



Compensation and dispute resolution frameworks

The Australian Energy Market Commission (AEMC) has made a more preferable final rule in response to a rule change request submitted by Energy Ministers

Our final rule creates a new framework for the assessment of compensation claims by separating the current dispute resolution arrangements from the arrangements for determining compensation claims. This ensures a 'fit for purpose' compensation framework that better supports the East Coast Gas System (ECGS) framework under Part 27 of the National Gas Rules (NGR).

The new compensation framework (as well as consequential changes to the Declared Wholesale Gas Market (DWGM) and Short-Term Trading Market (STTM)) will come into effect on 31 July 2024.

Our final rule supports security, reliability and supply adequacy in the ECGS

Energy Ministers identified a number of issues with the existing framework in terms of clarity, consistency, efficiency and effectiveness. The final rule addresses these issues by making amendments to Parts 15C, 19, 20 and 27 of the NGR:

- **The final rule establishes a new compensation framework in the NGR:** Our final determination is to establish a separate framework for the assessment of compensation claims (by establishing two new divisions in Part 15C of the NGR). This means separating the current dispute resolution arrangements from the arrangements for determining compensation claims. We have modelled the new arrangements on the expert determination framework for the assessment of electricity compensation claims under chapter 3 of the NER.
- **The final rule refines the framework for compensation of Australian Energy Market Operator (AEMO) directions in the ECGS:** The arrangements for AEMO directions in the ECGS in Part 27 of the NGR set out the circumstances in which a compensation claim may be made, what costs can be claimed and who funds the compensation. The Commission's final determination:
 - limits the costs that are eligible for compensation to direct costs only, to incentivise market supporting behaviour before an AEMO direction
 - inserts principles into the NGR to guide AEMO's cost recovery methodology for compensation claims under Part 27 (these largely align with the current demand-driven approach adopted by AEMO, with some amendments)
 - inserts a new rule to support appropriate behaviour in response to an AEMO direction and deter unwanted behaviour, i.e. prohibits the intentional or reckless exacerbation of costs in response to an AEMO direction without reasonable cause, but without capturing legitimate business decisions having regard to legitimate business interests
 - increases the minimum claim threshold to \$50,000 and does not allow for different entities to join claims.
- **The final rule includes consequential changes to rules governing the DWGM and STTM:** The Commission's final determination is to make consequential changes to Parts 19 and 20 of the NGR to apply the new compensation framework under Part 15C to compensation claims under those Parts arising from AEMO directions and intervention, market suspension and administered pricing. Claims relating to unintended scheduling results under Part 19 or scheduling errors under Part 20 continue to be assessed under the existing dispute resolution framework.
- **The final rule does not change the existing dispute resolution provisions:** The Commission's final determination is to not make any changes to the existing dispute

resolution provisions.

Our final rule is in the long term interest of consumers

The more preferable final rule contributes to the achievement of the National Gas Objective:

- **Safety, security and reliability:** The final rule refines the compensation framework for AEMO directions to better support reliability and supply adequacy compared to the existing arrangements. It retains the incentives for behaviour that supports system reliability and supply adequacy by limiting the costs that are eligible for compensation to direct costs only.
- **Principles of market efficiency:** The final rule allows for compensation of direct costs only to provide for the right balance of incentives to support the normal operation of the market, as compared to a directed market state. The Commission considers that broadening the categories of costs that are eligible for compensation would pose the risk of creating undesirable incentives in favour of a directed state. Further, the Commission's view is that participants must consider the risk of a direction alongside other risks associated with market participation. Allowing only for compensation of direct costs allocates risk to those best placed to manage the risk of a direction.
- **Implementation considerations:** The final rule improves the compensation framework to support market-wide success by reducing complexity and uncertainty.
- **Principles of good regulatory practice:** The final rule aligns the new NGR compensation framework with the NER expert determination process used for compensation for AEMO directions, with some modifications. Alignment of the frameworks promotes consistency and simplicity through a streamlined process and transparency for stakeholders. Lastly, the Commission's final determination to make consequential changes to the DWGM and STTM provisions also supports consistency through the application of the proposed compensation framework to relevant claims.

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