

## Rule determination

# National Electricity Amendment (Rescheduling the generator compliance programs review) Rule 2024

### Proponent

The Reliability Panel

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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

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## Summary

- 1 The Australian Energy Market Commission (AEMC or Commission) has made a final rule that requires the Reliability Panel (Panel) to commence the next review of the template for generator compliance programs (template) by 19 December 2025. This represents a 12-month delay on its timing.<sup>1</sup>
- 2 The template supports the secure and reliable operation of the National Electricity Market (NEM). It provides registered participants with guidance in the development and design of programs to demonstrate ongoing compliance with their registered technical performance standards. The NER's access standards, from which registered performance standards are derived, are critical inputs into any review of the template.
- 3 This final rule is made in response to a rule change request submitted by the Panel. The request sought to address possible inefficiencies in the current timing of the upcoming review. This is due to the need to consider potential changes to technical access standards from two rule changes submitted by the Australian Energy Market Operator (AEMO).<sup>2</sup>
- 4 The final rule:
  - addresses the need to promptly review the template
  - provides certainty to market participants
  - maintains flexibility for the Panel to be able to consider outcomes from the two access standard rule changes in its review.

## The final rule promotes the efficiency of the template review process

- 5 In making the final rule, the AEMC considers that changing the arrangements and requiring the Panel to conduct the next template review by 19 December 2025 would result in a more efficient process.
- 6 Postponing the review by 12 months will provide scope for the AEMC to progress one, or both, of AEMO's proposed access standard rule changes, thereby providing the Panel with sufficient information ahead of the review. A 12-month delay is expected to allow the first package of access standard changes to be assessed, given it is being considered via a fast-track rule change process.<sup>3</sup> There will also be more information on the second rule change package available by that time to inform the Panel.
- 7 The final rule is expected to benefit all stakeholders. An up-to-date template that accurately reflects NER access standards will better support technical compliance and enhance NEM system security to the benefit of all consumers of electricity. Registered participants will avoid redundant consultation periods and an uncertain review timeline, better enabling them to plan their compliance programs. Postponing the review will ensure that stakeholder consultation is clear and targeted, benefiting the market bodies, including the Panel, AEMO and the Australian Energy Regulator (AER).

1 The last review of the template was completed in 19 December 2019, and the review needs to occur every five years. See <https://www.aemc.gov.au/market-reviews-advice/generator-compliance-template-review-2019>.

2 See [Improving NEM access standards – Package 1](#); [Improving NEM access standards – Package 2](#).

3 On 14 November 2024, the AEMC published the notice to fast-track the Improving NEM access standards – Package 1, see <https://www.aemc.gov.au/rule-changes/improving-nem-access-standards-package-1>.

## The Commission expedited this rule change request

- 8 The rule change request was expedited on the basis that it is non-controversial and unlikely to have a significant impact on the NEM.<sup>4</sup> This is because:
- The scope is limited and does not call for greater reform to the NER.
  - Delaying the Panel's review for 12 months does not prevent registered participants from developing and maintaining compliance programs sufficient to demonstrate compliance with registered performance standards. The template's guidance remains valid over this period.
  - All stakeholders, including market bodies and participants, are expected to benefit from this rule change through having a more efficient review and consultation process. See further details in appendix A.3.
- 9 The Commission received no objections to progressing this rule change on an expedited basis.
- 10 Submissions were due on 1 November 2024. The Commission received no submissions on the rule change request.
- 11 The rule will commence on 5 December 2024. It will only apply to the upcoming template review. All future reviews will be undertaken according to the five-yearly review cycle, or at the request of the AEMC, as specified in clause 8.8.3(ba) of the NER.

## We assessed our final rule against three assessment criteria using regulatory impact analysis

- 12 The Commission has considered the NEO<sup>5</sup> and the issues raised in the rule change request, and assessed the final rule against three assessment criteria outlined below. We undertook regulatory impact analysis in relation to these criteria.
- 13 The final rule will contribute to achieving the NEO by:
- **Promoting security within the NEM** – the final rule promotes security in the NEM by enhancing the efficient operation of services, in particular, generation facilities. The final rule will ensure the updated template is fit for purpose and effectively supports registered participant compliance by providing guidance for the design of compliance programs that reflect any amended access standards.
  - **Improving the efficiency and effectiveness of the template review** – the final rule improves efficiency of the upcoming review by addressing timing concerns and improving certainty. The final rule will avoid any additional costs and complexities for market participants and market bodies required to participate in and conduct the review.
  - **Ensuring good regulatory practice** – the final rule ensures good regulatory practice by enhancing the predictability, stability, simplicity, and transparency of the review process. It does this by preventing redundant consultation periods.

4 Section 87 of the NEL.

5 Section 7 of the NEL.

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# 1 The Commission has made a final determination

This final determination is to make a rule in response to a rule change request submitted by the Reliability Panel (Panel). The Panel's rule change request sought to delay the commencement of the upcoming review of the template for generator compliance programs (template) by 12 months. See appendix A for detailed information about the process the Australian Energy Market Commission (AEMC or Commission) followed in making this rule.

The Commission's final determination is consistent with that proposed by the Panel. The final rule is a transitional rule that will solely apply to the next template review. Existing arrangements under clause 8.8.3(ba) of the NER will continue to apply to subsequent template reviews.

## 1.1 Our final rule will require the Panel to commence the next scheduled template review by 19 December 2025

Our final rule will better align the timing of the Panel's template review with the AEMC's consideration of two rule changes submitted by the Australian Energy Market Operator (AEMO) that seek to amend technical access standards.<sup>6</sup> It requires the Panel to commence the next scheduled template review by 19 December 2025. See appendix C.3 for further details on AEMO's two access standard rule changes.

The Commission considers that current requirements for the Panel to conduct the template review by 19 December 2024 do not result in an efficient process that best supports security in the NEM. The Commission's final determination advances the NEO relative to existing arrangements as it:

- enhances system security in the NEM
- improves review process efficiency
- is more transparent, predictable, and certain for stakeholders.

In making its decision, the Commission considered the tension between:

- the need for a prompt template review, since it has been five years since the last review, and the value of delaying the review to wait for the Commission to make a decision on both access standard rule changes; and
- providing certainty on the review process and retaining flexibility, given the uncertainty in the AEMC's rule-making timelines.

The Commission considers its final rule balances these tensions. Further details are provided in chapter 2.

The Commission received no submissions on the rule change request.

<sup>6</sup> See [Improving NEM access standards – Package 1](#); [Improving NEM access standards – Package 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.<sup>7</sup>

For this rule change, the relevant energy objective is the national electricity objective (NEO):

The NEO is:<sup>8</sup>

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

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system; 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.<sup>9</sup>

### 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.

See appendix D for more detail on the legal requirements for our decision.

### 2.3 How we have applied the legal framework to our decision

The Commission must consider how to address potential inefficiencies arising from the current review process against the legal framework.

We identified the following criteria to assess whether the proposed rule change, no change to the rules (business-as-usual), or other viable, rule-based options are likely to better contribute to achieving the NEO:

- **Safety, security and reliability – services** – Would the rule change promote efficient operation and use of, and investment in, generation facilities, load, storage, networks and other system service capability?

<sup>7</sup> Section 88(1) of the NEL.

<sup>8</sup> Section 7 of the NEL.

<sup>9</sup> Section 32A(5) of the NEL.

- **Implementation considerations – cost and complexity, timing and uncertainty** – Would the rule change balance the cost and complexity of implementation and ongoing regulatory and administrative costs to all market participants, consumers and market bodies, across all potential solutions? Would this encourage successful implementation, including through clear roles for market participants and market bodies?
- **Principles of good regulatory practice** –
  - **predictability and stability** – Would the rule change promote predictability and stability in the regulatory framework for stakeholders?
  - **simplicity and transparency** – Would the rule change promote simplicity and transparency for all stakeholders?
  - **consider broader direction of reform** – Would the rule change interact constructively with other reforms underway?

These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request, within the scope of the NEO. Our reasons for choosing these criteria are set out in section 4.2 of the consultation paper.

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

### 2.3.1 The final rule promotes security within the NEM

The Commission's final rule promotes security by supporting the efficient operation of services, and in particular, generation facilities.

High levels of compliance with technical access standards is fundamental to the safe and secure operation of the NEM. The template for generator compliance programs assists parties with the development and design of programs that demonstrate ongoing compliance with the technical performance standards applicable to their plant. Effective compliance supports efficient system operation and the determination of market constraints that accurately reflect ongoing plant capabilities.

The template must accurately reflect the NER's technical access standards to effectively promote security within the NEM. Amending the NER deadline for the Panel to review the template will allow better consideration of the AEMO access standard rule changes, and any changes, in a timely manner.

The Commission considered the tension between needing a review to update the template, given it has not been reviewed for five years, and a longer delay that would allow decisions on AEMO's rule changes to be made. The Commission considers a 12-month delay to be a reasonable balance.

The Commission considered if a longer delay was appropriate to clearly provide sufficient time for both rule changes to be made. The Commission considers this would not be preferable as it would mean that the template would be substantially out of date. This could result in an ineffective compliance regime for a potentially extended duration. The Commission also notes the NER requirement that a registered participant institute and maintain a compliance program consistent



with the template no later than six months after the plant commences operation, or six months after amendments to the template are published by the Panel.<sup>10</sup>

Given the Commission has announced that AEMO's Package 1 rule change will be progressed on a fast-track process, it is likely that a decision will be made on those access standards by the time the review commences at the end of 2025.<sup>11</sup> In this case, the review will be able to take into account any new access standards and allow for an updated template to be used by market participants at the conclusion of the review. It is also likely that there will be more clarity around the process and timing of Package 2 of AEMO's rule change at this time.<sup>12</sup>

### 2.3.2 The final rule improves the efficiency and effectiveness of the template review

The Commission's final rule will enhance the efficiency and effectiveness of the template review process. Under the final rule, the review will commence with the benefit of more clarity on the status of the rule changes.

The Commission agrees with the Panel's concern that existing arrangements would result in an inefficient process. The final rule will also avoid redundant consultation periods and ensure a more focused template review. The NER requires the Panel to conduct at least four weeks of consultation at the start of the review process.<sup>13</sup> This consultation would have limited benefit if the rule change requests are not completed at the start of the review.

The Commission considers its final rule will facilitate an efficient review process that will minimise Panel and stakeholder time and resources. It would lead to the most fit-for-purpose template that best enhances market participants' compliance with performance standards.

### 2.3.3 The final rule promotes good regulatory practice

The final rule is consistent with good regulatory practice as it balances predictability and stability, simplicity and transparency, and the need to promptly review the template. It provides scope for the AEMC to make a decision on the access standard rule changes and maintains flexibility for the Panel given the potential uncertainty in the rule-making timelines.

The final rule delays the Panel commencing the review until 19 December 2025. Specifying a commencement date in the NER maximises the scope for the AEMC to make one or both access standard rule changes prior to the review's commencement.

The Commission considered whether only specifying a commencement date was consistent with good regulatory practice. The current consultation requirements in the NER do not specify precise timing for the template review.<sup>14</sup> As such, the Commission considered whether the final rule should also specify a conclusion date for the review. However, it decided that it should not.

The Commission acknowledges that this approach makes the review's timeline and publication date for a new template more uncertain. However, this approach maximises flexibility in the review process. This will be beneficial considering potential uncertainty in the rule-making timelines.<sup>15</sup> This ensures the review process interacts constructively with AEMO's proposed rule changes.

10 See clauses 4.15(b)(2) and (c)(3). Under clause(c)(3), the Panel may also determine another date.

11 See [Improving NEM access standards – Package 1](#).

12 [Improving NEM access standards – Package 2](#).

13 See clause 8.8.3(e) of the NER.

14 Clauses 8.8.3(ba) and (c2) - (l) NER set out the consultation process for a review of the template. The deadline for the report for the review is specified by the AEMC in its request for the review and therefore, the timing is not set by the NER. See paragraph 8.8.3(j).

15 Particularly for Package 2 of AEMO's rule changes, which the Commission has not yet initiated.

The AEMC may specify a review conclusion date when it issues the review's terms of reference. This approach will provide certainty and transparency for stakeholders about when the review will be completed and the template updated.

Should it not be possible for the Panel to consider either or both packages of access standard changes in this template review, clause 8.8.3(ba) provides scope for the AEMC to request an ad hoc follow-up template review outside of the minimum five-year cycle.

## 3 How our rule will operate

### 3.1 The final rule specifies when the Panel must commence the review

#### Box 1: The final rule specifies when the Panel must commence the review

Our final determination is to:

- Require the Panel to commence the next review by 19 December 2025 but not to specify a conclusion date for the review.

The final rule requires the Panel to commence the next template review by 19 December 2025.<sup>16</sup> The final rule does not include a conclusion date for the review.

In recognition that market participants would like certainty in the review's timeline and the outcome for the template, the Commission considered including a conclusion date. Doing so would provide maximum certainty to stakeholders on when they can expect a new template to be issued and, therefore, need to update their assets' compliance programs. However, this approach would not allow flexibility for the Panel to consider the outcomes from both Package 1 and Package 2 of AEMO's rule changes.

While the AEMC is likely to make a decision on Package 1 within the next calendar year, Package 2 has a more uncertain timeline.<sup>17</sup> Enabling the Panel to commence the review by 19 December 2025 and not to specify a conclusion date allows the review to run on an extended timeline, if necessary.

### 3.2 The final rule will only apply to the upcoming template review

#### Box 2: The final rule will only apply to the upcoming template review

Our final determination is to:

- Insert a transitional rule into the NER that delays the Panel's commencement of the next template review by 12 months to 19 December 2025.

The final rule inserts a transitional rule into the NER that delays the Panel commencing the upcoming template review by 12 months to 19 December 2025.<sup>18</sup> This is a transitional rule, which means it does not apply permanently. It solely applies to the upcoming review, with subsequent reviews occurring on the required five-yearly cycle or at the AEMC's request.<sup>19</sup>

<sup>16</sup> Clause 11.178 of the final rule.

<sup>17</sup> On 14 November 2024, the AEMC published the notice to fast-track the Improving NEM access standards – Package 1, see <https://www.aemc.gov.au/rule-changes/improving-nem-access-standards-package-1>.

<sup>18</sup> Rule 11.178 of the final rule.

<sup>19</sup> See clause 8.8.3(ba) of the NER.

## A Rule making process

This rule change has used the expedited rule change process set out in section 96 of the NEL. An expedited 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 have an opportunity to object to the expedited process
- stakeholders lodge submissions on the consultation paper
- the Commission publishes a final determination and final rule (if relevant).

You can find more information on the rule change process on our website.<sup>20</sup>

### A.1 The Reliability Panel proposed a rule to delay the commencement of the upcoming template review by 12 months

On 29 July 2024, the AEMC received a rule change request from the Reliability Panel seeking to delay commencing the next scheduled review of the template for generator compliance programs review by 12 months to 19 December 2025. The extension in time would solely apply to the upcoming review.

The Panel considered its proposed rule change would allow the review to progress more efficiently. This is because it would provide an opportunity for the Panel to consider outcomes from the rule change requests submitted by AEMO to the AEMC on technical access standards. These packages form key considerations for the upcoming review.<sup>21</sup>

### A.2 The proposal sought to address potential inefficiencies in the upcoming review

On 4 April 2024, AEMO submitted two rule change requests to the AEMC that are seeking to change the NER's technical access standards.<sup>22</sup>

Technical access standards are a key input into any review of the template as the template provides specific guidance and test methods for registered participants to use to demonstrate compliance with each access standard in the NER. In addition to these standards, the Panel would consider the following in each review:

- changes to generating and other technology in the NEM
- outcomes of any power system incidents relevant to compliance with technical standards
- any relevant NER changes, including changes to the NER's access standards.

Within these two packages, AEMO proposes to expand the access standard obligations for synchronous condensers, high-voltage direct current links and loads. See further detail on AEMO's rule changes in appendix C.3. These potential changes would be relevant to the template given the NER requirement that the template covers all performance standards and defines suitable testing and monitoring regimes.<sup>23</sup> This would ensure that all applicable registered participants (not just generators) can demonstrate compliance with their technical performance obligations.

<sup>20</sup> See our website for more information on the rule change process: <https://www.aemc.gov.au/our-work/changing-energy-rules>.

<sup>21</sup> For further information, see [Improving NEM access standards – Package 1](#); [Improving NEM access standards – Package 2](#).

<sup>22</sup> See [Improving NEM access standards – Package 1](#); [Improving NEM access standards – Package 2](#).

<sup>23</sup> See rule 4.15(ca) of the NER.

An understanding of the changes arising from AEMO's access standard rule changes will be critical for the Panel to establish a fit-for-purpose template. The AEMC has announced the initiation of the first rule change request on the fast-track process. The second rule change has not yet been initiated.

### A.3 The proposal is expected to benefit all stakeholders

The Panel considered that the rule will maximise benefits for all stakeholders. Postponing the review by 12 months could allow the upcoming template review to proceed with at least the outcomes from Package 1 of AEMO's rule changes at its commencement. This would ensure a most fit-for-purpose template would be produced. It would provide the greatest degree of confidence and transparency for the largest number of registered participants.

Specifically, the Panel considered that all stakeholders will benefit from this rule because:

- registered participants would avoid redundant consultation periods and an uncertain review timeline. Postponing the review would ensure that stakeholder consultation is clear and targeted by including the outcomes from at least Package 1. It would therefore minimise stakeholder resources and cost requirements.
- a focused template review would benefit market bodies, including the Panel, AEMO and the AER.

Throughout the rule-making process, stakeholders did not highlight any dis-benefits to any parties.

### A.4 The process to date

On 3 October 2024, the Commission published a notice advising of the initiation of the rule making process and consultation in respect of the rule change request.<sup>24</sup> A consultation paper identifying specific issues for consultation was also published.

The Commission considered that the rule change request was a request for a non-controversial rule as defined in s. 87 of the NEL. Accordingly, the Commission initiated an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 18 October 2024.

No written requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.<sup>25</sup>

The Commission invited submissions on the Rule change proposal by 1 November 2024. The Commission received no submissions on the rule change request.

<sup>24</sup> This notice was published under section 95 of the NEL.

<sup>25</sup> Section 96 of the NEL.

## B Regulatory impact analysis

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

### B.1 Our regulatory impact analysis methodology

#### **We considered a range of policy options**

The Commission compared a range of viable policy options that are within our statutory powers. The Commission analysed these options: the rule proposed in the rule change request; and a business-as-usual scenario where we do not make a rule.

#### **We identified who will be affected and assessed the benefits and costs of each policy option**

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

Table B.1 summarises the regulatory impact analysis the Commission undertook for this rule change. Based on this, the Commission evaluated the primary potential costs and benefits of policy options against the assessment criteria. The Commission's determination considered the benefits of the options against the costs.

**Table B.1: Regulatory impact analysis methodology**

| Assessment criteria   | Primary costs Low, medium or high | Primary benefits Low, medium or high   | Stakeholders affected   | Methodology<br>QT = quantitative, QL = qualitative   |
|---|-----------------------------------|--|---|--|
| <b>Safety, security and reliability</b> – services  | Nil                               | Enhances participants' certainty around compliance with technical performance standards and provides clarity in the development of participants' compliance programs (high).   | <ul style="list-style-type: none"> <li>Market participants that must implement a compliance program.</li> </ul> | <ul style="list-style-type: none"> <li>QL: consideration of inputs into a review of the template for generator compliance programs.</li> </ul>   |
| <b>Implementation considerations</b> – cost and complexity, timing and uncertainty  | Nil                               | Provides greater certainty regarding the review's timeline and potential amendments to the template. It will minimise market participant and Panel resources required to participate in, and conduct, the review (high).   | <ul style="list-style-type: none"> <li>Market participants that must implement a compliance program.</li> </ul> | <ul style="list-style-type: none"> <li>QL: consideration of the timelines the template review and the technical access standard packages will progress on. This includes when we may expect outcomes from the packages to consider in the review.</li> </ul> |
| <b>Principles of good regulatory practice</b> – Predictability and stability, simplicity and transparency, consider broader direction of reform | Nil                               | Reduces uncertainty in the template review duration and process, promotes simplicity and transparency for all stakeholders by avoiding redundant consultation periods, ensures the review interacts constructively with AEMO's proposed amendments to technical access standards (high). | <ul style="list-style-type: none"> <li>Market participants that must implement a compliance program.</li> </ul> | <ul style="list-style-type: none"> <li>QL: consideration of the resources and time required to conduct a template review and the requirements of a Market Participant to have a suitable compliance program for their assets.</li> </ul>                     |

## C Additional background and context

Clause 8.8.1(2B) of the NER requires the Panel to determine, and modify where necessary, the template for generator compliance programs.

### C.1 The template provides guidance on the design of programs that demonstrate ongoing compliance with technical performance standards

The template assists generators with the development and design of programs that are used to demonstrate ongoing compliance with the technical performance standards applicable to their plant. The NER requires a registered participant to comply with the performance standards that are set out in its connection agreement.<sup>26</sup> Registered participants are also required to develop and maintain a performance standards compliance program that is consistent with the template.<sup>27</sup>

The template clarifies what constitutes good electricity industry practice regarding technical standard compliance. It specifies:

- a set of compliance principles
- information about the compliance framework
- a table detailing the specific test methods and procedures that may be used to demonstrate compliance with each of the technical performance standards set out in the Schedule to Chapter 5 of the NER.

### C.2 The Panel is required to review the template every five years

The NER requires the Panel to review the template every five years and at such other times as the AEMC may request.<sup>28</sup> The last review of the template was completed on 19 December 2019.<sup>29</sup> This meant that without the final rule, the Panel would have been required to conduct the next review by 19 December 2024.<sup>30</sup>

This five-year review cycle means that the template is periodically considered, ensuring its suitability for use in a changing NEM. In each review, the Panel would consider changes that have occurred over the previous five years, including:

- changes to generating and other technology in the NEM
- outcomes of any power system incidents relevant to compliance with technical standards
- any relevant NER changes, such as changes to the NER's access standards.

### C.3 AEMO has proposed two packages of access standard rule changes that are relevant to the review's timing

The template provides specific guidance and test methods for use by registered participants to demonstrate compliance with each access standard in the NER. The technical access standards,

<sup>26</sup> See rule 4.15(a)(1) of the NER.

<sup>27</sup> See rule 4.15(c) of the NER.

<sup>28</sup> See clause 8.8.3(ba) of the NER.

<sup>29</sup> The Reliability Panel, [Generator Compliance Template Review](#), 2019.

<sup>30</sup> Clause 8.8.2(ba) of the NER requires the Panel to 'conduct' a review at least every 5 years from the date of the last review. The AEMC confirms whether this deadline is for the commencement or conclusion in the review's terms of reference.



from which registered performance standards are derived, are therefore critical inputs for a template review.<sup>31</sup>

On 4 April 2024, the Australian Energy Market Operator (AEMO) submitted two rule change requests as two separate packages of proposed changes to the NEM's access standards for connections.

- **Package 1** includes changes to access standards for generators, integrated resource systems, synchronous condensers and high-voltage direct current (HVDC) links. The AEMC initiated this rule change request on 14 November 2024 and decided to progress this package on a fast-tracked process in light of the significant consultation undertaken during AEMO's 'Access Standards Review'.<sup>32</sup>
- **Package 2** includes a set of less-developed changes to the NER. This includes amendments to obligations for loads. AEMO's rule change request proposed the AEMC considers these changes using the standard rule change process as they would benefit from more consultation than the changes in Package 1. The AEMC has not yet initiated this rule change request.

The expansion of access standard obligations for synchronous condensers and HVDC links in Package 1 and loads in Package 2 is relevant to the template given the NER requirement that it covers all performance standards and defines suitable testing and monitoring regimes.<sup>33</sup> This ensures that applicable registered participants (not just generators) can demonstrate compliance with their technical performance obligations.

31 Performance standards form part of the terms and conditions of the connection agreement between a registered participant and the network service provider. Access standards define the range of technical requirements for the operation of equipment when negotiating the connection of generators, customers and market network service providers.

32 See [Improving the NEM access standards – Package 1](#).

33 See rule 4.15(ca) of the NER.

## D 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.

### D.1 Final rule determination and final rule

In accordance with section 102 of the NEL, the Commission has made this final rule determination in relation to the rule proposed by the Reliability Panel.

The Commission's reasons for making this final rule determination are set out in chapter 2.

A copy of the final rule is attached to and published with this final determination. Its key features are described in chapter 3.

### D.2 Power to make the rule

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

The final rule falls within section 34(1)(a)(ii) and (iii) of the NEL as it relates to the operation of the national electricity system for the purposes of safety, security and reliability of that system, and to the activities of persons (including registered participants) involved in the operation of the national electricity system.

### D.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
- the Commission's analysis as to the ways in which the final rule will or is likely to contribute to the achievement of the NEO
- 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.<sup>34</sup>

### D.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.<sup>35</sup> Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.

As the 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

<sup>34</sup> 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.

<sup>35</sup> These regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations 2016.

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:<sup>36</sup>

1. the national electricity system
2. one or more, or all, of the local electricity systems<sup>37</sup>
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.<sup>38</sup> 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.<sup>39</sup>

The Commission’s final 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 2.

## **D.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 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.

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

<sup>36</sup> Clause 14A of Schedule 1 to the NT Act, inserting section 88(2a) into the NEL as it applies in the Northern Territory.

<sup>37</sup> These are specified Northern Territory systems, listed in schedule 2 of the NT Act.

<sup>38</sup> Clause 14B of Schedule 1 to the NT Act, inserting section 88AA into the NEL as it applies in the Northern Territory.

<sup>39</sup> 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.

## Abbreviations and defined terms

|            |   |
|------------|---|
| AEMC       | Australian Energy Market Commission   |
| AEMO       | Australian Energy Market Operator   |
| AER        | Australian Energy Regulator   |
| Commission | See AEMC  |
| HVDC       | High-voltage direct current   |
| NEL        | National Electricity Law  |
| NEM        | National Electricity Market   |
| NEO        | National Electricity Objective  |
| NER        | National Electricity Rules  |
| Panel      | Reliability Panel   |
| Proponent  | The individual / organisation who submitted the rule change request to the Commission |
| Template   | The template for generator compliance programs  |