



Australian Energy Market Commission

RULE DETERMINATION

National Electricity Amendment (System restart
plan release provisions) Rule 2018

Rule Proponent

Australian Energy Market Operator

20 February 2018

**RULE
CHANGE**

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About the AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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Summary

The Australian Energy Market Commission (AEMC or Commission) has made a rule that provides the Australian Energy Market Operator (AEMO) greater regulatory certainty in disclosing the system restart plan to certain parties for the purposes of preparing for, and participating in, system restoration during a major supply disruption.

The final rule amends the National Electricity Rules (NER) to:

- include explicit provisions for AEMO to disclose the system restart plan to:
 - jurisdictional system security coordinators
 - network service providers
 - generators contracted to provide system restart ancillary services
 - any other registered participant whose assistance AEMO considers necessary for the implementation of the system restart plan
- clarify the confidentiality obligations of jurisdictional system security coordinators who receive the system restart plan.

The rule has been made in response to a rule change request submitted by AEMO on 17 October 2017. The expedited rule change process was used for this rule change.

The Commission determined that it should make a more preferable rule, since it considers the more preferable rule is likely to better contribute to the national electricity objective on the basis that it will:

- provide regulatory certainty to AEMO in carrying out its responsibilities under the NER to coordinate system restoration
- increase the transparency of information provided to parties who require it to prepare for, and participate in, system restoration
- promote the efficacy of system restoration
- minimise risks to system security by clarifying the most appropriate level of disclosure of the system restart plan.

The final rule commences on 27 February 2018.

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1 AEMO's rule change request

1.1 The rule change request

On 17 October 2017, AEMO submitted a rule change request to the AEMC. The request sought to amend the NER to allow AEMO to disclose the whole or any part of a system restart plan to certain parties for the purposes of preparing for, and participating in, system restoration activities during a major supply disruption.¹ AEMO also proposed amendments to the NER to specify that AEMO may develop multiple system restart plans covering one or more regions of the entire national grid, as opposed to just one grid-wide plan.

The AEMC considered the rule change as being non-controversial, and as a result, assessed it under an expedited rule change process.² The Commission did not receive any objections to the use of the expedited rule change process for this rule change request.

1.2 Current arrangements

Under clause 4.8.12 of the NER, AEMO must prepare a system restart plan for the purpose of managing and coordinating system restoration activities during any major supply disruption,³ which must be consistent with the system restart standard.⁴ The system restart plan contains all relevant procedures that would be expected to be followed by generators, including those contracted to provide system restart ancillary services,⁵ network service providers and jurisdictional system security coordinators⁶ in restoring an electrical sub-network⁷ following a major supply disruption, including a black system.⁸

1 AEMO, System restart plan release provisions, Rule change request, 16 October 2017.

2 Section 96 of the National Electricity Law (NEL).

3 Major supply disruption is defined in Chapter 10 of the NER as "the unplanned absence of voltage on a part of the transmission system affecting one or more power stations and which leads to a loss of supply to one or more loads."

4 The system restart standard specifies the parameters for restoring generation and transmission system operations after a major supply disruption, including a black system event. The standard is determined by the Reliability Panel in accordance with clause 8.8.3(a) of the NER.

5 System restart ancillary service is defined in Chapter 10 of the NER as "a service provided by facilities with black start capability which allows energy to be supplied and a connection to be established, sufficient to restart large generating units following a major supply disruption."

6 A jurisdictional system security coordinator is a person appointed by the Minister of a participating jurisdiction who must prepare, maintain, and if necessary, update guidelines in relation to the shedding, and restoration, of loads. See sections 110 and 111 of the NEL and the definition of jurisdictional system security coordinator in Chapter 10 of the NER.

7 All national electricity market (NEM) regions contain one electrical sub-network, except Queensland, which contains two.

8 Black system is defined in Chapter 10 of the NER as "the absence of voltage on all or a significant part of the transmission system or within a region during a major supply disruption affecting a significant number of customers."

The information contained in a system restart plan is sourced by AEMO from different stakeholders and includes:

- local black system procedures⁹ submitted by generators and network service providers under clause 4.8.12(g) of the NER
- non-commercial data contained in contracts with providers of system restart ancillary services (for example, the identity of system restart ancillary service providers, but not the contracted financial arrangements with such providers) procured by AEMO in accordance with clause 3.11.9 of the NER
- jurisdictional system security coordinators' jurisdictional load shedding guidelines provided to AEMO under section 111 of the National Electricity Law (NEL).

AEMO assesses the feasibility of a system restart plan by liaising with parties who supply information used to prepare the plan. Under clause 4.8.12(j) of the NER, AEMO must also jointly develop communication protocols with network service providers to facilitate information exchange between the parties involved in system restoration for the purposes of implementing the system restart plan.

A system restart plan is classified as confidential information under the NER.¹⁰ Under section 54(1)(b) of the NEL, AEMO must take all reasonable measures to protect confidential information from unauthorised use or disclosure.¹¹

AEMO is not permitted to disclose confidential information except in the circumstances set out in sections 54A – 54H of the NEL. This includes circumstances where:

- there is an explicit provision in the NER allowing disclosure
- there is written consent from the person who provided the information, or
- disclosure is necessary for the safety, reliability or security of the national electricity system or for the proper operation of the National Electricity Market (NEM).

The Commission understands that AEMO currently discloses the system restart plan to parties participating in training exercises to prepare for a major supply disruption. These parties include network service providers and generators contracted to provide system restart ancillary services.

⁹ Under clause 4.8.12(f) of the NER, local black system procedures must provide sufficient information to enable AEMO to understand the likely condition and capabilities of plant following any major supply disruption such that AEMO is able to effectively coordinate the safe implementation of the system restart plan.

¹⁰ Confidential information is defined in Chapter 10 of the NER as "in relation to a registered participant or AEMO, information which is or has been provided to that registered participant or AEMO under or in connection with the Rules and which is stated under the Rules, or by AEMO, the AER or the AEMC, to be confidential information or is otherwise confidential or commercially sensitive. It also included any information which is derived from such information."

¹¹ In section 54 of the NEL, the term "protected information" is used to refer to the types of information AEMO is required to protect from unauthorised use or disclosure, which included information classified as confidential information under the Rules. Information classified as "confidential information" under the NER is therefore "protected information" under the NEL. For simplicity, this consultation paper refers only to "confidential information".

1.3 Rationale for the rule change request

The rule change request noted that AEMO, and the System Restart Working Group Steering Committee,¹² were concerned that the confidentiality of system restart plans is hampering the industry's ability to prepare for, and minimise the impact of, a major supply disruption.¹³

As noted above, a system restart plan can only be disclosed by AEMO under certain provisions outlined in sections 54A – 54H of the NEL. AEMO was of the view that these provisions do not provide the necessary regulatory certainty to disclose a system restart plan to relevant parties. AEMO considered that this impedes its ability to share the plan with other parties involved in system restart and reduces the effectiveness of restart coordination activities, including readiness training.¹⁴

AEMO argued that there are a number of issues with the NER and the NEL that are relevant to its ability to disclose the system restart plan:¹⁵

- **NEL, section 54G:** AEMO is authorised to disclose confidential information under relevant parts of this section of the NEL if the disclosure is necessary for the safety, reliability or security of the supply of electricity, for the safety, reliability or security of the national electricity system, or for the proper operation of the national electricity market. AEMO was concerned that this section could be read to apply only when there exists a risk of a major supply disruption, and therefore may not extend to the preparation and verification of a system restart plan, and relevant training required in preparation for a major supply disruption.
- **NEL, section 54B:** AEMO is authorised to disclose confidential information under this section of the NEL if it has the written consent of the person from whom the information was obtained. AEMO noted that this would only apply to disclosure of components of a system restart plan that were provided by others, and not an entire system restart plan. AEMO argued that it would be an administrative burden to obtain written consent from all affected persons every time a system restart plan is updated or disclosed.
- **NER, clause 8.6.1:** Under this clause, registered participants must use all reasonable endeavours to keep confidential any confidential information that comes into their possession, and must not disclose confidential information to any person, except as permitted by the NER. AEMO argued that registered participants therefore face similar issues to those above in relation to disclosing system restart plans with other registered participants for the purposes of training.

AEMO also noted that in practice, it develops one system restart plan for every region, rather than a single system restart plan, and proposed amendments to clarify this.

¹² According to AEMO, this committee facilitates collaboration of NEM participants on matters relating to power system restart, and reports to the Power System Security Working Group.

¹³ AEMO, System restart plan release provisions, Rule change request, 16 October 2017, p. 2.

¹⁴ Ibid.

¹⁵ Ibid., p. 4.

AEMO noted that the issues discussed above are not new, but received greater attention in the course of AEMO seeking to increase training of parties involved in system restoration, largely in response to the South Australia system black event of 28 September 2016.

1.4 Solution proposed in the rule change request

The rule change request proposed changes to clause 4.8.12 of the NER to provide AEMO express authority to:

- disclose the whole or any part of a system restart plan to the following persons for the purpose of preparing for, and participating in, system restoration activities during a major supply disruption:
 - a jurisdictional system security coordinator
 - a network service provider
 - a generator contracted to provide system restart ancillary services
 - any other registered participant whose assistance in the implementation of a system restart plan AEMO considers is necessary
 - the Reliability Panel to facilitate its provision of technical advice and assistance in accordance with clause 8.8.3(h)¹⁶
- prepare one or more system restart plans covering one or more regions or the entire national grid.

AEMO argued that the rule, if made, would:

- reduce regulatory uncertainty by providing an explicit provision in the NER for AEMO to disclose system restart plans to certain parties
- increase the efficacy of system restart plans by facilitating coordination of parties involved in system restart, especially during training and information sessions
- provide greater transparency in AEMO's processes.

AEMO discussed two alternatives to the proposed rule,¹⁷ and provided reasons as to why these are not appropriate for disclosing a system restart plan.

One alternative is for AEMO to obtain written consent from each party that provides information contained in a system restart plan. AEMO argued that this would be infeasible due to the large number of parties this would involve, the need for written consent from each, the high frequency with which system restart plans are updated, and the fact that a system restart plan as a whole is confidential, not just the components obtained from third parties.

Another alternative is for AEMO to disclose components of a system restart plan to each party who provided information used for that component. AEMO argued that it is

¹⁶ Under clause 8.8.3(h) of the NER, the Reliability Panel may obtain such technical advice or assistance from time to time as it thinks appropriate including, without limitation, advice or assistance from AEMO and any registered participant.

¹⁷ AEMO, System restart plan release provisions, Rule change request, 16 October 2017, p. 5.

difficult to disentangle those components from the rest of the system restart plan in such a way, and that this defeats the purpose of system restart training, which requires involvement of all affected parties.

AEMO considered the cost of the proposed rule change to be negligible, but noted that it would require some modifications to its procedures.¹⁸

The rule change request included a proposed rule.¹⁹ The rule change request can be found on the AEMC website.²⁰

1.5 The rule making process

On 9 January 2018, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.²¹ A consultation paper identifying specific issues for consultation was also published. Submissions closed on 6 February 2018.

The Commission received seven submissions. The issues raised by stakeholders in those submissions are discussed in the relevant sections of this final rule determination.

The Commission considered that the rule change request was a request for a non-controversial rule as defined in section 96 of the NEL. Accordingly, the Commission commenced an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 23 January 2018.

No requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.²²

18 Ibid, p. 8.

19 Ibid, p. 6.

20 See: <http://www.aemc.gov.au/Rule-Changes/System-restart-plan-release-provisions>

21 This notice was published under section 95 of the NEL.

22 Section 96 of the NEL.

2 Final rule determination

2.1 The Commission's final rule determination

The Commission's final rule determination is to make a more preferable final rule. The more preferable final rule is published with this final rule determination. It will commence on 27 February 2018.

The Commission's reasons for making this final rule determination are set out in section 2.4.

This chapter outlines:

- the rule making test for changes to the NER
- the more preferable rule test
- the assessment framework for considering the rule change request
- submissions received during consultation
- the Commission's consideration of the more preferable final rule against the national electricity objective.

2.2 Rule making test

2.2.1 Achieving the national electricity objective

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).²³ This is the decision making framework that the Commission must apply.

The NEO is:²⁴

“to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”

For this rule change request, the Commission considered that the relevant aspect of the NEO is the promotion of the efficient operation of electricity services with respect to the security of supply of electricity and the security of the national electricity system.

2.2.2 Making a more preferable rule

Under section 91A of the NEL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO.

²³ Section 88 of the NEL.

²⁴ Section 7 of the NEL.

The Commission has made a more preferable final rule because it determined that the safety, security and reliability of the electricity system is better promoted if the system restart plan is only disclosed to parties for which it is absolutely necessary, and if the confidentiality obligations of those parties are clarified by the rule. The Commission's reasons for this are set out in more detail in section 2.4.

2.3 Assessment framework

In assessing the rule change request against the NEO the Commission has considered the following principles:

- **Transparency of information:** The provision of relevant information to parties who require such information to carry out their responsibilities under the NER is important in supporting the efficiency of the operation of the power system.
- **Efficacy of the system restoration process:** To promote efficacy of system restart and restoration, the system restart process should be implemented in a timely and efficient manner in order to minimise restoration times.
- **Regulatory certainty:** Clear and transparent regulatory arrangements support confidence in the power system's restart capability, which promotes efficiency and energy security.
- **Risk to the restoration process:** Unauthorised disclosure of a system restart plan to parties not involved in system restoration may compromise national security in a way that impacts the safety, security or reliability of the power system.

2.4 Summary of reasons

Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the more preferable final rule will, or is likely to, better contribute to the achievement of the NEO for the reasons discussed below.

Disclosure of the system restart plan

The final rule includes explicit provision for AEMO to disclose the system restart plan to:²⁵

- jurisdictional system security coordinators
- network service providers
- generators contracted to provide system restart ancillary services
- any other registered participant whose assistance AEMO considers necessary for the implementation of the system restart plan.

The Commission is satisfied that the parties specified above are necessary for the preparation for, and participation in, system restoration activities. These parties currently participate in system restoration training exercises and information sessions held by AEMO. AEMO currently discloses components of the system restart plan to these parties to support their participation in such activities; however, this rule change provides AEMO with greater regulatory certainty in doing so. Further, these parties

²⁵ See clause 4.8.12(a2) of the final rule.

have previously and are likely to continue participating in system restoration activities during a major supply disruption. The Commission understands that other registered participants may also be necessary for the system restart process, for example, a generator (other than a system restart ancillary services provider) that is also necessary for the implementation of the system restart plan because they are required to coordinate with system restart ancillary services providers in order to restart.

The Commission determined that providing regulatory certainty to AEMO so that it can disclose the system restart plan to these parties would promote the efficient operation of electricity services with respect to the security of supply of electricity and the security of the national electricity system by:

- making sure that parties who are critical to the system restart process have access to the information they need to prepare for, and participate in, system restoration activities
- providing AEMO greater regulatory certainty in coordinating system restoration.

These parties (with the exception of jurisdictional system security coordinators) are registered participants, and are therefore subject to the confidentiality obligations and provisions that apply to registered participants under rule 8.6 of the NER. The Commission considers that these confidentiality obligations and provisions are suitable to require these parties to use the system restart plan appropriately, such that the system restart plan is only disclosed to those parties who need to receive the plan. In particular, clause 8.6.1(b)(2) of the NER specifies that registered participants are restricted to using confidential information for the purpose for which it was disclosed as contemplated by the rules (i.e. for the purposes of preparing for, and participating in, system restoration activities).

The Commission considered that the application of these confidentiality provisions would contribute to the achievement of the NEO by minimising the risk of the plan being disclosed to unauthorised parties, which may impact the safety, security and reliability of the electricity system.

No disclosure to the Reliability Panel

The final rule does not contain a provision for AEMO to disclose the system restart plan to the Reliability Panel, as was proposed in the rule change request. The Commission determined that there was not a clear need for the system restart plan to be disclosed to the Reliability Panel because the Reliability Panel is not required to participate in activities during, or in preparation for, a major supply disruption.²⁶

In addition, some members of the Reliability Panel represent the interests of market participants, which may create conflicts of interest given that the system restart plan contains confidential information about the identity of system restart ancillary service providers.

²⁶ The AEMC understands that the Reliability Panel requires a general understanding of how system restoration is achieved for the purposes of reviewing the system restart standard, however, this is often achieved through advice provided by AEMC staff acting as secretariat to the Reliability Panel. AEMO is permitted to disclose confidential information (including the system restart plan) to the AEMC under section 54C(2)(c) of the NEL.

Disclosure to jurisdictional system security coordinators

The Commission understands that the jurisdictional system security coordinators have an important role during system restoration as a point of contact between AEMO and a relevant Minister of a jurisdiction (who may provide direction as to load shedding and sensitive loads). Jurisdictional system security coordinators are also required for system restoration information sessions and training exercises held by AEMO. This role requires an understanding of the system restart plan. It is for these reasons that the Commission believes that AEMO should have express authority to disclose the system restart plan to them.

However, jurisdictional system security coordinators are not registered participants, meaning they are not subject to the confidentiality obligations that apply to registered participants under rule 8.6 of the NER. Given the importance of maintaining the confidentiality of the system restart plan, the final rule applies confidentiality obligations to jurisdictional system security coordinators in relation to the system restart plan.²⁷ This is achieved by deeming jurisdictional system security coordinators to be registered participants for the purposes of Part C of Chapter 8 of the NER. These provisions specify the obligations of registered participants in handling and disclosing confidential information (such as the system restart plan). Applying the same obligations to jurisdictional system security coordinators is necessary as they are receiving the same information as registered participants in the event that AEMO discloses the system restart plan to both parties. Clause 8.6.2 of the NER contains a number of exceptions that the Commission considers are likely to enable jurisdictional system security coordinators to disclose the system restart plan to the Minister where required, for example, under clause 8.6.2(d) or 8.6.2(l).

Plurality of the system restart plan

AEMO's rule change request proposed to reference the system restart plan in clause 4.8.12 of the NER in the plural to reflect the fact that it develops one or more system restart plans for each NEM region. The final rule maintains reference to the system restart plan in the singular, but clarifies that it can comprise one or more separable components.²⁸ Although in practice AEMO develops an overarching document containing one or more restart plans for each NEM region, the Commission considers that it remains appropriate for there to be one system restart plan in order to reflect AEMO's role in managing and coordinating system restoration activities during a major supply disruption.²⁹ Under the final rule, AEMO is still able to prepare separable "components" for each region, but the Commission did not consider it necessary to refer to multiple system restart plans in order to achieve this outcome. Instead, the final rule makes clear that the system restart plan may consist of one or more separable components, and that AEMO may disclose the whole or any component of the system restart plan. This allows AEMO to separate components of the system restart plan so that it can disclose the relevant components of the overall plan to necessary parties. This

²⁷ Clause 4.8.12(a3) of the final rule.

²⁸ Clause 4.8.12(a1) of the final rule.

²⁹ Clause 4.8.12(a) of the NER.

ensures that those parties only receive the components of the plan that are relevant to that party.

Costs

The Commission determined that costs associated with the final rule are likely to be minimal given that it will require little or no changes to the administrative procedures of AEMO or the parties affected by the final rule.

2.5 Stakeholder views

In making its determination, the Commission considered seven submissions to the consultation paper.

The need for a rule change

All stakeholders who provided a submission supported the intent of the rule change request, mainly on the grounds that it would increase clarity and certainty for parties preparing for, and participating in, system restoration.

The AER argued that AEMO may have interpreted section 54G of the NEL too narrowly in determining that it did not provide sufficient regulatory certainty to disclose the system restart plan, particularly for the purposes of preparing for system restoration (e.g. training exercises and information sessions).³⁰ Instead, the AER was of the view that these activities can be interpreted as necessary for the safety, reliability and security of the national electricity system, and are therefore within scope of AEMO's protected information disclosure provisions under section 54G of the NEL. Nonetheless, the AER noted that the proposed rule change would be supplementary to section 54G of the NEL and provide "additional clarity and certainty for the industry and AEMO." The Commission agreed with the AER that AEMO's interpretation of section 54G could be interpreted as narrow, but like the AER, agreed that greater regulatory certainty is desirable.

Commercial information

Some stakeholders expressed concern that commercial information could be shared with the system restart plan, including the prices that system restart ancillary service providers receive for such services.³¹ AEMO advised the Commission³² that the system restart plan does not contain information on the individual or aggregated costs of restart services, nor is this information relevant in implementing a system restart plan. System restart ancillary service pricing is contained in a confidential system restart ancillary services agreement between AEMO and a provider of the service. AEMO also advised that whilst the system restart plan does contain the identity of system restart ancillary service providers and the technical information required to re-energise the network using these providers, disclosure of this information is necessary during system restoration.

Disclosure to specified parties

³⁰ AER, Submission to the consultation paper, p. 2.

³¹ Submissions to the consultation paper: AGL, p. 2; Origin Energy, p. 1; Snowy Hydro, pp.1-2.

³² Email correspondence between AEMO and AEMC staff, 7 February 2018.

Energy Networks Australia and TasNetworks proposed the inclusion of provisions that would allow AEMO to disclose the system restart plan to the Responsible Officer and Designated Officer for each NEM region.³³ There is one Responsible Officer and Designated Officer for each NEM region. The Commission understands that a Responsible Officer is usually a representative of a transmission network service provider for a region or AEMO, but may also be a member of a state or territory government. A Designated Officer is a state or territory government official. The Responsible Officer and Designated Officer are defined in the National Electricity Market - Memorandum of Understanding on the use of Emergency Powers and the National Electricity Market Emergency Protocol,³⁴ signed between AEMO and state and territory governments within the NEM for the purpose of coordinating actions taken by individual state legislation to manage power system security emergencies.

The Commission determined not to include a provision for disclosure of the system restart plan to a Responsible Officer or Designated Officer in the final rule. The reasons for this are that:

- The Responsible Officer and Designated Officer roles are not established under the NER, and consequently it is difficult to impose confidentiality obligations on these parties in the NER. Further, these roles are not clearly defined, and the person who is performing the role can change at any point in time. These issues create a risk that the system restart plan could be disclosed to unauthorised parties or used in a way that is not in accordance with the NER. AEMO advised the Commission that it decided not to include disclosure of the system restart plan to Responsible Officers and Designated Officers in the proposed rule for this reason.
- If AEMO determines that a Responsible Officer or Designated Officer needs the system restart plan or a component thereof, the final rule would allow this given that these roles may be represented by:
 - a transmission network service provider, in which case AEMO can disclose the system restart plan to it (under clause 4.8.12(a2)(2))
 - AEMO, in which case AEMO is already in possession of the system restart plan
 - a state or territory government, in which case the jurisdictional system security coordinator has the ability to disclose the system restart plan to them under clause 8.6.2 of the NER.

Energy Networks Australia, Ergon Energy and Energex argued against including a provision in the final rule to allow AEMO to disclose the system restart plan to market bodies or other parties not required during actual system restoration, including the Reliability Panel.³⁵ This was argued on the grounds that the Reliability Panel is not

³³ Submissions to the consultation paper, Energy Networks Australia, p. 1; TasNetworks, p. 1.

³⁴ The *National Electricity Market Emergency Protocol* is available at <https://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Emergency-Management>.

³⁵ Submission to the consultation paper: Energy Networks Australia, p. 2; Ergon Energy and Energex, p. 1.

required to be involved in system restoration during a major supply disruption, and that there is a risk of conflict of interest given that the Reliability Panel is in part represented by registered participants who may currently or potentially have a commercial interest in providing system restart ancillary services. Snowy Hydro similarly argued against the disclosure of "confidential commercial data" contained in the system restart plan to the Reliability Panel.³⁶ As discussed above, the Commission has determined that AEMO should not be given express authority in the NER to disclose the system restart plan to the Reliability Panel.

Confidentiality obligations

For those parties that may receive the system restart plan, AGL argued that AEMO should only disclose information on a 'need to know' basis.³⁷ The final rule allows AEMO to disclose the whole, or components of the system restart plan at its discretion in order to allow specified parties to prepare for and participate in system restoration activities. This will allow AEMO, where necessary, to disclose only the information contained in the system restart plan that is necessary for parties to perform their roles.

Origin Energy recommended that the AEMC "investigate the appropriate confidentiality provisions that a jurisdictional system security coordinator is subject to and ensure that they must also maintain confidentiality of any information that is passed to them through the system restart plan."³⁸ Recognising this, the Commission included a clause in the final rule that applies the same confidentiality obligations as are placed on registered participants under Part C of Chapter 8 of the NER to jurisdictional system security coordinators. Given that the jurisdictional system security coordinators and registered participants are both involved in system restoration activities (including preparation activities), it is appropriate that they share the same confidentiality obligations.

Similarly, the AER noted that section 54G(2) allows AEMO to apply confidentiality conditions when disclosing protected (confidential) information. Whilst the final rule aims to clarify the confidentiality obligations of these parties, this provision provides AEMO with additional authority where confidentiality obligations need to be tailored to the particular information disclosed and/or the particular receiving party.

Implementing the rule change

Energy Networks Australia recommended that "a protocol be established by AEMO that outlines when system restart plans should be shared, with whom, and under what circumstances."³⁹ Introducing such a requirement in the final rule is beyond the scope of this rule change, but may be considered further by AEMO as the main party responsible for the management and coordination of system restoration activities, including disclosure of the system restart plan.

Energy Networks Australia recommended that the Commission "clearly defines and provides easy understanding of the roles of all parties at each stage of the [system

³⁶ Origin Energy, Submission to the consultation paper, p. 2.

³⁷ AGL, Submission to the consultation paper, p. 2.

³⁸ Origin Energy, Submission to the consultation paper, p. 1.

³⁹ Energy Networks Australia, Submission to the consultation paper, p. 2.

restoration] process."⁴⁰ Making any changes in this regard is beyond the scope of this rule change. This is related to a recommendation from the *Independent review into the future security of the National Electricity Market* (the Finkel Review) that AEMO should ensure that a system restart plan "clearly identifies the roles of the parties involved at each stage of the restoration process."⁴¹ In addition, the Reliability Panel recommended in the final determination of the *Review of the system restart standard* that "it is important that everyone who has a role understands what can be involved in restoring a system."⁴² These roles are outlined at a high level in Appendix E of that review. Further clarification of the roles of all parties during system restoration is beyond the scope of this rule change. AEMO is best placed to provide such clarity as the manager and coordinator of system restoration activities.

AGL sought clarification as to the types of procedural changes that the rule change would entail.⁴³ The Commission understood that the rule change would result in little or no procedural changes for AEMO or parties receiving the system restart plan. This is because the intent of the rule change is to provide greater regulatory certainty as to what parties AEMO can expressly provide the system restart plan to, rather than changing how disclosure of the system restart plan occurs. Any potential procedural changes that would result from this final rule may be coordinated by AEMO.

Plurality of the system restart plan

Energy Networks Australia and Snowy Hydro expressed support for clarifying in the final rule that AEMO may develop multiple system restart plans covering one or more regions of the NEM.⁴⁴ Specifically, Energy Networks Australia argued that the development of one or more system restart plans "makes operational and technical sense" in certain situations, such as where system restart generators are in different regions. Snowy Hydro also argued that "system restart plans are not uniform across all sub-regions and they can vary from sub-region to sub-region". Similarly, Ergon Energy and Energex argued that "AEMO should be vested with the discretion to determine the number of system restart plans required in order to enable adequate participant readiness."⁴⁵

As discussed in section 2.4, whilst the Commission recognises the different requirements for regions undergoing system restoration, it has determined that a preferable approach in the final rule is to specify that AEMO must develop *one* system restart plan covering the entire national grid, but recognising that the plan may consist of separable *components* that may be disclosed in whole or in part. This maintains a grid-wide approach to system restart whilst still allowing AEMO to exercise its discretion in how it discloses relevant components of the plan in a manner that enables parties to effectively prepare for and participation in system restoration activities, whilst maintaining the confidentiality of the system restart plan.

⁴⁰ Ibid, p. 1.

⁴¹ Dr Alan Finkel, *Independent review into the future security of the National Electricity Market*, p. 21.

⁴² AEMC Reliability Panel, *Review of the System Restart Standard: Final Determination*, p. vii.

⁴³ AGL, Submission to the consultation paper, p. 3.

⁴⁴ Submissions to the consultation paper, Energy Networks Australia, p. 2; Snowy Hydro, p. 2.

⁴⁵ Ergon Energy and Energex, Submission to the consultation paper, p. 1.

Costs

Stakeholders did not comment on the potential costs in implementing the proposed rule change.

2.6 Implementation

The final rule commences on 27 February 2018.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
COAG	Council of Australian Governments
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective

A Legal requirements under the NEL

This appendix sets out the relevant legal requirements under the NEL for the Commission to make this final rule determination.

A.1 Final rule determination

In accordance with section 96 of the NEL the Commission has made this final rule determination in relation to the rule proposed by AEMO.

The Commission's reasons for making this final rule determination are set out in section 2.4 of this final determination.

A copy of the more preferable final rule is published with this final rule determination. Its key features are described in section 2.4.

A.2 Power to make the rule

The Commission is satisfied that the more preferable final rule falls within the subject matter about which the Commission may make rules. The more preferable final rule falls within section 34 of the NEL as it relates to the operation of the national electricity system for the purposes of the safety, security and reliability of that system, and the activities of persons (including registered participants) involved in the operation of the national electricity system.⁴⁶

A.3 Commission's considerations

In assessing the rule change request, the Commission considered:

- its powers under the NEL to make the rule
- the rule change request
- submissions received during consultation
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NEO

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.⁴⁷

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of AEMO's declared network functions.⁴⁸ The more preferable final rule is compatible with AEMO's declared network functions because it is consistent with those functions.

⁴⁶ Section 34(1)(a)(ii) and (iii) of the NEL.

⁴⁷ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for Energy. On 1 July 2011 the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

⁴⁸ Section 91(8) of the NEL.

A.4 Northern Territory requirements

From 1 July 2016, the NER, as amended from time to time, apply in the Northern Territory, subject to derogations set out in Regulations made under the Northern Territory legislation adopting the National Electricity Law NEL, that is, the National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations. Under those Regulations, only certain parts of the NER have been adopted in the Northern Territory. As the proposed rule relates to parts of the NER that currently do not apply in the Northern Territory (i.e. chapter 4), the Commission will not assess the proposed rule against additional elements required by the Northern Territory legislation, that is, the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

A.5 Civil penalties

The final rule does not amend any clauses that are currently classified as civil penalty provisions under the NER. The Commission does not recommend to the COAG Energy Council that any of the proposed amendments made by the rule be classified as civil penalty provisions.