

Australian Energy Market Commission

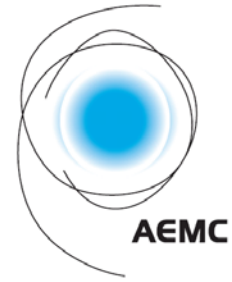
NATIONAL ELECTRICITY RULES - GUIDELINES

Guidelines for electricity market regulatory bodies:
Preparing a Rule change proposal for “fast track” Rules

May 2009

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1 Objective of the Guidelines

The Australian Energy Market Commission (AEMC) has prepared these guidelines to assist in the submission of a request for a “fast track” Rule to the AEMC by an electricity market regulatory body to change the National Electricity Rules (the request is referred to as a “Rule change proposal” in these guidelines). The National Electricity Law¹ (NEL) and the NEL Regulations² set out the legal requirements for Rule change proposals. Further details on the Rule change procedures can be found on the AEMC’s website www.aemc.gov.au

2 “Fast track” Rules

Section 96A of the NEL gives the AEMC the discretion to “fast track” the Rule change procedure for certain Rule change proposals. Under a “fast track” Rule change, the first public consultation stage of the Rule change procedure is the publication of the draft Rule determination under section 99 of the NEL. The effect of the “fast track” process is that the public consultation stages (first round consultation³ and a public hearing⁴) are bypassed. Under the “fast track” process, the AEMC is required to publish a draft Rule determination within five weeks of publishing a notice advising of the Rule change proposal.⁵

There are two kinds of Rule change proposals that could be “fast tracked” under section 96A. These proposals are:

- a) proposals from electricity market regulatory bodies who have consulted with the public on the nature and content of the Rule change proposal before submitting the request.
- b) proposals from a person or the Ministerial Council on Energy (MCE) that has been submitted on the basis of a recommendation for the making of a Rule contained in a MCE directed review or a conclusion for the making of a Rule contained in an AEMC Rule review.

Rule change proposals referred to in paragraph (a) above, submitted by an “electricity market regulatory body” for “fast track” are the subject of these guidelines.

¹ A Schedule to the *National Electricity (South Australia) Act 1996 (SA)*

² *National Electricity (South Australia) Regulations (SA)*

³ Section 95, NEL

⁴ Section 98, NEL

⁵ Section 95, NEL

3 The requirements for a Rule change proposal that is for a “fast track” Rule

The NEL Regulations set out the information requirements for a Rule change proposal. In relation to a Rule change proposal submitted by an electricity market regulatory body for the purpose of “fast tracking”, the Rule change proposal must include:

“... a summary of the consultation conducted by the electricity market regulatory body (including information about the extent of the consultation and about the issues raised during the consultation and electricity market regulatory body’s response to those issues)...”⁶

The summary of consultation is in addition to the other information requirements required by the NEL Regulations for a Rule change proposal.

3.1 The Commission’s opinion as to the adequacy of the consultation

In preparing the summary of the consultation, the electricity market regulatory body should provide the Commission with all relevant information in relation to the consultation conducted by that body. Information that will be relevant to the Commission will be information that will assist the Commission in making its decision to “fast track” the Rule change process.

As noted above, the decision to “fast track” the Rule change process is at the discretion of the AEMC. For a Rule change proposal received from an electricity market regulatory body, the AEMC needs to be of the opinion that the consultation conducted by the electricity market regulatory body was adequate having regard to the nature and content of the request and the kind of consultation conducted.

If the Commission does not consider the consultation is adequate, the Rule change proposal will not be “fast tracked” and will be the subject of first round consultation under section 95 and possibly a public hearing under section 98. The purpose of conducting first round consultation and a public hearing (if necessary) is to give interested parties the opportunity to provide written submissions and comments.

3.2 Information relevant to the Commission’s assessment

The summary of consultation provided by the electricity market regulatory body as part of its Rule change proposal will assist the Commission in forming an opinion as to whether the consultation conducted by that body is adequate. It will assist the Commission in deciding whether conducting first round consultation (and possibly a public hearing) has the potential to duplicate the consultation already conducted by the body. The electricity market regulatory body should consider what information is relevant to the Commission’s assessment of the adequacy of the consultation such as:

⁶ Clause 8(1)(f). It is noted that a person who submits a Rule change proposal that could be “fast tracked” on the basis of a recommendation for the making of a Rule contained in a MCE directed review or a conclusion for the making of a Rule contained in an AEMC Rule review, is not required to submit a summary of consultation as part of its Rule change proposal.

- Have the issues raised during the electricity market regulatory body's consultation been adequately identified and responded to?
- How was the consultation conducted?
- How were interested parties given the opportunity to raise issues and provide comments?
- What matters were the subject of the consultation compared to the matters which were the subject of the Rule change proposal?
- How open was the consultation? E.g. Was the consultation targeted at a particular group of stakeholders? Who had the opportunity to provide comments?
- Did all stakeholders who could be affected by the Rule change proposal have the opportunity to provide comments as part of the consultation process?

The information provided by the electricity market regulatory body in relation to the consultation will be read in conjunction with the other information provided as part of the Rule change proposal. As such, the information by the electricity market regulatory body will depend on the nature and content of the Rule change proposal.

These guidelines should be read in conjunction with the AEMC's Guidelines for proponents: Preparing a Rule change proposal - electricity.
