

Rule determination

National Electricity Amendment (Retailer reliability obligation exemption for scheduled bi-directional units) Rule 2024

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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 Australian Energy Market Commission (AEMC or Commission) has decided to make a more preferable final rule that exempts connection points for batteries, pumped hydro energy storage (PHES) and other forms of storage assets from being liable under the Retailer Reliability Obligation (RRO). The exemption will improve the security of the national electricity market (NEM) during reliability-gap periods without compromising the policy intent of the RRO.
- 2 This decision is in response to the rule change request submitted by Iberdrola, Neoen and Tesla (the proponents) asking to exempt bi-directional units (i.e. batteries) from the RRO.
- 3 The RRO is a mechanism designed to support reliability across the NEM by preventing predicted future generation shortfall ('reliability gaps'). Storage assets with annual electricity consumption above 10GWh are currently liable entities under the RRO akin to a retailer or large user. The proponents raised that the RRO deters batteries from providing grid-supporting services during reliability-gap periods. As a liable entity, when a battery (or a pumped hydro plant) operates as a load to provide frequency control ancillary services (FCAS) it risks being under-contracted relative to the qualifying contracts it entered the year before the gap period. As a result, providing FCAS could lead the entity to incur Procurer of Last Resort (PoLR) costs and penalties from breaching the RRO.
- 4 The current trade-off between the provision of security services and compliance with the RRO represents a security risk to the NEM. In fact, storage assets are key providers of grid-supporting services and, for some services such as very-fast FCAS, the sole provider.
- 5 The Commission considers that this exemption will be a cost-effective, practical solution to improving security in the NEM and not compromise the intent of the RRO. Further, the exemption will save potential market costs from directions that AEMO would need to issue to storage units as a result of constraints imposed by the RRO.

The rule addresses security risks during reliability gap periods, saving market costs and benefiting consumers

- 6 System security risks resulting from the RRO were identified in the last gap period in South Australia in early 2024 and were managed through a workaround between the Australian Energy Market Operator (AEMO) and the Australian Energy Regulator (AER). However, the workaround could not be considered an enduring solution to the problem.
- 7 Whilst the rule change request sought an exemption for scheduled bi-directional units (batteries), the Commission has determined that exempting a broader range of storage assets from the RRO:
 - is enduring solution to address security risks during reliability gap periods, and
 - saves a number of market costs (e.g., higher FCAS costs, costs from directions from AEMO) that would be incurred in order to manage those risks. These savings benefit all energy consumers.
- 8 Importantly, the final rule exempts the storage asset from the RRO at the *connection point level* (i.e. on a unit or plant level) instead of exempting the whole legal entity owning the storage asset. This ensures there are no unintended consequences undermining the integrity of the RRO, such as exempting entities that should remain liable to the mechanism.
- 9 In making our final decision, we considered stakeholder feedback to the draft determination.

Stakeholders unanimously supported the rule change

- 10 We received 12 submissions to the draft determination from gentailers, battery developers, market bodies and peak industry bodies. All stakeholders strongly supported the draft determination.
- 11 In particular, stakeholders praised the Commission's consideration for a more preferable draft rule that extended the proposed RRO exemption to PHES and other hybrid forms of storage, given the role all these technologies play in keeping the power grid stable and secure. Further, most stakeholders expressed that the more preferable draft rule met the NEO on various fronts, by, for instance, improving system security, encouraging investments in storage (important for reliability) and reducing market costs. We also note that the AER and CS Energy acknowledged that no other solutions beyond the rule change would have addressed the security risks raised by the proponents.
- 12 No comments or input were given on implementation costs, confirming the Commission's earlier assessment of the minor implementation costs of this rule change.
- 13 Some stakeholders reinforced their support for the proposed commencement date of 15 November 2024. However, Engie suggested changing the commencement date to 3 December 2024 given that there is no T-1 instrument in place for 1 December 2024 and therefore no urgency to finalise the rule sufficiently before this date.
- 14 We provided more detail on stakeholder feedback in section 1.2.

We assessed our rule against three assessment criteria using regulatory impact analysis and stakeholder feedback

- 15 The Commission has considered the NEO¹ and the issues raised in the rule change request and assessed the final rule against three assessment criteria outlined below. We gathered stakeholder feedback and undertook regulatory impact analysis in relation to these criteria.
- 16 The more preferable final rule will contribute to achieving the NEO by:
 - **Improving the security of the NEM during reliability gap periods** – Exempting storage assets from the RRO would remove the trade-off these assets bear between providing security services and incurring RRO penalties. Removing this trade-off means that demand for grid-supporting services can be serviced at a lower cost, with benefits for the whole power system.
 - **Preventing risks of higher FCAS prices and market costs during gap periods** – With storage assets exempt from the RRO, risks of PoLR costs or, alternatively, the cost of contracts bought to hedge RRO penalty risks, would not flow through into bids to the FCAS markets or through other forms of market costs (e.g. directions that AEMO would need to issue if power-system security is at risk).
 - **Providing a low-cost and easy-to-implement solution to solve the security problem** – The final rule is simple and quick to implement as it only consists of legal and procedural amendments.

The final rule will exempt storage assets from liability under the RRO only in specific scenarios

- 17 The more preferable final rule creates a new defined term 'exempt market connection points' which lists a series of asset types (identified through connection points to the grid) exempted

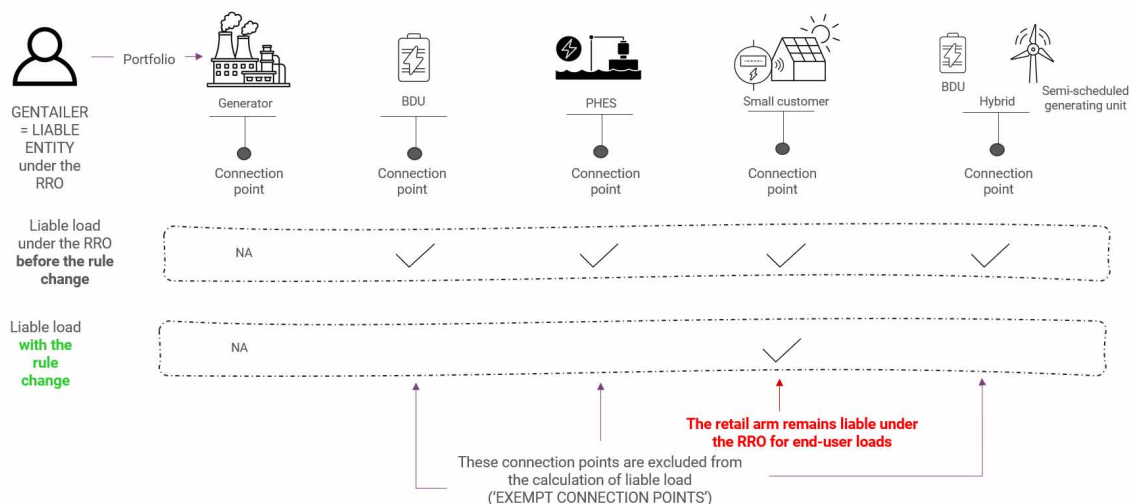
¹ Section 7 of the NEL.

from liability under the RRO. Exempt market connection points are connection points:

- currently excluded from RRO liability, such as market generating units and stand-alone power systems, and
- for storage assets captured by the proposed exemption, such as market bi-directional units and pumped hydro assets.

- 18 The final rule specifies how storage assets should be registered or classified at their connection point for it to be an exempt market connection point.** Storage assets would need to be registered or classified as part of an 'Integrated Resource System' and fit the criteria established in new clause 4A.D.1A(b)-(d) of the NER. For example, a connection point of a stand-alone battery would be an exempt market connection point if it is classified as a market bi-directional unit with no other electricity consumption (besides that of the battery or its auxiliary load) measured at the connection point.
- 19 Load from exempt market connection points does not contribute to an entity's liable threshold and is not subject to compliance processes if the entity breaches the RRO.** If storage assets are classified as indicated by the rule, load at their connection points is then excluded from:
- The calculation run to determine liability of an entity under the RRO at the end of the contract position day (clause 4A.D.2(b)(2) of the NER).
 - The liable load during the reliability-gap period. For example, if an entity breaches the RRO during the same interval when its battery – at an exempt market connection point – operates as a load, battery load would not contribute to the liable entity's share of PoLR costs.
- 20 Entities continue to be liable under the RRO for all connection points that are not exempt market connection points.** Importantly, a liable entity will remain liable for all other connection points that are captured under the RRO (i.e., non-exempt market connection points), for instance, connection points for end-user loads. Figure 1 below illustrates this point and the difference between liability under the RRO prior to this rule change and liability resulting from the more preferable final rule.
- 21 The final rule exempts storage in 'hybrid plants' only in specific scenarios.** The final rules have considered storage assets as part of a 'hybrid plant', where the asset shares its connection point with another generator or load centre. For the first case, the rule provides that where a battery shares its connection point with another generating unit (such as a wind farm or a thermal generator), and there is no other load, the whole connection point is exempt from the RRO. Importantly, co-located storage with other load centres is exempt from the RRO depending on the total electricity consumption at the connection point. If the total annual consumption at the connection point is less than 10GWh per annum, the connection point is exempt from the RRO. If it exceeds 10GWh per annum, the whole plant (including the co-located battery or storage asset) remains liable.

Figure 1: An example of application of the rule to a vertically integrated retailer



The rule will commence on 3 December 2024

- 22 Implementing the new rule requires minimal implementation costs driven by procedural changes, including updates to the AER's Contracts and Firmness Guidelines.
- 23 The final rule considers the ongoing implementation of the *Integrating energy storage systems into the NEM* rule change, which requires Market Customers to transition to the new categories of Integrated Resource Providers by 3 December 2024. The final rule will commence on 3 December 2024 to ensure market participants are adequately prepared to understand liabilities under the RRO as they transition to the new registration category.

There are only two minor differences between the draft rule and the final rule

- 24 There are two changes between the draft rule and final rule. The first entails a change of commencement date. The second adds two schedules to the final rule (relative to the draft rule).
- 25 In their submission to the draft determination, Engie suggested changing the commencement date for the final rule from 15 November 2024 to 3 December 2024. The proposal followed information coming from the August 2024's AEMO's Electricity Statement of Opportunities (ESOO) announcing that no reliability gap is forecast for NSW in 2025-2026. Because there is no reliability gap, AEMO is not able to make a request to the AER for a T-1 instrument and the risk of a net contracting position date coming into effect on 1 December 2024 has been removed. With this requirement removed, the Commission agrees with Engie that a commencement date of 3 December would simplify the rules while still ensuring the rule is implemented quickly, thus removing any barriers for storage to provide system services before the summer peak.
- 26 The final rule has two additional schedules addressing the interactions with the amendments to Chapter 4A made by the *National Electricity Amendment (Unlocking CER benefits through flexible trading) Rule 2024 No. 15* ('Unlocking CER').

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1 The Commission has made a final determination

This final determination is to make a more preferable final rule in response to a rule change request submitted by Iberdrola, Neoen and Tesla (the proponents) seeking to exempt 'bi-directional units' (grid-scale batteries) from being liable entities under the Retailer Reliability Obligation (RRO).² The more preferable final rule will exempt a number of storage assets, including batteries, as requested by the proponents, and pumped hydro energy storage (PHES) from the RRO. The Commission considers that the rule change improves the security of the national electricity market (NEM) during reliability-gap periods and benefits all consumers.

Currently, the National Electricity Rules (NER) consider batteries and any other storage asset liable under the RRO if their annual consumption exceeds 10GWh in a region.³ When the RRO is triggered, as liable entities, batteries and storage assets are required to enter into sufficient qualifying contracts to cover their share of system peak demand at the time of the reliability gap.⁴

In their [rule change request](#), the proponents argued that RRO liability applied to batteries introduces security risks during reliability-gap periods. Batteries are key providers of system-security services such as frequency control ancillary services (FCAS), including very-fast FCAS.⁵ The proponents considered that when batteries operate as a load to provide these services during a reliability gap they may risk being under-contracted. This is because the load used for security services may not be covered by qualifying contracts entered the year before the gap period which only cover their forecast peak demand. This results in battery operators withholding load for those services to avoid risks of penalties⁶ and Procurer of Last Resort (PoLR) costs.

Whilst the rule change request focuses on bi-directional units, the proponents also asked the Commission to consider exempting PHES from the RRO, given the similarity between the two technologies.

The proponents requested the rule change to be finalised by 1 December 2024, which, at the time when they submitted the rule change request, was the potential contract position day for a reliability gap forecast in NSW from December 2025 to February 2026.⁷

More details on the rule change request is in Appendix A.

1.1 Our final rule exempts storage assets from the RRO depending on their registration category in the NEM and co-located assets

The final rule exempts storage assets from the RRO if their connection point is an 'exempt market connection point', i.e., a connection point that should be exempt from liability under the RRO. It considers various configurations of storage assets, for example, battery energy storage systems (BESS), PHES, and hybrid plants, i.e. batteries that share a connection point with renewable plant or an end-user's load centre. Regarding hybrid plants, the final rule specifies how the load and generation components of these assets should be classified, as well as what consumption at the connection point is admissible, in order for the plant to be considered exempt.

² The RRO is a mechanism designed to support reliability across the NEM by preventing predicted future generation shortfall ('reliability gaps'). More information on the RRO is available [here](#).

³ Clause 4A.D.2 of the NER.

⁴ See sections 14C-14S of the NEL.

⁵ Iberdrola, Neoen and Tesla. [Rule change request](#), p.5.

⁶ Up to an individual maximum of \$100 million. See section 14T of the NEL.

⁷ At that time, there was a T-3 reliability instrument in place for this gap. However, [AEMO's 2024 Electricity Statement of Opportunity \(ESOO\)](#) published on 29 August 2024 confirmed no reliability gap in their forecast. As a result, AEMO did not request a T-1 instrument from the AER.

There are two changes between this final rule determination and the draft rule determination. The first is the rule change's commencement date, moved to 3 December 2024. The second sees two additional schedules that address the interactions between the final rule and the *Unlocking CER benefits through flexible trading rule change*⁸

Chapter three illustrates the final rule in more detail.

1.2 Stakeholder support for the draft determination confirmed that the rule meets the NEO

Stakeholder feedback to the draft determination showed strong support for the draft determination and draft rule and did not recommend any changes to the policy positions except for the commencement date.

In making its decision, the Commission considered the options of making no rule, making the proposed rule change (exempting batteries under the RRO) or making a more preferable rule (exempting a broader set of storage asset classes from the RRO). Stakeholder feedback and the regulatory impact analysis (see Appendix B) were instrumental in shaping our determination to make a more preferable final rule.

The following key propositions from stakeholders and supporting data informed our decision.

Exempting storage from the RRO:

- **Solves the security problem raised by the proponents** by maintaining the incentives for storage to provide system security services.⁹ Without obligations imposed by RRO, batteries and PHES can provide critical grid-supporting services without retailer obligations driving (as an unintended consequence) potential costs and risks for the market during reliability gap periods.
- **Is appropriate given the critical role storage plays for the security of the power system.** Most stakeholders expressed strong support for the exemption of PHES and other types of storage assets under the RRO in addition to batteries.¹⁰ In particular, Hydro Tasmania praised the 'technology neutral' approach of the policy.¹¹ Engie saw no issue with the inclusion of PHES in the exemption.¹²
- **Supports future system reliability** by de-risking storage assets from operational and financial risks/constraints imposed by the RRO.¹³
- **May reduce compliance costs for remaining liable entities under the RRO**, as removing storage load from liability would put downward pressure on prices of qualifying contracts.¹⁴
- **Is the only option that solves the security problem**, given that the alternative option (discussed in the draft determination) is highly impractical.¹⁵ The AER and CS Energy agreed with this assessment.¹⁶

8 National Electricity Amendment (Unlocking CER benefits through flexible trading) Rule 2024 No. 15. Available [here](#).

9 Submissions to the draft determination: AER, p.2, AGL, p.1, Clean Energy Investor Group, pp.1-2, Engie, p.1, Hydro Tasmania, p.2, Shell Energy, p.2, Tesla, p.1.

10 Submissions to the draft determination: Clean Energy Council, p.1, Clean Energy Investor Group, p.1, Energy Australia, p.1, Hydro Tasmania, p.1, Snowy Hydro, p.1, Tesla, p.1.

11 Submission to the draft determination: Engie, p.1.

12 Submission to the draft determination: Engie, p.1.

13 Submissions to the draft determination: Clean Energy Investor Group, pp.1-2, CS Energy, pp.1-2, Engie, p.1, Genaspi, p.2, Shell Energy, p.2, Tesla, p.1.

14 Submissions to the draft determination: CS Energy, p.3, Genaspi, p.2, Snowy Hydro, p.1, Shell Energy, p.2, Tesla, p.1.

15 AEMC. Draft rule determination. National Electricity Amendment (Retailer Reliability Obligation exemption for scheduled bi-directional units) Rule 2024, pp. 6-7. Available [here](#).

16 Submissions to the draft determination: AER, p.2, CS Energy, p.3.

Finally, in their submissions to the draft determination:

- The Clean Energy Investor Group (CEIG), Shell Energy and Tesla supported commencing the rule change on 15 November 2024, while Engie asked to consider a commencement date of 3 December 2024 to simplify implementation.¹⁷
- Snowy Hydro raised that the final determination should address storage assets that operate under bespoke registration arrangements.¹⁸

¹⁷ Submissions to the draft determination: CEIG, p.2, Engie, pp.1-2, Shell Energy, p.2, Tesla, p.1.

¹⁸ Submission to the draft determination: Snowy Hydro, pp.1-2.

2 The rule will contribute to the energy objectives

2.1 The Commission must act in the long-term interests of energy consumers

The Commission can only make a rule if it is satisfied that the rule will or is likely to contribute to the achievement of the relevant energy objectives.¹⁹

For this rule change, the relevant energy objective is the NEO:

The NEO is:²⁰

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.²¹

2.2 We must also take these factors into account

2.2.1 We have considered whether to make a more preferable rule

The Commission may make a rule that is different, including materially different, to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NEO.²²

For this rule change, the Commission has made a more preferable final rule. The reasons are set out in section 2.3.

2.2.2 We have considered how the rule will apply in the Northern Territory

In developing the final rule, the Commission has considered how it should apply to the Northern Territory according to the following questions:

- Should the NEO test include the Northern Territory electricity systems? For this rule change request, the Commission has determined that the reference to the “national electricity system” in the NEO includes the local electricity systems in the Northern Territory.
- Should the rule be different in the Northern Territory? The Commission has determined that a uniform rule should apply to the Northern Territory.

This final rule relates to parts of the NER that currently apply in the Northern Territory (Chapter 4A and 11). See Appendix C for more detail on the legal requirements for our decision.

¹⁹ Section 88(1) of the NEL.

²⁰ Section 7 of the NEL.

²¹ Section 32A(5) of the NEL.

²² Section 91A of the NEL.

2.3 How we have applied the legal framework to our decision

The Commission must consider how to address the security problem raised by the proponents against the legal framework.

In its determination, the Commission considered three broad options:

1. **The rule proposed in the rule change request** - excluding scheduled bi-directional units from the RRO.
2. **A business-as-usual scenario where we do not make a rule** - which, in this case, consisted of a procedural change suggested by some stakeholders in their submissions to the consultation paper.²³ This change would have required the AER to exclude load provided for FCAS and other grid services from the calculation of the liable share of liable entities under the RRO.
3. **A more preferable rule** - excluding PHES and other storage assets from the RRO in addition to bi-directional units.

Confirming the outcome of the earlier draft determination, the Commission considers that:

1. exempting batteries from the RRO solves the security problem raised by the proponents
2. exempting PHES and other classes of storage delivers additional benefits to system security and comes at no additional cost than exempting only batteries.

We used the following criteria to assess whether the options are likely to better contribute to achieving the NEO:

- **Safety, security and reliability** - to test whether the rule would improve, or remove risks to, the security of the power system during reliability-gap periods.
- **Principles of market efficiency** - to test whether the rule would increase competition in the delivery of grid-security services (which could translate, for example, into lower FCAS prices).
- **Implementation considerations** - to test whether the rule can be implemented within the stakeholders' required timeframe (15 November 2024, or, as requested by one stakeholder, 3 December 2024).

These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request, for impacts within the scope of the NEO. Our reasons for choosing these criteria are set out in section 4.2 of the consultation paper.²⁴ Stakeholders made no objections to the choice of such assessment criteria, nor did they proposed further criteria.

The Commission has undertaken regulatory impact analysis to evaluate the impacts of the various policy options against the assessment criteria. Appendix B outlines the methodology of the regulatory impact analysis.

The rest of this section explains why the final rule best promotes the long-term interest of consumers when compared to other options and assessed against the criteria.

2.3.1 The rule improves the security of the NEM during reliability gap periods

Exempting storage assets such as batteries and PHES from the RRO addresses the security risks raised by the proponents and unlocks a higher number of providers of security services (relative to exempting only batteries) that can be used more cost-effectively during reliability gap periods. In particular, this section explores three key propositions resulting from the assessment of the final rule:

²³ Submissions to the consultation paper: Origin, p.2, EUAA, p.4, Stanwell, p.2.

²⁴ Consultation paper to be found [here](#).

1. the rule addresses the security problem raised by the proponents
2. the rule makes the provision of security services more efficient during reliability-gap periods
3. exempting storage delivers higher benefits to the market and consumers compared to exempting only batteries.

The rule addresses the problem by incentivising storage assets to deliver security services during reliability gap periods

The exemption from the RRO removes the need for these assets to weigh up the risk of providing the security services in real time - but potentially being under-contracted in doing so - and facing PoLR costs and RRO penalties.

As a result, the Commission considers that the rule solves the security problem raised by the proponents by maintaining the incentives for storage to provide system security services. Stakeholders strongly supported this view on the effect of the rule change on storage behaviour and incentives.²⁵

The rule makes the provision of security services more cost effective during reliability-gap periods by lowering risks of higher FCAS prices and market costs

With storage assets exempt from the RRO, risks of PoLR costs or, alternatively, the cost of contracts bought to hedge RRO penalty risks, would not flow through into bids to FCAS markets or through other forms of market costs (e.g. directions).^{26 27} This makes the provision of essential system services more cost effective during reliability periods.

Exempting storage delivers higher benefits to the market compared to exempting only batteries

Most stakeholders expressed strong support for the exemption of PHES and other types of storage assets under the RRO in addition to batteries.²⁸

With both batteries and PHES assets exempted from the RRO, a higher number of providers would be available to offer security services during gap periods without needing directions and without adding costs to the system (see section above). Further, the Commission has considered that extending the exemption to PHES would not cause additional implementation costs compared to exempting only batteries.

2.3.2 The rule supports greater market efficiency and reliability without undermining the policy intent of the RRO

In evaluating the more preferable rule against the market-efficiency criterion, the Commission has considered that it does not compromise the integrity of the RRO but may instead reduce compliance costs for remaining liable entities.

We reached this conclusion through evidence supporting two key propositions:

- **The exemption does not increase the exposure of other liable entities to breaches of the RRO.**

25 Submissions to the draft determination: AER, p.2, AGL, p.1, Clean Energy Investor Group, pp.1-2, Engie, p.1, Hydro Tasmania, p.2, Shell Energy, p.2, Tesla, p.1.

26 Submissions to the draft determination: AER, p.2, AGL, p.1, Clean Energy Investor Group, pp.1-2, Engie, p.1, Hydro Tasmania, p.2, Shell Energy, p.2, Tesla, p.1.

27 It is important to clarify that the final rule does not, in and of itself, directly put downward pressure on FCAS prices but instead removes the feedback loop between RRO compliance costs for storage assets and FCAS market prices.

28 Submissions to the draft determination: Clean Energy Council, p.1, Clean Energy Investor Group, p.1, Energy Australia, p.1, Hydro Tasmania, p.1, Snowy Hydro, p.1, Tesla, p.1.

- Our analysis on historical data of battery and storage behaviour during high-price periods demonstrated that under the final rule there are no meaningful risks that batteries, would operate in a way that triggers breaches of the RRO during reliability-gap periods.
- This is because batteries and PHES assets tend to operate as net generators, not net loads, during high-price periods. To see the full analysis, please refer to Appendix C of the [draft determination](#).
- Some stakeholders acknowledged this finding in their submissions to the draft determination.²⁹
- **With storage exempted, remaining liable entities would face lower costs and complexity with complying with the RRO.**
 - Removing batteries and PHES from liability under the RRO would put downward pressure on prices of qualifying contracts and, therefore, reduce RRO compliance costs for remaining liable entities.³⁰
 - In other words, exempting storage from the RRO does not ‘shift the risk burden’ to other liable entities.
- **De-risking storage from the RRO incentivises storage buildout - this is consistent with the policy intent of the RRO.**
 - In submissions to the consultation paper, many stakeholders labelled the RRO compliance risk borne by storage assets as ‘unintended consequence of the RRO’ (given the view that the RRO adds risks to storage economics).³¹
 - In submissions to the draft determination, some stakeholders re-iterated that de-risking storage assets from operational and financial risks imposed by the RRO promotes reliability, consistent with the intent of the RRO.³²

2.3.3 There is no other practical option that solves the security problem

In its draft determination, the Commission had previously assessed the option of ‘carving out’ load provided by batteries for FCAS from RRO compliance and allocation of PoLR costs. As presented in our draft determination and re-iterated in this final determination, the Commission considers this option impractical and ineffective in solving the problem.

In response to the draft determination, the AER and CS Energy confirmed the AEMC’s assessment of this option under our assessment criteria.³³

More detail on the alternative option, including its assessment, can be found in section 2.3.1 of the draft determination.³⁴

2.3.4 The rule is simple to implement and has considered the IESS rule change’s implementation horizon

Applying and complying with the final rule involves minimal implementation costs, and includes required updates to the AER’s [Contracts and Firmness Guidelines](#). In their feedback on the draft determination, stakeholders did not identify any implementation costs resulting from the draft rule.

²⁹ Submissions to the draft determination: AGL, p.1, CS Energy, p.3.

³⁰ Submissions to the draft determination: CS Energy, p.3, Genaspi, p.2, Snowy Hydro, p.1, Shell Energy, p.2, Tesla, p.1.

³¹ For more insight on these submissions, please see Section 2.3 of the [draft determination](#).

³² Submissions to the draft determination: Clean Energy Investor Group, pp.1-2, CS Energy, pp.1-2, Engie, p.1, Genaspi, p.2, Shell Energy, p.2, Tesla, p.1.

³³ Submissions to the draft determination: AER, p.2, CS Energy, p.3.

³⁴ The draft determination can be found [here](#).

The rule commences on 3 December 2024 to match the end of ‘registration grace period’ for the ongoing implementation of the ‘Integrating energy storage systems into the NEM’ (IESS) rule change³⁵, which requires Market Customers to transition to the new IRP category.

³⁵ In the IESS rule change, the registration grace period is the period commencing on the effective date of the rule change (3 June 2024) and ending six months after the effective date (3 December 2024)

3 How our rule will operate

The Commission's more preferable final rule creates a new defined term 'exempt market connection points' which lists assets (identified via their connection point with the grid) that would be exempted from liability under the RRO.³⁶ This new term encompasses connection points for market generating units and in stand-alone power systems (SAPS) (which are currently excluded from RRO liability) and, importantly, connection points for storage assets captured by the proposed exemption (e.g. market bi-directional units and PHES).

The new rule provides that the consumption of storage assets at exempt market connection points is not to be included when working out if a Market Customer or Integrated Resource Provider (IRP) is a liable entity for a region and when calculating its liable load.

Section 3.1 provides an overview of the rule, Section 3.2 lists examples and illustrative scenarios of plants that are excluded from liability under the RRO, and Section 3.3 illustrates how the rule will be implemented.

3.1 Overview of market arrangements that exclude storage from the RRO

The market arrangements for the exemption of storage assets are summarised as follows:

1. **The final rules exempt storage assets in specific scenarios.** Storage assets that would be exempt from the RRO would need to be registered or classified as part of an 'Integrated Resource System' (IRS) and fit the criteria established in new clause 4A.D.1A(b)-(d) of the rule.³⁷ For example:
 - The connection point of a stand-alone battery is an exempt market connection point if it is classified as a market bi-directional unit with no other electricity consumption (besides that of the battery or its auxiliary load) measured at the connection point.³⁸
 - The connection point of a PHES asset is an exempt market connection point if it is a bidirectional unit that has been classified as a scheduled generating unit and scheduled load in accordance with clauses 2.2.2(b)(2) and 2.3.4A(b) of the NER.
 - If a battery, classified as a bi-directional unit, provides power to a large load and shares the connection point with the plant, that connection point is not to be exempted from the RRO if the total electricity consumption at the connection point exceeds 10GWh per annum.^{39 40}
2. **Storage assets at 'exempt market connection points' do not contribute to an entity's liability under the RRO at the end of the contract position day.** Connection points for storage assets will not be part of the aggregate consumption (liable load) that is used to determine a liable entity's⁴¹ required net contract position at T-1.⁴² In practice, this means that Qualifying Contracts purchased by a liable entity prior to the contract position day will not need to cover estimated consumption (load) from storage assets. A liable entity will remain liable for all other connection points that should be appropriately captured under the RRO, for instance, connection points for end-user loads. Figure 3.1 illustrates the difference between liability under the RRO prior to this rule change and liability under the RRO resulting from the final rule.

36 New clause 4A.D.1A of the NER.

37 See Section 3.2 for the full detail of the new clause.

38 New proposed clause 4A.D.1A(d)(1) of the NER.

39 As determined in accordance with the Contracts and Firmness Guidelines.

40 New proposed clause 4A.D.1A(d)(2) of the NER.

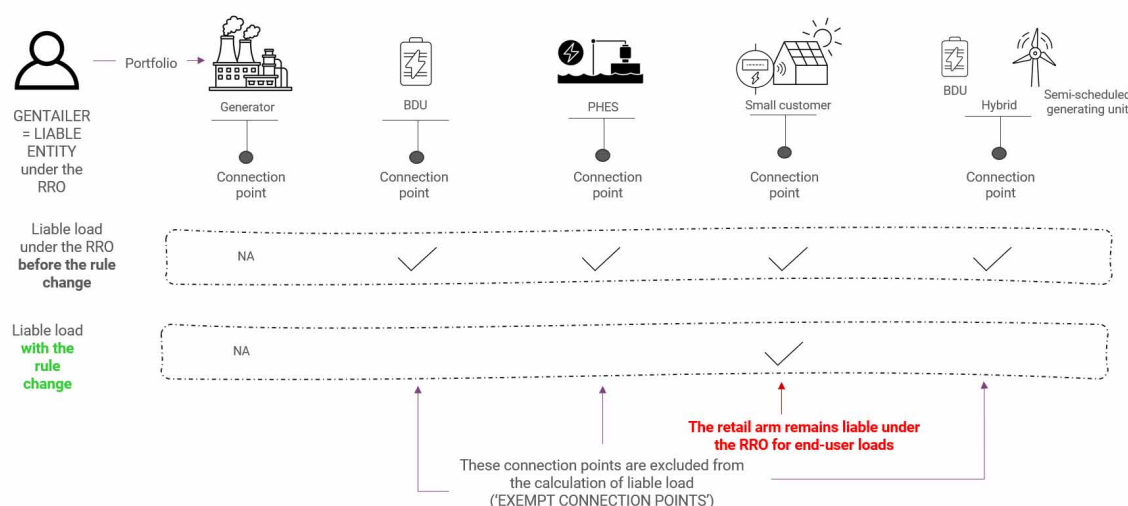
41 An entity financially responsible for those connection points.

42 Amended clause 4A.D.2(b)(2) of the NER.

3. **Load from exempt storage assets is not subject to compliance processes if the RRO is breached.** As a consequence of point 2 above, load from exempt connection points will not be part of the liable load for a compliance TI of a given liable entity.^{43 44} This means that a battery at an exempt market connection point that operates as a load during a reliability gap will not contribute to the liable entity's share of PoLR costs.
4. **New entrants' storage assets can equally benefit from the proposed exemption.** The same exemption used to calculate if a participant meets the liable entity threshold for the region (illustrated in points 1-3 above) will apply to storage assets of a new entrant in a region.⁴⁵

Additionally, the AER will be required to update its Contracts and Firmness Guidelines to take into account the rule.

Figure 3.1: An example of application of the rule to a vertically integrated retailer



Source: AEMC.

3.2 Exempt connection points from the RRO

The new clause 4A.D.1A lists all the categories of market connection points exempt from liability under the RRO. The Commission has made no change to the existing exemptions under the RRO for:

- Market generating units as part of a 'generating system' and market connection points in regulated SAPS.⁴⁶
- Connection points for storage assets (and plant including storage assets) that are part of an IRS where the IRS fits the criteria established in the new clause 4A.D.1A(b)-(d).⁴⁷

43 A compliance TI is a gap trading interval in which the peak demand in that gap trading interval published under clause 4A.A.4(c) exceeds the one-in-two year peak demand forecast.

44 Amended clause 4A.F.3(b)(1) of the NER.

45 Amended clause 4A.D.3(c) of the NER.

46 A generating system is a concept defined in Chapter 10 of the NER and may represent a variety of configurations of generation assets; for instance, a system comprising one or more generating units other than an integrated resource system. For the full definition of a generating system, please see Chapter 10 of the NER.

47 An IRS is a concept defined in Chapter 10 of the NER and may represent a variety of configurations of storage assets; for instance, a system that comprises one or more bi-directional units (batteries) and may comprise one or more generating units and connected plant. For the full definition of IRS, please see Chapter 10 of the NER.

3.2.1 Stand-alone batteries and stand-alone PHES plants are exempt from the RRO irrespective of their consumption

Batteries and PHES assets that provide services to the market and do not share their connection point with any other resource (i.e., they are stand-alone plants) are always exempted from the RRO irrespective of their annual consumption.

Importantly, the exemption applies to the connection point that these assets have with the power grid, not the entity that is financially responsible for them. This ensures entities continue to be liable under the RRO for end-user's load, as illustrated in Figure 3.1.

Table 3.1 illustrates connection points for batteries and PHES assets exempt from the RRO. The market connection points for the assets classified as indicated by this table are excluded when calculating whether the RRO liable entity threshold is met and also the liable load.

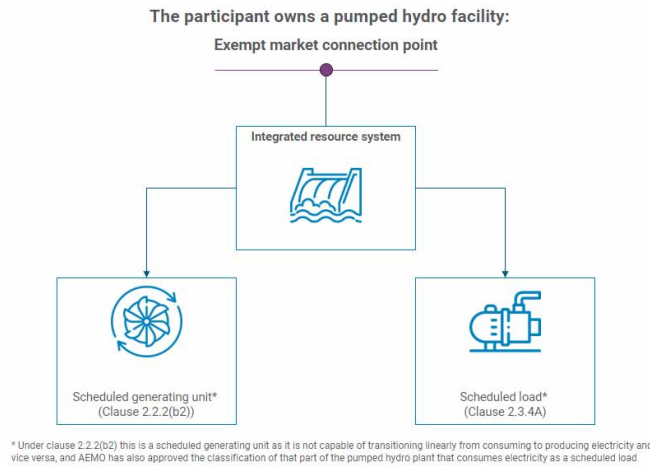
Table 3.1: Stand-alone batteries and PHES (as IRS) excluded from the RRO

IRS plant	Plant classification	Illustrative example	Corresponding clause in the rule that determines exemption
Battery	Unit classified as scheduled, market bidirectional unit	100MW battery, which consumes more than 10GWh of energy per annum	4A.D.1A(d)(1)
Battery	Unit classified as scheduled, market bidirectional unit	20MW battery, which consumes less than 10GWh of energy per annum	4A.D.1A(d)(1)
Battery	Unit classified as non-scheduled, market bidirectional unit	A small market-facing battery, with capacity <5MW (by definition, it would consume less than 10GWh of energy per annum)	4A.D.1A(d)(1)
PHES	An IRS composed of two units: 1) Scheduled generating unit not capable of transitioning linearly from consuming to producing electricity and vice versa (Clause 2.2.2(b2)) 2) Scheduled load (2.3.4A).	1GW PHES asset with consumption above 10GWh of energy per annum. The load is connected at a market connection point of the Market Participant that is the FRMP.	4A.D.1A(c)

Source: AEMC.

Figure 3.2 illustrates an example of a connection point for PHES that is exempt from the RRO.

Figure 3.2: An example of an exempt market connection point for a PHES asset



Source: AEMC.

Note: Illustrative diagram.

In its submission to the draft determination, Snowy Hydro requested that the Commission clarify that all pumped hydro plants, regardless of any bespoke registration arrangements, are an exempt storage asset for the purposes of the RRO. They argue that this would remove any uncertainty in relation to the application of the RRO to the Tumut 3 pumps. The Commission acknowledges the intention of the rule change is for pumped hydro assets to not be liable entities under the RRO. The Commission notes that:

- Snowy Hydro is not currently a liable entity as it is registered as a Market Generator (rather than a Market Customer).
- The pumps at the Tumut 3 Power Station are not formally scheduled load but are required to comply with certain conditions imposed by AEMO as if it were scheduled load.⁴⁸
- The final rule does not alter Snowy Hydro's status under the RRO i.e. it will remain not liable.

3.2.2 Exemption from the RRO also applies to storage assets that are co-located with other forms of generation

The rule has considered a variety of storage-asset configurations. One of these entails batteries or PHES assets that are co-located with other types of generating units, i.e., a 'hybrid' plant that combines storage and generation assets.

The rule provides that where a battery shares its connection point with another generating unit (such as a wind farm or a thermal generator), and there is no other load, the whole connection point is exempt from the RRO. The exemption would also encompass the 'auxiliary load' that the generating unit, or the battery, would consume to perform their energy-conversion processes. Given that generating systems are already exempt under the RRO, this position is consistent with exempting stand-alone storage assets (see previous section).

⁴⁸ See AEMO's NEM Registration and Exemptions List.

Table 3.2 illustrates exempt connection points for hybrid plants combining generation and storage. The market connection points for the assets classified as indicated by this table are excluded when calculating whether the RRO liable entity threshold is met and also the liable load.

Table 3.2: Hybrid connections of 'generation+storage' excluded from the RRO

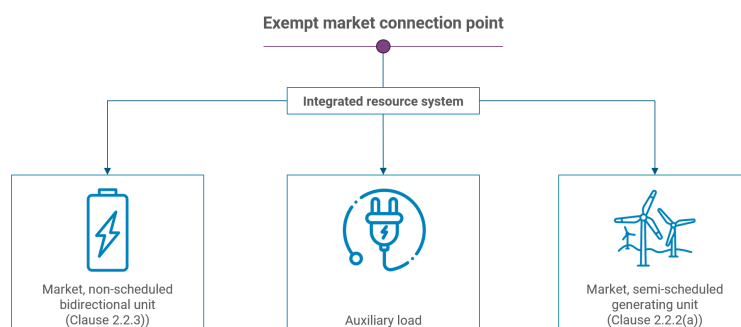
IRS plant	Plant classification	Illustrative example	Corresponding clause in the rule that determines exemption
Hybrid (storage + generation units), no other load	Market, scheduled bidirectional unit and generating units	6MW Battery (trades in the market) co-located with a 100MW thermal generator	4A.D.1A(b) and (d)(1)
Hybrid (storage + generation units), no other load	Market, non-scheduled bidirectional unit and generating units	4MW Battery (trades in the market) co-located with a 100MW wind farm	4A.D.1A(b) and (d)(1)
Hybrid (storage + generation units), no other load	Non-market, non-scheduled bidirectional units with a scheduled market generating unit	2MW Battery (off-market) co-located with a 100MW thermal generator	4A.D.1A(b)
Hybrid (storage + generation units), no other load	Non-market, non-scheduled bidirectional units with a semi-scheduled market generating unit	2MW Battery (off-market) co-located with a 100MW wind farm	4A.D.1A(b)

Source: AEMC.

Figure 3.3 below illustrates an example of a connection point for a hybrid plant that is exempt from the RRO.

Figure 3.3: An example of an exempt market connection point for a hybrid plant (generation+storage)

The participant owns a site with a 100MW wind farm which has auxiliary load and a 4MW battery:



Source: AEMC.

Note: Illustrative diagram.

3.2.3 Co-located storage with other load centres is exempt from the RRO depending on the total electricity consumption at the connection point

Another configuration we have considered involves batteries or PHES assets that are co-located with other types of load (e.g., a refinery), resulting in a hybrid plant that combines storage and load.

The rule provides that where a market-facing battery (market bi-directional unit) is part of an IRS with other types of customer load, then the aggregated consumption of electricity at the connection point determines whether the whole connection (including the battery) is exempt from the RRO or continues to be liable.

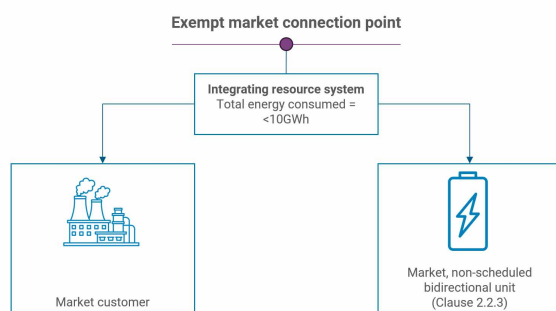
The rule establishes that if the total annual consumption at the connection point is less than 10GWh per annum, the connection point is exempt from the RRO. The Commission considers that the threshold of 10GWh is appropriate in distinguishing connections that should be exempt from the RRO from connections that, given the size of their annual load and its impact on reliability, should remain liable.

This threshold applies to IRSs composed of batteries, customer load and also generating units, including small generating units.

Figure 3.4 illustrates an example of an exempt market connection point for a hybrid plant that includes end-user's load and storage. The market connection points for the assets classified as indicated by this table are excluded when calculating whether the RRO liable entity threshold is met and also the liable load.

Figure 3.4: An example of an exempt market connection point for a hybrid plant (storage + end-user's load)

The participant owns a site with a 4MW BESS and factory, and the total energy consumed by the site is less than 10GWh per annum



Source: AEMC.

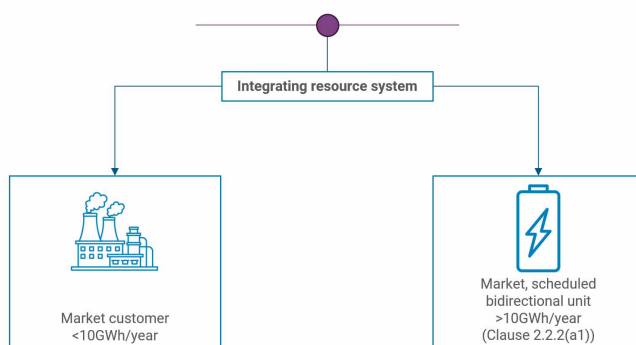
Note: Illustrative diagram.

For clarity, Figure 3.5 includes an example of a connection point for a hybrid plant that despite including a BDU remains liable under the RRO due to exceeding the annual consumption threshold of 10GWh.

Figure 3.5: An example of a non-exempt connection point for a hybrid plant. This asset is a liable entity under the RRO

The participant owns a site with a battery that is more than 10GWh of energy per annum plus a factory that is less than 10GWh per annum

Not an 'exempt market connection point' (therefore a liable entity)



Source: AEMC.

Note: Illustrative diagram.

3.3 Implementation

Only procedural changes will be required to implement this rule, which makes this reform very low in costs. In particular, changes will be required to the AER's Contracts and Firmness Guidelines to account for the introduction of exempt market connection points in the NER.⁴⁹

The rule change will commence on 3 December 2024. The section below elaborates on the reason for this commencement date.

3.4 Key changes between draft and final rules

There are two key changes between the draft rule and the final rule:

- a change of implementation date
- two additional schedules to the final rule (relative to the draft rule).

Change of implementation date

The draft rule included an implementation date of 15 November 2024. This was based on the potential for AEMO to request a T-1 reliability instrument in NSW for a gap in December 2025 to January 2026 – meaning liable entities would be required to submit their contracting position to the AER from 1 December 2024. This required transitional rules to address the gap between when the rule came into effect and when participants are required to transition to the new IRP category on 3 December.

In their submission to the draft determination, Engie suggested changing the commencement date for the final rule from 15 November 2024 to 3 December 2024 to align with timing of the IESS registration grace period to remove the need for transitional rules.⁵⁰

⁴⁹ The interim version of the AER's Guidelines can be found [here](#). We note that in August 2024, after the release of the draft determination, the AER published a number of notes that clarify the use of the Guidelines. The note that elaborates on liability under the RRO is available [here](#).

⁵⁰ Submission to the draft determination: Engie, p.1.

In August 2024, AEMO release its Electricity Statement of Opportunities which did not forecast a reliability gap for NSW from December 2025 to January 2026.⁵¹ Therefore, there is no T-1 instrument in place for this gap in and the urgent risk identified by the proponents for the rule change to be in place before the possible contract position day of 1 December 2024 has been removed.

Several stakeholders noted the importance of implementing the rule as soon as possible. Engie noted in its submission that given this risk has been removed, it would be practical to move the implementation date to 3 December to remove the need for the transitional rules.⁵²

The Commission agrees that a change in implementation date would simplify the rules drafting and still ensure the rule is implemented quickly, removing any barriers for storage to provide system services before summer.

Considering rule amendments introduced by the 'Unlocking CER Benefits' rule change

The final rule contains two additional schedules (schedules 2 and 3) that address the interactions between the final rule and the *National Electricity Amendment (Unlocking CER benefits through flexible trading) Rule 2024 No. 15* ('Unlocking CER').⁵³

The Unlocking CER rule, published on 15 August 2024, amended a number of clauses in Chapter 4A. For example, as a consequence of it amending the definition of "market connection point" in Chapter 10, certain clauses in Chapter 4A substituted the term "connection point" with "market connection point". These changes will take effect from 1 November 2026.

The more preferable final rule amends some of the same clauses in Chapter 4A. These changes will take effect earlier from 3 December 2024. To account for this overlap and ensure the NER works as intended for both rules, appropriate changes have been made to the Unlocking CER final rule instructions.

For example, Item 100 in the Unlocking CER rule amended clause 4A.D.3(c) to add a reference to "or small resource secondary settlement points". This was to ensure there would be consistency with the reference to "small resource connection points" that already existed within the clause.⁵⁴ However, given the final rule removes the reference to excluding any small resource connection points, it is therefore not necessary to add in an exclusion for small resource secondary settlement points.

⁵¹ AEMO. 2024 Electricity Statement of Opportunities. August 2024. Available [here](#).

⁵² These transitional arrangements - included in the draft rule but removed from the final rule - can be found on Schedule 2 of the draft rule [here](#).

⁵³ The 'Unlocking CER' rule can be found [here](#).

⁵⁴ The Unlocking CER final determination can be found [here](#). See Appendix E.

A Rule making process

A standard rule change request includes the following stages:

- a proponent submits a rule change request
- the Commission initiates the rule change process by publishing a consultation paper and seeking stakeholder feedback
- stakeholders lodge submissions on the consultation paper and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a draft determination and draft rule (if relevant)
 - stakeholders lodge submissions on the draft determination and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a final determination and final rule (if relevant).

You can find more information on the rule change process on our website.⁵⁵

A.1 The proponents proposed a rule to exempt bi-directional units (batteries) from the RRO

Retailers, large energy users and other persons that are financially responsible for connection points with annual electricity consumption above 10GWh are liable entities under the RRO. Today, the RRO considers consumption from scheduled bi-directional units (batteries) as contributing to the liable load of liable entities. This has the effect of subjecting battery operations in the market to RRO compliance.

Iberdrola, Neoen and Tesla (the proponents) have raised that the contracting requirements of the RRO deter batteries from providing grid-security services during reliability-gap periods. In other words, batteries would not operate as a load to provide FCAS and other ancillary services as a way of avoiding risks of penalties and PoLR costs as a result of potentially being under-contracted.

The proponents suggested amending clause 4A.D.2(b)(2) of the NER to include the term 'scheduled bi-directional units' to the list of exempted connection points contributing to liable load under the RRO. Further, the rule change request included a consideration on whether pumped-hydro storage should also be considered for an exemption from RRO liabilities.

A.2 The proposal sought to address system-security risks during reliability gap periods

The rule change proponents have claimed that the issue faced by batteries will produce adverse outcomes for the NEM in three key areas:

- **System security (and market price for those services, e.g. FCAS).** If, as a result of RRO compliance, batteries are disincentivised to provide system-security services (or offer these services at a higher cost) the NEM would face risks such as: the erosion of supply for particular services (only batteries can provide very fast FCAS), insufficient supply of FCAS when coal capacity retires, and higher market costs as a result of batteries' higher bids for FCAS provision (as bids would incorporate the costs of caps bought as qualifying contracts).
- **Reliability - impact on battery-storage investments.** The inability to hedge risks from RRO non-compliance would eventually stymie investments in battery storage, aggravating the

⁵⁵ See our website for more information on the rule change process: <https://www.aemc.gov.au/our-work/changing-energy-rules>

problem of insufficient supply to system-security services. To solve this problem, more government support would be needed, for instance, by the Capacity Investment Scheme (CIS), in order to incentivise more storage in the NEM.

- **Market distortion and higher market prices.** For batteries, costs to manage the RRO would need to be recovered through higher bid prices in generation services. This would make more expensive scheduled generators more competitive in the bid stack, ultimately leading to higher prices for consumers.⁵⁶

A.3 Excluding batteries from the RRO would unlock immediate market benefits

The proponents have argued that removing the RRO requirements from batteries would produce immediate market and system benefits (especially for grid security) consistent with the NEO. The rule change request stated that batteries currently provide around 40% of the market share of FCAS services in South Australia, and for the new 1-second very fast FCAS, the market share increases to 100%.⁵⁷ The proponents also indicated that the exemption would incur minimal implementation costs. By de-risking batteries from RRO compliance, the rule change would also contribute to savings in government incentives (e.g. within the CIS) that would be needed to support storage buildout.⁵⁸

A.4 The process to date

On 30 May 2024, the Commission published a notice advising of the initiation of the rule making process and consultation in respect of the rule change request.⁵⁹ The Commission also published a consultation paper identifying specific issues for consultation. The Commission received 19 submissions on the consultation paper. Issues raised in these submissions were summarised and responded to in the draft rule determination.

On 22 August 2024, the Commission published a draft rule determination including a draft rule. The Commission received 12 submissions on the draft rule determination. Issues raised in submissions are discussed and responded to throughout this final rule determination. A summary of other issues raised in submissions and the Commission's response to each issue is contained in Appendix D.

⁵⁶ AEMC. [Consultation paper. National Electricity Amendment \(Retailer Reliability Obligation Exemption for bi-directional units\) Rule](#). p.5.

⁵⁷ [Rule change request](#), p.5.

⁵⁸ [Rule change request](#), p.13.

⁵⁹ This notice was published under section 95 of the NEL.

B Regulatory impact analysis

The Commission has undertaken regulatory impact analysis to make its determination.

B.1 Our regulatory impact analysis methodology

Our regulatory impact analysis was informed by stakeholder submissions to the consultation paper and draft determination. Further, we considered the Commission's *Review of the operations of the RRO* where appropriate.⁶⁰

We considered a range of policy options

The Commission compared and analysed three broad options:

1. the rule proposed in the rule change request
2. a business-as-usual scenario where we do not make a rule
3. a more preferable rule featuring excluding storage assets and that also addresses hybrids.

The Commission has designed its final rule (option 3, the more preferable rule) to ensure that storage technologies are appropriately incentivised to provide critical system services during reliability-gap periods without compromising the policy objective of the RRO.

We identified who will be affected and assessed the benefits and costs of the rule change

The Commission's regulatory impact analysis for this rule change used qualitative methodologies. It involved identifying the stakeholders impacted and assessing the benefits and costs of policy options. The depth of analysis was commensurate with the potential impacts. The Commission focused on the types of impacts within the scope of the NEO.

Table B.1 summarises the regulatory impact analysis the Commission carried for this rule change. We note there are no variations between the regulatory impact analysis displayed below and that carried out for our draft rule determination. Based on this regulatory impact analysis, the Commission evaluated the primary potential costs and benefits of the final rule against the assessment criteria. The Commission's determination considered the benefits of the options minus the costs.

⁶⁰ Final report found [here](#).

Table B.1: Regulatory impact analysis methodology

Assessment criteria	Primary costs Low, medium or high	Primary benefits Low, medium or high	Stakeholders affected	Methodology QT = quantitative, QL = qualitative
Safety, security & reliability – services and outcomes for system security	Nil	The rule provides greater certainty around provision of system security services during reliability-gap periods (H)	<ul style="list-style-type: none"> Storage owners and operators AEMO All electricity customers 	<ul style="list-style-type: none"> QL: Stakeholder feedback that removing risks caused by the obligations of the RRO would lead to a more cost-effective provision of system-security services (i.e., a greater pool of storage assets that can provide those services during reliability gaps).
Principle of market efficiency	Nil	The rule removes operational risks for storage assets, which may have flow-on effects into encouraging investment in energy storage (M-H)	<ul style="list-style-type: none"> Storage owners and operators All electricity customers 	<ul style="list-style-type: none"> As above. QL: Stakeholder feedback that de-risking storage technologies does not cause higher risks for other Market Customers liable to the RRO.
Implementation considerations -cost and complexity	Nil/Low	Nil	<ul style="list-style-type: none"> Storage owners and operators AEMO AER 	<ul style="list-style-type: none"> QL: Minimal changes in the Rules and procedural guidelines; the change consists of an exemption instead of new market arrangements.

C Legal requirements to make a rule

This appendix sets out the relevant legal requirements under the NEL for the Commission to make a final rule determination.

C.1 Final rule determination and final rule

In accordance with sections 102 and 102A of the NEL, the Commission has made this final rule determination for a more preferable final rule in relation to the rule proposed by the proponents.

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

A copy of the more preferable final rule is attached to and published with this final determination. Its key features are described in Chapter three.

C.2 Power to make the rule

The Commission is satisfied that the more preferable final rule falls within the subject matter about which the Commission may make rules.

The more preferable final rule falls within section 34 of the NEL as it relates to regulating:

- the operation of the national electricity market;
- the operation of the national electricity system for the purposes of the safety, security and reliability of the system;
- the activities of persons, including Registered Participants; and
- any matter or thing related to, or necessary or expedient for, the purposes of the Retailer Reliability Obligation.

The more preferable final rule also falls within the matters set out in Schedule 1 to the NEL as it relates to the compliance and reporting obligations of liable entities (item 6D).

C.3 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NEL to make the final rule
- the rule change request
- submissions received during first round consultation
- input and advice from AEMO on the feasibility of an alternative option to a rule change
- submissions received during second round consultations
- the Commission's analysis as to the ways in which the more preferable final rule will or is likely to better contribute to the achievement of the NEO, and
- the application of the final rule to the Northern Territory.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.⁶¹

⁶¹ Under s. 33 of the NEL and s. 73 of the NGL 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. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. In December 2013, it became known as the Council of Australian Government (COAG) Energy Council. In May 2020, the Energy National Cabinet Reform Committee and the Energy Ministers' Meeting were established to replace the former COAG Energy Council.

C.4 Making electricity rules 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.⁶² Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.

As the more preferable final rule relates to parts of the NER that apply in the Northern Territory, the Commission is required to assess Northern Territory application issues, described below.

Test for scope of “national electricity system” in the NEO

Under the NT Act, the Commission must regard the reference in the NEO to the “national electricity system” as a reference to whichever of the following the Commission considers appropriate in the circumstances having regard to the nature, scope or operation of the proposed rule.⁶³

1. the national electricity system
2. one or more, or all, of the local electricity systems⁶⁴
3. all of the electricity systems referred to above.

Test for differential rule

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.⁶⁵ A differential rule is a rule that:

- varies in its term as between:
 - the national electricity systems, 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 s. 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.⁶⁶

The Commission’s determinations in relation to the meaning of the “national electricity system” and whether to make a uniform or differential rule are set out in Chapter two.

C.5 Civil penalty provisions and conduct provisions

The Commission cannot create new civil penalty provisions or conduct provisions. However, it may recommend to the Energy Ministers’ Meeting that new or existing provisions of the NER be classified as civil penalty provisions or conduct provisions.

The more preferable final rule does not amend any clauses that are currently classified as civil penalty provisions or conduct provisions under the National Electricity (South Australia) Regulations.

⁶² These regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations 2016.

⁶³ Clause 14A of Schedule 1 to the NT Act, inserting section 88(2a) into the NEL as it applies in the Northern Territory.

⁶⁴ These are specified Northern Territory systems, listed in schedule 2 of the NT Act.

⁶⁵ Clause 14B of Schedule 1 to the NT Act, inserting section 88AA into the NEL as it applies in the Northern Territory.

⁶⁶ 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.

The Commission does not propose to recommend to the Energy Ministers' Meeting that any of the proposed amendments made by the more preferable final rule be classified as civil penalty provisions or conduct provisions.

D Summary of other issues raised in submissions

Table D.1: Summary of other issues raised in submissions to the draft determination

Stakeholder	Issue	Response
AGL	<p>Improving market liquidity.</p> <p>AGL recommended reducing the minimum size of market contract volumes under the Market Liquidity Obligation (MLO) from 5MW to 2MW. In their submission to the draft determination, AGL noted that “there have been relatively low trade of lots greater than 2MW, particularly for periods far out in the curve. Amending the minimum trading parcels to 2MW would improve liquidity of trades and support the more efficient operation of the market...” (p.1 of their submission to the draft determination).</p>	<p>This is out of scope for this rule change. Any changes to the MLO would need to be considered as a separate rule change.</p>
Clean Energy Council	<p>Clarifying consequent procedural changes to the ES00 as a result of the rule change.</p> <p>In their submission to the draft determination, the CEC stated: “In the final determination, AEMC should also note how exempt entities are going to be accounted for in the calculations that determine the reliability gap in the Electricity Statement of Opportunities. It remains unclear how the RRO obligation is imposed on those remaining liable entities, considering that the exemption also applies to “new entrants” (p.1 of their submission to the draft determination).</p>	<p>This is out of scope for this rule change. The Commission considers methodological questions on calculation of the reliability gap within the ES00 as separate from questions around liability to the RRO.</p>
Energy Australia	<p>Consideration of Virtual Power Plants (VPPs) and voluntarily scheduled resources in the exemption.</p> <p>In their submission to the draft determination, Energy Australia raised: “In the future it might be relevant to consider how the exemption should apply to smaller scale storage operated as part of a VPP and scheduled (for instance, using the Integrated Price Responsive Resources mechanism, if made)”.</p>	<p>This is out of scope for this rule change. The ‘Integrating price-responsive resources into the NEM’ rule change is currently considering the role that voluntarily scheduled resources could play in offsetting a retailer’s liable load under the RRO (as indicated in their draft determination, p. 49).</p>

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
BDU	Bi-directional unit
BESS	Battery Energy Storage System
Commission	See AEMC
ESOO	Electricity Statement of Opportunities
FCAS	Frequency Control Ancillary Services
IESS	Integrating energy storage systems into the NEM (rule change)
IRP	Integrated Resource Provider
IRS	Integrated Resource System
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules
PHES	Pumped Hydro Energy Storage
PoLR	Procurer of Last Resort
Proponents	The proponents of the rule change request to the Commission
RRO	Retailer Reliability Obligation
SAPS	Stand Alone Power System