

18 May 2020



Ms Nicola Cusworth
Economic Regulation Authority
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Dear Ms Cusworth

Approval of amendment to the Retail Market Scheme – Procedure Changes IN006/18W and IN003/19W.

Under section 11ZOL of the *Energy Coordination Act 1994* (the “Act”), the members of an approved Retail Market Scheme may prepare an amendment to their Retail Market Scheme (the “Scheme”) and submit the amendment to the Economic Regulation Authority (“ERA”) for approval.

The framework for the ERA to review and approve amendments to the Scheme is provided in section 11ZOM of the Act. The Scheme is defined to include, amongst other things, the Australian Energy Market Operator (“AEMO”), Retail Market Procedures Western Australia (“RMP WA”), AEMO Specification Pack and Full Retail Competition (FRC) Hub Operational Terms and Conditions. As the formal entity for the Scheme, AEMO is applying to the ERA on behalf of the members for two amendments to the Scheme as described in **Attachments A**.

Background

The RMP WA set out the procedure change process that AEMO must follow before submitting changes to the ERA. AEMO has applied this process, which assisted AEMO and relevant stakeholders in developing the two amendments (IN006/18W (Requirements around explicit informed consent RMP clauses 55A, 72 and 166A) and IN003/19W (Editorial and minor process-improvement changes)) proposed in this application. These amendments were finalised by AEMO on behalf of stakeholders when it published the final Impact and Implementation Reports (“IIRs”) for IN006/18W on 11 November 2019 and for IN003/19W on 3 March 2020.

The consultation that underpins the procedure change process determined that the amendments for IN006/18W were “non-substantial” given the proposed amendments:

- (i) for some retailers it represented a minor impact on information technology systems and business processes; and
- (ii) do not materially alter consumer protection mechanisms under the RMP WA; and
- (iii) do not have a material commercial impact on AEMO, participants, pipeline operators or prescribed persons.

The consultation that underpins the procedure change process determined that the amendments for IN003/19W were “non-material”, since the proposed amendments:

- (i) will have no impact on the information technology systems; and
- (ii) will have no substantial impact on business processes; and
- (iii) do not materially alter consumer protection mechanisms under the RMP WA; and
- (iv) do not have a material commercial impact on AEMO, participants, pipeline operators or prescribed persons.

As per clause 383(1) of the RMP WA, each participant, pipeline operator, prescribed person and interested person was invited to submit written comments to the proposed amendments for IN006/18W and IN003/19W. Submissions closed on 9 December 2019 and 31 March 2020 respectively, with all submissions supporting the proposed changes.

AEMO has decided to submit the two amendments to the ERA for approval as endorsed procedure changes. Please refer to **Attachments D and E** for the two IIRs.

Amendments to the Scheme for ERA consideration

Attachment A contains a summary of each amendment and includes a description on what artefact under the Scheme is changing; the actual change (in “track change” mode) for IN006/18W and IN003/19W; and any additional relevant information that is not covered in the IIR.

Section 11ZOO (1) and (2) of the Act specifies the criteria that the ERA is to consider in determining whether to approve an amendment to the Scheme. Please refer to **Attachment B** for the rationale for the proposals’ meeting scheme change requirements under the Act. AEMO believes that no further amendments are required based on participant feedback to the IIRs as described in **Attachment C**. Further, AEMO believes that the details contained in this application satisfy the criteria under Section 11ZOO and which will enable the ERA to consider the amendments.

In accordance with clause 383(4) of the RMP WA, AEMO must provide information to stakeholders about how to make submissions to the ERA on endorsed procedure changes, including a closing date for any ERA submissions. Lipakshi Dhar from the ERA has provided AEMO with this information, which includes advice that submissions to the ERA will close on 29 June 2020.

Upon sending this application, AEMO will publish this material on its website and include information on how to make submissions to the ERA.

Should the ERA approve the two endorsed procedure changes, AEMO proposes to implement the changes related to IN006/18W and IN003/19W to take effect on 28 August 2020. AEMO requests that ERA consider, endorse, and publish the approval for these changes in the *Gazette* by 31 July 2020 with an effective date of 28 August 2020, which will enable AEMO to publish the amended RMP WA and WA Participants to implement information technology and/or business process changes.

If you require any further information or if have any questions in relation to this application, please contact Nandu Datar on Nandu.datar@aemo.com.au.

Yours sincerely



Mr Peter Geers
Chief Strategy and Markets Officer

ATTACHMENT A – Summary of Amendments

IN006/18W – Requirements around EIC

1. This proposed change involves an amendment to RMP WA clauses 55A(3), 72(4) and 166A(3) to remove the requirement on a Retailer to delete all copies of the customer's EIC when it no longer applies.
2. The Scheme document requiring amendment is the RMP WA.
3. Following extract from the RMP WA shows the changes in "track change" mode with ~~red~~ ~~strikeout~~ meaning "delete" and blue underline meaning "insert".

55A. Explicit informed consent required

- (1) Before lodging a request with AEMO for *historical AEMO standing data* for a *delivery point* that relates to a period for which the *user* was not the *current user*, a *user* must obtain the *customer's explicit informed consent* to the receipt by the *user* of the requested data.

{Note: The *user* should ensure that the *customer's* consent extends to all actions the *user* may need to undertake to complete the request for the *historical AEMO standing data*.}

- (2) If at any time before AEMO has provided information to a *user* under clause 57(2), a *customer's explicit informed consent* under clause 55A(1) ceases to apply (for example because it is withdrawn), then the *user* must withdraw the request to the extent that the request relied upon the *customer's explicit informed consent*.
- (3) If at any time after AEMO has provided information to a *user* under clause 57(2), a *customer's explicit informed consent* under clause 55A(1) ceases to apply (for example because it is withdrawn), then the *user* must not use the information for any purpose other than purposes required by these procedures or required by law ~~and must to the extent reasonably practicable delete all copies of the information.~~

72. Explicit informed consent required

- (1) Before lodging a *MIRN discovery request* with a *network operator*, a *user* must obtain the *customer's explicit informed consent* to the receipt by the *user* of the *MIRN standing data* that relates to the *customer's delivery point*.

{Note: The *user* should ensure that the *customer's* consent extends to all actions the *user* may need to undertake to complete the *MIRN* discovery process, for example, subsequent lodgements if the first *MIRN discovery request* is rejected, liaison with the *network operator* under clause 76 and the subsequent report that the *network operator* is required to provide AEMO under clause 73(1).}

- (2) By lodging a *MIRN discovery request* with a *network operator*, the *user* represents and warrants to the *network operator* that the *user* has complied with clause 72(1).

{Note: Under clause 376A(2), a breach of this warranty will expose the *user* to liability for more than just direct damage.}

- (3) A *user* makes the warranty in clause 72(2) anew on each day that the *MIRN discovery request* is open.

- (4) If at any time after the *network operator* has provided information to a *user* under clause 75, a *customer's explicit informed consent* under clause 72(1) ceases to apply (for example because it is withdrawn), then the *user* must not use the information for any purpose other than purposes required by these procedures or required by law ~~and must to the extent reasonably practicable delete all copies of the information.~~
- (5) This clause 72 does not apply where the *user* is a *self-contracting user*.
- (6) To avoid doubt, a *user* does not require the *customer's explicit informed consent* for receipt of the information referred to in clause 75(2)(b)(ii).
- (7) To avoid doubt, a *current user* for a *delivery point* does not require the *customer's explicit informed consent* for receipt of the *MIRN standing data* for the *delivery point*.

166A. Explicit informed consent required

- (1) Before lodging a request with a network operator for historical metering data or historical meter reading data for a delivery point that relates to a period for which the user was not the current user, a user must obtain the customer's explicit informed consent to the receipt by the user of the requested data.

{Note: The user should ensure that the customer's consent extends to all actions the user may need to undertake to complete the request for the historical metering data or historical meter reading data.}
- (2) If at any time before the network operator has provided information to a user under clause 167(4), a customer's explicit informed consent under clause 166A(1) ceases to apply (for example because it is withdrawn), then the user must withdraw the request to the extent that the request relied upon the customer's explicit informed consent.
- (3) If at any time after the network operator has provided information to a user under clause 167(4), a customer's explicit informed consent under clause 166A(1) ceases to apply (for example because it is withdrawn), then the user must not use the information for any purpose other than purposes required by these procedures or required by law ~~and must to the extent reasonably practicable delete all copies of the information.~~

IN003/19W – Holistic tidy-up of RMP (WA)

1. This proposed change involves editorial and process improvement changes to the RMP WA.
2. The Scheme document that requires the amendment is the RMP WA.
3. In the initial Gas Market Issue (GMI) presented to the GRCF, AEMO proposed review of the RMP WA as required under clause 17 by including the following, 'AEMO and the GRCF are required by clause 17 of the RMP (WA) to decide in March 2020 whether to undertake a review of the RMP (WA). AEMO proposes to issue in March 2020 the procedure change request (PCR) incorporating the agreed changes from the IN003/19W pre-consultation; AEMO further proposes that this PCR, in conjunction with the prioritisation session for 2020, would constitute the review under clause 17'. GRCF participants agreed to AEMO's proposal as part of the GMI pre-consultation.
4. AEMO has provided a track changed version of the RMP WA (**Attachment F**) along with this application. In the track changed RMP WA, AEMO has included comments cross-referencing the changes and the associated proposals by AEMO or participants as part of pre-consultation.

**ATTACHMENT B – Rationale for Proposals IN006/18W and IN003/19W
meeting the requirement for RMP changes under the Act**

IN006/18W

Section	Requirement	AEMO Comment
11ZOO(1)	The Authority may approve an amendment to the Scheme if it is satisfied that:	
	(a) if the amendment is made, the provisions of the Scheme:	
	(i) will comply with the Act; and	The Scheme, in its initial form, was approved by the Minister for Energy; and all amendments to the Scheme since its initial approval have been approved by the Authority, in accordance with the Act. As a result, the Scheme, in its current form, clearly complies with the Act. AEMO is of the view that the Rules will continue to comply with the Act if the procedure change proposal IN006/18W is approved, as it will ensure the Retailers meet their obligations such as, maintaining data integrity, conducting annual audit for Explicit Informed Consent (EIC) and satisfying Ombudsman request for data.
	(ii) be suitable for the purposes of section 11ZOB;	Section 11ZOB indicates that the purpose of the Scheme is to ensure that the retail gas market is regulated and is operated in a manner that is: (a) open and competitive; (b) efficient; and (c) fair to gas market participants and their customers. Procedure change proposal IN006/18W proposes removal of the requirement to delete information relating to explicit informed consent (EIC), which will enable Retailers manage any investigations and escalations related to the EIC efficiently due to the availability of complete customer records. If required, this information can be easily provided to the Ombudsman to assist with dispute cases from gas market participants and their customers. It will not materially impact on the Scheme or its suitability for the purposes of section 11ZOB of the Act.
(b) any other principle, criterion, or requirement that is prescribed for the purposes of this paragraph has been met.	AEMO is not aware of any regulations under section 11ZOO(b), so this section of the Act is not applicable.	
11ZOO(2)	The Authority may approve an amendment to the Scheme under section 11ZOM only if it is satisfied	The proposed amendment to the Scheme has been consulted in accordance with Procedure change process of the RMP WA.

Section	Requirement	AEMO Comment
	<p>that the consultation required by section 11ZOL(3) has taken place and:</p> <p>(a) each person required to be consulted has agreed to the amendment; or</p> <p>(b) if any person required to be consulted has not so agreed, that person has been given a reasonable opportunity in the course of consultation to provide reasons for not agreeing, and any reasons so provided have been considered.</p>	<p>AEMO commenced consultation for IN006/18W by publishing the Procedure Change Request (PCR) and inviting registered participants and interested stakeholders to make submissions. AEMO received submissions from the Retailers supporting the proposal and requesting no further changes. AEMO subsequently published the Impact and Implementation Report (IIR) requesting further submissions. AEMO received no submissions from the participants.</p> <p>As a result, AEMO submits that it has met all consultation requirements for the amendments proposed in IN006/18W and that each person required to be consulted with has agreed to the amendment.</p>

IN003/19W

Section	Requirement	AEMO Comment
11ZOO(1)	The Authority may approve an amendment to the Scheme if it is satisfied that:	
	(a) if the amendment is made, the provisions of the Scheme:	
	(i) will comply with the Act; and	<p>The Scheme, in its initial form, was approved by the Minister for Energy; and all amendments to the Scheme since its initial approval have been approved by the Authority, in accordance with the Act. As a result, the Scheme, in its current form, clearly complies with the Act.</p> <p>AEMO is of the view that the Rules will continue to comply with the Act if the procedure change proposal IN003/19W is approved as it will, enhance clarity of the RMP WA, thereby lowering barriers to entry for the WA retail gas market, and it will deliver minor efficiencies with the minor process improvement changes.</p>
	(ii) be suitable for the purposes of section 11ZOB;	<p>Section 11ZOB indicates that the purpose of the Scheme is to ensure that the retail gas market is regulated and is operated in a manner that is:</p> <ul style="list-style-type: none"> (a) open and competitive; (b) efficient; and (c) fair to gas market participants and their customers. <p>Procedure change proposal IN003/19W proposes several editorial and minor changes to that will improve business process, which will lower barriers to entry and drive minor efficiencies respectively.</p> <p>It will not materially impact on the Scheme or its suitability for the purposes of section 11ZOB of the Act.</p>
	(b) any other principle, criterion, or requirement that is prescribed for the purposes of this paragraph has been met.	AEMO is not aware of any regulations under section 11ZOO(b), so this section of the Act is not applicable.
11ZOO(2)	<p>The Authority may approve an amendment to the Scheme under section 11ZOM only if it is satisfied that the consultation required by section 11ZOL(3) has taken place and:</p> <ul style="list-style-type: none"> (a) each person required to be consulted has agreed to the amendment; or (b) if any person required to be consulted has not so agreed, that person has been given a reasonable opportunity in the course of consultation to 	<p>The proposed amendment to the Scheme has been consulted in accordance with Procedure change process of the RMP WA.</p> <p>AEMO held an extensive pre-consultation, wherein all WA gas retail market participants were invited to submit changes to be included in this consultation.</p> <p>With these changes incorporated, AEMO commenced consultation for IN003/19W by publishing the Procedure Change Request (PCR) and inviting registered participants and interested stakeholders to make submissions. AEMO received submissions from three Retailers (AGL, Alinta Energy, and Origin Energy) and the Network Operator (ATCO Gas). AEMO addressed all feedback received in the</p>

Section	Requirement	AEMO Comment
	<p>provide reasons for not agreeing, and any reasons so provided have been considered.</p>	<p>PCR round as part of the Impact and Implementation Report (IIR), and responses to the IIR were unanimously supportive and requested no additional changes. Additionally, following the closing of submissions for the PCR, AEMO held a workshop to which all WA gas market participants were invited. This workshop was held to outwork any items where participants had disagreed in the PCR round. Some minor clarity edits notwithstanding, all participants at the workshop unanimously accepted AEMO's position on the items.</p> <p>As a result, AEMO submits that it has met all consultation requirements for the amendments proposed in IN003/19W and that each person required to be consulted with has agreed to the amendment.</p>

**ATTACHMENT C – SUBMISSIONS RECEIVED RELATING TO THE IIR FOR IN006/18W
and IN003/19W**

AEMO did not receive any submissions.

SUBMISSION relating to the IIR IN003/19W – Holistic tidy-up of RMP (WA)					
General Comments on the IIR					
Sections 1 to 9 of the IIR sets out AEMO's critical examination of the proposal. Does your organisation support AEMO's examination of the proposal?					
	Date	Participant	Issue / Comment	Proposed Text	AEMO Comment
1	30/3/2020	AGL	Yes, AGL supports AEMO's examination of the proposal as set out in IIR for IN003/19W.		AEMO acknowledges AGL's support
2	31/3/2020	Origin Energy	Origin Energy support AEMO's examination of the proposal for IN003/19W – Holistic tidy-up of RMP (WA).		AEMO acknowledges Origin Energy's support.
Section 10 of the IIR sets out AEMO's recommendation. Does your organisation support AEMO position to recommend the procedures changes?					
	Date	Participant	Issue / Comment	Proposed Text	AEMO Comment
3	20/3/2020	Synergy	Just confirming Synergy does not have any further feedback in relation to IN003/19W.		AEMO acknowledges Synergy's comment.
4	30/3/2020	AGL	Yes, AGL supports AEMO's recommendations as set out in the IIR for IN003/19W and has no further comment.		AEMO acknowledges AGL's support
5	31/3/2020	Origin Energy	Origin Energy supports AEMO's recommendation of the procedure changes.		AEMO acknowledges Origin Energy's support
Specific comments regarding RMPs and GIP/SP					
#	Date	Participant	Issue / Comment	Proposed Text	AEMO Comment
			No comments received		

ATTACHMENT D – IIR for IN006/18W

Enclosed with this application.

ATTACHMENT E – IIR for IN003/19W

Enclosed with this application.

ATTACHMENT F – Track changed version of RMP WA (includes IN003/19W changes only)

Enclosed with this application.