



8 September 2025

Ms Anna Collyer
Chair, Australian Energy Market Commission
GPO Box 2008
Melbourne VIC 3001

By email: Anna.Collyer@aemc.gov.au

Dear Anna

REQUEST FOR FURTHER EXTENSION OF FINAL DETERMINATION DATE – NATIONAL ELECTRICITY AMENDMENT (IRSR ARRANGEMENTS FOR TRANSMISSION LOOPS) RULE 2025

The purpose of this letter is to request that the AEMC extends again under section 107 of the *National Electricity Law (NEL)* the date for a Final Determination for the National Electricity Amendment (Inter-regional settlements residue arrangements for transmission loops) Rule 2025.

Such a further extension should be for a sufficient period to ensure that stakeholders are given a reasonable opportunity to provide detailed and quantitative evidence in support of the concerns expressed in submissions made in the period of 21 days permitted by the AEMC after publication of the Directions Paper on 19 June 2025.

Further, the AEMC must allow a sufficient period to undertake and complete a comprehensive consideration, assessment and analysis of all submissions to ensure that the Rule change results in the development of a robust Rule consistent with the National Electricity Objective (**NEO**), consistent with the administrative functions and powers of the AEMC and the AEMC's statutory duties under the NEL.

The requirements of section 107 are clearly met in the present context; the request for the Rule change has raised, and continues to raise, issues of sufficient complexity or difficulty, and the material change in circumstances is self-evident from the Directions Paper. Should the AEMC proceed to make a Final Determination without allowing adequate time for proper consultation and analysis, there is a real risk that the Final Determination (and the process followed by the AEMC in making the Final Determination) will be the subject of scrutiny under an application for judicial review pursuant to section 70 of the NEL.

We remain committed to engaging constructively with the AEMC and welcome the opportunity to contribute to the development of a robust Rule that advances the NEO.

Procedural fairness

Our concern is that the AEMC has made a material change in its direction for the purposes of the proposed Rule change without adequate explanation, sufficient opportunity for detailed submissions or for examination and consideration of those submissions.

This concern is highlighted by the apparent ease with which the AEMC has altered its position on the NEO between the Draft Determination and the Directions Paper.

In the Draft Determination, the AEMC concluded that *"the draft rule would manage risk more effectively than AEMO's proposal as well as providing more stable and cost-reflective outcomes" and that "it would promote the National Electricity Objective (NEO) more effectively"*.

In contrast, and without adequate explanation, in the Directions Paper the AEMC has reached a different conclusion that *"the NEO is promoted by allocating SRA proceeds and unsold SRD units to the importing regions and allocating net negative IRSR to CNSPs in looped regions by regional demand"*.

This shift was made without adequate explanation or transparency regarding the basis for the change. It appears that the key instigator of the change was “*feedback and evidence [from TNSPs] of the significant and unmitigated risk to their cash flow – and the implications for consumers – arising from the risk of potentially extreme negative IRSR*”. However, this evidence was not published for public scrutiny, nor validated by AEMO who is best placed to forecast the potential frequency and magnitude of negative IRSR events as the rule change proponent, and the operator responsible for the dispatch equations applied to the loop.

All market participants have a legitimate expectation that procedural fairness will be afforded to them and that the AEMC will arrive at a well-reasoned and ultimately reasonable position in relation to the consultation in respect of, and the making of, Rules and Rule changes.

The publication of a Directions Paper on 19 June 2025, more than 6 months after the Draft Determination published on 12 December 2024, which allowed only 21 days for submissions on material changes to a proposed Rule change, in the circumstance where a Final Determination is proposed for 25 September 2025, manifestly undermines the Rule making functions and powers conferred on the AEMC under section 29 of the NEL.

The AEMC is bound to act reasonably and have regard to all relevant considerations having regard to the subject matter, purpose and scope of its Rule-making functions and powers under the NEL.

After the Draft Determination, the extent of engagement by the AEMC with most market participants was limited to a single technical working group held in April 2025. The slides presented at that workshop stated that market participants were welcome to provide feedback on the material in the slides by email by 17 April 2025 and that inputs would inform the AEMC policy paper that would be published with legal drafting on 19 June 2025.

The Directions Paper states that the AEMC has undertaken its own “further analysis” based on certain feedback (primarily from CNSPs [and] some consumer groups) to reach the conclusions it has set out in the Directions Paper.

This “further analysis” must have been undertaken after the Draft Determination but without other market participants having been afforded the opportunity to comment on it, other than at or within a very short time after the April 2025 workshop. In fact, as illustrated above, the Directions Paper does not provide details of, or the information relied upon for, that “further analysis”. The Directions Paper sets out the AEMC’s conclusions drawn from that “further analysis”.

In particular, the AEMC has made assumptions in relation to two very significant matters of relevance in the context of this proposed Rule change, namely:

- the effect of “netting-off” negative IRSR from positive IRSR as described in the Directions Paper on the value of SRA units; and
- the implications for retail competition.

The AEMC has weighed its conclusions from its “further analysis” against these assumptions without any substantiation that they are valid or reliable.

The significance of the retention of the value of SRA units

AEMO recognised the significance of retention of the value of SRA units in the Rule change request, noting that “*by only reallocating negative IRSR to TNSPs rather than reallocating all positive IRSR to TNSPs, will uphold the value of SRA units*”, adding that “[t]his notes the importance of inter-regional trading in the NEM”. AEMO also recognised the fundamental role of SRA units in the promotion of retail competition between regions, including improvement in “*market confidence to allow participants to trade for interregional hedging*”.

The Directions Paper maintains a recognition of the value of SRA units, stating that there “*was strong support for retaining the existing positive IRSR arrangements to preserve the value of SRD units*”, that if not hedged, “*inter-regional price risk would ultimately have impacts for consumers, such as increased retail bills due to higher risk premiums*” and that the “*ability for market participants to hedge inter-regional price risk is therefore important to support low prices for consumers as well as retail competition*”.

However, the AEMC has assumed, without any apparent independent corroboration or quantitative evidence, that the reduced value in SRAs as a hedging instrument that would be caused by a “netting-off” process as described in the Directions Paper will not marginalise SRAs as a hedging instrument, increase risk premiums, lead to higher retail bills or restrict or limit retail competition.

The AEMC has further assumed that market participants *“could continue to use netted-off SRD units as part of inter-regional hedging strategies, because the proposed design would make all net positive IRSR in the transmission loop available to the market”*.

In this regard, the AEMC refers to, and appears to rely upon, a submission by CSNPs that they *“considered that SRD units would still be liquid and competitive under a netted-off approach”* while at the same time observing that *“CNSPs are not wholesale market participants. Managing market risk - such as the risk of negative IRSR - is outside their general remit.”*

Although the AEMC assumes in the Directions Paper that market participants (retailers) will have the necessary “tools” to manage inter-regional price risk, the AEMC noted in its submission to the National Electricity Market Settings Review (14 February 2025) that it is crucial that retailers must be able to manage their wholesale market risk through derivatives markets, adding that the *“risk is particularly pertinent as declining liquidity in derivatives markets hinders retailers’ ability to flexibly adjust their contract positions.”*

More specifically, we noted in our submission in response to the Directions Paper that *“the use of SRA units as an inter-regional hedge are effectively a pre-requisite to servicing customers in SA for retailers without generation assets in the State”*. In the above Submission, the AEMC has recognised the issue in South Australia, noting (at page 32) that *“[c]oncerns are frequently raised that liquidity in forward markets is insufficient to allow for effective price discovery or hedging particularly in South Australia.”*

As the proponent to the Rule Change, it is important to note that in AEMO’s early engagement with industry – including with the Settlements Residue Committee - in AEMO’s November 2023 ‘Project Energy Connect Implementation – Directions Paper’, AEMO had assessed the option of netting off, ultimately deciding that: *“AEMO’s preliminary position is that reallocated negative IRSR should not be deducted from unit holders, via a reduction in positive IRSR. This aligns with regulatory precedent and would limit the impact on SRA processes and units”*.

This recommendation was made following over one year of extensive consultation with industry, including a Settlements Residue Committee, resulting in an outcome aligned with the majority of stakeholders and the rule proponent in the Draft Determination. The stark change of approach to ‘netting off’ in the Directions Paper not only contrasts with AEMO’s recommendations, but those of a majority of stakeholders who had undergone over a year of consultation to achieve the outcome presented in the Draft Determination. AEMO has re-iterated in their response to the Directions Paper that the AEMC’s position of netting off will *“...have a material impact on the performance of SRA units as a tool to manage interregional basis risk”*. Given the stated disagreement in approach between the AEMC and AEMO, there is no evidence to show whether the AEMC has adequately or meaningfully engaged with AEMO in the drafting of the Directions Paper for the purpose of analysing and incorporating appropriately and completely the relevant technical considerations that led AEMO to prefer an approach that did not involve netting off.

Adverse effect on retail competition

In its Discussion Paper “The Pricing Review” published in June 2025, the AEMC emphasised that retail competition is *“the cornerstone of our electricity market arrangements, as the interface between consumers and the electricity system”*.

In the AEMC publication “How the National Energy Objectives Shape our Decisions” (27 March 2025) the AEMC states that *“[e]fficiency is a vital consideration in our work”* and adds that *“[m]arket-based solutions that drive competition are often the most effective and efficient way to achieve these efficiencies and deliver the best outcomes for consumers.”*

A core element of the Directions Paper is the assumption that a “netting-off” approach to negative IRSR would not adversely affect retail competition and that the reduced value and financial attraction of SRD unit payouts will be managed by market participants who will have access to hedging instruments and other products to manage the risks.

This was not the position of the AEMC in the Draft Determination in which it was stated that *“hedging IRSR through SRD units supports retail competition”* and *“encourages efficient investment”*.

The concern in relation to inter-regional competition was also recognised by the statement that *“SRD units help retailers and gentailers manage their exposure to large cost differentials relative to their competitors in the region who do not rely on imports”*.

In the Directions Paper, the AEMC has failed to give any or proper weight to the risks that the “netting off” approach to negative IRSR would have, or be likely to have, the effect of lessening (perhaps substantially) retail competition in the regions within which the transmission loop is or will be located.

Further, in considering likely effects on retail competition, it is relevant to note that the ACCC has observed in its Inquiry into the National Electricity Market (3 December 2024) that *“costs of supplying retail electricity generally increased for retailers in most regions and across most parts of the supply chain in 2023-24”*. These increases in costs have been significant; 23% for residential customers and 25% for small business customers.

It stands to reason that less financially attractive, or more expensive, hedging options (assuming availability) will further deter retail competition in the regions within which the transmission loop is or will be located.

Fundamentally, in addition to the simplicity in the AEMC’s assertion in the Directions Paper that retailers *“have access to (and expertise in designing and using) hedging instruments and other products to manage the risks”* no account appears to have been taken of the costs that would be incurred by retailers in gaining such access and the consequential adverse effect on retail competition and likely increased prices to be paid by consumers.

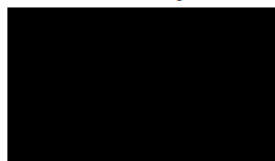
To make a Rule that might or is likely to result in a lessening of retail competition in any region in the NEM and detriment to the long-term interests of consumers in the context of efficient investment, operation and use of electricity services, is manifestly contrary to the NEO.

Conclusion

In our view, the above summary of our concerns in relation to the deficiencies in the process and procedure that the AEMC has followed in respect of the National Electricity Amendment (Inter-regional settlements residue arrangements for transmission loops) Rule 2025, is sufficient to demonstrate conclusively that these deficiencies can only be addressed by the AEMC further extending the date for a Final Determination pursuant to section 107 of the NEL in order to allow sufficient time to ensure that its Final Determination is reasonably made, having properly considered all relevant stakeholder concerns.

If you would like to discuss further, I can be contacted directly on [REDACTED] or if your staff require further information, please contact Isidora Stefanovic on Isidora.Stefanovic@alintaenergy.com.au.

Yours sincerely



Jeff Dimery
Managing Director & Chief Executive Officer
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