



Australian Energy Market Commission

RULE PROPOSAL

NATIONAL ELECTRICITY AMENDMENT (MINOR CHANGES 3) RULE 2021

PROPONENT

AEMC

21 OCTOBER 2021

RULE

INQUIRIES

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ABOUT THE AEMC

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

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1 INTRODUCTION

1.1 Background

As part of its rule making function, the Australian Energy Market Commission (AEMC or Commission) reviews, amends and maintains the National Electricity Rules (NER) in accordance with the National Electricity Law (NEL).

The purpose of this function, among other things, is to improve and enhance the quality of the NER. The Commission initiates rule changes to correct minor errors in the NER or make clarifications that are minor or non-material in nature. This rule change proposal includes proposed amendments identified by the Commission since the last minor changes rules, which were completed in May 2021.

This consultation paper has been prepared to facilitate public consultation on the rule change proposal and to seek stakeholder submissions.

This paper:

- provides a summary of, and background to, the rule change proposal, and sets out the assessment framework;
- outlines the rule-making process the Commission proposes to use for this rule change proposal; and
- outlines the process for making submissions.

1.2 Proposed Rule

The National Electricity Amendment (Minor Changes 3) Rule 2021 (Proposed Rule) is proposed by the AEMC to correct minor errors and make non-material changes to the NER. In particular, the Proposed Rule seeks to:

- ensure consistency of nomenclature of, and references to, provisions throughout the NER;
- remove duplication and ensure consistency in the use of local definitions in Chapter 2A;
- amend the Ancillary Service Generating Unit and Ancillary Service Load Data table in Schedule 3.1 to re-insert definitions for the terms "maximum enablement level", "maximum lower angle", "maximum upper angle" and "minimum enablement level". These terms were previously defined in Chapter 10 but the definitions were subsequently deleted and are now only used in Schedule 3.1. The local definitions that are proposed have the same meaning as they were previously defined in Chapter 10;
- clarify interactions between clauses 4.9.2, 4.9.3, 4.9.3A and 4.9.5 in respect of AEMO's requirements for giving a dispatch instruction;
- insert a note in clause 4.16.1 as a signpost to the relevant transitional provision;
- insert a note in clause 5.20B.6 to identify the relevant tier classification for that civil penalty provision;
- correct cross-references to defined terms and provisions;
- remove references to redundant defined terms; and

- correct punctuation, spelling and formatting errors, including numbering levels, indentation, italicisation and bolding.

A number of the proposed changes were identified during the course of the Integrating energy storage systems into the NEM rule change project, including by AEMO in its rule change request and by the AEMC in preparing the draft National Electricity Amendment (Integrating energy storage systems into the NEM) Rule 2021 (IESS rule).¹ Given that there will be some time before the IESS rule will be implemented, these minor changes are proposed to be made by the Proposed Rule. Some changes were also identified when the AEMC developed the digital reader website for the NER. The changes will make the NER clearer to stakeholders, including by allowing pop-up definitions for defined terms and cross-referencing via hyperlinks to work as intended.

In addition, in November 2017 the AEMC made the National Electricity Amendment (Five Minute Settlement) Rule 2017 (the Five minute rule), to change the settlement period for the electricity spot price from 30 minutes ("dispatch interval") to five minutes ("trading interval").² In July 2020, the AEMC made the National Electricity Amendment (Delayed Implementation of Five Minute and Global Settlement) Rule 2020, which delayed the commencement of the Five minute rule.³

The Five minute rule included instructions for amending NER clauses 3.2.2(c) and (c1). The intent of the Five minute rule was to amend clause 3.2.2(c) to include a reference to the determination and publication of ancillary service prices at each regional reference node for each trading interval, and to delete clause 3.2.2(c1) which duplicates this reference to ancillary service prices. However, clause 3.3.2(c) was subsequently amended prior to the commencement of the Five minute rule to refer to a region rather than a regional reference node, and to refer to a regional reference price rather than the spot price. These drafting changes made it impossible to carry out the instruction in the Five minute settlement rule that added a reference to ancillary service prices to this clause.⁴

In order to give effect to the intent of that change under the Five minute rule, the Proposed Rule re-inserts clause 3.2.2(c1), changing "dispatch interval" to "trading interval", so that it refers to the determination and publication of ancillary service prices at each regional reference node for each trading interval.

The Proposed Rule is published with this rule proposal.

1.3

1.3.1

Assessment framework

Achieving the NEO

National Electricity Objective

¹ See <https://www.aemc.gov.au/rule-changes/integrating-energy-storage-systems-nem>

² See <https://www.aemc.gov.au/rule-changes/five-minute-settlement>

³ See <https://www.aemc.gov.au/rule-changes/delayed-implementation-five-minute-and-global-settlement>

⁴ Item 1 of Schedule 1 of the Five minute rule.

The Commission may only make a rule under the NEL if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).⁵ This is the decision making framework that the Commission must apply.

The NEO is:⁶

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.*

Contribution of Proposed Rule to the achievement of the NEO

The Commission considers that the Proposed Rule is likely to contribute to the achievement of the NEO.

The Commission considers that the Proposed Rule, if made, will improve the quality of the NER in terms of accuracy and consistency.

As with previous minor rule changes initiated by the Commission, these minor corrections and non-material changes will make the NER clearer to stakeholders. This is important as the NER informs stakeholders of their rights and obligations in relation to participating in the NEM and stakeholders rely on these rules in their commercial transactions. Clearer and more consistent rules will reduce the regulatory burden on stakeholders and allow for more efficient provision of electricity services.

1.3.2

Rule making in the Northern Territory

The NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting the NEL.⁷ Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.⁸

As the Proposed Rule, in part, relates to the parts of the NER that apply in the Northern Territory, the Commission is required to assess whether to make a uniform or differential rule (defined below) under the Northern Territory Act. Under the Northern Territory Act, the Commission may make a differential rule if it is satisfied that, having regard to any relevant MCE statement of policy principles, a differential rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule.⁹

A differential rule is a rule that:

5 Section 88 of the NEL.

6 Section 7 of the NEL

7 The relevant legislation is the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015*, referred to here as the Northern Territory Act. The regulations under the Northern Territory Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

8 For the version of the NER that applies in the Northern Territory, refer to: <https://www.aemc.gov.au/regulation/energy-rules/northern-territory-electricity-market-rules/current>.

9 Section 14B of Schedule 1 to the Northern Territory Act, inserting section 88AA into the NEL as it applies in the Northern Territory.

- varies in its term as between:
 - the national electricity system, and
 - one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems

but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of section 91(8) of the NEL.

A uniform rule is a rule that does not vary in its terms between the national electricity system and the local electricity systems, and has effect with respect to all of those systems.¹⁰

The Commission proposes to make a uniform rule.

1.3.3

Additional assessment requirements

Under section 91(8) of the NEL, 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 the Australian Energy Market Operator's (AEMO's) declared network functions.

Given the Proposed Rule only seeks to make minor or non-material changes to the NEL, the Commission is satisfied that the Proposed Rule is compatible with the proper performance of AEMO's declared network functions.

¹⁰ Section 14 of Schedule 1 to the NT Act, inserting the definitions of "differential Rule" and "uniform Rule" into section 87 of the NEL as it applies in the Northern Territory.

2 PROCESS FOR THIS RULE CHANGE

2.1 The Commission's power to initiate the making of a rule

Under section 91(2) of the NEL:

The AEMC must not make a Rule without a request under subsection (1) unless-

(a) it considers the Rule corrects a minor error in the Rules; or

(b) it considers the Rule involves a non-material change to the Rules; or

(c) the Rule is in respect of any matter that is prescribed by the Regulations as a matter on which it may make a Rule on its own initiative.

As the Proposed Rule outlined in chapter 1 makes changes that are minor and non-material in nature, the Commission considers that the Proposed Rule satisfies the requirements of section 91(2) of the NEL.

2.2 Treatment as a non-controversial rule change

Under section 87 of the NEL, a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on the national electricity market". As the proposed changes to the NEL are minor or non-material in nature, the Commission considers that the Proposed Rule is unlikely to have a significant effect on the NEM. The Proposed Rule therefore falls within the definition of a non-controversial rule under section 87 of the NEL.

Rule changes that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation and the Commission is required to publish its final rule determination within eight weeks of commencing the rule change process.

The Commission has decided to use an expedited process to consider this rule change proposal provided that it does not receive any written requests not to use the expedited process by **4 November 2021**.

If the Commission receives a written request not to expedite the process, the Commission will consider whether the reasons set out in that request are misconceived or lacking in substance. An objection to the use of the expedited process must be in writing and must set out the reasons why the rule change proposal is not unlikely to have a significant effect on the NEM.

2.3 Key dates

Submissions are invited in relation to the matters identified above, and any other relevant issue. The key dates for stakeholders in this process are as follows:

- Commencement of this rule change process: 21 October 2021
- Objections to an expedited process to be received by: 4 November 2021
- Submissions to the rule change proposal to be received by: 18 November 2021
- Final decision to be published under an expedited process by: 16 December 2021

- Rule changes to be implemented (under an expedited process): 10 January 2022.

3 LODGING A SUBMISSION

The Commission invites written requests not to make a rule under the expedited process and written submissions on this rule change proposal.

If you have questions on this project please contact **Amanda Seethor and Yolana Keogh at amanda.seethor@aemc.gov.au and yolana.keogh@aemc.gov.au or on (02) 8296 7800.**

3.1 Requests not to make a rule under an expedited process

Written requests not to make a rule under the expedited process in section 96 of the NEL must include reasons for the request, and must be lodged with the Commission by **4 November 2021** in accordance with the process specified below.

3.2 Submissions to this rule change proposal

Written submissions on the rule change proposal must be lodged with the Commission by **18 November 2021** in accordance with the process specified below. Tips for making the submission are available on the Commission website.¹¹

The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).

3.3 How to lodge a request or submission

Please lodge submissions, or requests not to make a rule under the expedited process, online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function under the "Contact Us" tab, and selecting the project reference code ERC0334.

The request or submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

If you are not able to lodge submissions or requests online, please contact us, and we will provide instructions for alternative methods to lodge the submission or request.

¹¹ See: <https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/our-work-3>.