Executive Summary

As required under Chapter 3, Section 3.15 of the Singapore Electricity Market Rules (Market Rules), the EMC Board initiated a review of the current dispute resolution procedures (DRP) on 12 December 2020.

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

• Whether the current procedures in Section 3 of the Market Rules are fair and effective;
• Whether any additional procedures are necessary; and
• Any other matter that the EMC considers appropriate.

Since 2011, only two notices of arbitration have been filed with the DRC. Both disputes were subsequently resolved amicably between the parties to the disputes and the notices were accordingly withdrawn. Given that no proposal was received from the DRC and the industry, we recommend

• no change to the existing dispute resolution procedures; and
• the current dispute resolution process to be reviewed after it has been fully applied to resolve the first market dispute.

The RCP discussed the proposal at its 120th meeting and the panel unanimously supported the proposed recommendation that the DRP be reviewed after it has been fully applied to resolve the first market dispute.
1. **Introduction**

The Singapore Electricity Market Rules\(^1\) (Market Rules) 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.

The EMC Board initiated this review by publishing a notice on 12 December 2020, 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 in Section 3 of the Market Rules are fair and effective;
- Whether any additional procedures are necessary; and
- Any other matter that the EMC considers appropriate.

2. **Background on Dispute Resolution Procedures**

According to Chapter 3, Section 3.7 of the Market Rules and save for certain types of disputes\(^2\), when a dispute occurs, parties to a dispute shall go through the negotiation phase and complete the following steps before taking any other action:

- Serve a notice of dispute on the other parties and give a copy to the DRC
- Attempt to resolve the dispute in good faith using their dispute management systems.

If the dispute is not resolved after 40 business days (or such extended period as may be agreed by the parties) from the notice of dispute, either party may submit the matter to the DRC for mediation by serving a notice of mediation. Once the DRC determines that all the prescribed conditions of mediation are met, a mediator from the mediation panel will be appointed within 20 business days of the notice of mediation. The mediator shall conduct a mediation session within 20 business days of being appointed (or such extended period if the parties and the mediator agree) and should the dispute be resolved, the parties to a dispute will enter into a settlement agreement in writing.

According to Chapter 3, Section 3.9 of the Market Rules, arbitration is invoked under the following non-exhaustive circumstances:

- When parties to a dispute are unable to resolve their dispute after attending a mediation session;
- When the DRC informs the parties that mediation is not an appropriate means of resolving a dispute;
- For disputes over final settlement statements; or
- For disputes relating to a request for compensation in Chapter 3, Section 3.3.1.5 of the Market Rules

In addition, 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 sets out the procedures which should apply to an arbitration and the roles and responsibilities of the parties to a dispute, the DRC and the arbitration tribunal.

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\(^1\) Section 3 of Chapter 3

\(^2\) Section 3.7.2 of Chapter 3
3. Analysis

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 disputes\(^3\) and the notices were accordingly withdrawn from the DRC.

The EMC has published a notice on the review of the DRP and no proposal was received from the industry.

4. Consultation with the DRC

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

5. Recommendations

Given that no proposal was received from the DRC and the industry, we recommend no change to the existing dispute resolution procedures. In addition, considering that the current dispute resolution process has not yet been fully applied to resolve any market dispute, we recommend that this process be reviewed after it has been fully applied to resolve the first market dispute.

6. Decision at the 120\(^{th}\) RCP Meeting

The paper was discussed at the 120\(^{th}\) RCP meeting held on 27 January 2021. The panel unanimously supported the proposed recommendation that the DRP be reviewed after it has been fully applied to resolve the first market dispute.

\(^3\) The DRC’s annual reports are published on the EMC’s website: https://www.emcsg.com/aboutthemarket/drcannualreports
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 below.

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**Chart 1: Current Dispute Resolution Procedures**

**Dispute occurs**

- Any party to dispute to serve notice of dispute to other parties within:
  - 750 business days (connection agreement),
  - 370 business days (retail UoS agreement), or
  - 120 business days (other disputes), of knowledge of disputes

  **Negotiation Phase**

  - Parties to resolve dispute in good faith through their dispute management system within 40 business days

    **Resolution?**
    - No → End of Dispute
    - Yes

  **Mediation Phase**

  - Mediation complainant to dispute to file notice of mediation with dispute resolution counsellor (DRC)

  **DRC determines if dispute meet all conditions for mediation**

    **Resolution?**
    - No → End of Dispute
    - Yes

  - DRC to notify parties that all conditions for mediation are met and appoint mediator from mediation panel within 20 business days

    **Mediator to conduct mediation within 20 business days of being appointed (or longer if agreed by all parties and mediator)**

    **Resolution?**
    - No → End of Dispute
    - Yes

    **Parties to enter into settlement agreement**

  **Arbitration Phase**

  - Arbitration complainant to file notice of arbitration with DRC

  **DRC determines if dispute meets all conditions for arbitration**

    **Resolution?**
    - No → End of Dispute
    - Yes

    **DRC to notify parties that all conditions are met and file summary of dispute with EMC for publication (if applicable)**

    **Are parties able to select 1 or 3 persons from arbitration panel to form the arbitration tribunal within 20 business days of DRC’s notification?**

      **Resolution?**
      - No → End of Dispute
      - Yes

      **Arbitration tribunal to conduct and complete arbitration as soon as reasonably practicable**

      **EMC to publish notice of appointment. Any affected persons may apply to intervene within 10 business days of publication of notice**

      **Arbitration tribunal to conduct and complete arbitration as soon as reasonably practicable**

      **DRC to appoint 1 person (or 3 persons if requested by any party to dispute) from arbitration panel to form the arbitration tribunal and notify parties to dispute**

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This process applies to most disputes. For other disputes, only certain portions of this process apply (discussed in Section 3 of this Annex 1).
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>
<thead>
<tr>
<th>No.</th>
<th>Disputes between</th>
<th>Dispute in respect of</th>
<th>Agreement(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>EMC and an MP/MSSL</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>2</td>
<td>PSO and an MP/MSSL</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>3</td>
<td>EMC and PSO</td>
<td>✓</td>
<td>✓</td>
</tr>
<tr>
<td>4</td>
<td>Two MPs</td>
<td>✓</td>
<td>✓</td>
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<tr>
<td>5</td>
<td>MP and MSSL</td>
<td>✓</td>
<td>✓</td>
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</table>

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

<table>
<thead>
<tr>
<th>No.</th>
<th>Areas</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Electricity licence/ MR/MM/SOM</td>
<td>Where documents state a different dispute resolution mechanism or that section 3 does not apply</td>
</tr>
<tr>
<td>2</td>
<td>Market Rules modifications</td>
<td>Dispute over the EMC Board’s or the urgent rule modification committee’s decision to modify or not modify the MR</td>
</tr>
<tr>
<td>3</td>
<td>EMC fees</td>
<td>Dispute over EMC fees which has been approved by EMA</td>
</tr>
</tbody>
</table>

\(^3\) Request for compensation made under any of the following: section 4.7.3 of Chapter 5, section 5.4.3 of Chapter 5, section 5.6.2 of Chapter 5, section 7.7.3 of Chapter 5, section 8.4.3 of Chapter 5, section 8.6.2 of Chapter 5, section 9.1.7 of Chapter 5, section 9.3.7 of Chapter 5, section 9.7.3 of Chapter 5, section 10.4.1 of Chapter 5, section 10.2.10 of Chapter 6
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**

<table>
<thead>
<tr>
<th>No.</th>
<th>Areas</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>4</td>
<td>PSO fees</td>
<td>Dispute over PSO fees which were finalised by EMA</td>
</tr>
<tr>
<td>4</td>
<td>Arbitration tribunal</td>
<td>Dispute over determination of an arbitration tribunal</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>No.</th>
<th>Areas</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>c) The Market Rules also provide for limited application of the DRP under certain types of disputes, as summarised in Table 3.</td>
<td></td>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>No.</th>
<th>Areas</th>
<th>First Stage</th>
<th>If Dispute Persists</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Disputes over final settlement statements (FSS)</td>
<td>Employ procedures set out in Chapter 7, Section 5.6.6 of the Market Rules</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Disputes over a request for compensation in Chapter 3, Section 3.3.1.5 of the Market Rules</td>
<td>Employ procedures set out in Chapter 3, Section 3.11 of the Market Rules</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Disputes over a final financial penalty statement relating to deviation by generation registered facility</td>
<td>Employ procedures set out in Chapter 5, Section D.4.1 of Appendix 5D of the Market Rules</td>
<td>Employ only “Arbitration” stage of the DRP.</td>
</tr>
<tr>
<td>4</td>
<td>Disputes over a final financial penalty statement relating to deviation by load registered facility with restricted energy bids</td>
<td>Employ procedures set out in Chapter 5, Section E.4.1 of Appendix 5E of the Market Rules</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Disputes over a final minimum stable load compensation statement</td>
<td>Employ procedures set out in Chapter 6, Section K.4.1 of Appendix 6K of the Market Rules</td>
<td></td>
</tr>
</tbody>
</table>