

Notice of Market Rules Modification

Paper No.: EMC/RCP/26/2006/255
Rule reference: Section 6.4. of Chapter 1
Proposer: Market Administration, EMC
Date received by EMC: 17 March 2006
Category allocated: 4
Status: Approved by EMA
Effective Date: 23 June 2006

Summary of proposed rule modification:

This is a plain English re-write of Section 6.4 of Chapter 1.

These sections of the Market Rules are unnecessarily complex and long. This makes them difficult to read and understand.

Date considered by Rules Change Panel: 11 May 2006
Date considered by EMC Board: 25 May 2006
Date considered by Energy Market Authority: 22 June 2006

Proposed rule modification:

See attached paper.

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

PAPER NO. : **EMC/BD/03/2006/04(a)**

RCP PAPER NO. : **EMC/RCP/26/2006/255**

SUBJECT : **RE-WRITE OF SECTION 6.4 OF CHAPTER 1**

FOR : **DECISION**

PREPARED BY : **JANICE LEOW
ECONOMIST**

REVIEWED BY : **PAUL POH LEE KONG
SVP, MARKET ADMINISTRATION**

DATE OF MEETING : **25 MAY 2006**

Executive Summary

This paper assesses the EMC's proposal to adopt a re-write of Section 6.4 of Chapter 1 of the Market Rules. These sections were identified as being unnecessarily long and complex. The paper concludes that the plain English re-write enhances the readability of those sections of the Market Rules. The RCP recommends that the EMC Board **adopt** the proposal.

1. Introduction

This paper assesses EMC's proposed rule modifications to Section 6.4 of Chapter 1 and ancillary rule modifications to Chapter 8 (collectively, the "rule modification proposal"). These are given in [Annex 1](#) and [Annex 2](#).

2. Background

Section 6.4 of Chapter 1 of the Market Rules governs how Market Participants and Market Support Services Licensees may use agents to assist in the performance of their obligations under the Market Rules, any Market Manual and the System Operation Manual.

The section was identified as being unnecessarily long and complex, and thus difficult for parties to the Market Rules and the general public to understand. Consequently, EMC proposed that a plain English re-write of Section 6.4 of Chapter 1, with ancillary rule modifications to Chapter 8, be adopted into the Market Rules.

3. Analysis

In assessing the re-write, we considered whether the following was satisfied:

1. That the language of the new draft is superior to the current drafting in terms of clarity, simplicity and accessibility to the public;
2. That no obligation or right of any party in Section 6.4 of Chapter 1 of the current Market Rules is materially changed under the rule modification proposal;
3. That there is no shifting or switching of any obligation or right under Section 6.4 of the current Market Rules from one party to another under the rule modification proposal;
4. That all operational timings and sequences of events in Section 6.4 of Chapter 1 of the current Market Rules are unchanged under the rule modification proposal; and
5. That in cases where material changes are necessary, e.g., to improve processes or outcome, they are highlighted and explained.

3.1. Language clarity, simplicity and accessibility

With regard to language, we observe several notable improvements over the current Market Rules in the re-written sections:

1. Obvious and redundant statements have been removed (e.g., removal of requirement for an agent to be considered "appropriate" by the principal)
2. Long phrases have been replaced with more concise wording
3. Sentences are shorter and long singular sections have been broken up into multiple sections (e.g., existing Section 6.4.1 has been broken up into Sections 6.4.1 and 6.4.2.)
4. Active voice rather than passive voice has been used
5. Definitions have been used to replace often repeated descriptions or concepts (e.g., new definitions for "agent" and "principal")

We conclude that the re-write has achieved the objective of making Section 6.4 of Chapter 1 clearer, simpler and therefore more easily understood by a person outside the Singapore wholesale electricity market.

3.2. Obligations and rights of parties and timings and sequences of events

We have obtained a legal opinion from EMC's external legal counsel that supports the view that no obligation or right of any party is materially changed, there is no shifting or switching of any obligation or right and all operational timings and sequences of events are unchanged, under the rule modification proposal. Please see Section 8 of this paper for the details.

3.3. Rule changes and clarifications

Several rule changes and clarifications were made as part of this re-write.

Requirement for agent to be considered "appropriate" removed

The existing Section 6.4.1 of Chapter 1 states:

"6.4.1 ... a *market participant* and a *market support services licensee* may use such information systems, communication systems, business processes, personnel, service providers or other agents as the *market participant* or *market support services licensee*, in its sole discretion, considers appropriate for the purpose of assisting in the performance of its obligations ..."

In the re-written sections, the requirement for any information system, etc. to be considered appropriate by the Market Participant or Market Support Services Licensee (the "principal") in its sole discretion before they may be used, has been removed.

This requirement is unnecessary because the principal would already be compelled to only use information systems, etc. that the principal considers "appropriate" by the provision that places sole liability for due performance the principal's obligations under the Market Rules on the principal. There is also no possibility of breach of this requirement since "appropriateness" is the sole discretion of the principal and the principal would only have to assert that it considered the information system, etc. appropriate to be in compliance.

Clarifications

The clarifications made as part of this rewrite are explained in [Annex 1](#).

Ancillary rule changes

Two new definitions for "agent" and for "principal" (see [Annex 2](#)) have been created to avoid repetition of their descriptions in the Market Rules.

4. Conclusion

We conclude that the re-write of Section 6.4 of Chapter 1 of the Market Rules is superior to the current drafting of the corresponding sections in the Market Rules, and that the obligations and rights of parties and timings and sequences of events are maintained except for the changes noted in section 3.3 of this paper.

Hence, the plain English re-write of Section 6.4 of Chapter 1 and ancillary rule modifications to Chapter 8 should be adopted into the Market Rules so as to realise the benefits of better drafting.

5. Impact on market systems

There would be no impact on any market system.

6. Implementation process

This rule modification proposal can be implemented immediately at no further cost.

7. Consultation

We have published the rule modification proposal on the EMC website for comments. No comments have been received for consideration.

8. Legal sign off

Text of the rule modification has been vetted by EMC's external legal counsel whose opinion is that the rule modification proposal (other than the rule change and clarifications shown in Annex 1) reflects the following objectives:

1. No obligation or right of any party in Section 6.4 of Chapter 1 of the current Market Rules is materially changed under the rule modification proposal;
2. There is no shifting or switching of any obligation or right under Section 6.4 of the current Market Rules from one party to another under the rule modification proposal; and
3. All operational timings and sequences of events in Section 6.4 of Chapter 1 of the current Market Rules are unchanged under the rule modification proposal, and

that the rule modification proposal would be legally effective upon them coming into force in accordance with the current Market Rules, and are legally consistent with other parts of the current Market Rules.

9. Recommendations

The RCP unanimously recommends that the EMC Board:

- a. **adopt** the rule modification proposal to amend Section 6.4 of Chapter 1 and Chapter 8 of the Market Rules, as set out in Annex 1 and Annex 2;
- b. **seek** that the EMA's approval of the rule modification proposal; and
- c. **recommend** that the rule modification proposal come into force **one business day** after the date on which the approval of the Authority is published by the EMC.

Annex 1: Proposed rule modifications

Existing rules (Release: 1 January 2006)	Proposed rules / Re-written sections	Comments
<p>6.4 <u>AGENTS</u></p> <p>6.4.1 Subject to section 6.4.2 and except as otherwise provided in these <i>market rules</i>, its <i>electricity licence</i> or the <i>Electricity Act</i>, a <i>market participant</i> and a <i>market support services licensee</i> may use such information systems, communication systems, business processes, personnel, service providers or other agents as the <i>market participant</i> or <i>market support services licensee</i>, in its sole discretion, considers appropriate for the purpose of assisting in the performance of its obligations under these <i>market rules</i>, any <i>market manual</i> and the <i>system operation manual</i> provided that, as between the <i>EMC</i> and the <i>market participant</i> or <i>market support services licensee</i> and as between the <i>PSO</i> and the <i>market participant</i> or <i>market support services licensee</i>:</p> <p>6.4.1.1 the <i>market participant</i> or <i>market support services licensee</i> shall be bound by and fully responsible for all acts or omissions of its personnel, service providers or</p>	<p>6.4. <u>AGENTS</u></p> <p>6.4.1 A <i>market participant</i> or <i>market support services licensee</i> (the “<i>principal</i>”) may use any information system, communication system, business process, personnel or service provider or other agent to assist in performing the <i>principal</i>’s obligations under the <i>market rules</i>, any <i>market manual</i> or the <i>system operation manual</i>, upon the following conditions:</p> <p>6.4.1.1 the <i>principal</i> shall, as between it and each of the <i>EMC</i> and the <i>PSO</i>, be bound by and fully liable for all acts or omissions of its personnel or <i>agents</i> as if those acts or omissions were its own; and</p> <p>6.4.1.2 the <i>principal</i> shall, as between it and each of the <i>EMC</i> and the <i>PSO</i>, remain solely liable for the due performance of such obligations.</p>	<p>Rule change: The existing section 6.4.1 permits a market participant or market support services licensee (the “principal”) to use information systems, communication systems, business processes, personnel, service providers or other agents which the principal considers appropriate in its sole discretion. This requirement of “appropriateness” is not necessary for practical purposes since the principal is bound by and fully liable for all acts or omissions of its personnel or agents, and remains solely liable for the due performance of its obligations under the</p>

Existing rules (Release: 1 January 2006)	Proposed rules / Re-written sections	Comments
<p>other agents as if such acts or omissions were those of the <i>market participant</i> or <i>market support services licensee</i>; and</p> <p>6.4.1.2 the <i>market participant</i> or <i>market support services licensee</i> shall remain solely responsible and liable to the <i>EMC</i>, the <i>PSO</i> or both, as the case may be, for the due performance of such obligations.</p> <p>6.4.2 No <i>market participant</i> or <i>market support services licensee</i> may use a service provider or other agent for the purpose of assisting in the performance of the <i>market participant's</i> or the <i>market support services licensee's</i> obligations under these <i>market rules</i>, any <i>market manual</i> or the <i>system operation manual</i> where the <i>EMC</i> has given notice to the <i>market participant</i> or the <i>market support services licensee</i> that use of such service provider or other agent is not in the best interests of the <i>wholesale electricity markets</i>.</p> <p>6.4.3 Where the <i>EMC</i> has given the notice referred to in section 6.4.2, the <i>EMC</i> shall, as of the date specified in the notice, refuse to</p>	<p>6.4.2. Section 6.4.1 shall not apply to the extent that the <i>Electricity Act</i>, the <i>electricity licence</i> of the <i>principal</i> or the <i>market rules</i> state otherwise.</p> <p>6.4.3 If the <i>EMC</i> gives a <i>market participant</i> or <i>market support services licensee</i> notice that the use of an <i>agent</i> is not in the best interests of the <i>wholesale electricity markets</i>, the <i>market participant</i> or <i>market support services licensee</i> shall not use that <i>agent</i> on and from the effective date stated in the notice.</p> <p>6.4.4 In the notice issued under section 6.4.3, the <i>EMC</i> shall state an effective date which shall be at least ten <i>business days</i> from when the notice is issued.</p> <p>6.4.5 On and from the effective date stated in the notice issued under section 6.4.3:</p> <p>6.4.5.1 the <i>EMC</i> shall not recognise the authority of the <i>agent</i>; and</p> <p>6.4.5.2 an act by the <i>agent</i> shall not constitute the performance of any obligation under the <i>market rules</i>, any <i>market manual</i> or the</p>	<p>Market Rules. The requirement of appropriateness in the existing section 6.4.1 (as set out in the left-most column of this table) is therefore proposed to be deleted.</p> <p>Clarification: The prohibition in the existing section 6.4.2 (new section 6.4.3) should take effect only on and from the effective date stated in the notice (rather than the date that the <i>EMC</i> has given notice).</p> <p>Clarification: In the existing sections 6.4.3 and 6.4.4, there are references to a “date specified in the notice</p>

Existing rules (Release: 1 January 2006)	Proposed rules / Re-written sections	Comments
<p>recognise the authority of any service provider or agent referred to in such notice and no act of such service provider or agent effected after the date of such notice shall constitute the performance, in whole or in part, of any obligations under these <i>market rules</i>, any <i>market manual</i> or the <i>system operation manual</i> by the <i>market participant</i> or <i>market support services licensee</i> to whom the notice has been given.</p> <p>6.4.4 The date specified by the <i>EMC</i> in the notice referred to in section 6.4.3 shall not be less than ten <i>business days</i> from the date of issuance of the notice.</p>	<p><i>system operation manual</i> by the <i>market participant</i> or <i>market support services licensee</i>.</p>	<p>[issued under the existing section 6.4.2]”. However, there is no existing express obligation under the existing section 6.4 on the EMC to state such a date in that notice. A new obligation for the EMC to state such a date (called the “effective date”) is now included in the new section 6.4.4.</p> <p>Clarification: As the notice issued under the existing section 6.4.2 would only take effect from an effective date to be specified therein, the reference to “the date of such notice” in the existing section 6.4.3 is incorrect. That reference should be changed to “the effective date” in the new section 6.4.5.</p>

Annex 2: Ancillary rule modifications to Chapter 8

Existing rules (Release: 1 January 2006)	Proposed rules	Reason for modification
[no existing provision]	<i>agent</i> means a service provider or other agent referred to in section 6.4.1 of Chapter 1;	To avoid repetition of the description in the Market Rules.
[no existing provision]	<i>principal</i> means the <i>market participant</i> or <i>market support services licensee</i> that uses any information system, communication system, business process, personnel or <i>agent</i> to assist in performing the <i>market participant's</i> or <i>market support services licensee's</i> obligations under the <i>market rules</i> , any <i>market manual</i> or the <i>system operation manual</i> ;	To avoid repetition of the description in the Market Rules.