

Notice of Market Rules Modification

Paper No.:	EMC/RCP/35/2007/235(R)
Rule reference:	Chapter 5, Sections 8.7.1.3, 8.7.1.4
Proposer:	Prof Lim Chin, MSCP
Date received by EMC:	29 April 2004
Category allocated:	1
Status:	Approved By EMA
Effective Date:	1 April 2008

Summary of proposed rule modification:

This paper assesses Market Surveillance and Compliance Panel's (MSCP) rule change proposal to amend sections 8.7.1.3 and 8.7.1.4 of Chapter 5 of the Market Rules, on the publication of information relating to the procurement of contracted ancillary services. The amount of information to publish will depend on whether the EMC obtains the contracted ancillary services in the absence (or presence) of market power, as confirmed by the MSCP. The MSCP felt that it is not the appropriate body to make such confirmation.

The RCP recommends that if the EMC concludes ancillary service contracts under section 8.3.2.1 of Chapter 5 of the Market Rules, then the commercial terms of such contracts will be treated as confidential information. Otherwise, the EMC shall publish the relevant terms and conditions of the contracts.

The EMC Board, having considered the RCP's proposal, proposed that the key requirements pertaining to an ancillary service contract should be made known at the onset of the procurement process. Also, if the ancillary service is procured under section 8.3.2.1 of Chapter 5, the price of the ancillary service shall be published. Otherwise, the price and quantity of the ancillary service shall not be published. This proposal was supported by the RCP.

Date considered by Rules Change Panel:	8 January 2008
Date considered by EMC Board:	31 January 2008
Date considered by Energy Market Authority:	26 February 2008

Proposed rule modification:

See attached paper.

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

PAPER NO. : **EMC/BD/01/2008/08(a)**

RCP PAPER NO : **EMC/RCP/35/2007/235(R)**

SUBJECT : **PUBLICATION OF ANCILLARY SERVICE CONTRACTS**

FOR : **DECISION**

PREPARED BY : **NERINE TEO
ECONOMIST**

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

DATE OF MEETING : **31 JANUARY 2008**

Executive Summary

This paper assesses MSCP's rule change proposal to amend sections 8.7.1.3 and 8.7.1.4 of Chapter 5 of the Market Rules. Currently under these rules, the amount of information relating to the ancillary service contracts which the EMC is required to publish will depend on whether the EMC obtains the contracted ancillary services in the absence (or presence) of market power, as confirmed by the MSCP. However, the MSCP felt that it is not the appropriate body to make such confirmation, as it is not vested with powers under the Market Rules or Electricity Act to adjudicate market power issues. To overcome this problem, the RCP recommends that if the EMC concludes ancillary service contracts under section 8.3.2.1 of Chapter 5 of the Market Rules, then the commercial terms of such contracts will be treated as confidential information. Otherwise, the EMC shall publish the relevant terms and conditions of the contracts in order to encourage competition.

The EMC Board, having considered the RCP's proposal, proposed that the key requirements pertaining to an ancillary service contract should be made known at the onset of the procurement process. Also, if the ancillary service is procured under section 8.3.2.1 of Chapter 5, the price of the ancillary service shall be published. Otherwise, the price and quantity of the ancillary service shall not be published.

The RCP unanimously recommends that the EMC Board support this proposal.

1. INTRODUCTION

This paper assesses Market Surveillance and Compliance Panel's (MSCP) rule change proposal to amend sections 8.7.1.3 and 8.7.1.4 of Chapter 5 of the Market Rules, on the publication of information relating to the procurement of contracted ancillary services.

2. BACKGROUND

2.1 Existing rules on publication of ancillary service contracts

Currently, the EMC procures contracted ancillary services on behalf and at the request of the PSO. The costs of contracted ancillary services are charged to loads through the monthly energy up-lift charge (MEUC).

Section 8.7.1, Chapter 5 of the market rules, provides for the publication of information relating to contracted ancillary services by the EMC. Specifically, it states that:

“The *EMC* is required to treat information relating to the procurement of *contracted ancillary services* as follows:

- 8.7.1.1 the *EMC* shall *publish* annually the total costs of each class of *contracted ancillary services* listed in section 8.2.2¹ subject to *ancillary service contracts*;
- 8.7.1.2 the *EMC* shall *publish* annually the quantities of each class of *contracted ancillary services* listed in section 8.2.2 covered under *ancillary service contracts*, together with estimates of any additional quantities the *EMC* expects to acquire during the next 12 months;
- 8.7.1.3 where the *EMC* obtains *contracted ancillary services* in the absence of market power, as confirmed by the *market surveillance and compliance panel*, the commercial terms of the *ancillary service contracts* shall be treated as *confidential information*; and
- 8.7.1.4 where the *EMC* obtains *contracted ancillary services* in the presence of market power, as confirmed by the *market surveillance and compliance panel*, the *EMC* shall *publish* the relevant terms and conditions of the contracts.”

¹ Section 8.2.2, chapter 5 of the market rules provides that the EMC may procure 4 classes of ancillary services: (1) reactive support and voltage control services, (2) black start capability services, (3) fast start services and (4) reliability must-run services. EMC currently procures only contracted black start capability services. There is no immediate need for the other 3 services.

2.2 The MSCP's Proposal

Under the Electricity Act (Part VII), only the EMA has jurisdiction over competition matters in the Singapore electricity market. Also, sections 4 and 7 of Chapter 3 of the Market Rules, which set out the monitoring, investigation and enforcement powers of the MSCP, do not empower the MSCP to determine market power issues. In relation to competition matters, these rules only require the MSCP to assist the EMA by developing information requirements for and providing market information to the EMA. Additionally, the MSCP is required to inform the EMA of any complaint or information it receives in its monitoring and investigative activities which may indicate the possibility of anti-competitive agreements or the abuse of a dominant position.

In short, MSCP's role is to provide the EMA with the necessary information and to bring to their attention any concerns of potential anti-competitive behaviour. Ultimately, all final decisions on anti-competitive matters lie with the EMA. Therefore, it is anomalous for sections 8.7.1.3 and 8.7.1.4 (Chapter 5) to require the MSCP to confirm the absence or presence of market power in relation to contracted ancillary services

The MSCP further added that 'market power' is not a defined term in the Electricity Act or the Market Rules. Hence, it is not clear whether the rules in context (i.e. sections 8.7.1.3 and 8.7.1.4 of Chapter 5) are concerned with the existence or with the abuse of market power. Specifically, the former relates to industry structure, while the latter relates to actual behaviour (or conduct) of market participants. In any case, the MSCP feels that it would be undesirable to have one party determine whether market power exists, while to have another party determine whether market power has been abused. This can lead to inconsistent outcomes for the market.

Please refer to [Annex 1](#) for the details of MSCP's proposal.

2.3 MSCP's Proposed Solutions

The MSCP contends that it is not the appropriate body to determine the existence of market power in relation to contracted ancillary services as required under the current rules. To correct this rule anomaly, the MSCP proposed the following two possible solutions for consideration:

(1) *MSCP's Proposed Solution 1*

Delete sections 8.7.1.3 and 8.7.1.4 completely. According to the MSCP, since costs and quantities are the most significant terms of the ancillary service contracts and the Market Rules (sections 8.7.1.1 and 8.7.1.2, Chapter 5) already provided for the total costs and quantities for each class of contracted ancillary services to be published, there is little need to disclose other terms and conditions of the ancillary service contracts.

(2) *MSCP's Proposed Solution 2*

Replace sections 8.7.1.3 and 8.7.1.4 with a provision that the key terms and conditions of each class of contracted ancillary service are to be published.

3. ANALYSIS

3.1 Evaluation of MSCP's Proposed Solutions

We will consider these two proposed solutions in turn.

MSCP's Proposed Solution 1

The first proposed solution is to delete sections 8.7.1.3 and 8.7.1.4 completely. However, we understand these two rules serve a specific purpose.²

Section 8.7.1.3 requires the EMC to treat the commercial terms of the contracts as confidential information where there is no market power. The rule thus contemplates that in a competitive market for contracted ancillary services, we will be able to get competitive prices and terms for the contracted ancillary services. Given this, the commercial terms of the ancillary service contracts, which are deemed commercially-sensitive information, should not be published.

Conversely, section 8.7.1.4 requires the EMC to publish the relevant terms and conditions of the contracts where there is market power. It is intended that such publication will encourage competition in the ancillary service market (e.g. by attracting new entrants).

In short, sections 8.7.1.3 and 8.7.1.4 govern what should (or should not) be published by the EMC in relation to ancillary service contracts under specified circumstances. Hence, they should not be removed from the Market Rules.

MSCP's Proposed Solution 2

The second proposed solution is to replace sections 8.7.1.3 and 8.7.1.4 with a new section which provides for the publication of the key terms and conditions of each class of contracted ancillary service.

We note that the intent of this proposed solution differs from that of the existing rules. We have explained the intent of the existing rules in our evaluation of proposed solution 1 above. Unlike the existing rules, proposed solution 2 does not state what the EMC should (or should not) publish in relation to the ancillary service contracts under different market conditions. Therefore, this proposed solution is also not appropriate.

3.2 The RCP's Proposal

The RCP recognises there are difficulties associated with determining the presence (or absence) of market power. The difficulties arise because (i) 'market power' is not clearly defined in the Market Rules or Electricity Act, and (ii) it is not clear from the current legislative framework who should be responsible for confirming the absence or presence of 'market power' in relation to contracted ancillary services.

² Because the rules in context are very similar to those for the Ontario electricity market, we have clarified the rule intent with IMO Ontario. IMO's understanding of the rule intent is the same as ours.

Given the difficulties of determining market power, the RCP considered it simpler to tie the amount of information relating to the ancillary service contracts to be published by the EMC in with the mechanism (or process) employed by the EMC to procure the services.

Currently, section 8.3.2 of Chapter 5 of the Market Rules states that:

“8.3.2 The EMC shall use one or a combination of the following processes to conclude ancillary service contracts with ancillary service providers:

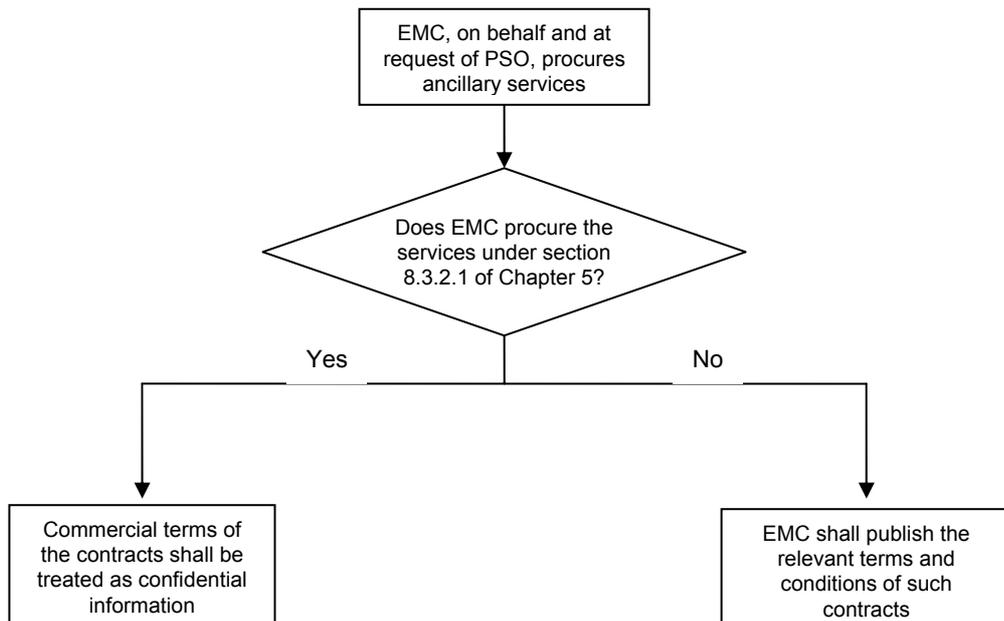
8.3.2.1 where practicable, the EMC shall employ a competitive tendering or negotiation process to identify multiple potential ancillary service providers and to determine competitive prices and other terms for the ancillary service contracts; or

8.3.2.2 otherwise, the EMC may negotiate ancillary service contracts with a single potential ancillary service provider where the EMC determines that this will result in reasonable prices and other terms.”

Thus, section 8.3.2.1 contemplates that the EMC shall, where possible, use a competitive tendering or negotiation process to obtain a competitive outcome for the procurement of ancillary services. However, this may not always be feasible. In some cases, the number of providers who are actually able to provide a certain ancillary service at a certain location is so small that the potential for abuse of market power precludes procurement on a competitive basis. In such cases, the EMC will need to negotiate the contracts individually with each provider (under section 8.3.2.2).

In short, the amount of information relating to the ancillary service contracts which the EMC must publish will depend on how EMC procures contracted ancillary services. Specifically, if EMC can procure the ancillary services under section 8.3.2.1, then the commercial terms of the ancillary service contracts shall be treated as confidential information. If not, EMC shall publish the relevant terms and conditions of such contracts in order to encourage competition.

The diagram below briefly shows the proposed conditions governing the publication of information relating to contracted ancillary services:



3.3 The EMC Board's Proposal

The EMC Board considered the RCP's alternative proposal above and raised the following issues in its consideration of what information pertaining to the ancillary service contract should be published:

(a) Publication of key requirements of the ancillary service contract

The EMC Board felt that relevant terms and conditions pertaining to the ancillary service contract should be published, regardless of whether the contracted ancillary service was procured competitively or not.

Current rules require EMC, where practicable, to first undertake a competitive process in the procurement of contracted ancillary services. To do so, it can be deduced that EMC would need to make known to potential providers, at the onset of the procurement process, the key requirements of the relevant ancillary services to be contracted so that interested parties can submit their offers. However, the publication of these key requirements is not required by the current market rules.

A new section in the market rules is proposed (See section 8.3.2A in Annex 3). The proposed new section will require EMC to publish, at the onset of the procurement process, the following nine key requirements in respect of the ancillary service being procured:

1. The desired quantity (if any) of that ancillary service.
2. The desired duration of that ancillary service contract.
3. The desired situations in which that ancillary service may be called upon to be provided.
4. The desired nature and timing of any advance notice required for the PSO to call upon the provision of that ancillary service.
5. The desired timing of payment for the provision of that ancillary service.
6. The desired service standards and performance levels applicable to that ancillary service.
7. The desired situations under which some or all of the terms of the ancillary service contract may be suspended.
8. The desired process for modifying the terms of the ancillary service contract
9. The desired terms of assignment or transfer of the ancillary service contract to another person.

The nine key requirements in respect of the ancillary service will also form terms and conditions under the ancillary service contract that the EMC will enter into with a provider.

The publication of the 9 key requirements in respect of the ancillary service at the onset of the procurement process would help promote competition in the procurement of contracted ancillary services. This enhances transparency in the key requirements for potential ancillary service providers.

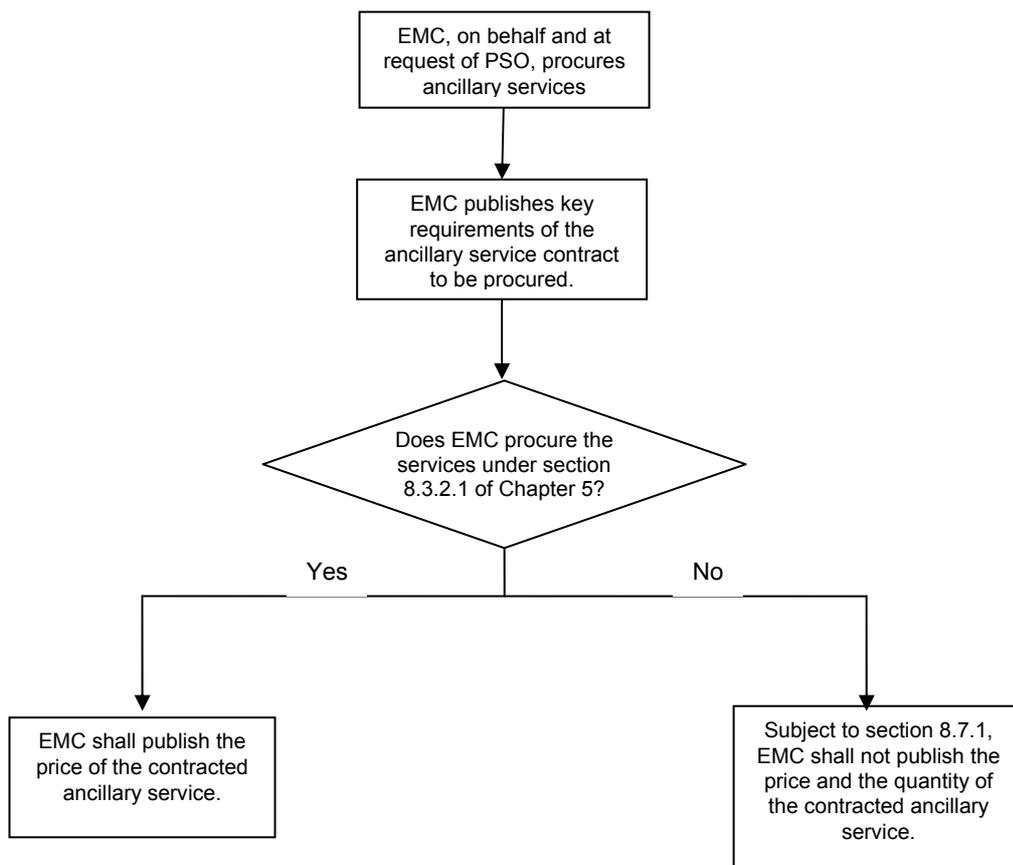
(b) Scope of information for publication in a competitive versus a non-competitive market situation

Even in a competitive market situation, the EMC Board was of view that it would still be beneficial for the prices of individual contracted ancillary services to be published. This is due to the potential long-run or dynamic efficiency that could be achieved. The EMC Board quoted an example where unsuccessful bidders could strive to do better in future when they have knowledge of the prices of winning contracts.

In a non-competitive market situation, the Board recognised that the disclosure of prices and quantities of individual winning contracts may facilitate collusion and gaming amongst suppliers which could be detrimental to the market. Taking the above reasons into consideration, it is proposed that if a contracted ancillary service is procured under section 8.3.2.1, the price of the contract will be published. In contrast, if it is not procured under section 8.3.2.1, the price and quantity of the contract will not be published (See section 8.7.2 under Proposed Rule Changes in Annex 3).

This proposed rule helps to eradicate any ambiguity in determining market power as well as defines the scope of information of an ancillary service contract to be published (or not to be published) in a competitive (or non-competitive) market situation.

The diagram below summarises the proposed amendments made by the EMC Board.



4. CONCLUSION

This paper analyses the MSCP's rule change proposal to amend sections 8.7.1.3 and 8.7.1.4, Chapter 5 of the market rules, which require the MSCP to determine the existence of market power in relation to the procurement of contracted ancillary services. The MSCP feels that it is not the appropriate body to make such determination. However, the two possible rule amendments proposed by the MSCP are not appropriate. The RCP decided to tie the amount of information relating to the ancillary service contracts to be published by the EMC in with the mechanism (or process) employed by the EMC to procure the services. Hence, how EMC procures contracted ancillary services will determine the amount of information relating to the ancillary service contracts which the EMC must publish.

The issue of what type of information should be published was also raised by the EMC Board following their consideration of the RCP's proposal. The Board felt that there is a need for the requirements of the ancillary service contract to be published at the onset of the procurement process. The EMC Board also proposed for the publication of price if the ancillary service contract is procured competitively and the non-revelation of prices and quantities if the ancillary service contract is not procured competitively.

5. IMPACT ON MARKET SYSTEMS

No change to market systems is required.

6. IMPLEMENTATION PROCESS

No implementation time or costs involved.

7. CONSULTATION

The proposed text of modifications has been published on EMC's website for comments. The following comments were received.

Comments from PowerSeraya:

"Our previous comments submitted had stated support for RCP's decision to treat ancillary service contracted under section 8.3.2.1 as confidential information. To this, we are still of the view that EMC's reasoning for publication of prices for individual contracted ancillary services does not make sense, economically or commercially. Transparency need not necessarily be enhanced, since there is no guarantee that market participants would not make use of such information for tacit collusion in the long run. Releasing the details of contracts i.e. prices and quantities, awarded in competitive tender is just as likely to lead to the tacit collusion feared by the EMC Board with respect to directly negotiated deals. Thus, we agree with RCP that commercially sensitive information of winning contracts should not be published."

EMC's response:

In a competitive setting, it is assumed that the market participants are already offering the most competitive and lowest price possible, usually at cost. Therefore releasing the price in a competitive setting (as implied under the contracting of the ancillary service under section 8.3.2.1) is unlikely to facilitate an environment for tacit collusion, even in the long run. Another advantage put forth by the EMC Board is the ability for unsuccessful bidders to strive to do better in the future when they have knowledge of the prices of winning contracts.

8. LEGAL SIGN OFF

Text of the rule modification (drafted in plain English) has been vetted by EMC's legal counsel to reflect the intent of the rule change submission.

9. RECOMMENDATION

The proposed addition of section 8.3.2.A by the EMC Board clearly identifies the terms and conditions, which helps to create a more competitive platform for potential providers.

The EMC Board's proposal of publishing only the prices if the ancillary service is procured competitively will also bring about greater transparency without any negative impact on economic efficiency. The proposed non-revelation of price and quantities if procured non-competitively also acts as a defense against potential tacit collusion.

In sum, the EMC Board's proposal brings about clarity to the procurement process and enhances market transparency, facilitating a more competitive environment.

Therefore, the RCP recommends that the EMC Board:

- a. **support** the proposed rule modifications as set out in the Annex 3;
- b. **seek** the Authority's approval for the proposed rule modifications; and
- c. **recommend** that the proposed modifications come into force one month after the date on which the approval of the Authority is published by the EMC.

ANNEX 1 MSCP's Rule Change Proposal

Rule modification title	Publication of Ancillary Service Contracts
Submitted By : Company: Date: Telephone No.	Market Surveillance and Compliance Panel National Electricity Market of Singapore 28 April 2004 6779 3000 (Please contact the Market Assessment Unit)
Rules Version/Chapter/Section	1 January 2004/Chapter 5/Sections 8.7.1.3 and 8.7.1.4
Description of Market Rule	<p>Chapter 5, section 8.7.1 provides as follows:</p> <p>“The EMC shall treat information relating to the procurement of contracted ancillary services as follows:</p> <p>8.7.1.1 the EMC shall publish annually the total costs of each class of contracted ancillary services listed in section 8.2.2 subject to ancillary service contracts;</p> <p>8.7.1.2 the EMC shall publish annually the quantities of each class of contracted ancillary service listed in section 8.2.2 covered under ancillary service contracts, together with estimates of any additional quantities the EMC expects to acquire during the next 12 months;</p> <p>8.7.1.3 where the EMC obtains contracted ancillary services in the absence of market power, as confirmed by the market surveillance and compliance panel, the commercial terms of the ancillary service contracts shall be treated as confidential information; and</p> <p>8.7.1.4 where the EMC obtains contracted ancillary services in the presence of market power, as confirmed by the market surveillance and compliance panel, the EMC shall publish the relevant terms and conditions of the contracts.”</p>
Proposal	<p>Either: Delete Chapter 5, sections 8.7.1.3 and 8.7.1.4;</p> <p>Or: Delete Chapter 5, sections 8.7.1.3 and 8.7.1.4; and Insert a new Chapter 5, section 8.7.1.3 to provide for the publication of the key terms and conditions of each class of contracted ancillary service.</p>

<p>Reasons for amendment</p>	<p>General Legal Framework</p> <p>Part VII of the Electricity Act provides for the EMA to have jurisdiction over issues relating to anti-competition in the electricity market in Singapore.</p> <p>Chapter 3, sections 4 and 7 of the market rules set out the monitoring, investigation and enforcement powers of the MSCP under the market rules. Under Chapter 3, sections 4 and 7, the MSCP is not vested with powers to make decisions on market power issues.</p> <p>Instead, section 4.3.10 provides for the MSCP to assist the EMA in relation to the EMA's anti-competition obligations under the Electricity Act. The MSCP does so by developing information requirements for the EMA and providing market information to the EMA. Sections 4.4.3 and 4.4.4 also provide for the MSCP to inform the EMA should it come across possible cases of anti-competition. Additionally, the market rules provide for the MSCP to prepare an annual report containing the MSCP's assessment as to the state of competition within the wholesale electricity markets. The report is to be submitted to the EMC and the EMC is required to provide the report to the EMA.</p> <p><u>Anomaly</u></p> <p>The above arrangement therefore contemplates that the MSCP plays the role of an "independent adviser", bring to the attention of the EMA any concerns as to whether the market structure encourages competition and whether there may be any potential anti-competitive behaviour. The EMA makes final conclusions on the subject.</p> <p>In view of the above framework, it would be anomalous for Chapter 5, sections 8.7.1.3 and 8.7.1.4 to provide for the MSCP to confirm the absence or presence of market power in relation to ancillary service contracts.</p> <p>Existence vs Abuse</p> <p>It may be argued that determining the presence or absence of market power is not the same as detecting anti-competitive behaviour and abuse of market power, which comes under the purview of the EMA under the Electricity Act. However, it does not seem clear that Chapter 5, sections 8.7.1.3 and 8.7.1.4 are concerned only with whether market power exists, as compared to whether market power is abused.</p> <p><u>Undesirable Outcome</u></p> <p>Even if it were considered that Chapter 5, sections 8.7.1.3 and 8.7.1.4 are concerned only with the existence of market power and not the abuse of market power, it would be undesirable to have one party determine whether market power exists (ie MSCP) but another party determine if market power is abused (ie EMA). As "market power" is not defined in the market rules of the Electricity Act, this may give rise to inconsistent interpretations. For example, a possible outcome could be that one party based on its interpretation as to what "market power" means, finds that market power does not exist in a certain situation, while the other party, based on its interpretation, however considers that market power has been abused. It would be preferable to avoid the possibility of such outcomes.</p>
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	<p><i>Comparison with Other Electricity Markets</i></p> <p>Looking at other electricity markets, it would also be unusual to have one party determine market power exists but have a separate party determine if market power has been abused.</p> <p>Proposed Solutions</p> <p><u>Proposed Solution 1</u> <u>– Delete Chapter 5, Sections 8.7.1.3 and 8.7.1.4</u></p> <p>These provisions are essentially concerned with the publication of ancillary service contract terms and conditions.</p> <p>It would appear that the most significant terms of an ancillary service contract would be the costs and quantities involved. Chapter 5, sections 8.7.1.1 and 8.7.1.2 already provide that such information is to be published. As there is already provision for the most significant contract terms to be published, then it may be that there is less concern to know the other terms and conditions of the ancillary service contracts and sections 8.7.1.3 and 8.7.1.4 can be deleted.</p> <p><u>Proposed Solution 2</u> a) <u>(a) Delete Chapter 5, Sections 8.7.1.3 and 8.7.1.4; and</u> b) <u>Insert a new Chapter 5, section 8.7.1.3 to provide for the publication of the key terms and conditions of each class of contracted ancillary service.</u></p> <p>We understand that sections 8.7.1.3 and 8.7.1.4 may be rationalized as follows:</p> <p>Where contracted ancillary services are obtained in the absence of market power, the contract terms are to be treated as confidential to protect the commercially sensitive information of the successful party. As the process was a competitive one, there is also some assurance that the outcome is already the best possible for the market, without the need for further publication and scrutiny.</p> <p>On the other hand, where contracted ancillary services are obtained in the presence of market power, the contract terms are required to be published for transparency.</p> <p>However, if total costs and quantities for each class of contracted ancillary services are already required under section 8.7.1.1 and 8.7.1.2 to be published even in a competitive process, it would appear possible to also publish the key terms of each class of contracted ancillary service, without the need for any confirmations regarding the absence or presence of market power.</p>
<p>Impact of proposed amendment on MP, MO, PSO and general public</p>	<p>This proposal addresses an anomaly in the current market rules in relation to the legal framework for making decisions on issues of anti-competition. It also rationalizes the publication requirements in relation to contracted ancillary services.</p>

Annex 2

Existing Rules (As of 1 April 05)	Proposed Rule Modifications (Drafted in plain language)
<p><u>PUBLICATION OF PROCUREMENT CONTRACT INFORMATION</u></p> <p>8.7.1 The <i>EMC</i> shall treat information relating to the procurement of <i>contracted ancillary services</i> as follows:</p> <p>8.7.1.1 the <i>EMC</i> shall <i>publish</i> annually the total costs of each class of <i>contracted ancillary services</i> listed in section 8.2.2 subject to <i>ancillary service contracts</i>;</p> <p>8.7.1.2 the <i>EMC</i> shall <i>publish</i> annually the quantities of each class of <i>contracted ancillary service</i> listed in section 8.2.2 covered under <i>ancillary service contracts</i>, together with estimates of any additional quantities the <i>EMC</i> expects to acquire during the next 12 months;</p> <p>8.7.1.3 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the absence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the commercial terms of the <i>ancillary service contracts</i> shall be treated as <i>confidential information</i>; and</p> <p>8.7.1.4 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the presence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the <i>EMC</i> shall <i>publish</i> the relevant terms and conditions of the</p>	<p><u>PUBLICATION OF PROCUREMENT CONTRACT INFORMATION</u></p> <p>8.7.1 The <i>EMC</i> shall treat information relating to the procurement of <i>contracted ancillary services</i> as follows:</p> <p>8.7.1.1 the <i>EMC</i> shall <i>publish</i> annually the total costs of each class of <i>contracted ancillary services</i> listed in section 8.2.2 subject to <i>ancillary service contracts</i>;</p> <p>8.7.1.2 the <i>EMC</i> shall <i>publish</i> annually the quantities of each class of <i>contracted ancillary service</i> listed in section 8.2.2 covered under <i>ancillary service contracts</i>, together with estimates of any additional quantities the <i>EMC</i> expects to acquire during the next 12 months;</p> <p>8.7.1.3 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the absence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the commercial terms of the <i>ancillary service contracts</i> shall be treated as <i>confidential information</i>; and</p> <p>8.7.1.4 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the presence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the <i>EMC</i> shall <i>publish</i> the relevant terms and conditions of the</p>

<p>contracts.</p>	<p>contracts.</p> <p><u>8.7.1 Each year the EMC shall publish:</u></p> <p>8.7.1.1 the total cost;</p> <p>8.7.1.2 the total quantity; and</p> <p>8.7.1.3 the estimate of any additional quantity that the EMC expects to acquire in the next 12 months,</p> <p>for each class of <i>contracted ancillary services.</i></p> <p><u>8.7.2 If the EMC concludes any ancillary service contract under section 8.3.2.1, the commercial terms of that contract shall be treated as confidential information. If not, the EMC shall publish the relevant terms of that contract.</u></p>
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Annex 3

Existing rules (Release: 1 July 2007)	Proposed Rules Changes (Deletions represented by strikethrough text and additions represented by double underlined text)	Reasons for Change
	<p>8.3.2A At the time of commencement of the process(es) described in section 8.3.2 for the procuring of an <i>ancillary service</i> under an <i>ancillary service contract</i>, the EMC shall <i>publish</i> the following particulars in respect of that <i>ancillary service</i>:</p> <p>8.3.2A.1 the desired quantity (if any) of that <i>ancillary service</i>;</p> <p>8.3.2A.2 the desired duration of that <i>ancillary service contract</i>;</p> <p>8.3.2A.3 the desired situations in which that <i>ancillary service</i> may be called upon to be provided;</p> <p>8.3.2A.4 the desired nature and timing of any advance notice required for the <i>PSO</i> to call upon the provision of that <i>ancillary service</i>;</p> <p>8.3.2A.5 the desired timing of payment for the provision of that <i>ancillary service</i>;</p>	<p>This new section sets forth the 9 key requirements of the ancillary service to be procured which is to be published at the onset of the procurement process.</p>

Existing rules (Release: 1 July 2007)	Proposed Rules Changes (Deletions represented by strikethrough text and additions represented by double underlined text)	Reasons for Change
	<p>8.3.2A.6 the desired service standards and performance levels applicable to that <i>ancillary service</i>;</p> <p>8.3.2A.7 the desired situations under which some or all of the terms of the <i>ancillary service contract</i> may be suspended;</p> <p>8.3.2A.8 the desired process for modifying the terms of the <i>ancillary service contract</i>; and</p> <p>8.3.2A.9 the desired terms of assignment or transfer of the <i>ancillary service contract</i> to another person.</p>	
<p>8.7 <u>PUBLICATION OF PROCUREMENT CONTRACT INFORMATION</u></p> <p>8.7.1 The <i>EMC</i> shall treat information relating to the procurement of <i>contracted ancillary services</i> as follows:</p> <p>8.7.1.1 the <i>EMC</i> shall <i>publish</i> annually the total costs of each class of <i>contracted ancillary services</i> listed</p>	<p>8.7 <u>PUBLICATION OF PROCUREMENT CONTRACT INFORMATION</u></p> <p>8.7.1 The <i>EMC</i> shall treat information relating to the procurement of <i>contracted ancillary services</i> as follows:</p> <p>8.7.1.1 the <i>EMC</i> shall <i>publish</i> annually the total costs of each class of <i>contracted ancillary services</i> listed in section 8.2.2</p>	

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<p>in section 8.2.2 subject to <i>ancillary service contracts</i>;</p> <p>8.7.1.2 the <i>EMC</i> shall <i>publish</i> annually the quantities of each class of <i>contracted ancillary service</i> listed in section 8.2.2 covered under <i>ancillary service contracts</i>, together with estimates of any additional quantities the <i>EMC</i> expects to acquire during the next 12 months;</p> <p>8.7.1.3 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the absence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the commercial terms of the <i>ancillary service contracts</i> shall be treated as <i>confidential information</i>; and</p> <p>8.7.1.4 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the presence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the <i>EMC</i> shall <i>publish</i> the relevant terms and conditions of the contracts.</p>	<p>subject to <i>ancillary service contracts</i>; <u>and</u></p> <p>8.7.1.2 the <i>EMC</i> shall <i>publish</i> annually the quantities of each class of <i>contracted ancillary service</i> listed in section 8.2.2 covered under <i>ancillary service contracts</i>, together with estimates of any additional quantities the <i>EMC</i> expects to acquire during the next 12 months;<u>;</u></p> <p>8.7.1.3 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the absence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the commercial terms of the <i>ancillary service contracts</i> shall be treated as <i>confidential information</i>; and</p> <p>8.7.1.4 where the <i>EMC</i> obtains <i>contracted ancillary services</i> in the presence of market power, as confirmed by the <i>market surveillance and compliance panel</i>, the <i>EMC</i> shall <i>publish</i> the relevant terms and conditions of the contracts.</p> <p>8.7.2 Where an <i>ancillary service contract</i> is concluded pursuant to section 8.3.2.1, the <i>EMC</i> shall <i>publish</i> the price specified in that <i>ancillary service</i></p>	<p>Sections 8.7.1.3 and 8.7.1.4 are to be replaced with the new section 8.7.2.</p> <p>This new section is intended to reflect that if the ancillary service contract is obtained through a competitive process (under 8.3.2.1), then only the price of the ancillary service contract will be published. If the contract is not obtained through a</p>

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	<p><i>contract</i> in respect of the <i>contracted ancillary service</i> procured thereunder. Where an <i>ancillary service contract</i> is concluded otherwise than pursuant to section 8.3.2.1, then except where required by section 8.7.1, the <i>EMC</i> shall not <i>publish</i> the price specified in that <i>ancillary service contract</i> in respect of the <i>contracted ancillary service</i> nor the quantity of the <i>contracted ancillary service</i> procured under that <i>ancillary service contract</i>.</p>	<p>competitive process, then the price and quantity will not be published.</p>