

Australian Energy Market Commission

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# The rule change process

A guide for stakeholders

20 June 2017

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This paper sets out the AEMC's processes for making rule changes and highlights tips for stakeholder engagement at each stage.

## About this Document

The AEMC is a national body with two main roles: providing expert advice to the COAG Energy Council on developing energy markets in ways that will benefit energy consumers, and making the rules that govern how energy markets operate.

All of the AEMC's work is guided by the three legislated national energy objectives:

- National electricity objective (NEO)
- National gas objective (NGO)
- National energy retail objective (NERO).

Each objective requires an explicit focus on the long-term interests of energy consumers in our rule making decisions and advice.

To assist stakeholders in understanding the Commission's decision making process and how we apply the energy objectives, the AEMC published 'Applying the energy objectives, a guide for stakeholders' in December 2016.

This document - 'A guide to the rule change process' is the second guide the AEMC has developed to inform stakeholders on particular aspects of our work. It aims to act as an information source for stakeholders on how we go about making rule changes and how best to engage with us.

The document is set out in two parts: the first part outlines the processes involved in a rule change, from the initial rule change request to submissions and tips for stakeholder engagement incorporated at each stage. It also provides the context for our processes such as our legal obligations and the value of early engagement. The second part describes instances where the standard rule change process may differ and highlights our rationale for this.

Effectively engaging with people and organisations with an interest in Australia's energy market provides valuable input to our rule making. We aim to fully understand the issues raised by stakeholders on the implications of a rule change and to ensure stakeholders feel they are listened to and understand how we have come to our decisions.

The Commission considers this to be a 'living' document and welcomes feedback on it, which will be refined and updated over time. Any questions or comments on this document should be directed to Tom Walker ([tom.walker@aemc.gov.au](mailto:tom.walker@aemc.gov.au)) or [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au).

# Basic steps in a rule change process

## Introduction

The AEMC makes and amends the rules for the energy markets under the National Electricity Law (NEL), the National Gas Law (NGL) and the National Energy Retail Law (NERL).<sup>1</sup> These rules impact on how market participants can operate in the competitive generation and retail sectors; provide specific protections for consumers to whom energy is sold and supplied; and also govern the economic regulation of electricity transmission and distribution services and gas pipelines.

The rules play a central role in governing how the energy market operates. However, there are also a number of other regulations which influence outcomes in the energy market, for example state regulations, state retail laws and renewable energy targets.

Stakeholders can shape the design and regulation of the market through participation in the rule change process, including by submitting rule change requests. A unique aspect of our role is that any party, except the AEMC<sup>2</sup>, can propose a change to the rules. Rule changes that are recommended as part of an AEMC review can also be requested by any party.

Since the AEMC's inception in 2005, we have dealt with over 200 rule change requests from a variety of different proponents including governments, members of industry, consumer groups, energy regulatory market bodies, public advocacy groups, major energy user groups, business groups and individuals.

The effectiveness of stakeholder participation in the process determines the quality of the market outcomes. Effective engagement provides valuable input to the rule change process. Active and early engagement assists us to gain a comprehensive understanding of the potential impacts of our decisions and, in so doing, produce well-informed, high quality rule changes. Engagement with stakeholders is conducted through a number of mediums such as seeking written submissions and participation in meetings, workshops and forums.

There are a number of formal stages in a rule change process:

- Proponent submits rule change request
- the AEMC commences rule change process and seeks submissions on rule change request<sup>3</sup>

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<sup>1</sup> The latest version of the NEL, NGL and NERL can be found on the South Australian legislation website at <https://www.legislation.sa.gov.au/index.aspx>. In addition to the NERL, the National Energy Customer Framework (NECF) is a suite of legal instruments that regulate the sale and supply of electricity and gas to retail customers. The NECF is applied in each participating state or territory through state or territory laws. A discussion of the NECF can be found at: <http://www.aemc.gov.au/Energy-Rules/Retail-energy-rules/Guide-to-application-of-the-NECF>

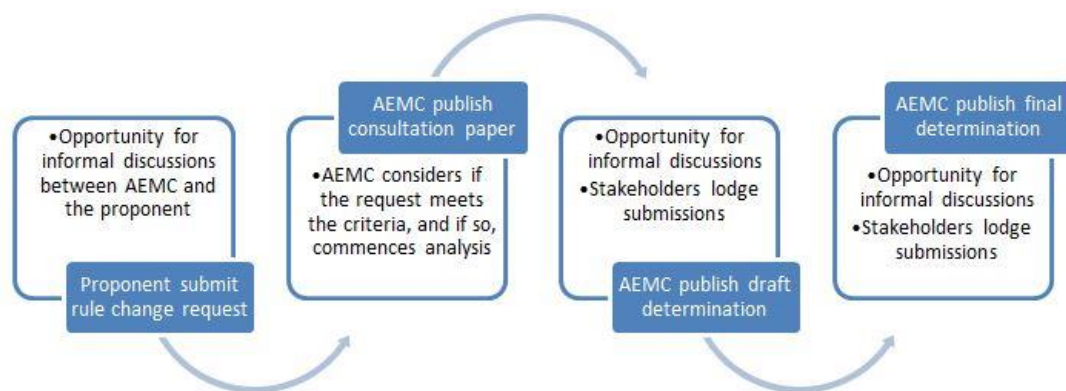
<sup>2</sup> Except for minor and non-material changes

<sup>3</sup> Generally the AEMC publishes a consultation paper at the same time as we commence the rule change process

- Stakeholders (including the proponent, if they wish) lodge submission on rule change proposal
- the AEMC publishes draft rule determination and seeks submissions on the draft determination
- Stakeholders (including the proponent, if they wish) lodge submission on draft rule determination
- the AEMC publishes final rule determination.

In addition to the steps referred to above, the Commission seeks to engage with stakeholders through discussions throughout the rule change process which can take the form of informal one-on-one discussions, workshops, forums and technical working groups.

### Standard rule change process

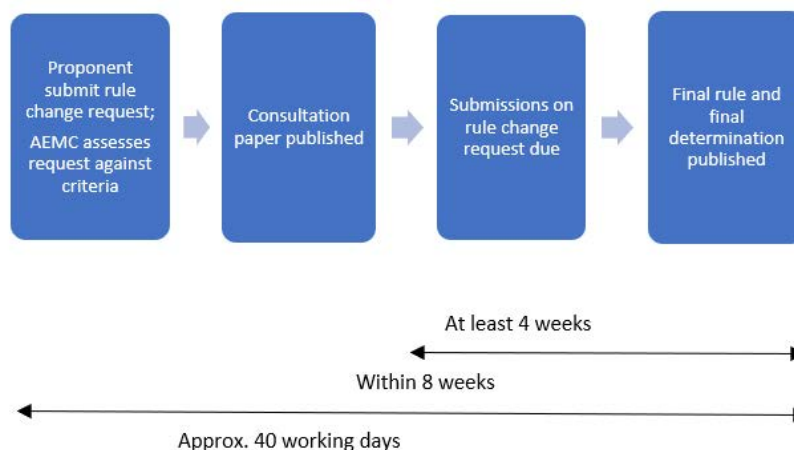


The AEMC undertakes three types of rule change processes which operate to different timeframes:

- Standard rule changes - timeframe for a standard rule change process is approximately 6 months from the publication of a consultation paper on the proposed rule to the final rule determination; however this timeframe can be extended in certain circumstances. Under the standard process there are two opportunities for stakeholders to make written submissions in advance of the draft and final determinations.



- Expedited rule changes - the Commission may expedite the rule making process if the request is for a non-controversial or urgent rule (these terms are defined in the NEL, NGL and NERL). Under the expedited process there is only one round of written consultation on the rule change and no draft determination is made. A final determination must be made within eight weeks of commencement of the rule change.



- Fast-tracked rule changes - the rule making process can be fast tracked where there has been adequate previous public consultation on proposed rule changes by an energy regulatory body<sup>4</sup> or if the request arises from an AEMC review. Under the fast-track process there is an opportunity for written submissions only

<sup>4</sup> The Australian Energy Regulator, the Australian Energy Market Operator, the Reliability Panel (in the case of rule changes under the NEL) and the Economic Regulation Authority of Western Australia (in the case of rule changes under the NGL).

after publication of the draft rule determination. The fast-track process is nine weeks shorter than the standard process.<sup>5</sup>



## Making a rule change request

The official process for making a rule change request begins by submitting a written request to the AEMC<sup>6</sup> which must contain certain information prescribed by the Regulations<sup>7</sup> such as:

- the name and address of the person making the request
- a description of the rule that the proponent proposes be made
- a statement of the nature and scope of the issue(s) concerning the existing rules that is to be addressed by the proposed rule change request and an explanation of how the proposed rule change request would address the issue(s)
- an explanation of how the proposed rule change request will or is likely to contribute to the achievement of the relevant energy objective
- an explanation of the expected potential impacts of the proposed change to the rules on those likely to be affected
- In the case of a rule change request from an energy regulatory body<sup>8</sup> that could be a “fast tracked” rule, a summary of the consultation conducted by the energy regulatory body is required.

Generally, the AEMC will publish a rule change request on our website as a “pending rule change” within two weeks of receiving it so that stakeholders are

<sup>5</sup> See Appendix 1 for further information on the different rule change processes including timeframes and the key steps associated with each.

<sup>6</sup> The AEMC does not require a draft rule to accompany the request for initiation.

<sup>7</sup> Section 92(1) NEL; Regulation 8 of the National Electricity (South Australia) Regulations; Section 298, NGL; Regulation 13 of the National Gas (South Australia) Regulations; Section 246 NERL, and clause 11 of the National Energy Retail Regulations.

<sup>8</sup> See footnote 3.

aware that it has been submitted.<sup>9</sup> The rule change is “pending” until the AEMC makes a formal decision to initiate the rule change process.

Following receipt of the rule change the AEMC decides whether to formally initiate the rule change process after considering whether:

- the rule change request adequately addresses all the above matters
- the rule change request appears not to be misconceived or lacking in substance
- the subject matter of the rule change request appears to be within the scope of the AEMC's powers to make a rule<sup>10</sup>
- the subject matter of the rule change request appears not to relate to a rule made (or not proceeded with), in the previous 12 months or if the AEMC are already taking action in relation to the subject matter.<sup>11</sup>

The process of making a rule change request can begin well before a formal request is submitted to the AEMC. Consultation with other parties who would be affected by a rule change can help frame a more effective and targeted proposal. AEMC staff are also available to assist proponents in developing their proposal. The submission of a rule change request is not intended to be onerous or require a deep level of technical expertise on the part of the proponent. The AEMC will initiate the rule change process unless we have significant concerns in relation to one of the matters referred to above (for example, if the AEMC clearly would not have the rule-making power to address the issues raised in the rule change request).

Following submission of a rule change request, the project team and the proponent may continue to have informal discussions to gain a greater understanding of the issues identified in the request.

The timing of initiation of a rule change request is guided by a number of considerations including the order requests are received as well as practical considerations such as the resources and expertise available given other projects underway and in the pipeline.

Once initiated, we will undertake our own analysis, along with the collective expertise of the rule change proponent and other stakeholders through a consultative process, to determine whether a change to the rule is consistent with promoting the energy objectives.

The AEMC may decide to consolidate a rule change request with another rule change request if we consider it necessary or desirable that they should be dealt with together.

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<sup>9</sup> The AEMC may sometimes alter the name of the request to provide additional clarity for stakeholders.

<sup>10</sup> Section 34 of NEL; Section 74 of the NGL; Section 237 of the NERL.

<sup>11</sup> The AEMC may decide not to proceed with the rule change request in this instance if there are significant similarities between the specific issues raised.

### **Tips for stakeholders: Submitting a rule change request**

- ***Discuss your proposal with us*** - Even prior to submitting a rule change request, a useful first step is to informally speak with us. Our contact details can be found on the AEMC website.<sup>12</sup> We can assist you in framing your request in the most valuable form and provide best practise examples of previous rule change requests. We can also help provide advice about the level of detail we require to be contained in your request. If helpful, we can review a draft of your request and provide feedback on whether the request meets the requirements for initiation the rule change process.
- ***Identify the issue*** - Clearly articulating the issue you are aiming to resolve assists us in identifying the scope of your request. A clear articulation of how you propose to address the issue also enhances our analysis of the request. The inclusion of a proposed rule drafting is helpful however it is not a requirement for submitting a rule change request.
- ***Consider whether your request is within the AEMC's powers*** - Consider whether the AEMC's rule-making powers would enable us to make the rule you seek.<sup>13</sup> It is also useful to consider whether the rule you are seeking may also create the need for consequential or other rule changes under other energy laws. For example, if your change is under the NER, would a rule under the NERR be required to ensure protections for retail customers continue to be appropriate.
- ***Consider the energy objectives*** - The AEMC may only make a rule change if we are satisfied that it will or is likely to better contribute to the achievement of the energy objectives - focusing on the long term interest of consumers. If your request is under the NERR it is also important to consider if it is likely to meet the consumer protection test.<sup>14</sup> Your proposal should outline your reasoning as to why the current rules are not effective in meeting the relevant objective, and how your proposal would be more effective. The AEMC's decision making framework is explained further in a guide for stakeholders 'Applying the energy market objectives'.
- ***Present evidence where possible*** - It is always useful to provide qualitative and/or quantitative evidence to support statements of fact included in your request, where possible. Speak with the AEMC to ascertain the level of detail which would be most beneficial at this stage - noting that this is the start of a process of assessment, not the end.

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<sup>12</sup> <http://www.aemc.gov.au/Contact-Us>

<sup>13</sup> Section 34 of the NEL; Section 74 of the NGL; Section 237 of the NERL .

<sup>14</sup> Retail Law section 236(2)(b).



## Consultation paper

Once the AEMC is satisfied that the rule change request meets the criteria discussed above, the rule change process is formally initiated by publishing:

- a notice of the request for the making of a rule<sup>15</sup>
- generally, a consultation paper that sets out the issues raised in the request<sup>16</sup>.

The consultation paper is used to seek input from stakeholders on the possible implications of the proposed rule change.

It is important that stakeholders are aware of how to make a submission and to understand how we consider submissions in our decision making process.

Consultation papers published by the AEMC are framed in a structured way - setting out our proposed assessment framework and how the proposed rule change request relates specifically to the legislated energy objectives. Broader public policy issues such as fairness in the distribution of benefits between different energy consumers or environmental issues are not part of the objectives. The objectives focus on the achievement of economic efficiency in the long-term interests of consumers with respect to price, quality, safety, reliability, and security of supply of energy services.<sup>17</sup>

Each assessment framework sets out the basis on which we propose to assess the rule change request. It is important for stakeholders to indicate whether they agree or disagree with our proposed assessment framework and why. The assessment framework is followed by a series of key questions which we believe will facilitate stakeholders providing us with valuable information to allow us to make an informed assessment of the rule change request. We also welcome feedback on matters that stakeholders consider to be relevant but were not raised in the consultation paper.

Any person, including the proponent, may make a submission on a consultation paper. At least four weeks will be given from the date the rule change request notice is published to make submissions.

While not a formal requirement, we commonly arrange public forums, meetings, workshops and advisory groups at various stages throughout the rule change process to help build stakeholder awareness and understanding, and provide an avenue for meaningful input to help better inform our decisions. These forums also provide an opportunity for stakeholders to engage with each other to gain different

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<sup>15</sup> The notice for standard or expedited rule change processes includes: an invitation for any person to make written submissions to the AEMC on the proposed rule change; the closing date for any submissions to the AEMC and; information about whether the AEMC intends to expedite or extend the rule making process.

<sup>16</sup> A consultation paper is not published for rule changes that follow the fast-track process as under that process there is only one round of consultation after the publication of the draft Rule.

<sup>17</sup> To assist stakeholders in understanding the Commission's decision making process and how we apply the energy objectives, the AEMC published 'Applying the energy objectives, a guide for stakeholders' in December 2016.

perspectives on the potential impact of the proposed rule change request. The AEMC project team is available throughout these processes for discussion. Parties participating in a rule change process can also advise the project team of issues that could benefit from exposure in a forum or working group.

On occasion, prior to publication of a draft determination, the Commission may decide that there is value in publishing an additional paper, such as an options or directions paper, to gain further insight into the key issues.

### **Draft determination consultation**

Generally, within ten weeks after the closing date for consultation paper submissions on the proposed rule, the AEMC will publish a draft determination (which may include a draft rule).<sup>18</sup>

In our draft determination we articulate:

- the identified issue the rule change request is aiming to resolve
- whether the identified issue could be resolved through a change to the rules or through another process
- whether the proposed change to the rules would better contribute to the achievement of the relevant national energy objective
- our reasons for making either the rule as proposed or a rule that addresses the issue in a different way (a more preferable rule<sup>19</sup>)
- how we have considered issues and feedback received from stakeholders throughout the process to-date in reaching our decision.

Consultation on the AEMC's draft determination is a key opportunity for stakeholders to consider and respond to our detailed reasoning for proposing to make or not make a rule change. Stakeholders are encouraged to make submissions and discuss our analysis with the project team.

Any person may make a submission to the AEMC on a draft determination and will be given at least six weeks from the date the draft determination is published to lodge a submissions.

The AEMC's usual practice is to publish all written submissions on our website to encourage an open and robust decision making process, although exception can be made in the case of confidential information.

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<sup>18</sup> For rule changes that follow the expedited rule change process there is only one round of consultation after the rule change is initiated and no draft determination is published. For rule changes that follow the fast-track process the draft determination is published 5 weeks after the rule change is initiated.

<sup>19</sup> The AEMC may make a more preferable rule, if it is satisfied that, after considering the issue in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the national energy objectives. The AEMC's powers to make a more preferable rule are limited by the scope of the issues raised in the original rule change proposal. That is, we can only make more preferable rules where the more preferable rule will address an issue or issues raised by the rule change request.

### **Tips for stakeholders: making a submission**

- ***Discuss your submission with us*** - If you would like guidance for making a submission, you can contact the project team. Contact details can be found on the information sheet for each project. This will allow us to focus our analysis of the issues and to suggest the most valuable feedback to be included in your submission. We welcome setting up meetings to discuss your submission.
- ***Make the most of your resources*** - Rule changes can vary in materiality and complexity therefore it is important to assess if and to what extent the rule change is likely to impact you as a stakeholder. Speak with the project team to ascertain the most beneficial level of engagement, particularly if you are a resource constrained organisation.
- ***Structure your submission*** - In our consultation papers and draft determinations we set out an assessment framework indicating the basis on which we propose to assess, or have assessed, the rule change request. It is important for stakeholders to indicate whether they agree/disagree with our proposed assessment framework and why, and then address the issues posed throughout the paper (and any other issues you identify) with regard to the framework or your alternative framework.
- ***Focus your submission on our decision making framework*** - Under the energy objectives achieving the long term interests of consumers is the overarching objective of any rule change and this forms the basis for our decision making framework. Stakeholders should frame their arguments around how these objectives are likely to be better achieved or not.
- ***Assess future impacts*** - It is useful to include an assessment of what the future impact for consumers will be in the event that the rule is (or is not) made. This can be informed not only by evidence to date but also by theory in fields such as microeconomics and behavioural economics.
- ***Present evidence where possible*** - Stakeholders insights are strengthened by providing evidence through quantitative and qualitative analysis as well as practical examples of how proposals may or may not work in practice. We do not expect stakeholders to engage in costly evidence gathering however it is important to articulate the substance of the issue and its potential impact on you as a stakeholder. Speculation or assertions are less useful for our analysis.
- ***Explain how your submission adds value*** - High quality, well-structured and well-evidenced submissions assist us in understanding the key issues and informs our decision making process. We encourage a variety of submissions, but it is the quality of arguments, rather than the quantity received, their individual length, or the party which submits them, that influences our decisions. Identical template submissions made by multiple parties are not given any additional weight.
- ***Submit within the timeframe*** - It is important that submissions are lodged within the statutory timeframe to ensure we can consider them as part of our decision making. While we endeavour to have regard to submissions received after the closing date, we cannot guarantee they will be given equal consideration to on-time submissions.

## **Final determination**

Within six weeks after the closing date for submissions on the draft rule determination, the AEMC will publish a final rule determination.

The document will articulate our reasons for making (or not making) a rule or making a more preferable rule, including how our decision serves the long-term interest of consumers.

If the AEMC, in our final rule determination, determines to make a final rule, the final rule will be published at the same time as the final rule determination.

Final rules sometimes have transitional arrangements or varying commencement dates. These decisions are informed by analysis around the most appropriate mechanism for implementation of the rule.

Stakeholders are welcome to discuss the reasons for our decisions with the project team.

## **Appeals Rights**

Decisions of the AEMC are subject to judicial review by the Supreme Court of each jurisdiction that participates in the national energy markets.<sup>20</sup>

During a judicial review, stakeholders can seek an order that the AEMC's decision be set aside if it is not made lawfully. For example, a decision may be set aside if the AEMC did not have the power to make the rule or failed to follow the process for the making of a rule under the relevant energy law.

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<sup>20</sup> Section 70 of the NEL; section 242 of the NGL; section 302 of the NERL.

## Why rule change processes differ

### Timeframes

Before we start the statutory process we make practical decisions on whether standard timeframes are achievable given the request's scope, the amount of consultation required with stakeholders and competing work priorities.

There may be occasions when the AEMC will extend the timeframes of the project if we consider that a request for a proposed rule raises issues of sufficient complexity or difficulty or if there is a material change in circumstances.<sup>21</sup> The AEMC may also extend the date key documents are published to seek further consultation on a particular issue raised in a submission or a hearing on the draft rule determination.

If the AEMC decides to extend the timeframes, we will publish a notice which outlines the new date the draft or final rule determination will be published.

#### **Example: extending timeframes**

In 2012-13 the AEMC received and initiated a rule change request from the Independent Pricing and Regulatory Tribunal (IPART) of NSW related to annual network pricing arrangements for DNSPs.<sup>22</sup> During the consultation process, a number of complexities were raised through engagement with stakeholders. To allow for the various issues to be worked through to produce the most appropriate solution, the Commission decided that an extended consultation period was appropriate.

We are aware of our stakeholders' desire for us to make rules faster. We continue to focus on increasing our timeliness while still allowing for comprehensive consideration of relevant issues, extensive stakeholder consultation and development of a robust rule design.

### Our stakeholder engagement toolkit

At the start of a rule change process, the AEMC assesses the level of stakeholder engagement that may be required throughout the process, taking into account matters such as the anticipated complexity and materiality of the request. We then form a project plan setting out the most appropriate mechanisms to assist us in producing high quality rule changes. Further to written submissions, we may engage stakeholders through forums, meetings, workshops and advisory groups to help us build stakeholders awareness and understanding, and provide an avenue for meaningful input to help us make better decisions.

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<sup>21</sup> The AEMC has power to extend statutory timeframes on these bases under Section 107 of the NEL; Section 317 of the NGL; Section 266 of the NERR.

<sup>22</sup> <http://www.aemc.gov.au/Rule-Changes/Distribution-Network-Pricing-Arrangements>

## Discussion forums

The AEMC often engage in a discussion forum stage of a rule change process as an opportunity to understand and clarify key issues being assessed early in a rule change process. A discussion forum usually consists of an informal platform for all participants to assist in defining the issues at hand, identifying all potentially affected parties and defining all the associated implications for the energy markets. Identifying affected parties is particularly helpful to assist stakeholders to assess their level of engagement required in the process.

This type of forum also allows the AEMC to explain complex aspects of the rules and to assist stakeholders in understanding our role as well as what is within or outside our powers as rule maker. This step can also help stakeholders understand how we apply the national energy objectives when making decisions for a particular rule change request.

### Example: discussion forums

At the end of 2016 the AEMC commenced consultation on a rule change request to the *contestability of energy services*.<sup>23</sup> A discussion forum was held in early January to assist the AEMC and participants in developing a common understanding of the current regulatory arrangements and identifying and specifying the issues and their causes. This discussion forum acted a useful starting point to progress the rule change request.

## Workshops and technical working groups

Workshops are often a useful resource for stakeholder engagement to assist affected parties discuss the rule change request and gain a greater understanding of the possible issues and complexities. Some rule changes are related to issues that are particularly material to the operation of the energy markets or consumer experiences. These issues may be of particular importance at a point in time or have implications for the development of the market into the future. A workshop allows stakeholders to hear first-hand one another's views on a topic, and to debate the issues raised.

If the Commission is considering an issue that has the potential to have a material effect on the market it may be necessary hold a series of workshops or convene technical working groups to undertake additional analysis to understand the issue and the likely impacts in detail.

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<sup>23</sup> <http://www.aemc.gov.au/Rule-Changes/Contestability-of-energy-services>

### **Example: workshops**

In November 2015, the AEMC published the *competition in metering and related services rule change*.<sup>24</sup> This rule change creates a competitive market for metering, which will have a large impact on the provision of energy services in the NEM for consumers. This rule change took over 18 months to complete and included seven workshops to understand complexities and work towards solutions, before a final determination was published.

### **Additional AEMC publications**

On occasions when the date for publication of a draft or final determination are extended, the Commission may decide that there is value in publishing an additional paper to gain further insight into the key issues. This may include publication of an options paper, directions paper or a second draft determination.

### **Example: additional publications**

In December 2015, the AEMC published an options paper and a second draft determination when completing the *Bidding in good faith rule change*<sup>25</sup> to the NER.

The purpose of the options paper was to discuss the outcomes of analysis undertaken for the Commission, to test stakeholders' views on a number of alternative potential options identified, and to continue the assessment of the proposed rule. This avenue was used by the Commission to assist in determining the best way to address the issues raised by the rule change request and ensure that any changes to the existing frameworks are consistent with, and contribute to, the promotion of the NEO.

During this rule change process the Commission also published a second determination. This publication was used to address additional issues which emerged during the process while also providing clearer guidance to stakeholders.

### **Quantitative analyses**

In some projects, the assessment of the proposed changes to the rules can be quantitatively assessed. For example, the costs and/or benefits of the rule change can be modelled or estimated. For other projects, no such analysis can be readily conducted and the assessment is primarily qualitative in nature. In many cases, some types of costs, such as implementation costs, are more readily quantifiable than benefits.

The decision regarding whether quantitative analysis is to be conducted is guided by a number of considerations including:

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<sup>24</sup> <http://www.aemc.gov.au/Rule-Changes/Expanding-competition-in-metering-and-related-serv>

<sup>25</sup> <http://www.aemc.gov.au/Rule-Changes/Bidding-in-Good-Faith>

- what value or insight can be gained by undertaking quantitative analysis
- how easily the anticipated effects of the recommendations are quantified
- how material the costs and benefits of the recommendations are expected to be.

### **Interactions between rule changes**

The process for undertaking a rule change may be impacted by other work being undertaken, both within the AEMC and by other organisations, market bodies or governments. If a number of rule changes are inter-related or impact significantly on each other, the Commission may decide to consider these issues together as a package. Other work may also impact on the work conducted by the Commission and this may be taken into consideration when deciding on the timing and process for a rule change.

#### **Example: interaction between rule changes**

The AEMC's System Security Market Framework Review<sup>26</sup> also relates closely to a number of rule change requests. These rule changes are being considered concurrently and in coordination with the review. They are also being coordinated with ongoing technical work being undertaken by AEMO through its Future Power System Security Program. The AEMC and AEMO are in close communication on their individual activities, seeking to ensure that these activities deliver a coordinated package of measures to maintain future power system security.

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<sup>26</sup> <http://www.aemc.gov.au/Rule-Changes/Inertia-Ancillary-Service-Market>



## Appendix 1: AEMC Rule making processes under the National Energy Laws

There are three different rule change processes that the AEMC can use to make Rules under the National Energy Law: the expedited process which can be used for “urgent” and “non-controversial” rules (see tables 1A and 1B), the fast-track process (table 2) and the standard process (table 3). The tables below explain the length of the different rule change processes and an overview of the key steps<sup>27</sup> in those processes and the conditions that must be met for use of the different processes.

### 1A. Expedited - rule change process for “urgent rules”

The AEMC can make a rule within eight weeks of commencing the rule change process and with only one round of consultation where the request is for an “urgent rule”.

Length of rule change process	8 weeks
Key steps	<ol style="list-style-type: none"><li>1. Notice of initiation of rule change request</li><li>2. 4 week consultation process</li><li>3. Objections to the AEMC using the expedited process can be made in the first 2 weeks of consultation period. If objection is valid, standard rule change process must be used</li><li>4. Final determination and final rule.</li></ol>
Conditions	<p>The AEMC has discretion to use this rule change process where it forms the view that the request is for an “urgent rule”. This term is defined differently under each of the National Energy Laws as summarised below.</p> <ul style="list-style-type: none"><li>• <i>National Electricity Law</i> - An urgent rule is one that, if not made as a matter of urgency, will result in imminent prejudice or threat to the effective operation and administration of the wholesale electricity market or the safety, security or reliability of the interconnected electricity system</li><li>• <i>National Gas Law</i> - An urgent rule is one that, if not made as a matter of urgency, will result in imminent prejudice or threat to the effective operation and administration of a gas market operated and administered by the Australian Energy Market Operator or the supply of gas</li><li>• <i>National Energy Retail Law</i> - An urgent rule is one that, if not made as a matter of urgency, will result in imminent prejudice or threat to the provision of energy services to customers or the sale and supply of energy to customers.</li></ul>

<sup>27</sup> These steps assume a rule is made however the AEMC may also determine, based on the national energy objectives, not to make a rule in response to a rule change request.

Example of urgent rule under the National Electricity Law	Where a change is required to the rules to prevent the occurrence of a specified system security event that is forecast/ anticipated to arise in the short-term
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### 1B. Expedited - rule change process for “non-controversial rules”

The AEMC can make a rule within eight weeks of commencing the rule change process and with only one round of consultation where the request is for a “non-controversial rule”.

Length of rule change process	8 weeks
Key steps	<ol style="list-style-type: none"> <li>1. Notice of initiation of rule change request</li> <li>2. 4 week consultation process</li> <li>3. Objections to the AEMC using the expedited process can be made in the first 2 weeks of consultation period. If objection is valid, standard rule change process must be used</li> <li>4. Final determination and final rule.</li> </ol>
Conditions	<p>The AEMC has discretion to use this rule change process where it forms the view that the request is for a non-controversial rule. This term is defined differently under each of the National Energy Laws. These definitions are summarised below.</p> <ul style="list-style-type: none"> <li>• <i>National Electricity Law</i> -A non-controversial rule is one that is unlikely to have a significant effect on the wholesale electricity market or the interconnected national electricity system</li> <li>• <i>National Gas Law</i> - A non-controversial rule is one that is unlikely to have a significant effect on a market for gas or the regulation of pipeline services</li> <li>• <i>National Energy Retail Law</i> - A non-controversial rule is one that is unlikely to have a significant effect on a market for energy or the regulation of customer connection services.</li> </ul>
Example of non-controversial rule	A rule change to clarify or enhance existing market mechanisms.

## 2. Fast-track rule change process

The AEMC can make a rule in approximately four months by commencing the rule-making process with the publication of a draft rule determination and draft rule. This is a process that can be used where there has been prior public consultation on the content of the rule change request.

Length of rule change process	Approximately 4 months (17 weeks)
Key steps	<ol style="list-style-type: none"><li>1. Notice of initiation of rule change request</li><li>2. Draft determination and draft rule published 5 weeks after initiation</li><li>3. 6 week consultation</li><li>4. Final determination and final rule.</li></ol>
Conditions	<p>The AEMC has discretion to use this rule change process where the rule is requested by:</p> <ul style="list-style-type: none"><li>• The AEMO, the AER or the Reliability Panel and that regulatory body has undertaken adequate public consultation; or</li><li>• any person where the request reflects recommendations made in an AEMC review or the conclusion in an AEMC review and there was adequate public consultation by the AEMC on the recommendation or conclusion during the review.</li></ul>
Example of fast-track rule	Where the AEMC has undertaken a review on an issue which included proposed solutions in the draft review report and recommended in the final report that the solutions proposed be implemented by way of rule changes.

### 3. Standard rule change process

The AEMC's standard rule change process can be used for any rule change requests.

Length of rule change process	Approximately 6 months (26 weeks)
Key steps	<ol style="list-style-type: none"><li>1. Notice of initiation of rule change request</li><li>2. 4 week consultation</li><li>3. Draft determination and draft rule 10 weeks after end of consultation</li><li>4. 6 week consultation process</li><li>5. Final determination and final rule</li></ol>
Conditions	No special conditions
Example of standard rule	Any request for a rule can be progressed under this process.