



---

Australian Energy Market Commission

## **RULE PROPOSAL**

# **NATIONAL ELECTRICITY AMENDMENT (MINOR CHANGES 1) RULE 2022**

---

# **NATIONAL GAS AMENDMENT (MINOR CHANGES 1) RULE 2022**

### **PROPONENT**

AEMC

24 FEBRUARY 2022

---

# **RULE**

## INQUIRIES

Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

E [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)  
T (02) 8296 7800

Reference: ERC0342

## CITATION

AEMC, Minor changes 1, Rule Proposal, 24 February 2022

## 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.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

## CONTENTS

<b>1</b>	<b>INTRODUCTION</b>	<b>1</b>
1.1	Background	1
1.2	Proposed Rules	1
1.3	Assessment framework	2
<b>2</b>	<b>PROCESS FOR THIS RULE CHANGE</b>	<b>5</b>
2.1	The Commission's power to initiate the making of a rule	5
2.2	Treatment as a non-controversial rule change	5
2.3	Key dates	6
<b>3</b>	<b>LODGING A SUBMISSION</b>	<b>7</b>
3.1	Requests not to make a rule under an expedited process	7
3.2	Submissions to this rule change proposal	7
3.3	How to lodge a request or submission	7

# 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); and
- the National Gas Rules (NGR) in accordance with the National Gas Law (NGL).

The purpose of this function, among other things, is to improve and enhance the quality of the NER and the NGR (together the “energy rules”). The Commission initiates rule changes to correct minor errors in the energy rules 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 rule, which was completed in December 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 Rules

The National Electricity Amendment (Minor Changes 1) Rule 2022 (electricity Rule) and the National Gas Amendment (Minor Changes 1) Rule 2022 (gas Rule) (together, the “Proposed Rules”) are proposed by the AEMC to correct minor errors and make non-material changes to the NER and NGR. In particular, the Proposed Rules seek to:

- correct the definition of “TransGrid” in clause 11.143.1(a) of the NER to capture the TransGrid entity that is the relevant Transmission Network Service Provider (TNSP);
- ensure consistency of references to provisions throughout the NER and the NGR;
- ensure consistency in the use of local definitions in Chapter 4A of the NER;
- remove duplication of a subheading in the NGR;
- correct cross-references to defined terms in the NER; and
- correct punctuation, spelling and formatting errors, including numbering levels, indentation, italicisation, underlining and bolding.

Clause 11.143.1 is a transitional rule made consequential on the making of the *National Electricity Amendment (Efficient management of system strength on the power system) Rule 2021 No. 11* (System strength rule) and commenced on 24 October 2021. The current definition of TransGrid under clause 11.143.1(a) refers to “TransGrid Services Pty Ltd as

trustee for TransGrid Services Trust ABN 94 121 353 950". However, the intention of the System strength rule was to capture "NSW Electricity Networks Operations Pty Limited as Trustee for the NSW Electricity Networks Operations Trust ABN 70 250 995 390" as the relevant TNSP. In order to give effect to the intention of the System strength rule, the electricity Rule proposes to change the definition of TransGrid in clause 11.143.1(a) to refer to the correct TransGrid TNSP entity.

The Proposed Rules are published with this rule proposal.

## 1.3

## Assessment framework

### 1.3.1

### Achieving the NEO and NGO

#### National Electricity Objective

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).<sup>1</sup> This is the decision making framework that the Commission must apply.

The NEO is:<sup>2</sup>

*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.*

#### National Gas Objective

The Commission may only make a rule under the NGL if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national gas objective (NGO).<sup>3</sup> This is the decision making framework that the Commission must apply.

The NGO is:<sup>4</sup>

*to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, safety, reliability and security of supply of natural gas.*

#### Contribution of Proposed Rules to the achievement of the NEO and NGO

The Commission considers that the Proposed Rules are likely to contribute to the achievement of the NEO and NGO (as relevant).

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

---

1 Section 88 of the NEL.

2 Section 7 of the NEL.

3 Section 291(1) of the NGL.

4 Section 23 of the NGL.

As with previous minor rule changes initiated by the Commission, these minor corrections and non-material changes will make the NER and NGR clearer to stakeholders. This is important as the NER and NGR inform stakeholders of their rights and obligations in relation to participating in the NEM and gas markets (respectively), 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.<sup>5</sup> Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.<sup>6</sup>

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.<sup>7</sup>

A differential rule is a rule that:

- 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.<sup>8</sup>

The Commission proposes to make a uniform rule.

---

5 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.

6 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>.

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

8 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.

### 1.3.3 **Rule making in Western Australia**

The versions of the NGL and NGR that apply in Western Australia differ from the NGL and NGR as they apply in other participating jurisdictions.<sup>9</sup>

Accordingly, only a limited part of the gas Rule (if made as a final rule) will apply in Western Australia.<sup>10</sup>

### 1.3.4 **Additional assessment requirements**

Under section 91(8) of the NEL and section 295(4) of the NGL, as applicable, 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 electricity network.

Given the Proposed Rules only seek to make minor or non-material changes to the energy rules, the Commission is satisfied that the Proposed Rules are compatible with the proper performance of AEMO's declared network functions.

---

9 Under the National Gas Access (WA) Act 2009 (WA Gas Act), a modified version of the NGL, known as the National Gas Access (Western Australia) Law (WA Gas Law), was adopted. Under the WA Gas Law, the National Gas Rules applying in Western Australia are version 1 of the uniform NGR as amended by the SA Minister under an adoption of amendments order made by the WA Minister for Energy and by the AEMC in accordance with its rule making power under section 74 of the WA Gas Law. See the AEMC website for further information, <https://www.aemc.gov.au/regulation/energy-rules/national-gas-rules/western-australia>.

10 Item 1 of Schedule 1 to the gas Rule is the only minor change to the rules that apply in Western Australia pursuant to the WA Gas Act.

## 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 and section 295(2) of the NGL respectively:

*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 Rules outlined in chapter 1 make changes that are minor and non-material in nature, the Commission considers that the Proposed Rules satisfy the requirements of section 91(2) of the NEL and section 295(2) of the NGL, as applicable.

### 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 electricity Rule is unlikely to have a significant effect on the NEM. The proposed electricity Rule therefore falls within the definition of a non-controversial rule under section 87 of the NEL.

Under section 290 of the NGL, a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on a market for gas or the regulation of pipeline services". As the proposed changes to the NGL are minor or non-material in nature, the Commission considers that the proposed gas Rule is unlikely to have a significant effect on a market for gas or the regulation of pipeline services. The proposed gas Rule therefore falls within the definition of a non-controversial rule under section 290 of the NGL.

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 **10 March 2022**.

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:

- for the proposed electricity Rule, the National Electricity Market;
- for the proposed gas Rule, a market for gas or the regulation of pipeline services.



## 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: 24 February 2022
- Objections to an expedited process to be received by: 10 March 2022
- Submissions to the rule change proposal to be received by: 24 March 2022
- Final decision to be published under an expedited process by: 21 April 2022
- Rule changes to be implemented (under an expedited process): 21 April 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 **Dominique Retamal at [dominique.retamal@aemc.gov.au](mailto:dominique.retamal@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 and section 304 of the NGL must include reasons for the request, and must be lodged with the Commission by **10 March 2022** 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 **24 March 2022** in accordance with the process specified below. Tips for making the submission are available on the Commission website.<sup>11</sup>

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](http://www.aemc.gov.au), using the "lodge a submission" function under the "Contact Us" tab, and selecting the project reference code ERC0342.

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.

---

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