

Notice of Market Rules Modification

Paper No.:	EMC/RCP/99/2017/347
Rule Reference:	Chap 3, Sec 3.15 (version 1 July 2017)
Proposer:	EMC, Market Admin
Date Received by EMC:	6 October 2017
Category Allocated:	3
Status:	Approved by EMA
Effective Date:	12 February 2018

As required under Chapter 3, Section 3.15 of the Market Rules, the EMC Board initiated a review of the current dispute resolution procedures (DRP) on 06 October 2017.

Arising from this review, a Market Participant suggested introducing a set of model arbitration procedures to standardise the procedure.

Currently, a set of model arbitration rules setting out the procedures for arbitration serves as a guide for disputes that proceed to arbitration. As this set of model arbitration rules has not yet been tested with actual disputes, the EMC **recommends** that it should continue to serve as a guide.

The next review will be carried out in 3 years' time, by 31 December 2020. The proposed rule modifications to update the timeline for the next review of the DRP, as set out in Annex 2, were presented at the 99th RCP meeting. The RCP unanimously recommends that the EMC Board adopt the proposed rule modifications as set out in Annex 2.

Date considered by Rules Change Panel:	14 November 2017
Date considered by EMC Board:	17 January 2018
Date considered by Energy Market Authority:	08 February 2018

Proposed rule modification:

See attached paper.

Reasons for rejection/referral back to Rules Change Panel (if applicable):

PAPER NO. : **EMC/BD/01/2018/05(b)**

RCP PAPER NO. : **EMC/RCP/99/2017/347**

SUBJECT : **REVIEW OF DISPUTE RESOLUTION PROCEDURES**

FOR : **DECISION**

PREPARED BY : **JO ONG ZU ER
SENIOR ECONOMIST, MARKET ADMINISTRATION**

REVIEWED BY : **WANG JING
AVP, MARKET ADMINISTRATION**

DATE OF MEETING : **17 JANUARY 2018**

Executive Summary

As required under Chapter 3, Section 3.15 of the Market Rules, the EMC Board initiated a review of the current dispute resolution procedures (DRP) on 06 October 2017.

Arising from this review, a Market Participant suggested introducing a set of model arbitration procedures to standardise the procedure.

Currently, a set of model arbitration rules setting out the procedures for arbitration serves as a guide for disputes that proceed to arbitration. As this set of model arbitration rules has not yet been tested with actual disputes, the EMC **recommends** that it should continue to serve as a guide.

The next review will be carried out in 3 years' time, by 31 December 2020. The proposed rule modifications to update the timeline for the next review of the DRP, as set out in Annex 2, were presented at the 99th RCP meeting. The RCP unanimously recommends that the EMC Board adopt the proposed rule modifications as set out in Annex 2.

1. Introduction

The Singapore Electricity Market Rules¹ provide for a set of Dispute Resolution Procedures (DRP), as summarised in Annex 1. These procedures aim to resolve disputes between parties in the Singapore Wholesale Electricity Market (SWEM) amicably and avoid incurring unnecessary costs.

To ensure continued relevance of these procedures, Chapter 3, Section 3.15 of the Market Rules requires a review of the DRP by 31 December 2017. The EMC Board initiated this review by publishing a notice on 6 October 2017, inviting interested parties to submit proposals to improve these procedures.

The review is conducted by the RCP in consultation with the Dispute Resolution Counsellor (DRC) and should consider the following:

- Whether the current procedures are fair and effective;
- Whether any additional procedures are necessary; and
- Any other matter that the EMC considers appropriate.

EMC received one submission from PacificLight Power Pte Ltd, which suggested that model arbitration rules be established in order to standardise the arbitration procedure and minimise the difference between different tribunals.

2. Background on Current Arbitration Procedures

Under the Market Rules, arbitration is invoked under the following circumstances:

- When parties to a dispute are unable to make a resolution under the negotiation and/or mediation phase;
- When mediation is not an appropriate means of resolving a dispute;
- For disputes over final settlement statements;
- For disputes over a final financial penalty relating to deviation by a generation registered facility or a load registered facility with restricted energy bids;
- For disputes over a final minimum stable load compensation; or
- For compensation relating to sections referred to in Chapter 3, Section 3.3.1.5 of the Market Rules.

Chapter 3, Section 3.9 reflects current procedures and obligations that parties to a dispute should adhere to in the event of arbitration. It also provides broad guidelines on the procedures for an arbitration determination and powers of the arbitration tribunal. It does not prescribe detailed procedures on how an arbitration proceeding should be carried out. Instead, Chapter 3, Section 3.9.21 states:

Chapter 3, Section 3.9.21

3.9.21 Once the application period to intervene in section 3.9.19.3 has expired, the *arbitration tribunal* shall consider the applications received. Then, taking into account the urgency of the matter, it shall decide:

- 3.9.21.1 where and when it will hold the arbitration; and
- 3.9.21.2 what procedures it will follow.

The above section thus empowers the arbitration tribunal with discretion on the arbitration procedures to abide by.

¹ Section 3 of Chapter 3

3. Analysis

During a review of the dispute resolution procedures in 2011², the DRC proposed a set of model arbitration rules to be incorporated in the Market Rules. However, the RCP at that time did not support the proposal given the cost of including those arbitration rules, and the fact that those arbitration rules were not tested since there were no arbitration cases since market start. Instead, the RCP decided to use the proposed arbitration rules as a guide in carrying out arbitration. After the guide has been refined with adequate experience, the RCP can then consider if they should be incorporated into the Market Rules

Currently, the said set of model arbitration rules is published on the EMC's website³ and serves as a guide for the market. The appointed arbitration tribunal and parties to the dispute can decide on whether to adopt the provisions in the model arbitration rules.

Since 2011, there have been only two notices of arbitration filed with the DRC. Both disputes were subsequently resolved amicably between the parties to the disputes⁴ and the notices were accordingly withdrawn from the DRC. The model arbitration procedure has therefore not yet been applied in SWEM.

EMC's Recommendation

Given that the set of model arbitration rules has not been tested with actual disputes yet, they should continue to serve as a guide and not be included in the Market Rules at this point in time.

4. Timeline for Next Review of Dispute Resolution Procedures

The next review will be conducted by 31 December 2020. As such, there is a need to **update** the current timeline in section 3.15 of Chapter 3 of the Market Rules, as set out in Annex 2.

5. Consultation with the DRC

The DRC was consulted and did not recommend any change to the existing dispute resolution procedures.

6. Legal sign-off

The text of the proposed rule modifications has been vetted by EMC's internal legal counsel, whose opinion is that the modifications reflect the intent of the rule modification proposal as expressed in the third column of the table in Annex 2.

² In Paper No. EMC/RCP/58/2011/308: Review of Dispute Resolution Procedures

³ <https://www.emcsg.com/aboutthemarket/disputeresolutionprocess>

⁴ The DRC's annual reports are published on the EMC's website:
<https://www.emcsg.com/aboutthemarket/drcannualreports>

7. Recommendations

The RCP unanimously **recommends** that the EMC Board:

- a) adopt** the proposed rule modifications as set out in Annex 2;
- b) seek** EMA's approval of the proposed rule modifications as set out in Annex 2; and
- c) recommend** that the proposed rule modifications come into force one business day after the date of which the approval of the Authority is published by the EMC.

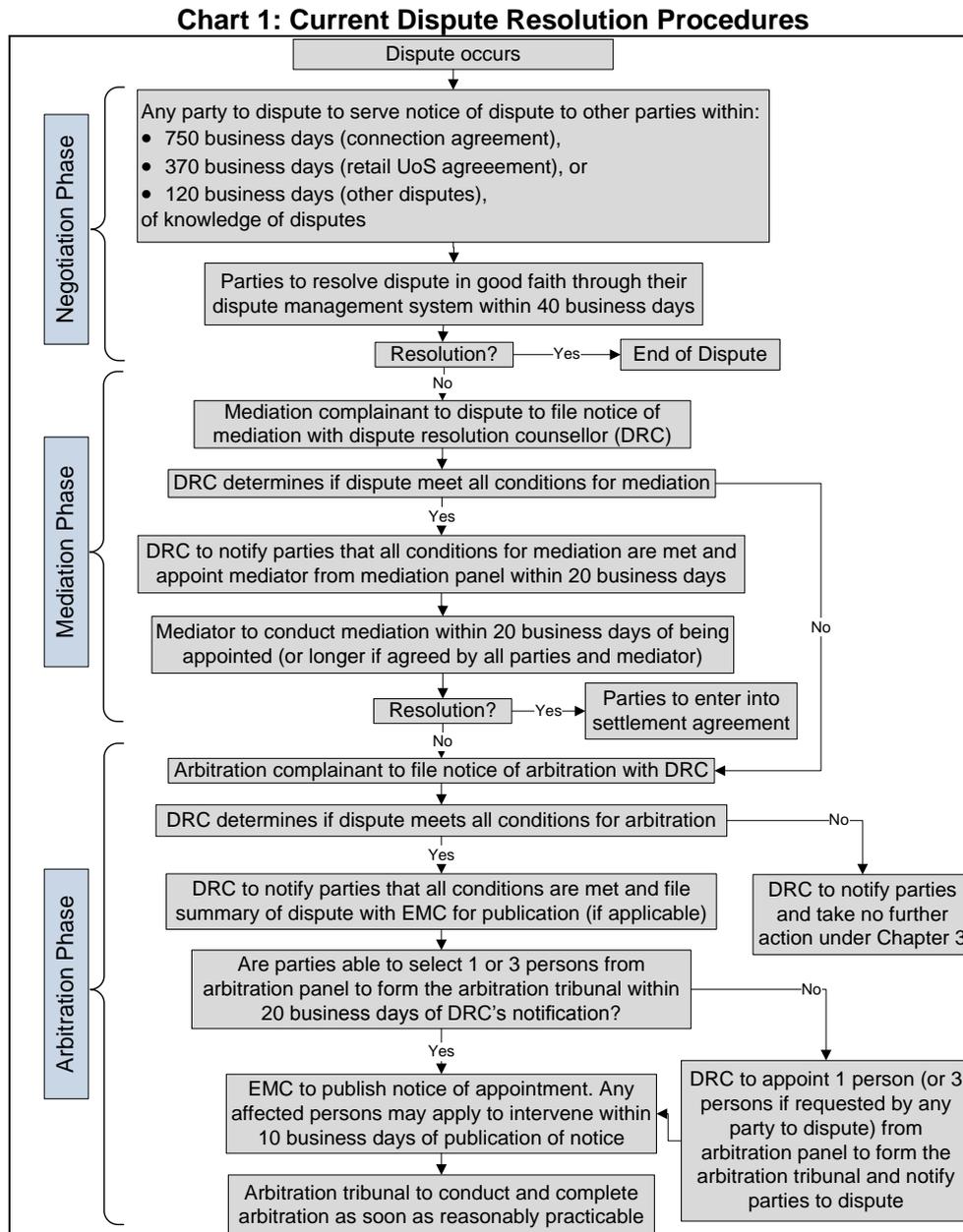
Annex 1: Background on Current Dispute Resolution Procedures

1. Introduction

This section describes the current dispute resolution procedures (DRP) and areas under which stakeholders can file for disputes.

2. Dispute Resolution Process

Chapter 3 Sections 3.5 to 3.9 of the Market Rules describe the current DRP in the Singapore Wholesale Electricity Market (SWEM). These are summarised in Chart 1 below⁵.



⁵ This process applies to most disputes. For other disputes, only certain portions of this process apply (discussed in Section 3 of this Annex).

3. Scope

- a) The DRP can only be invoked under selected scenarios and applied in disputes between certain stakeholders, as stipulated under Chapter 3, Section 3.3.1 of the Market Rules. These are reproduced in Table 1 below.

Table 1: Areas where DRP applies

No.	Disputes between	Dispute in respect of			
		Market Rules (MR)	Market Manual (MM)	System Operation Manual (SOM)	Agreement(s)
1	EMC and an MP/MSSL	✓	✓	✓	Any agreement referred to in MR, MM and SOM
2	PSO and an MP/MSSL				
3	EMC and PSO	✓	✓	✓	Any agreement which relates to the functions, powers and duties of the EMC or PSO in MR, MM or SOM
4	Two MPs	✓	✓	✓	<ul style="list-style-type: none"> - MP-MSSL - Market Support Services - Connection - Retailer UoS - Any other agreement that parties agree to apply DRP to
5	MP and MSSL				
6	EMC and a participation applicant	EMC's denial to any of the following: <ul style="list-style-type: none"> - Register applicant as an MP - Authorise applicant as an MSSL - Request to transfer a registered facility to the applicant 			

- b) Chapter 3, Section 3.3.2 further states the areas where DRP does not apply. These are summarised in Table 2 below.

Table 2: Areas where DRP shall not apply

No.	Areas	Description
1	Electricity licence/ MR/MM/SOM	Where documents state a different dispute resolution mechanism or that section 3 does not apply
2	Market Rules modifications	Dispute over the EMC Board's or urgent rule modification committee's decision to modify or not modify the MR
3	PSO/EMC fees	Dispute over EMC/PSO fees which has been approved by EMA
4	Arbitration tribunal	Dispute over determination of an arbitration tribunal

- c) The Market Rules also provide for limited application of the DRP under certain types of disputes, as summarised in Table 3.

Table 3: Areas where only the Arbitration stage of the DRP applies

No.	Areas	First Stage	If Dispute Persists
1.	Disputes over final settlement statements (FSS)	Employ procedures set out in Chapter 7, Section 5.6.6 of the Market Rules	Employ only "Arbitration" stage of the DRP.
2.	Compensation relating to sections referred to in Chapter 3, Section 3.3.1.5 of the Market Rules	Employ procedures set out in Chapter 3, Section 3.11 of the Market Rules	
3.	Disputes over a final financial penalty relating to deviation by generation registered facility	Employ procedures set out in Chapter 5, Section D.4.12 of Appendix 5D of the Market Rules	
4.	Disputes over a final financial penalty relating to deviation by load registered facility with restricted energy bids	Employ procedures set out in Chapter 5, Section E.4.13 of Appendix 5E of the Market Rules	
5.	Disputes over a final minimum stable load compensation	Employ procedures set out in Chapter 6, Section K.4.13 of Appendix 6K of the Market Rules	

Annex 2: Proposed Rule Modifications

Existing Market Rules (1 July 2017)	Proposed Rules Changes (Deletions represented by strikethrough text and additions represented by double underlined text)	Reasons for rule change
<u>CHAPTER 3</u>	<u>CHAPTER 3</u>	
<p>3.15 EMC REVIEW OF DISPUTE RESOLUTION PROCEDURES</p> <p>3.15.1 The <i>EMC Board</i> shall conduct a review of the dispute resolution procedures in section 3 by 31 December 2017.</p>	<p>3.15 EMC REVIEW OF DISPUTE RESOLUTION PROCEDURES</p> <p>3.15.1 The <i>EMC Board</i> shall conduct a review of the dispute resolution procedures in section 3 by 31 December 2017<u>2020</u>.</p>	<p>To update the timeline for the next review to be conducted in 3 years' time.</p>