

Final Determination

National Electricity Amendment
(Minor changes 2) Rule 2024

National Gas Amendment (Minor
changes 2) Rule 2024

National Energy Retail Amendment
(Minor changes 2) Rule 2024

Proponent

AEMC

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About the AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

Acknowledgement of Country

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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Summary

- 1 The Commission has determined:
 - under sections 102 and 103 of the National Electricity Law (NEL) to make the National Electricity Amendment (Minor changes 2) 2024 (“electricity rule”)
 - under sections 311 and 313 of the National Gas Law (NGL) to make the National Gas Amendment (Minor changes 2) 2024 (“gas rule”)
 - under sections 259 and 261 of the National Energy Retail Law (NERL) to make the National Energy Retail Amendment (Minor changes 2) 2024 (“retail rule”).
- 2 The electricity rule, the gas rule and the retail rule (together, the “final rules”) correct minor errors and make non-material changes in the National Electricity Rules (“NER”), the National Gas Rules (“NGR”), and the National Energy Retail Rule (“NERR”), (together, “the rules”), including:
 - correcting a legal drafting error in relation to clause 3.15.6A of the NER under the National Electricity Amendment ([Improving security frameworks for the energy transition](#)) Rule 2024 No. 9 (“ISF final rule”) resulting in the instructions not operating as intended
 - correcting minor formatting and typographical errors, including punctuation, numbering levels, indentation and italicisation;
 - ensure consistency of references to provisions throughout the NER, NGR and NERR;
 - correct minor errors in definitions and cross-references; and
 - clarifying the definition of an “effective date” within the NERR.
- 3 The rule change process for the final rules was initiated by the Commission and aim to promote clarity of meaning and remove identified minor errors in the rules.
- 4 The Commission conducted the rule change under the expedited process in section 96 of the NEL, section 304 of the NGL and section 252 of the NERL on the basis that the Commission considered the proposed rules fell within the definition of a non-controversial rule under section 87 of the NEL, section 290 of the NGL and section 235 of the NERL.
- 5 The Commission considered that:
 - the electricity rule will or is likely to contribute to the achievement of the national electricity objective (NEO) and therefore satisfies the rule making test under section 88 of the NEL
 - the gas rule will or is likely to contribute to the achievement of the national gas objective (NGO) and therefore satisfies the rule making test under section 291 of the NGL
 - the retail rule will or is likely to contribute to the achievement of the national energy retail objective (NERO) and therefore satisfies the rule making test under section 236(1) of the NERL
 - the retail rule is compatible with the development and application of consumer protections for small customers and therefore satisfies the rule making test under section 236(2)(b) of the NERL.
- 6 The final rules commence on 29 August 2024.

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1 The Commission's rule change proposal

1.1 The proposed rules and commencement of rule making process

The Commission has power to make a rule without a request if it considers that the rule corrects a minor error in the rules or makes a non-material change to the rules.¹

On 4 July 2024, the Commission initiated:

- the proposed electricity rule under sections 95 and 96(1)(a) of the NEL;
- the proposed gas rule under sections 303 and 304(1)(a) of the NGL; and
- the proposed retail rule under sections 251 and 252(1)(a) of the NERL.

The Commission initiated the proposed rules under the expedited process as it considered the proposed rules were unlikely to have a significant effect on the national electricity market, a market for gas or the regulation of pipeline services, or a market for energy or the regulation of customer connection services. The Commission therefore considered that the proposed rules fell within the definition of a non-controversial rule under section 87 of the NEL, section 290 of the NGL, and section 235 of the NERL.

The Commission did not receive any written requests not to expedite the rule making process. Accordingly, the rule change proposal was considered under an expedited process.

The Commission invited submissions on the rule change proposal by 1 August 2024. The Commission received two submissions on the rule change proposal, one from Alinta Energy and another from the Australian Energy Market Operator (AEMO). Both submissions contained recommendations for additional minor changes to the rules and no objections to the rule change proposal. Both submissions will be considered as part of the next Minor changes rule change proposal.

1.2 Rationale for the rule change proposal

As part of the Commission's rule making functions conferred on it under legislation, the Commission reviews, amends and maintains the rules in accordance with the NEL, NGL, and the NERL. The purpose of this function, among other things, is to improve and enhance the quality of the NER, NGR and the NERR.

This rule change proposal was prompted by the identification of various minor errors and non-material changes that should be corrected or made to improve the quality and clarity of the NER, NGR and the NERR.

1.3 Solution proposed in the rule change proposal

The proposed rule (now made as final) sought to:

- correct minor formatting and typographical errors, including punctuation, numbering levels, indentation and italicisation;
- ensure consistency of references to provisions throughout the NER the NGR and the NERR;
- correct minor errors in definitions and cross-references; and
- remove duplication.

The electricity Rule also addresses the following specific issues:

¹ Section 91(2) of the NEL, section 295(2) of the NGL, and section 243(2) of the NERL.

- Recent consolidation of the [National Electricity Amendment \(Integrating energy storage systems into the NEM\) Rule 2021 No. 13](#), item [486] of Schedule 2, which made amendments to clause 3.15.6A by way of substituting the entire clause and changing the wording of the definition of Subscript R and Subscript S from “is the relevant” to “refers to the relevant”. This resulted in the instruction at items [12] and [13] of the ISF final rule not operating as intended. The amendment in the electricity Rule gives effect to the intended purpose of items [12] and [13] of the ISF final rule.

The gas Rule also addresses the following specific issue:

- correcting a referencing error in the note to rule 48 of the NGR regarding queuing requirements.

The retail Rule also addresses the following specific issues:

- correcting a drafting error in the definition of “**effective date**” in Schedule 3, Part 19, Division 2, Rule 3 of the NERR, as requested by DCCEEW in a letter dated 31 May 2024.

2 Final rule determination - electricity

2.1 The Commission's final rule determination

In accordance with sections 102 and 103 of the NEL the Commission has made this final rule determination and the final rule in relation to the electricity rule proposed by the Commission. The National Electricity Amendment (Minor changes 2) 2024 is published with this final rule determination.

The Commission's final rule determination is to make the electricity rule as proposed by the Commission.

In relation to the electricity rule's application in the Northern Territory, the Commission has determined to make a uniform rule. See section 2.2.2

The Commission's reasons for making this final rule determination are set out in section 2.3.

This chapter outlines:

- the rule making tests for changes to the NER;
- a summary of the Commission's reasons in deciding to make the electricity rule; and
- the Commission's consideration of the electricity rule against the NEO.

Further information on the legal requirements for making this final rule determination is set out in Appendix A.

2.2 Rule making tests

2.2.1 Achieving the NEO

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 NEO.² This is the decision making framework that the Commission must apply.

The NEO is:³

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; and
- (c) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NEO.⁴

Under the Northern Territory legislation adopting the NEL, the Commission must regard the reference in the NEO to the "national electricity system" as a reference to whichever of the

² Section 88 of the NEL.

³ Section 7 of the NEL.

⁴ Section 32A(5) of the NEL.

following the Commission considers appropriate in the circumstances having regard to the nature, scope or operation of the proposed rule:⁵

1. the national electricity system
2. one or more, or all, of the local electricity systems⁶
3. all of the electricity systems referred to above.

For the purposes of the electricity rule, the Commission has determined that the reference to the national electricity system in the NEO is a reference to item 3 from the list above (noting that the electricity rule will have effect in relation to all of the electricity systems referred to above).

2.2.2 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 electricity rule relates to the parts of the NER that apply in the Northern Territory, the Commission has assessed whether to make a uniform or differential rule (defined below) under Northern Territory legislation.

Under the NT 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:

- 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 one or more, or all, of the local electricity systems, and has effect with respect to all of those systems.¹⁰

The Commission has determined to make a uniform rule as it does not consider that a differential rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule, or is likely to, better contribute to the achievement of the NEO than a uniform rule.

2.3 Summary of reasons

The Commission considers that the electricity rule will improve the quality of the NER in terms of accuracy and consistency and is likely to contribute to the achievement of the NEO.

⁵ Clause 14A of Schedule 1 to the NT Act, inserting section 88(2a) into the NEL as it applies in the Northern Territory.

⁶ These are specified Northern Territory systems, listed in schedule 2 of the NT Act.

⁷ The regulations under the NT Act are the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016*.

⁸ The version of the NER that applies in the Northern Territory is available on the AEMC website at www.aemc.gov.au/regulation/energy-rules/northern-territory-electricity-market-rules/current.

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

¹⁰ Clause 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.

As with previous similar rule changes initiated by the Commission, these minor corrections and non-material changes make the NER clearer to stakeholders. This is important as the NER inform stakeholders of their rights and obligations for participating in the national electricity market. These improvements are likely to reduce the regulatory burden associated with understanding and complying with the NER, and therefore allow electricity services to be provided more efficiently.

3 Final rule determination - gas

3.1 The Commission's final rule determination

In accordance with sections 311 and 313 of the NGL the Commission has made this final rule determination and the final rule in relation to the gas rule proposed by the Commission. The National Gas Amendment (Minor changes 2) Rule 2024 is published with this final rule determination.

The Commission's final rule determination is to make the gas rule as proposed by the Commission.

The Commission's reasons for making this final rule determination are set out in section 3.3.

This chapter outlines:

- the rule making tests for changes to the NGR
- a summary of the Commission's reasons in deciding to make the gas rule
- the Commission's consideration of the gas rule against the NGO
- the Commission's consideration of the gas rule's application in Western Australia.

Further information on the legal requirements for making this final rule determination is set out in Appendix A.

3.2 Rule making tests

3.2.1 Achieving the NGO

Under the NGL 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 NGO.¹¹ This is the decision making framework that the Commission must apply.

The NGO is:¹²

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—

- (a) price, safety, reliability and security of supply of natural gas; and
- (b) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NGO.¹³

¹¹ Section 291(1) of the NGL.

¹² Section 23 of the NGL.

¹³ Section 72A(5) of the NGL.

3.2.2 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.¹⁴

As a result the Commission's power to make rules for Western Australia differs from its rule-making power under the NGL.¹⁵

The gas rule will have no effect in Western Australia.

3.3 Summary of reasons

The Commission considers that the gas rule will improve the quality of the NGR in terms of accuracy and consistency and is likely to contribute to the achievement of the NGO.

As with previous similar rule changes initiated by the Commission, these minor corrections and non-material changes make the NGR clearer to stakeholders. This is important as the NGR inform stakeholders of their rights and obligations for participating in the natural gas markets. These improvements are likely to reduce the regulatory burden associated with understanding and complying with the NGR, and therefore allow natural gas services to be provided more efficiently.

¹⁴ 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>

¹⁵ See section 74 of the WA Gas Law for the subject matters for the AEMC's rule making power in Western Australia.

4 Final rule determination - retail

4.1 The Commission's final rule determination

In accordance with sections 259 and 261 of the NERL the Commission has made this final rule determination and the final rule in relation to the retail rule proposed by the Commission. The National Energy Retail Amendment (Minor changes 2) Rule 2024 is published with this final rule determination.

The Commission's final rule determination is to make the retail rule as proposed by the Commission.

The Commission's reasons for making this final rule determination are set out in section 4.3.

This chapter outlines:

- the rule making tests for changes to the NERR;
- a summary of the Commission's reasons in deciding to make the retail rule; and
- the Commission's consideration of the retail rule against the NERO.

Further information on the legal requirements for making this final rule determination is set out in Appendix A.

4.2 Rule making tests

Under the NERL 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 NERO.¹⁶ This is the decision making framework that the Commission must apply.

The NERO is:¹⁷

to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of consumers of energy with respect to—

- (a) price, safety, reliability and security of supply of energy; and
- (b) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia's greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NERO.¹⁸

The Commission must also, where relevant, satisfy itself that the rule is "compatible with the development and application of consumer protections for small customers, including (but not limited to) protections relating to hardship customers" (the "consumer protections test").¹⁹

¹⁶ Section 236(1) of the NERL.

¹⁷ Section 13 of the NERL.

¹⁸ Section 224A(5) of the NERL.

¹⁹ Section 236(2)(b) of the NERL.

Where the consumer protections test is relevant in the making of a rule, the Commission must be satisfied that both the NERO test and the consumer protections test have been met.²⁰ If the Commission is satisfied that one test, but not the other, has been met, the rule cannot be made.

There may be some overlap in the application of the two tests. For example, a rule that provides a new protection for small customers may also, but will not necessarily, promote the NERO.

4.3 Summary of reasons

The Commission considers that the retail rule will improve the quality of the NERR in terms of accuracy and consistency and is likely to contribute to the achievement of the NERO and satisfy the consumer protections test.

As with previous similar rule changes initiated by the Commission, these minor corrections and non-material changes make the NERR clearer to stakeholders. This is important as the NERR inform stakeholders of their rights and obligations for participating in the retail energy markets. These improvements are likely to reduce the regulatory burden associated with understanding and complying with the NERR, and therefore allow energy services to be provided more efficiently.

²⁰ That is, the legal tests set out in sections 236(1) and (2)(b) of the NERL.

A Legal requirements under the NEL, NGL and NERL

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

A.1 Final rule determination

In accordance with section 102 of the NEL, section 311 of the NGL and section 259 of the NERL the Commission has made this final rule determination in relation to the rule proposed by the Commission.

The Commission's reasons for making this final rule determination are set out in sections 2.3, 3.3, and 4.3.

In accordance with section 103 of the NEL, section 313 of the NGL, and section 261 of the NERL, the Commission has made final rules. Copies of the final rules are attached to and published with this final rule determination. Their key features are described in chapter 2, 3, and 4.

A.2 Power to make the final rules

The Commission is satisfied that the final rules fall within the subject matter about which the Commission may make rules.

The electricity rule falls within the matters set out in section 34 of the NEL, as under section 34(1)(b) of the NEL the Commission may make Rules for or with respect to any matter or thing contemplated by the NEL, or which are necessary or expedient for the purposes of the NEL. The Commission considers the electricity Rule is necessary and expedient for the purposes of the NEL.

The gas rule falls within the matters set out in section 74 of the NGL, as under section 74(1)(b) of the NGL the Commission may make Rules for or with respect to any matter or thing contemplated by the NGL, or which are necessary or expedient for the purpose of the NGL. The Commission considers the gas Rule is necessary and expedient for the purposes of the NGL.

The retail rule falls within the matters set out in section 237 of the NERL, as under section 237(1)(b) of the NERL the Commission may make Rules for or with respect to any matter or thing contemplated by the NERL, or which are necessary or expedient for the purposes of the NERL. The Commission considers the retail Rule is necessary and expedient for the purposes of the NERL.

A.3 Commission's considerations

In assessing the rule change proposal the Commission considered:

- its powers under the NEL, NGL and NERL to make the rule
- the rule change proposal
- submissions received during consultation
- the Commission's analysis as to the ways in which the rule will or is likely to contribute to the NEO, NGO and NERO.
- the extent to which the rule is compatible with the development and application of consumer protections
- the interaction between the National Electricity (Northern Territory) (National UniformLegislation) (Modification) Regulations 2016 (NT) and the NER.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change proposal.²¹

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 rule is compatible with the proper performance of the Australian Energy Market Operator's (AEMO's) declared electricity network functions. Given the electricity rule only seeks to make minor or non-material changes to the rules and does not change AEMO's functions in any material respect, the Commission is satisfied that the electricity rule is compatible with the proper performance of AEMO's declared electricity network functions.

Under section 295(4) of the NGL, the Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the rule is compatible with the proper performance of AEMO's declared gas system functions. Given the gas rule only seeks to make minor or non-material changes to the rules and does not change AEMO's functions in any material respect, the Commission is satisfied that the gas rule is compatible with the proper performance of AEMO's declared gas system functions.

A.4 Civil penalties

The Commission cannot create new civil penalty provisions. However, the Commission and the Australian Energy Regulator (AER) may make a joint recommendation that new or existing provisions of the NER, NGR and NERR be classified as civil penalty provisions.

The Commission does not propose to recommend any of the amendments made by the final rules be classified as civil penalty provisions.

A.5 Conduct provisions

The Commission cannot create new conduct provisions. However, it may (jointly with the AER) recommend to the Energy Ministers Meeting that new or existing provisions of the NER, NGR and NERR be classified as conduct provisions.

The final rule does not amend any rules that are currently classified as conduct provisions under the National Electricity (South Australia) Regulations, the National Gas (South Australia) Regulations, or the National Energy Retail Regulations. The Commission does not propose to recommend any of the amendments made by the final rule be classified as conduct provisions.

²¹ Under section 33 of the NEL, section 73 of the NGL and section 225 of the NERL] 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. It is now referred to as the Energy Ministers Meeting.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
NERL	National Energy Retail Law
NERO	National Energy Retail Objective
NERR	National Energy Retail Rules
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules