMO must consider a range of factors when deciding to approve/reject a negotiated access standard
 - If rejecting a proposed standard, WP/AEMO must justify the rejection and propose alternative that is acceptable.
 - Testing and interrogation of data can be used to determine an agreed standard.
- Frivolous or vexatious disputes are discouraged:
 - The arbitrator can refer the parties back to negotiation or make a binding decision without a detailed process; and
 - Costs can be allocated unevenly based on the conduct of the parties.

Coordinator functions



The Coordinator must...

Appoint the arbitrators and
technical panel

(publish process used)

Develop WEM Procedure
for arbitration process

(consult with industry)

Accept dispute applications
and determine whether to
refer to arbitration

By 1 April 2021

Between 1 Feb 2021 and
end of disputes period



Appointing Arbitrators

The Coordinator must appoint 1 Primary Arbitrator and at least 2 Secondary Arbitrators.

The following broad EOI process will be followed:

- Coordinator to develop information on the role, selection criteria and approach to assessment and post it on the EPWA website. Link also posted on LinkedIn.
- Emails will be sent to the WA Chairs of relevant industry bodies* asking them to alert their members about the role.
- Direct emails will be sent to Perth-based members of the ERA's existing Arbitration pool/panel and the Electricity Review Board's Panel of Legal Practitioners asking them to consider whether to apply.
- Direct emails will also be sent to any individuals recommended through consultation with industry (via WRIG) to advise of the opportunity.
- An assessment panel will be established within EPWA to review applications before making recommendations to the Coordinator.



Arbitrator Selection Criteria



In determining who shall be appointed as the Arbitrator(s), the Coordinator will consider the following:

- Suitable qualifications and experience in commercial arbitration, including experience in energy sector arbitration (WEM experience is desirable).
- Noting the need to avoid conflicts of interest with the subject matter or Parties to the Dispute, the applicant must not currently be working with (including as a contractor) a party likely to be subject to a dispute.
- Value for money, taking into account fees and charges, including fixed or capped rates for specified categories of dispute.
- Perth-based with access to appropriate support including secretariat and financial services such as record keeping, access to suitable meeting rooms, billing and collection facilities etc.



Appointing Technical Experts



The Coordinator must appoint an independent panel of not less than three experts. The following EOI process will be followed:

- Coordinator will develop information on the role, selection criteria and approach to assessment and post it on the EPWA website.
- This will be posted on LinkedIn and advertised in a national newspaper.
- Direct emails will be sent to any individuals recommended through consultation with industry (via WRIG).
- An assessment panel will be established within EPWA to review applications before making recommendations to the Coordinator.



Panel of Technical Experts



Due to the range of potential disputes, the Panel should comprise members with both technical and commercial skills or specialised expertise that the Arbitrator can call on, as required.

Additional panellists can be added at a later date, if required.

The Coordinator seeks applicants with experience in one or more of the following criteria:

- technical and engineering aspects of complex infrastructure and capital projects;
- design and construction and/or operation and maintenance for different types of electricity-generation technologies, including security, reliability and contingency planning;
- assessing and/or testing performance against technical requirements;
- commercial analysis of large, complex projects including contracts;
- procurement and construction of major capital projects, including risk analysis and management; and
- past experience developing electricity projects in Western Australia (desirable).

WEM Procedure





Coordinator must develop a WEM Procedure

Clause 1.42.10 outlines the matters which must be set out in a WEM Procedure including:

- Administrative support provided by the Coordinator – limited to referral
- How the Coordinator will assess whether a Secondary Arbitrator is required against specific criteria (conflict, insufficient time or ill health) or any other reason the Coordinator might choose.
- The process the Coordinator will follow in referring a dispute for arbitration (pre-requisites, templates etc).
- The detail of how the dispute is to be resolved including the manner in which evidence is presented
- How an Arbitrator may appoint experts to provide advice and the awarding of costs is outlined in Rules.
- The Rules allow the Coordinator to appoint additional Arbitrators/Experts following the initial process if required (or if Parties to Dispute agree).



Next steps

- EPWA would appreciate your feedback on:
 - Selection criteria for Arbitrator(s) and Experts
 - Process for appointing Arbitrator(s) and Experts
 - Any individual recommendations for either appointments
 - Appointment of Arbitrator(s) and Experts will commence immediately.
 - Full Draft WEM Procedure to be provided for consultation shortly.
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