



Government of Western Australia
Department of Mines, Industry Regulation and Safety
Energy Policy WA

Draft Rule Change Report: Reduced Frequency of the Review of the Energy Price Limits and the Maximum Reserve Capacity Price. (RC_2014_05)

Standard Rule Change Process

30 June 2023

Working together for a **brighter** energy future.

*An appropriate citation for this paper is: Draft Rule Change Report:
Reduced Frequency of the Review of the Energy Price Limits and the Maximum Reserve Capacity Price.
(RC_2014_05)*

Energy Policy WA

Level 1, 66 St Georges Terrace
Perth WA 6000

Locked Bag 100, East Perth WA 6892
Telephone: 08 6551 4600

www.energy.wa.gov.au
ABN 84 730 831 715

Enquiries about this report should be directed to:

Telephone: 08 6551 4600
Email: energymarkets@dmirs.wa.gov.au

Contents

1.	The Rule Change Proposal, Process and Timeline	1
2.	The Coordinator's Draft Decision	3
2.1	Reasons for the Coordinator's Draft Decision	3
3.	Call for Second Round Submissions	4
4.	Proposed Amendments	5
4.1	The Rule Change Proposal	5
	Issue 1: Improved clarity of the description of the prices	5
	Issue 2: Removal of the annual review and introduction of a five-yearly review	5
	Issue 3: Introduction of an in-period review to account for significant changes	6
	Issue 4: Removal of Market Procedure for Maximum Reserve Capacity Price	6
	Issue 5: Introduction of price indexation	6
	Issue 6: Clarifying the calculation of the Energy Price Limits	6
	Issue 7: Remove the explicit ability for the IMO to undertake further consultation	6
	Issue 8: Other minor amendments	6
4.2	The IMO's Initial Assessment of the Proposal	6
5.	Consultation	7
5.1	Pre-Rule Change Proposal	7
5.2	The Market Advisory Committee	7
5.3	The Coordinator's Response to the Market Advisory Committee	7
5.4	Submissions Received during the First Submission Period	7
	Issue 2: Removal of the annual review and introduction of a five-yearly review	8
	Issue 3: Introduction of an in-period review to account for significant changes	8
	Issue 5: Introduction of price indexation	8
	Wholesale Market Objectives	9
5.5	The Coordinator's Response to Submissions Received during the First Submission Period	9
5.6	Advice on the WEM Technical Standards	9
5.7	Public Forums and Workshops	9
6.	The Coordinator's Draft Assessment	10
6.1	Assessment of the Proposed Changes	11
	Energy Price Limits	11
	Maximum Reserve Capacity Price	11
	Issue 1: Improved clarity of the description of the prices	11
	Issue 2: Removal of the annual review and introduction of a five-yearly review	12
	Issue 3: Introduction of an in-period review to account for significant changes	12
	Issue 4: Removal of Market Procedure for Maximum Reserve Capacity Price	13
	Issue 5: Introduction of price indexation	13
	Issue 6: Clarifying the calculation of the Energy Price Limits	13
	Issue 7: Remove the explicit ability for the IMO to undertake further consultation	14
	Issue 8: Others	14
6.2	Additional Amendments to the Proposed Amending Rules	14
6.3	Wholesale Market Objectives	14

6.4	Protected Provisions	14
6.5	Civil Penalty Provisions.....	14
6.6	Reviewable Decisions.....	14
6.7	Cost and Practicality of Implementation	15
6.7.1	Cost	15
6.7.2	Practicality	15
6.7.3	Assessment	16

1. The Rule Change Proposal, Process and Timeline

On 2 December 2014, the then Independent Market Operator (IMO) submitted a Rule Change Proposal titled “Reduced Frequency of the Review of the Energy Price Limits and the Maximum Reserve Capacity Price” (RC_2014_05). This Rule Change Proposal sought to:

- move the reviews of the Energy Price Limits (EPLs) and Maximum Reserve Capacity Price (MRCP) from annually to five-yearly;
- index the EPLs and the MRCP between the five-yearly reviews; and
- make a number of related administrative and structural changes.

This proposal is being processed using the Standard Rule Change Process, described in section 2.7 of the WEM Rules.

The Rule Change Notice and all other documents related to this Rule Change Proposal can be found on the Coordinator’s website at [Rule Change: RC_2014_05 \(www.wa.gov.au\)](http://www.wa.gov.au).

The timeframe for the Draft Rule Change Report was extended under clause 2.5.10 of the WEM Rules on multiple occasions. The history of this proposal is summarised below:

- the IMO submitted the proposal on 2 December 2014. It issued several extensions to the deadline for publishing the Draft Rule Change Report to allow the IMO to consider the proposal in more detail;
- responsibility for assessing the proposal was transferred to the Rule Change Panel on 3 April 2017. It issued several extensions to the deadline for publishing the Draft Rule Change Report because:
 - the WEM Rules had changed significantly since the proposal was submitted; and
 - Energy Policy WA (EPWA) was implementing the Energy Transformation Strategy (ETS) that was reviewing the EPLs, among other things;
- responsibility for assessing the proposal was transferred to the Coordinator of Energy (Coordinator) on 1 July 2021. It issued two extensions to the deadline for publishing the Draft Rule Change Report because the Coordinator was conducting:
 - the Market Power Mitigation (MPM) Strategy review,¹ which was considering the methodology for setting the EPLs, among other things; and
 - the Reserve Capacity Mechanism (RCM) Review,² which was considering the methodology for setting the Benchmark Reserve Capacity Price (BRCP), among other things.³

¹ Full information on the MPM Strategy review is available at <https://www.wa.gov.au/government/document-collections/market-power-mitigation-strategy>, including the *Market Power Mitigation Strategy – Consultation Paper*, *Market Power Mitigation Strategy – Information Paper*, exposure drafts of the *Market Power Mitigation Wholesale Electricity Market Amending Rules*, and stakeholder submissions on all of the these documents.

² Full information on the RCM Review is available at <https://www.wa.gov.au/government/document-collections/reserve-capacity-mechanism-review>, including the Scope of Work for the review, the *Reserve Capacity Mechanism Review Stage 1 Consultation Paper*, the *Reserve Capacity Mechanism Review: Information Paper (Stage 1) and Consultation Paper (Stage 2)* and all submissions to both papers.

³ The concept of the MRCP has been amended since the submission of RC_2014_05 and is now called the BRCP.

The key dates for progressing this Rule Change Proposal are:



This Draft Rule Change Report is drafted under clause 2.7.6 of the WEM Rules on the basis that the reader has read all the related documents, including the Rule Change Proposal and the first period submissions, as well as the relevant MPM Strategy and RCM Review documents.

2. The Coordinator's Draft Decision

The Coordinator's draft decision is to reject the Rule Change Proposal.

2.1 Reasons for the Coordinator's Draft Decision

The Coordinator has made a draft decision to reject Rule Change Proposal RC_2014_05 because the issues raised in this proposal were addressed by the MPM Strategy Review, the RCM Review and Rule Change Proposal RC_2019_05.

- The MPM Strategy Review considered the methodology and frequency for setting the EPLs. The MPM Strategy Review outcomes were implemented through the *Wholesale Energy Market (Tranche 6A Amendments) Rules 2023*, which were approved by the Minister for Energy and published in the Government Gazette on 31 March 2023.
- The RCM Review is considering the methodology and frequency for setting the BRCP. Stage 1 of the RCM Review is complete and Stages 2 and 3 are scheduled to be completed in 2023. The Minister for Energy is expected to make Amending Rules to give effect to the outcomes of the RCM Review in late 2023.
- Changes were made as a result of Rule Change Proposal RC_2019_05 to the approach to reviewing and determining the Minimum STEM Price and the Amending Rules commenced in 7 August 2020.

Additionally, the governance matters covered in this Rule Change Proposal were subject to the governance structure and regulatory arrangement changes made as a result of the 2014 Electricity Market Review (EMR) and under the ETS.

The Coordinator considers that the changes to the EPLs and BRCP made as a result of the MPM Strategy Review, the RCM Review and RC_2019_05 were consistent with the Wholesale Market Objectives.

It would be impractical and inefficient to make further changes to the EPLs and BRCP arrangements at this time, as making further changes would come at a cost and will have no benefit.

The detailed analysis behind the Coordinator's decision is provided in section 6 of this report.

3. Call for Second Round Submissions

The Coordinator invites interested stakeholders to make submissions on this Draft Rule Change Report.

The submission period is 20 Business Days from the Draft Rule Change Report publication date. Submissions must be delivered to the Coordinator by **5:00pm AWST on 28 July 2023**.

The Coordinator encourages stakeholders to use the submission form available at [Rule Change Process \(www.wa.gov.au\)](http://www.wa.gov.au) and to send the completed form by email to energymarkets@dmirs.wa.gov.au

Submissions may also be sent to the Coordinator by post, addressed to:

Coordinator of Energy

Attn: Director, Wholesale Markets Branch
Energy Policy WA
Locked Bag 100,
East Perth WA 6892

4. Proposed Amendments

This section provides a summary of Rule Change Proposal RC_2014_05. The Full Rule Change Proposal and all related documentation can be found on the Coordinator's website at [Rule Change: RC_2014_05 \(www.wa.gov.au\)](http://www.wa.gov.au).

4.1 The Rule Change Proposal

Clauses 4.16.3 and 6.20.6 of the *Wholesale Electricity Market Rules 2006*, as Gazetted on 19 September 2006, required the IMO to undertake an annual review of the EPLs and the MRCP.⁴

The EPLs and MRCP were the price limits for the energy market and the RCM, respectively. The EPLs and MRCP were intended to protect the market against the abuse of market power, to reduce price volatility and to provide a level of price certainty. At the time the Rule Change Proposal was submitted, the IMO estimated the cost of conducting the annual reviews at \$58,000 for the EPLs and \$66,000 for the MRCP.

RC_2014_05 proposed amendments to the WEM Rules to reduce the frequency of determining the EPLs and the MRCP from annually to five-yearly. The IMO proposed these changes on the basis that the annual review process was not cost efficient and the majority of variables used in the price calculations did not vary significantly over three to five years.

Additionally, the IMO proposed indexation of the EPLs and MRCP to reflect the regular price movements throughout the proposed five-year review period. The price indexation would account for inflation, economic growth and changes in exchange rates associated with costs in the sector, which would ordinarily be factored in the annual reviews.

The proposal included a number of related administrative and structural changes to enable the proposed changes, including a review of the methodologies that the IMO used to determine the EPLs and MRCP values.

RC_2014_05 proposed amendments to address the following eight issues.

Issue 1: Improved clarity of the description of the price limits

The IMO proposed to amend the definitions, calculations and purposes of the EPLs and MRCP to increase the clarity of the WEM Rules and mitigate risks of misinterpretation of the EPLs.

Issue 2: The move from an annual to a five-yearly review

The IMO proposed to move from annual EPLs and MRCP reviews to five-yearly reviews. This was intended to align the annual price reviews with the five-yearly methodology reviews, and to reduce the costs associated with the annual reviews.

The IMO also proposed to amend the WEM Rules to specify the process that the IMO should use to undertake the reviews, including documentation of the reviews, consultation on the reviews, and seeking the ERA's approval of the proposed values. These changes were intended to increase the transparency and clarity of the review process.

⁴ Clauses specified in section 4 of this Draft Rule Change Report refer to the *Wholesale Electricity Market Rules (September 2006)*, as Gazetted on 19 September 2006.

Issue 3: Introduction of an in-period review to account for significant changes

The IMO proposed to introduce in-period reviews, as required, to mitigate the risk that the limits no longer represent the input parameters. The in-period reviews were proposed only for the input parameters, and not for the methodology.

Issue 4: Removal of Market Procedure for the Maximum Reserve Capacity Price

The IMO proposed to remove the obligation for the IMO to have a Market Procedure that specifies the methodology for the review of the MRCP and to instead require that the methodology be specified in the relevant reports. This was proposed to streamline the review process that otherwise required the IMO to annually update the Market Procedure, if changes were required.

Issue 5: Introduction of price indexation

The IMO proposed to introduce quarterly indexation of the EPLs and annual indexation of the MRCP using the Producer Price Index (PPI). The proposed indexation was to be restricted to years where a five-yearly review of the methodology or in-period review was not undertaken. The IMO considered that the price indexation was necessary to ensure that prices change in accordance with regular price movements and to account for inflation and exchange rates associated with costs in the sector.

Issue 6: Clarifying the calculation of the Energy Price Limits

The IMO proposed changes to clarify the calculation of EPLs and MRCP, including how each EPL is indexed, distinguishing between the quarterly (clause 6.20.3) and monthly (clause 6.20.4) indexation, and to review the reference to the oil price that was used for indexation.

Issue 7: Remove the explicit ability for the IMO to undertake further consultation

The IMO proposed to delete clause 6.20.9A on the basis that it was redundant. The IMO argued that the WEM Rules did not preclude the IMO from undertaking further consultation, so clause 6.20.9A was not required.

Issue 8: Other minor amendments

The IMO proposed a number of minor typographic changes to the WEM Rules.

4.2 The IMO's Initial Assessment of the Proposal

The IMO decided to progress this Rule Change Proposal on the basis that the proposed changes would decrease the costs of administering the WEM and increase regulatory certainty for Market Participants, without compromising the effectiveness of the EPLs and MRCP reviews. The IMO considered that stakeholders should be given an opportunity to provide submissions as part of the rule change process.

Responsibility for administration of the WEM Rules transferred from the IMO to the Rule Change Panel on 3 April 2017, and from the Rule Change Panel to the Coordinator on 1 July 2021. As a result, the Coordinator became responsible for progressing this Rule Change Proposal.

5. Consultation

In accordance with clause 2.7.7 of the WEM Rules, section 5 of this Draft Rule Change Report summarises:

- the consultation that was conducted on the Rule Change Proposal with the Market Advisory Committee (MAC) and the Coordinator's response to the views of the MAC; and
- the submissions made in the first submission period and the Coordinator's response to the submissions.

A summary of these consultations is presented below. The Coordinator has considered and taken into account each matter raised in making its decision on RC_2014_05.

5.1 Pre-Rule Change Proposal

MAC Meeting on 25 June 2014

The proposal was first raised by the IMO at the MAC meeting on 25 June 2014. The IMO circulated a paper describing the proposal with the meeting papers. Several MAC members expressed views on the need for an in-period review trigger, and two MAC members proposed in-period review triggers by email after the meeting. A Market Customer noted that the IMO should wait for the next MRCP methodology review before commencing the five-yearly review cycle.

MAC Meeting on 13 August 2014

The IMO considered the submissions and comments that were received on the initial paper and tabled a pre-Rule Change Proposal for discussion at the MAC meeting on 13 August 2014. The MAC suggested that the IMO evaluate the costs and implications of a quarterly indexation of the MRCP and EPLs. The MAC recommended progressing the pre-Rule Change Proposal.

5.2 The Market Advisory Committee

The MAC has not provided advice to the IMO, Rule Change Panel or Coordinator regarding Rule Change Proposal RC_2014_05.

5.3 The Coordinator's Response to the Market Advisory Committee

The MAC has not provided advice to the Coordinator regarding Rule Change Proposal RC_2014_05.

5.4 Submissions Received during the First Submission Period

The first submission period for this Rule Change Proposal was held between 3 December 2014 and 2 February 2015. The submissions were received from:

- Alinta;
- the ERA; and
- Community Electricity;
- Perth Energy.

The submissions generally did not support the Rule Change Proposal. The submitting parties

expressed concern regarding the proposed changes while phase 1 of the EMR was underway. The EMR was assessing options for changes to the industry structure, market institutions and regulatory arrangements. The submitting parties considered that the Minister for Energy's response to the EMR recommendations could lead RC_2014_05 to become redundant. However, the submissions generally supported the intent of the Rule Change Proposal.

Issue 2: The move from an annual review to a five-yearly review

Perth Energy considered that setting the EPLs and the MRCP for a period of five years would create a risk that the underlying cost components within these price limits may not adequately reflect the true costs incurred by Market Generators from time-to-time.

The ERA suggested that the IMO should consider the ERA's report that was provided to the Minister for Energy in September 2013, which assessed the frequency of the EPLs and MRCP reviews and recommended that the frequency should be retained.

The ERA recommended that the WEM Rules should clearly identify the nature and scope of the reviews that the ERA and the IMO were required to undertake.

The ERA recommended that the WEM Rules should clearly state that market power mitigation is the primary purpose of the MRCP and that the linkage between the MRCP and the Reserve Capacity Price (RCP), as provided for in the 2006 WEM Rules 2006, should be broken. The ERA suggested that an alternative method should be explored for setting the RCP when no market price for capacity is available.

The ERA recommended that the IMO should be required to develop a Market Procedure for the EPLs that describes the methodology to be used and the process to be followed for EPLs reviews.

Issue 3: Introduction of an in-period review to account for significant changes

Alinta expressed concern that the Rule Change Proposal does not ensure sufficient regulatory oversight of the in-period review process. Likewise, Perth Energy expressed concern that the triggers and processes for in-period reviews, as proposed by the IMO, are insufficient to provide Market Participants with sufficient revenue safeguards.

Alinta considered that the proposal is inconsistent with the intention of the market design and the MAC's advice from August 2014, which suggested that in-period review decisions should be subject to a merits review.

The ERA recommended that consideration should be given to undertaking thorough reviews every three years, with an appropriate escalator being applied between reviews, and to providing the IMO with the ability to conduct additional reviews at any time, should there be significant changes in the market.

Issue 5: Introduction of price indexation

Alinta and Perth Energy expressed concern that the PPI may not be the most appropriate index for the EPLs and MRCP.

Perth Energy recommended a market-based pricing regime for reserve capacity, such as annual auctions, whereby clearing prices are applied to the incremental capacity for 1 to 10 years, at the Market Participant's option. Perth Energy suggested that this would alleviate many of the concerns raised by Market Participants regarding the unpredictability of the changes to the administered prices.

Wholesale Market Objectives

The assessments by the submitting parties as to whether the WEM Rules, as amended by the Amending Rules in the Rule Change Proposal, would better achieve the Wholesale Market Objectives is summarised in Table 1.

Table 1: Comments on the Wholesale Market Objectives from the First Period Submissions

Submitter	Market Objective Assessment
Alinta	Alinta considered that the regulatory framework for setting the pricing parameters in the market needs to be subject to appropriate oversight to ensure that the Wholesale Market Objectives are not compromised. A framework that does not establish an appropriate regulatory process and that allows significant intra-period changes to not be reflected in the pricing parameters would not be consistent with the Wholesale Market Objectives.
The ERA	Did not comment.
Community Electricity	Community Electricity considered that the proposed changes would improve the integrity of the Market Rules and be consistent with all the Wholesale Market Objectives.
Perth Energy	Perth Energy considered that the Rule Change Proposal will not facilitate achievement of Wholesale Market Objectives.

Copies of all submissions received during the first submission period are available on the Coordinator's website.

5.5 The Coordinator's Response to Submissions Received during the First Submission Period

The Coordinator's overall assessment of the issues raised in the first period submissions is presented in section **Error! Reference source not found.** of this report.

5.6 Advice on the WEM Technical Standards

The Coordinator did not consider that the Amending Rules will directly or indirectly affect the WEM Technical Standards and therefore did not seek advice from AEMO or a Network Operator.

5.7 Public Forums and Workshops

The Coordinator did not hold a public forum or workshop on this Rule Change Proposal.

6. The Coordinator's Draft Assessment

In preparing its Draft Rule Change Report, the Coordinator must assess the Rule Change Proposal against clauses 2.4.2 and 2.4.3 of the WEM Rules.

Clause 2.4.2 states:

The Coordinator must not make Amending Rules unless it is satisfied that the WEM Rules, as proposed to be amended or replaced, are consistent with the Wholesale Market Objectives.

Clause 2.4.3 sets out the matters that the Coordinator must have regard to in deciding whether to make Amending Rules, including:

- (a) any applicable statement of policy principles given to the Coordinator under clause 2.5.2;
- (aA) any advice provided by the MAC regarding the evolution or the development of the WEM or these WEM Rules;
- (b) the practicality and cost of implementing the Rule Change Proposal;
- (c) the views expressed in any submissions on the Rule Change Proposal;
- (d) any advice by the MAC where the MAC met to consider the Rule Change Proposal;
- (dA) whether the advice from the MAC provided under clause 2.4.3(d) reflects a consensus view or a majority view, and, if the latter, any dissenting views included in or accompanying the advice and how these views have been taken into account by the Coordinator;
- (e) any technical studies that the Coordinator considers are necessary to assist in assessing the Rule Change Proposal; and
- (f) any advice or information provided by AEMO or a Network Operator under clause 2.4.3C.

In making its draft decision, the Coordinator has had regard to each of the matters identified in clauses 2.4.2 and 2.4.3 as follows:

- the Coordinator's overall assessment of the Rule Change Proposal is in section 6.1;
- the Coordinator's assessment of the Rule Change Proposal against the Wholesale Market Objectives is in section 6.3;
- the Minister has not provided a statement of policy principles to the Coordinator in respect of this Rule Change Proposal;
- the Coordinator's assessment of the practicality and cost of implementing the Rule Change Proposal is in section 6.7;
- a summary of the views expressed by the MAC is in section 5.2 and the Coordinator's responses to these views are in section 5.3;
- a summary of the submissions in the first submission period is in section 5.4 and the Coordinator's responses to these submissions are in sections 5.5 and 6.1;
- the Coordinator does not consider that a technical study in respect of this Rule Change Proposal is required and therefore has not commissioned one; and
- the Coordinator did not consider that the Amending Rules will directly or indirectly affect a WEM Technical Standard and therefore did not seek advice from AEMO or a Western Power on the WEM Technical Standards.

6.1 Assessment of the Proposed Changes

This section presents the Coordinator's assessment of the issues raised in the Rule Change Proposal and the proposed amendments.

The Coordinator's view is that the issues raised in the Rule Change Proposal have been addressed by the MPM Strategy Review, the RCM Review and Rule Change Proposal RC_2019_05, so the proposed amendments are not required.

Energy Price Limits

The Coordinator's view is that the EPLs were considered by the MPM Strategy Review. The MPM Strategy Review followed the Energy Transformation Taskforce's principles that the price limits should be set to allow Market Participants to recover efficient costs, and that the process for setting the price limits should reduce the effort and frequency of adjustment. The MPM Strategy Review also concluded that a single energy price cap should apply in place of the current dual price caps (i.e. an Energy Offer Price Ceiling should apply instead of the Maximum STEM Price and Alternative Maximum STEM Price).

The MPM Strategy Review determined that the EPLs will be set by the ERA, and reviewed every three years, as a backstop mechanism in the MPM framework, based on principles and processes contained in the WEM Rules. The WEM Rules will provide the ERA with the discretion to nominate indexation methodologies for the energy price limits, such as for inflation or fuel price changes, and to bring forward a review of a price limit in exceptional circumstances.

Specific Transitional Provisions for reviews of the EPLs were specified in clause 1.60, which became effective on 17 April 2023 via the *Wholesale Energy Market (Tranche 6A Amendments) Rules 2023, Schedule A*. These Transitional Provisions prepare the WEM for major changes to the EPLs methodology that will be made via the *Wholesale Energy Market (Tranche 6A Amendments) Rules 2023, Schedule B*, which will commence at a time specified by the Minister, currently planned for 1 October 2023.

Maximum Reserve Capacity Price

The Coordinator notes that the concept of the MRCP has been amended since the submission of RC_2014_05 and is now called the BRCP.

The Coordinator is currently conducting an RCM Review, which has (among other things) addressed some of the matters considered by RC_2014_05. Stage 1 of the RCM Review focused on the definition of reliability and the characteristics of the capacity needed in future years, including the method for calculating the BRCP.

Stage 1 of the RCM Review is complete, and Stages 2 and 3 are scheduled to be completed in 2023. The Minister for Energy is expected to make Amending Rules to give effect to the outcomes of the RCM Review in late 2023.

Issue 1: Improved clarity of the description of the price limits

RC_2014_05 proposed to amend sections 6.20 and 4.16 of the WEM Rules, and the Glossary, to clarify the definition of the EPLs (the Maximum STEM Price, Alternative Maximum STEM Price and Minimum STEM Price) and the MRCP. The Coordinator has analysed the proposed amendments, as follows:

- Changes to the Maximum STEM Price and Alternative Maximum STEM Price definitions were considered under the MPM Strategy Review. The *Wholesale Energy Market (Tranche 6A*

Amendments) Rules 2023, Schedule B will replace these defined terms with a single Energy Offer Price Ceiling.

- Changes to the definition and determination of the Minimum STEM Price were made under Rule Change Proposal RC_2019_05, and the Amending Rules for RC_2019_05 commenced on 7 August 2020.⁵ The MPM Strategy Review considered the definition of the Minimum STEM Price and renamed it the Energy Price Offer Floor.
- RC_2014_05 proposed to amend section 4.16 to provide an explanation of the purpose of the MRCP and how it is calculated. These changes were partially introduced in the 2016 Wholesale Energy Market Rules, which commenced on 31 May 2016. The determination of the BRCP was also considered in Stages 1 and 2 of the RCM Review – see Review Outcome 8 and Proposal U from the *Reserve Capacity Mechanism Review: Consultation Paper (Stage 1) and Information Paper (Stage 2)*.⁶

As a result, the Coordinator rejects the proposed amendments under Issue 1.

Issue 2: The move from an annual review to a five-yearly review

RC_2014_05 proposed to amend the requirement for the IMO to annually review the EPLs and MRCP to a requirement to review them every five years instead (clauses 4.16.3, 4.16.5, 6.20.5 and 6.20.6 of the WEM Rules 2006). The Coordinator has considered the proposed amendments, as follows:

- The MPM Strategy Review has made the necessary changes to the frequency of the EPLs reviews and no further amendments are required. The ERA will now review the Energy Price Offer Ceiling and Energy Price Offer Floor at least once in every three years.
- The RCM Review considered the frequency of the BRCP reviews and did not propose to change the frequency of the reviews.

As a result, the Coordinator rejects the proposed amendments under Issue 2.

Issue 3: Introduction of an in-period review to account for significant changes

RC_2014_04 proposed to amend clause 6.20.6 to introduce in-period reviews to account for significant changes to the EPLs, and proposed to amend clause 4.16.10 and insert new clauses 4.16.11 to 4.16.15 to introduce in-period reviews for the MRCP.

Stakeholders suggested that these proposals did not ensure sufficient regulatory oversight of the intra-period review process and did not provide adequate certainty to Market Participants.

Changes have already been made to the WEM Rules so that EPLs reviews are conducted at least once every three years, and BRCP reviews at least once every five years. As the WEM Rules allow for reviews to be conducted more frequently, the Coordinator is of the view that the WEM Rules do not need to provide for in-period reviews of the BRCP.

In addition, the MPM Strategy Review:

- introduced the ability for Rule Participants to request that the ERA brings forward the next review of the EPLs. This change commenced on 17 April 2023; and

⁵ Further information on Rule Change Proposal RC_2019_05 is at <https://www.wa.gov.au/government/document-collections/rule-change-rc201905>.

⁶ https://www.wa.gov.au/system/files/2023-05/epwa_reserve_capacity_mechanism_review_information_and_consultation_paper.pdf.

- included the Market Price Limits and the BRCP in the Coordinator's three-yearly review of the effectiveness of the WEM. This change will commence at a time specified by the Minister in a notice published in the Gazette.

As a result, the Coordinator rejects the proposed amendments under Issue 3.

Issue 4: Removal of Market Procedure for the Maximum Reserve Capacity Price

RC_2014_05 proposed to delete the requirement for the IMO to maintain a WEM Procedure (i.e. to delete clause 4.16.3) and to add a new clause 4.16.5 to require the IMO to describe the review methodology in the relevant review report.

The ERA opposed this proposed change.

The governance for the relevant WEM Procedure was transferred from the IMO to the ERA on 1 July 2016 via the Wholesale Electricity Market Rules Amending Rules 2016 (No. 2).

The determination of the BRCP was considered under Stages 1 and 2 of the RCM Review – see Review Outcome 8 and Proposal U from the *Reserve Capacity Mechanism Review: Consultation Paper (Stage 1) and Information Paper (Stage 2)*, which will address the roles of the ERA and the Coordinator in setting the BRCP.

As a result, the Coordinator rejects the proposed amendments under Issue 4.

Issue 5: Introduction of price indexation

RC_2014_05 proposed to insert clause 6.20.3 to introduce quarterly indexation of the Maximum STEM Price and Alternative Maximum Energy Price. The Coordinator considers this proposed change to be unnecessary given the changes introduced by *Wholesale Energy Market (Tranche 6A Amendments) Rules 2023, Schedule B*.

RC_2014_05 proposed to insert clause 4.16.13 to introduce annual indexation of the MRCP. As the RCM Review is considering the determination of the BRCP, the Coordinator considers that the further amendments to the BRCP determination proposed by RC_2014_05 are not required.

As a result, the Coordinator rejects the proposed amendments under Issue 5.

Issue 6: Clarifying the calculation of the Energy Price Limits

RC_2014_05 proposed amendments to clarify the calculation of the EPLs, including:

- moving the monthly indexation of the fuel component of the Alternative Maximum STEM Price from clause 6.20.3 to clause 6.20.4;
- clarifying how each EPLs is indexed and distinguishing between the quarterly (clause 6.20.3) and monthly (clause 6.20.4) indexation of the Alternative Maximum STEM Price;
- amending the oil price used to index the fuel cost component of the Alternative Maximum STEM Price to the Perth Net Ex Terminal Price (clauses 6.20.3 and 6.20.4); and
- amending the formulae that the IMO must use to calculate the Maximum STEM Price and Alternative Maximum STEM Price and moving them to clause 6.20.5 (the IMO proposed to replace the calculations with a list of factors that the IMO must consider when calculating the EPLs, excluding a risk margin).

The Coordinator considers that the changes introduced by *Wholesale Energy Market (Tranche 6A Amendments) Rules 2023* adequately address the proposed amendments.

As a result, the Coordinator rejects the proposed amendments under Issue 6.

Issue 7: Remove the explicit ability for the IMO to undertake further consultation

RC_2014_05 proposed to delete clause 6.20.9A on the basis that it is redundant. Clause 6.20.9A was considered under RC_2019_05 and the related changes to the WEM Rules were commenced on 7 August 2020. The Coordinator considers that clause 6.20.9A provides clarity to Market Participants and it, therefore, is not redundant.

As a result, the Coordinator rejects the proposed amendments under Issue 7.

Issue 8: Other minor amendments

RC_2014_05 proposed to fix a number of typographical errors in clauses 2.26.3, 4.16.6, 4.16.7 and 6.6.10 of the WEM Rules. However, these rules have been subject to multiple amendments since RC_2014_05 was proposed.

As a result, the Coordinator rejects the proposed amendments under Issue 8.

6.2 Additional Amendments to the Proposed Amending Rules

The Coordinator has not made any changes to the proposed Amending Rules following the first submission period.

6.3 Wholesale Market Objectives

The Coordinator considers that the MPM Strategy Review, the RCM Review and Rule Change Proposal RC_2019_05 addressed the issues in RC_2014_05, and that these other processes considered the Wholesale Market Objectives.

6.4 Protected Provisions

The Rule Change Proposal proposed changes to clause 4.1.19 and section 4.16 of the WEM Rules, which are Protected Provisions under clause 2.8.13 of the WEM Rules.

The Coordinator proposes to reject the Rule Change Proposal, so this proposal will not impact any Protected Provisions.

6.5 Civil Penalty Provisions

The Rule Change Proposal proposed to amend clause 7A.2.9, which is a Category C civil penalty provision.

The Coordinator proposes to reject the Rule Change Proposal, so this proposal will not impact any civil penalty provisions.

6.6 Reviewable Decisions

The Coordinator proposes to reject the Rule Change Proposal, so this proposal will not impact any Reviewable Decisions.

6.7 Cost and Practicality of Implementation

6.7.1 Cost

The IMO stated that it would incur minor costs to implement the necessary process and system changes to facilitate the implementation of the Rule Change Proposal. In addition, the IMO did not anticipate that Market Participants would incur any significant cost associated with the proposed changes.

The IMO expected savings of around \$500,000 over each five-year review period, related to the engagement of external consultants to undertake the EPLs and MRCP reviews, which would no longer be required. The IMO also expected cost reductions for the ERA and Market Participants as the frequency of consultation on the IMO's reviews would be reduced.

6.7.2 Practicality

The IMO proposed to stage the commencement of the proposed Amending Rules, as follows:

- commence transitional provisions to allow the IMO to undertake an initial review of the EPLs and MRCP on 1 August 2015;
- commence the implementation of the EPLs related changes on 1 July 2016; and
- commence the implementation of the BRCP related changes on 1 January 2017.

The IMO noted that the Minister's approval would be required for the amendments to clauses 2.8.13 and 4.1.19, and sections 4.16 and 1.13 (new), of the WEM Rules which are Protected Provision.

The IMO stated that it would engage with the Public Utilities Office (now EPWA) regarding the proposed changes to clause 7A.2.9 of the WEM Rules, which is a Category C civil penalty provision.

The IMO noted that minor changes to the WEM Procedures will be required, including to:

- Market Procedure: Information Confidentiality;
- Market Procedure: Balancing Facility Requirements;
- Market Procedure: Balancing Market Forecast; and
- Market Procedure: Supplementary Reserve Capacity.

The IMO stated that the Rule Change Proposal would require minimal changes to the IMO system.

The IMO also noted two additional Rule Change Proposals that were under consideration at the time that RC_2014_05 was submitted that covered similar content:

- RC_2013_20: Changes to the Reserve Capacity Price and the Dynamic Reserve Capacity Refund Regime,⁷ which proposed changes to the MRCP; and
- RC_2013_15: Outage Planning Phase 2 – Outage Process Refinements,⁸ which proposed changes to clause 7A.2.9.

⁷ The IMO issued a Final Rule Change Report for RC_2013_20 on 14 May 2015 but the Minister did not approve the proposed Amending Rules. For further information see [Rule Change: RC_2013_20 \(www.wa.gov.au\)](http://www.wa.gov.au).

⁸ The Amending Rules for RC_2013_15 commenced on 1 February 2020. For further information see [Rule Change: RC_2013_15 \(www.wa.gov.au\)](http://www.wa.gov.au)

The IMO suggested that RC_2013_20 and RC_2014_15 would not impact on RC_2014_05.

6.7.3 Assessment

The Coordinator has made a draft decision to reject RC_2014_05 because the issues raised in this Rule Change Proposal were addressed by the MPM Strategy Review, the RCM Review and Rule Change Proposal RC_2019_05.

Additionally, matters covered in this Rule Change Proposal were subject to the governance structure and regulatory arrangements considered under the EMR and ETS.

- The EMR was launched on 6 March 2014, and reviewed the governance structure, market institutions and regulatory arrangements.⁹ Among other things, the review transferred the system management and market operation functions from the IMO to AEMO.
- The ETS proposed changes to the governance and regulatory frameworks, including changes to the market power mitigation arrangements, which were concluded by the MPM Strategy Review.

The Coordinator considers that the MPM Strategy Review, the RCM Review and RC_2019_05 were consistent with the Wholesale Market Objectives.

The EPLs arrangements have been amended as a result of the MPM Strategy Review and the BRCP arrangements are being considered by the RCM Review. The Coordinator considers that it would be impractical and inefficient to make further changes to the EPLs and BRCP at this time, as making further changes would come at a cost and would have no benefit.

⁹ Further information on the EMR can be found at [Electricity Market Review \(www.wa.gov.au\)](http://www.wa.gov.au) and information on Phase 1 and Phase 2 can be found respectively at [Electricity Market Review – Phase 1 \(www.wa.gov.au\)](http://www.wa.gov.au) and [Electricity Market Review – Phase 2 \(www.wa.gov.au\)](http://www.wa.gov.au)

Energy Policy WA

Level 1, 66 St Georges Terrace, Perth WA 6000

Locked Bag 100, East Perth WA 6892

Telephone: 08 6551 4600

www.energy.wa.gov.au

*We're working for
Western Australia.*

