

## Consultation paper

# National Electricity Amendment (Removing the requirement to publish transmission information guidelines) Rule 2025

### Proponent

Australian Energy Regulator (AER)

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**Reference: ERC0404**

## 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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To cite this document, please use the following:

AEMC, Removing the requirement to publish transmission information guidelines, Consultation paper, 30 January 2025

## Summary

- 1 The Australian Energy Regulator (AER) (the proponent) submitted a rule change request to the Australian Energy Market Commission (AEMC) on 15 October 2024, proposing an amendment to the National Electricity Rules (NER) relating to the Electricity Transmission Information Guidelines (the Information Guidelines).
- 2 The AER has proposed a rule change to amend the NER to remove rule 6A.17, and hence remove the obligations on the AER to publish the Information Guidelines and on electricity transmission network service providers (TNSPs) to report against the Information Guidelines, as set out in that rule.
- 3 The rule change request says that the information required by the AER has been incorporated into the Annual Information Orders for transmission networks (the Orders) which supersede the information requirements in the Information Guideline. As such the AER consider that the Information Guidelines are now redundant and impose an unnecessary burden on both the TNSPs and the AER.
- 4 The AER propose that the rule change will remove a duplication for TNSPs, that could arise as a result of TNSPs having to produce the same information under the Information Guidelines and the Orders. It will also streamline the information gathering done by the AER. The Orders published on 5 April 2024, will apply to transmission networks from the 2024-25 regulatory year, for four years.
- 5 The AEMC has commenced its consideration of the request, and this consultation paper is the first stage.
- 6 In addition to seeking feedback on the proposed rule change itself, we are also seeking feedback on whether this rule change should remain expedited.

## We are seeking your views on the AER's characterisation of the issues, and on whether the AER's proposal to remove the Information Guidelines would address these issues

- 7 From 1 April 2025, the AER considers that if their proposed rule change is not completed, TNSPs will be required to provide transmission information under both the Information Guidelines and the Orders. It considers this to be an issue, as it duplicates information reporting requirements for TNSPs.
- 8 The AER will also be required to publish and maintain the Information Guidelines to stay compliant with the NER. It also considers this to be an issue, as it will lead to unnecessary costs and complexity, given it intends to use the Orders.
- 9 We are seeking your feedback on the AER's characterisation of the problem and its assessment that under existing NER arrangements, there will be a duplication. See further details in Chapter 2.
- 10 The AER proposes that duplicate information reporting requirements for TNSPs would be addressed by removing the Information Guidelines obligations from the NER.
- 11 The AER and TNSPs are bound by the Information Guidelines obligations in rule 6A.17 of the NER.<sup>1</sup> This requirement is in force at all times.
- 12 The AER is unable to remove the reporting obligation from TNSPs to report against the

<sup>1</sup> RCR, page 5: NER, clause 6A.17.2(c), clause 6A.17.2(i).

#### Information Guidelines.

- 13 The AER propose a rule change, to amend the NER to remove rule 6A.17. It considers that this rule change would remove the obligations on the AER to publish the Information Guideline, and TNSPs to report against the Information Guidelines.
- 14 The AEMC is seeking your feedback on whether the proposed solution would address the issue raised by the AER in their rule change request. See further details in Chapter 3.

### The Commission has decided to use the expedited rule change process

- 15 The AER requested that the AEMC progress this rule change request as an expedited process. The expedited rule change process is shorter than the standard process, running for eight weeks and is used when a rule change request is either urgent or non-controversial.<sup>2</sup>
- 16 The AER considers that the proposed rule change is non-controversial, as it is unlikely to have a significant effect on the wholesale electricity market or the interconnected national electricity system. The rule change request also sets out the consultation that the AER has already undertaken. It notes support from TNSPs and a lack of concerns raised by other stakeholders throughout the AER's earlier review and consultation processes.
- 17 The Commission agrees with the AER's proposal that this request is a request for a non-controversial rule. We consider that the rule change, if made, is unlikely to have a significant effect on the wholesale electricity market or the interconnected national electricity system because the scope of the request relates to information gathering, seeks to remove duplication and does not appear to have a material impact on the way that the market or electricity system operate.
- 18 Participants can object to the Commission treating this on an expedited basis. Objections are due by **13 February 2025**. The process on how to object to an expedited process is set out from paragraph [22] below.
- 19 Given the use of the expedited process, which does not include a draft rule stage, we have also published indicative rule drafting (including a mark-up of the NER), based on the solution proposed by the AER for stakeholder information and comment.

### We consider that there are two assessment criteria that are most relevant to this rule change request

- 20 Considering the NEO<sup>3</sup> and the issues raised in the rule change request, the Commission proposes to assess the rule change request against two assessment criteria. These being:
  - **Implementation considerations:** The rule change, if implemented, should reduce cost and complexity for participants and facilitate compliance with the NER. This suggested benefit will be balanced against the benefits (where identified) of existing arrangements.
  - **Principles of good regulatory practice:** The rule change, if implemented, should simplify reporting obligations for TNSPs and reduce complexity for other stakeholders by reducing duplicate gathering, storage and publication of information. Once again, these suggested benefits will be balanced against the benefits (where identified) of existing arrangements.
- 21 We request stakeholder feedback on these criteria.

<sup>2</sup> NEL, sections 87 and 96.

<sup>3</sup> NEL, section 7.

## Submissions are due by 27 February 2025

- 22 There are multiple avenues to provide your feedback throughout the rule change process.
- 23 Written objections to the expedited process must be lodged with the Commission by **5pm, 13 February 2025** via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au).
- 24 Written submissions responding to this consultation paper must be lodged with the Commission by **27 February 2025** via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au).

## Full list of consultation questions

**Question 1: Do you agree with the AER's views on the benefits, costs and risks of the rule change?**

**Question 2: Do you agree with the implementation approach?**

Are you aware of any other clauses in the NER that should be amended to completely remove the Information Guidelines from the Rules?

Do you agree with the proposed commencement date?

**Question 3: Assessment framework**

Do you agree with the proposed assessment criteria?

Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

## How to make a submission or object to an expedited process

### We encourage you to make a submission

Stakeholders can help shape the solutions by participating in the rule change process. Engaging with stakeholders helps us understand the potential impacts of our decisions and, in so doing, contributes to well-informed, high quality rule changes.

We have included questions in each chapter to guide feedback, and the full list of questions is above. However, you are welcome to provide feedback on any additional matters that may assist the Commission in making its decision.

### How to make a written submission

**Due date:** Written submissions responding to this consultation paper must be lodged with the Commission by 27 February 2025.

**How to make a submission:** Go to the Commission’s website, [www.aemc.gov.au](http://www.aemc.gov.au), find the “lodge a submission” function under the “Contact Us” tab, and select the project reference code ERC0404.<sup>4</sup>

You may, but are not required to, use the stakeholder submission form published with this consultation paper.

Tips for making submissions are available on our website.<sup>5</sup>

**Publication:** The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).<sup>6</sup>

### How to object to an expedited process

The Commission proposes to use an expedited process (eight weeks, one round of consultation) for this rule change for the reasons set out in section 1.2. You can object to this process. We will switch to the standard rule change process if we receive a valid objection.<sup>7</sup>

**Due date:** Written objections to the expedited process must be lodged with the Commission by 13 February 2025.

**How to lodge an objection to the expedited process:** Go to the Commission’s website, [www.aemc.gov.au](http://www.aemc.gov.au), find the “lodge a submission” function under the “Contact Us” tab, and select the project reference code ERC0404.<sup>8</sup>

**Contents:** Objections must set out the reasons why you consider the Rule is not unlikely to have a significant effect on the national electricity market.

**Publication:** The Commission publishes objections on its website. However, we will not publish materials that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).<sup>9</sup>

<sup>4</sup> If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission.

<sup>5</sup> See: <https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/submission-tips>

<sup>6</sup> Further information is available here: <https://www.aemc.gov.au/contact-us/lodge-submission>

<sup>7</sup> See section 96 of the NEL. The Commission will consider if the reasons set out in the objection are misconceived or lacking in substance.

<sup>8</sup> If you are not able to lodge an objection online, please contact us and we will provide instructions for alternative methods to lodge the objection.

<sup>9</sup> Further information is available here: <https://www.aemc.gov.au/contact-us/lodge-submission>

## For more information, you can contact us

Please use the form on the project page to contact the project leader with questions or feedback at any stage.

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# 1 The context for this rule change request

On 15 October 2024, the AEMC received a rule change request from the Australian Energy Regulator (AER) to amend the National Electricity Rules (NER) to remove the requirement on the AER to publish the Electricity Transmission Information Guidelines (the Information Guidelines) and for electricity transmission network service providers (TNSPs) to report against them.

The rule change request seeks to address an issue identified by the AER, that the requirement for the AER to publish the Information Guidelines will result in a duplicate information reporting burden.<sup>10</sup> This is because TNSPs and regulated interconnectors will soon be required to share the same information to the AER under both the Information Guidelines and the new Annual Information Orders (the Orders).<sup>11</sup>

The AER has issued the Orders to both TNSPs and regulated interconnectors.<sup>12</sup>

This section provides an overview of the AER's rule change request, along with relevant context and background. It considers:

- the current regulatory regime for transmission information reporting
- the AER's proposal that the rule change be expedited
- the AEMC's rule change process.

## 1.1 The current regulatory regime for transmission information reporting

### 1.1.1 The AER initially developed the Information Guidelines

The AER says that in accordance with NER 6A.17.2, it is required to publish Information Guidelines for TNSPs. The Information Guidelines set out the basis that TNSPs must provide annual and other ad-hoc information to the AER throughout the regulatory control period.<sup>13</sup> This includes:

- specific financial information (regulatory accounts)
- other information, including operating and capital expenditure, corporate details and audit/review reports.

The AER first published the Information Guidelines in 2007 and most recently revised it in 2015.<sup>14</sup>

Rule 6A.17 has two parts:

- Clause 6A.17.1 that requires TNSPs to provide information to the AER
- Clause 6A.17.2 that requires the AER to prepare, publish and amend the Information Guidelines for TNSPs. This clause also sets out the contents of the Information Guidelines.

Previously, the AER eliminated the duplicate information requirements that arose from the introduction of economic benchmarking and category analysis Regulatory Information Notices (RINs) on both TNSPs and distribution network service providers.<sup>15</sup>

<sup>10</sup> RCR, page 1: AER, Final electricity transmission information guideline (version 2), April 2015.

<sup>11</sup> RCR, page 1: The Information Guidelines apply to both transmission network service providers and regulated interconnectors. Similarly, the AER has issued Annual Information Orders to both transmission network service providers and regulated interconnectors.

<sup>12</sup> RCR, page 1. The AER says in their RCR, that the Information Guidelines apply to interconnectors. As the AER has done, we use transmission network service provider throughout this paper to include regulated interconnectors.

<sup>13</sup> NER, rule 6A.17.

<sup>14</sup> RCR, page 3: The AER made its final decision on Electricity Transmission Network Service Providers information guideline with effect from 28 September 2007 as required under chapter 6A of the National Electricity Rules (NER) and the transitional provisions in clause 11.6.17 of the NER. The Information Guidelines were updated in 2015. See: AER, Electricity Transmission Network Service Providers information guidelines, April 2015 [<https://www.aer.gov.au/industry/registers/resources/guidelines/information-guideline-2015/final-decision>].

<sup>15</sup> RCR, page 3.

### 1.1.2 The AER recently conducted a review into their network information requirements

In March 2022, the AER initiated a review of their consolidated information requirements. The intention of this review was to ensure the information the AER collects from and about regulated electricity transmission and distribution networks is robust, accessible and fit for purpose into the future.<sup>16</sup>

Prior to the review the AER used multiple, separate information requests and RINs to collect information from regulated networks, including the Information Guidelines.<sup>17</sup>

The AER received the feedback that network businesses found this arrangement inefficient, and that it imposed additional costs on network businesses (and the AER).<sup>18</sup>

The AER noted that the reasons for their review of their network information requirements, were:

- the impending expiry of current requirements
- the administrative inefficiency of current arrangements
- changes in the energy sector
- changes to their information requirements.

The key outputs from this review were the Orders, which set out the AER's information requirements, a clear process and timing for future updates to information requirements. The Orders, published on 5 April 2024, impose annual reporting obligations on the regulated network businesses and were issued using the AER's information gathering powers under the National Electricity Law (NEL).<sup>19</sup>

The information requirements set out in the current transmission Information Guidelines were assessed by the AER as part of the consultation process to develop the Orders.<sup>20</sup> The AER says that required information has been incorporated into the Orders for transmission networks and supersedes the information requirements in the Information Guidelines.<sup>21</sup>

The bulk of the AER's underlying information requirements derive from an earlier review - 'Better Regulation Review', undertaken in 2013. These requirements were due to expire in 2024, which prompted the 2022 review.<sup>22</sup>

## 1.2 The AER propose that the rule change should be expedited as it is non-controversial

The AEMC agrees with the AER, to use the expedited rule making process under section 96 of the NEL. This is because we consider the rule change request is unlikely to have a significant effect on the wholesale electricity market or the interconnected national electricity system,<sup>23</sup> because the scope of the request relates to information gathering, seeks to remove duplication and does not appear to have a material impact on the way that the market or electricity system operate. The process for objecting to the expedited rule making process is set out under the subheading 'how to object to an expedited process', after the summary section of this report.

<sup>16</sup> RCR, page 3.

<sup>17</sup> RCR, page 4.

<sup>18</sup> RCR, page 4.

<sup>19</sup> RCR, page 4.

<sup>20</sup> RCR, page 1.

<sup>21</sup> RCR, page 5.

<sup>22</sup> RCR, page 4.

<sup>23</sup> NEL, section 87.

The proposed rule change does not prevent the AER from collecting information required for the performance of its functions or exercise of its powers.

### 1.2.1 The AER previously consulted on their position as part of the information requirements review, with no objections from stakeholders

In developing the Orders, the AER said that it consulted with stakeholders about whether the Information Guidelines should be retained in their current form, or for any other purpose.<sup>24</sup> In the rule change request, the AER says that TNSPs supported the rule change proposal.<sup>25</sup> The ECA described the proposed rule change as ‘unlikely to impact consumers’, although it did not support nor oppose it.<sup>26</sup>

In the absence of an amendment to the NER, the duplicate information reporting under the Information Guidelines and the Orders will impact TNSPs in the national energy market (NEM).

The AER also raised an alternative process in their rule change request. In the circumstance that the expedited process not be considered appropriate, the AER requested that the proposed rule change be considered for a fast-track process.<sup>27</sup> This is to ensure the final rule exists before the duplicate reporting obligations impacting TNSPs from 1 April 2025.

The fast-track process can be used where the request is made by a market regulatory body, and it can demonstrate it has undertaken adequate consultation on the proposed rule change.<sup>28</sup>

## 1.3 We have started the rule change process

This paper is the first stage of our rule change process.

**Table 1.1: The rule change process**

Milestone	Date
The AEMC received the rule change request	15 October 2024
The AEMC published the consultation paper and indicative drafting for the final rule, if made	30 January 2025
Last date to object to the expedited process	13 February 2025
Last date to make submissions to the consultation paper	27 February 2025
The AEMC publishes the final determination and final rule *	27 March 2025

Note: \*(if no valid objections to the expedited process are received)

An expedited rule change request (8 weeks) includes the following formal stages:

- a proponent submits a rule change request
- the Commission commences the rule change process by publishing a consultation paper and seeking stakeholder feedback
- participants have two weeks to lodge an objection to the use of the expedited process
- stakeholders have four weeks to lodge submissions on the consultation paper

<sup>24</sup> RCR, page 9.

<sup>25</sup> RCR, page 9: See Energy Networks Australia, Response to AER – Network Information Requirements Review – Discussion paper, 6 May 2022; TasNetworks, Submission to AER re Network Information Requirements Review, 6 May 2022; AusNet Services, Response to Network Information Requirements Review, 6 May 2022; and Powerlink, Submission to AER Network Information Requirements Review Discussion Paper, 11 May 2022.

<sup>26</sup> RCR, page 7 and 11.

<sup>27</sup> RCR, page 8.

<sup>28</sup> RCR, page 8. See the National Electricity Law section 96A.

- the Commission publishes a final determination and final rule (if relevant and no valid objection to the expedited process is received).

Information about how to provide your submission and other opportunities for engagement is set out at the front of this document. See the subheading 'how to make a written submission', after the summary section of this report.

The AER considers that the rule change should be progressed as soon as possible. This is because the duplicate reporting obligations will start to impact TNSPs from 1 April 2025.

The AER says that AusNet Services Transmission is required to start preparing its annual information submissions for the regulatory period commencing 1 April 2024 and ending 31 March 2025.<sup>29</sup> In the rule change request, the AER note that if the rule change takes effect on or by 31 March 2025 the duplicate reporting obligations will not impact AusNet Services Transmission.<sup>30</sup>

You can find more information on the rule change process on our website.<sup>31</sup>

To make a decision on this proposal, we seek stakeholder feedback on how we propose to assess the request, the stated problem and the proposed solution.

Given the use of expedited process, which does not include a draft rule stage, we have also published indicative drafting for a final rule (if made) and a mark-up of the proposed changes to the NER. This is based on the solution proposed by the proponent and have been published on the project page.

29 RCR, page 7: Other transmission networks report on a financial year ending 30 June basis. As such the duplicate reporting obligation will not impact the remaining 6 transmission networks until 1 July 2025.

30 RCR, page 7.

31 See our website: <https://www.aemc.gov.au/our-work/changing-energy-rules>

## 2 The problem raised in the rule change request

The rule change request seeks to remove the Information Guidelines. Currently, the Information Guidelines must be in force at all times and are binding on both the AER and TNSPs.<sup>32</sup>

Given that the AER is now using its powers to collect information under the NEL provisions relating to regulatory information instruments, it understands that the Information Guidelines will impose a duplicate burden.

This chapter seeks stakeholder feedback on the problem identified in the rule change request – whether it will soon become an issue (from 1 April 2025) and if so, the scale and impact of the issue.

### 2.1 The AER says the existing regulatory framework will result in duplicate information requirements for TNSPs

The rule change request notes that the AER and TNSPs are bound by the Information Guidelines in rule 6A.17 of the NER.<sup>33</sup> The rule requires that the Information Guidelines be in force at all times.<sup>34</sup>

However, the AER is now using its powers to collect information under the provisions that relate to regulatory information instruments, in accordance with the NEL, Part 3, Division 4, subdivision 4.<sup>35</sup> Using the regulatory information instruments provision allows the AER to issue RINs and Orders on TNSPs. The AER can do this so far as it considers it reasonably necessary for the performance or exercise of its functions or powers.<sup>36</sup>

In April 2024, the AER published the Orders to update their information requirements. The information requirements are currently set out in various RINs, information requests and the Information Guidelines.<sup>37</sup> In the future, the AER will use the Orders as a source to obtain necessary information from TNSPs.<sup>38</sup> This differs from the current approach, that sees this information collected under the Information Guidelines.<sup>39</sup>

The AER foresees a problem that will exist from 1 April 2025 for AusNet Services and from 1 July 2025 for the other TNSPs - the duplicate reporting requirements under the Information Guidelines and the Orders.<sup>40</sup>

The AER is unable to remove the reporting obligation from TNSPs to report against the Information Guidelines even though the relevant information requirements are now set out in the Orders. This is because the TNSP's reporting obligations and the requirement on the AER to publish the Information Guidelines are set out in the NER.<sup>41</sup>

32 NER, clause 6A.17.2(c) and clause 6A.17.2(i).

33 RCR, page 5: NER, clause 6A.17.2(c), clause 6A.17.2(i).

34 NER, clause 6A.17.2.

35 RCR, page 5.

36 RCR, page 5: NEL, section 28F.

37 RCR, page 5.

38 RCR, page 5.

39 RCR, page 5. n

40 RCR, page 5.

41 RCR, page 5: NER, rule 6A.17.

## 2.2 The AER foresees that the Information Guidelines will impose an unnecessary regulatory burden on TNSPs, leading to inefficiencies and inconsistencies

The AER says that the duplication of information required to be provided by TNSPs will be a problem from 1 April 2025, and will result in an unnecessary regulatory burden.<sup>42</sup>

The rule change request explains that duplication will arise where the AER seeks the same information from TNSPs under multiple reporting frameworks. Its development of the Orders included an assessment of all existing information requirements, removal of redundant reporting requirements, and integration of new information requirements.<sup>43</sup> Having compared the data requirements in both the Information Guidelines and the Orders, the AER says that the regulatory burden will increase where the data structures or reporting tools differ, or the detailed disaggregation of data differs under each framework, duplicating effort in data compilation and submission.

The AER also considers that the regulatory burden results in varied assurance requirements for each reporting framework. Here, the Information Guidelines require a board certification, and the Orders require a statutory declaration by a company officer.<sup>44</sup>

The AER considers that TNSPs will face inefficiencies in the way that TNSPs share information with the AER, having the obligation to provide the same information under both the Information Guidelines and the Orders. There could also be potential ambiguities and confusion as a result of a regulatory framework that duplicates information requirements.<sup>45</sup>

42 RCR, page 5.

43 RCR, page 5.

44 RCR, page 5.

45 RCR, page 6.

### 3 The proposed solution and implementation

The AER propose a change to the rules to reduce the regulatory burden facing TNSPs as a result of the duplication of information reporting obligations under the existing Information Guidelines and the newly issued Orders.

Under the rule change proposed by the AER, it will no longer have the obligation to publish, and on TNSPs to report against, the Information Guidelines in the NER.<sup>46</sup> The AER submits that without this rule change, TNSPs will face additional costs relating to the duplication of data compilation and assurance requirements. This means that rule 6A.17 is no longer necessary. The AER notes that it will only increase the regulatory burden and has the potential to create ambiguity in the regulatory framework.

This chapter seeks feedback on:

- the solution proposed and any potential alternative solutions
- other implementation matters the Commission may need to consider in making its determination.

#### 3.1 The AER proposes that removing the existing Information Guidelines will resolve the problems TNSPs face in the duplication of regulatory burden

As outlined in Chapter 2, the AER has identified a problem in the way that the existing Information Guidelines will duplicate the information sharing burden on TNSPs. As set out in the rule change request, the AER understands that duplication will arise where it seeks the same information from the regulated networks under multiple reporting frameworks, being the Information Guidelines and the Orders.<sup>47</sup>

In the rule change request, the AER explained that it had reviewed and consulted on the network information requirements more broadly, and the rule change it proposed.<sup>48</sup>

##### 3.1.1 During the AER's review of network information requirements stakeholders raised no objections to the removal of the Information Guidelines to address the duplication of regulatory burden on TNSPs

In March 2022, the AER published a discussion paper that set out their preliminary views about the Orders. It also referred to the potential of a rule change proposal, to remove the obligation for the AER to publish Information Guidelines and to remove the obligation for TNSPs to report against the Information Guidelines. This proposal was made on the basis that the AER should incorporate the existing reporting requirements into the Orders.<sup>49</sup>

In the discussion paper, the AER expressed that:

“Developing an information order that includes the information currently reported against the guideline will mean the guideline becomes redundant, and [we] will put forward a rule change to amend the NER to remove the obligation to publish and report against the guideline.”

<sup>46</sup> NER, clause 6A.17.1 and 6A.17.2.

<sup>47</sup> RCR, page 6.

<sup>48</sup> RCR, page 9.

<sup>49</sup> RCR, page 9: AER, Network Information Requirements Review – Discussion paper, 23 March 2022.

The AER said that they asked stakeholders whether the Information Guidelines should be retained in their current form, or for any other purpose.<sup>50</sup> The AER said that no stakeholders objected to the preliminary view that the Information Guidelines are redundant.<sup>51</sup> Some stakeholders actively supported the rule change proposal, noting that information can be efficiently provided under the current RIN processes or, presumably, using a regulatory information order.<sup>52</sup> Submissions to the discussion paper have been published on the AER's website.<sup>53</sup>

In January 2023, the AER published its preliminary annual information orders.<sup>54</sup> In the accompanying explanatory statement, the AER's preliminary approach was to propose a rule change to delete rule 6A.17 and make any consequential amendments arising from its deletion. The AER said that it only received one submission, from Powerlink, who supported the AER's intention to consult with stakeholders on the proposal to remove the preparation and publication of the Information Guidelines from clause 6A.17.2 of the Rules.<sup>55</sup>

In December 2023, the AER published its draft Annual Information Orders and an accompanying explanatory statement.<sup>56</sup> The AER says that it did not receive any further feedback.

The AER also said that it did not receive any feedback from consumer groups as part of their network information requirement review, and that it reached out to Energy Consumers Australia (ECA).<sup>57</sup> ECA advised the AER that it neither supported nor opposed the rule change, noting it would likely have minimal consumer impacts.<sup>58</sup>

## 3.2 The AER believes that benefits of the proposed change to the rules outweigh the costs (if any).

### 3.2.1 Consumers are not directly impacted by the proposed rule change

The AER did not identify any impact on consumers from the proposed rule change. It considers that the information that consumers, and other broader stakeholder groups may rely upon, will still be collected by the AER under Orders, so it proposes that the rule change will not impact consumers' access to data.

The AER also considers that the potential benefits to consumers are likely to be minimal. The AER says that any administrative savings on the transmission networks will reduce expenditures arising from more efficient information reporting processes, and may increase downward pressure of transmission prices. However, the AER does not consider this material.<sup>59</sup>

### 3.2.2 Transmission networks would directly benefit from the proposed rule change

The AER says that transmission networks will directly benefit from the rule change.<sup>60</sup> This is because the removal of duplicate reporting duties on TNSPs will result in TNSPs:

<sup>50</sup> RCR, page 9.

<sup>51</sup> RCR, page 9: See Energy Networks Australia, Response to AER – Network Information Requirements Review – Discussion paper, 6 May 2022; TasNetworks, Submission to AER re Network Information Requirements Review, 6 May 2022; AusNet Services, Response to Network Information Requirements Review, 6 May 2022; and Powerlink, Submission to AER Network Information Requirements Review Discussion Paper, 11 May 2022.

<sup>52</sup> RCR, page 9: TasNetworks, Submission to AER re Network Information Requirements Review, 6 May 2022.

<sup>53</sup> See: [https://www.aer.gov.au/industry/registers/resources/reviews/networks-information-requirements-review/initiation].

<sup>54</sup> RCR, page 10: AER, Preliminary annual information order – TNSPs, 25 January 2023; AER, Preliminary annual information order – Interconnectors, 25 January 2023; AER, Preliminary annual information orders - Explanatory statement, 25 January 2023.

<sup>55</sup> RCR, page 10: Powerlink, Submission - NIRR - Preliminary Draft Decision, 31 March 2023.

<sup>56</sup> RCR, page 10: AER, Draft Annual Information Orders - Explanatory statement, December 2023.

<sup>57</sup> RCR, page 10.

<sup>58</sup> RCR, page 11: Email to the AER, from Brian Spak, Energy Consumers Australia, 20 June 2024.

<sup>59</sup> RCR, page 13.

<sup>60</sup> RCR, page 13.

- not having to prepare information under two different reporting frameworks
- being reassured that they do not need to provide information under both the Information Guidelines and the Orders
- implementing a single submission process and single reporting date for information they provide to the AER.

The AER also proposes that using the Orders generates the additional benefit of:

- streamlining data collection
- improving data consistency and administrative simplicity through a single reporting framework.

The AER says that TNSPs support the rule change and have not identified any offsetting issues.<sup>61</sup>

### 3.2.3 The AER believes that the benefits of the rule change outweigh the costs

The AER considers that there is little to no risk arising from the proposed rule change. It understands that the change will not impact its access to required information, as it requests relevant information using the Orders.

The AER says that the change does not impact its ability to enforce compliance with annual information requirements, as Orders apply under section 28F of the NEL.<sup>62</sup>

The AER must consider the cost of information requests and be clear about which of their powers and functions the information supports.<sup>63</sup>

The AER acknowledges that while there are residual costs, being the risks relating to the AER collecting redundant information, or not including relevant information in their Orders, the process to develop the Orders has mitigated these risks. It expects that it will deliver a range of benefits including:<sup>64</sup>

- improved data quality
- streamlined information requirements
- more efficient information collection and management for both the AER and regulated networks
- better information sharing by the AER with all stakeholders.

Based on this, the AER proposes that the removal of rule 6A.17 of the NER has limited risks for consumers, or the market.<sup>65</sup>

**Question 1: Do you agree with the AER's views on the benefits, costs and risks of the rule change?**

## 3.3 The AER proposed how the rule change should be implemented

The AER propose that to implement the solution, the Information Guidelines should be removed from the NER.

61 RCR, page 13.

62 RCR, page 13.

63 RCR, page 13.

64 RCR, page 4.

65 RCR, page 14.

As set out in the rule change request, the AER proposes that the AEMC should:

- delete rule 6A.17
- delete the term ‘information guidelines’ from the definitions in Chapter 10
- remove other references to the Information Guidelines throughout the NER
- implement these changes before 1 April 2025.

The AER proposes that the effect of these changes to the NER, would be to remove the Information Guidelines.

As outlined in Section 1.3 of this paper, we have also published indicative drafting for a final rule (if made) and a mark-up of the proposed changes to the NER. This is based on the solution proposed by the proponent.

### 3.3.1 The AER proposes that rule 6A.17 should be deleted

As set out in the rule change request, rule 6A.17 sets out the requirement on the AER to publish the Information Guidelines.<sup>66</sup>

Clause 6A.17.1 sets out the information that TNSPs must provide the AER, including:

- certified annual statements
- additional information as reasonably required.

It also sets out how the AER can use this information, for:

- monitoring, enforcement and compliance with revenue caps and transmission determinations
- monitoring, enforcement and compliance with the cost allocation methodology
- as an input into financial, economic and operational performances for the AER’s decision-making about revenue determinations or other regulatory controls
- monitoring and reporting on performance under any incentive scheme
- the preparation of a TNSPs performance report.

Clause 6A.17.2 requires the AER to prepare, publish and amend the Information Guidelines. The AER must only require information that is reasonably required.<sup>67</sup>

Clause 6A.17.2 also allows the Information Guidelines to specify information regarding discounts/proposed recovery amounts,<sup>68</sup> and cost allocation information.<sup>69</sup>

The AER proposes that all this information will also be collected under the Orders.<sup>70</sup>

Section 3 of the Orders requires TNSPs to prepare and provide the AER with information required in data workbooks, being:<sup>71</sup>

- 02 - operational outputs
- 03 - network metrics
- 05 - service performance
- 06 - operating expenditure
- 07 - capital expenditure

<sup>66</sup> RCR, page 5.

<sup>67</sup> NER clause 6A.17.2(e): RCR, page 16.

<sup>68</sup> NER, clause 6A.17.2(g).

<sup>69</sup> NER clause 6A.17.2(h).

<sup>70</sup> RCR, pages 20 and 21.

<sup>71</sup> AER Annual Information Orders - Electricity TNSPs, section 3.1.1.

- 08 - asset base values
- 09 - revenue and financial statements.

Section 4 of the Orders requires TNSPs to provide additional supporting information to the AER, including a TNSPs information about:<sup>72</sup>

- policies and procedures (regulatory accounting, capitalisation, cost allocation) noting any changes in the reporting period.
- regulatory adjustments
- discretionary row descriptors
- allocation of revenues and expenditures to service segments
- material differences (between target and actual performance, forecast and actual operating and capital expenditure) and reasons.
- service performances information
- third party benefit transactions
- demand management innovation allowance mechanism
- tax standard asset lives, tax reporting
- regulatory investment text expenditure
- related party information
- compliance
- reconciliation of expenditure
- benchmarking asset base
- taxable income adjustments
- interest expenses
- large projects.

### 3.3.2 The AER proposes to delete the definition of Information Guidelines

In the rule change request, the AER notes that Information Guidelines are currently defined in the Glossary.<sup>73</sup>

The existing definition explains that Information Guidelines have the purpose of guiding TNSPs in the submission of certified annual statements and other related information, in accordance with clause 6A.17.2.

The AER proposes that the rules should be changed to remove this definition, as deleting rule 6A.17 would make it redundant.<sup>74</sup>

### 3.3.3 The AER proposes to delete references to the Information Guidelines in other clauses throughout the NER

For completeness, the AER proposes that the following clauses should be amended to delete any references to the Information Guidelines.

- 6A.2.3(a): Removing the Information Guidelines from the list of guidelines.<sup>75</sup>

<sup>72</sup> AER Annual Information Orders - Electricity TNSPs, section 4.

<sup>73</sup> RCR, page 17.

<sup>74</sup> RCR, page 17.

<sup>75</sup> NER, clause 6A.2.3(a): RCR, pages 17 and 18.

- 6A.26.2(c): Removing this clause as there is no specified information in the Information Guidelines about prudent discount amounts (other than annual data collection), meaning there are no existing, relevant requirements of the Information Guidelines under clause 6A.17.2.<sup>76</sup> The AER propose that it only contains instructions that would no longer be needed for the Information Guidelines.
- 11.6.22(b): Removing this clause because the interim arrangements for pricing-related information are no longer relevant.<sup>77</sup>

### 3.3.4 Clause 11.175.2(a)(2) should also be deleted

In addition to the AER's proposal, we consider that clause 11.175.2(a)(2) should also be deleted. Rule 11.175 is a transitional rule that was recently made, consequential to the 'Providing Flexibility in the Allocation of Interconnector Costs' final rule.

Clause 11.175.2 outlines that by 3 July 2025, the AER must review (and where necessary amend) and publish:

- the pricing methodology guidelines; and
- the information guidelines.

It also provides that the AER should do this in compliance with the transmission consultation procedures.

We understand that clause 11.175.2(a)(2) may also need to be deleted, if the AER's proposed rule change is implemented. This deletion is needed to consistently remove all references to the Information Guidelines in the NER.

### 3.3.5 The AER proposes that the rule change should be implemented before 1 April 2025

The AER considers that if made, the proposed rule change should exist before 1 April 2025.<sup>78</sup> This is because AusNet Services Transmission is required to report against the Information Guidelines and the Orders for the period that ends on 31 March 2025.<sup>79</sup> The AER considers that if the rule change is not made before 1 April 2025, AusNet Services Transmission will be subject to the duplicate reporting obligation.

All other TNSPs would be subject to the duplicate reporting obligation, if no rule change is made prior to 1 July 2025.<sup>80</sup>

Accordingly, the AER proposes that the rule change should exist before 1 April 2025 so that it is implemented to effectively prevent the duplicate reporting obligation from arising for all TNSPs.

#### Question 2: Do you agree with the implementation approach?

Are you aware of any other clauses in the NER that should be amended to completely remove the Information Guidelines from the Rules?

Do you agree with the proposed commencement date?

<sup>76</sup> NER, clauses 6A.26.2(c): RCR, page 18.

<sup>77</sup> NER, clause 11.6.22(b): RCR, page 19.

<sup>78</sup> RCR, page 19.

<sup>79</sup> RCR, page 1.

<sup>80</sup> RCR, page 5.

## 4 Making our decision

When considering a rule change proposal, the Commission considers a range of factors.

This chapter outlines:

- issues the Commission must take into account
- the proposed assessment framework
- decisions the Commission can make
- rule-making for the Northern Territory.

We would like your feedback on the proposed assessment framework.

### 4.1 The Commission must act in the long-term interests of consumers

The Commission is bound by the NEL to only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national NEO objective.<sup>81</sup>

The NEO is:<sup>82</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>83</sup>

### 4.2 We propose to assess the rule change using these two criteria

#### 4.2.1 Our regulatory impact analysis methodology

Considering the NEO and the issues raised in the rule change request, the Commission proposes to assess this rule change request against the set of criteria outlined below. These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request. We consider these impacts within the framework of the NEO.

The Commission’s regulatory impact analysis may use qualitative and/or quantitative methodologies. The depth of analysis will be commensurate with the potential impacts of the proposed rule change. We may refine the regulatory impact analysis methodology as this rule change progresses, including in response to stakeholder submissions.

81 Section 88 of the NEL.

82 Section 7 of the NEL.

83 Section 32A(5) of the NEL.

Consistent with good regulatory practice, we also assess other viable policy options - including not making the proposed rule (a business-as-usual scenario) and making a more preferable rule - using the same set of assessment criteria and impact analysis methodology where feasible.

#### 4.2.2 Assessment criteria and rationale

The proposed assessment criteria and rationale for each is as follows:

- **Implementation considerations - cost and complexity**  
We selected this criterion because cost and complexity is fundamental to the rule change. The rule change, if implemented, seeks to avoid potential additional costs and complexities by minimising the resources TNSPs use to respond to information obligations, where the same information is already provided to the AER under a different regulatory instrument.
- **Principles of good regulatory practice - simplicity and transparency**  
The rule change, if implemented, should simplify reporting obligations for TNSPs and reduce complexity for other stakeholders by reducing duplicate gathering, storage and publication of information. Once again, these suggested benefits will be balanced against the benefits (where identified) of existing arrangements.

#### Question 3: Assessment framework

Do you agree with the proposed assessment criteria?

Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

### 4.3 We have three options when making our decision

After using the assessment framework to consider the rule change request, the Commission may decide:

- to make the rule as proposed by the proponent<sup>84</sup>
- to make a rule that is different to the proposed rule (a more preferable rule), as discussed below, or
- not to make a rule.

The Commission may make a more preferable rule (which may be materially different to the proposed 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.<sup>85</sup>

### 4.4 The proposed rule change would not apply in the Northern Territory

Parts of 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>86</sup>

<sup>84</sup> This is set out in the proposed mark up in pages 15 to 19 of the RCR.

<sup>85</sup> Section 91A of the NEL.

<sup>86</sup> National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (**NT Act**). The regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

Chapter 6A (Economic Regulation of Transmission Services) and Chapter 11 Part E of the NER have no effect in the Northern Territory. The proposed rule, if made, would therefore have no effect in the Northern Territory, given that the proposed changes all relate to the Information Guidelines referred to in Rule 6A.17 (which has no effect in the Northern Territory).<sup>87</sup> Consequently, the Commission will not assess the proposed rule against additional elements required by the Northern Territory legislation.

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<sup>87</sup> Under the NT Act and its regulations, only certain parts of the NER have been adopted in the Northern Territory. The version of the NER that applies in the Northern Territory is available on the AEMC website at: <https://energy-rules.aemc.gov.au/ntner>.

## Abbreviations and defined terms

AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
Commission	See AEMC
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
Proponent	The proponent of the rule change request
RCR	The rule change request
RINs	Regulatory Information Notices
TNSPs	Transmission Network Service Providers