

AEMC Reliability Panel

Template for Generator Compliance Programs

Issues Paper

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy, established the Australian Energy Market Commission (AEMC) in July 2005 to be the Rule maker for national energy markets. The AEMC is currently responsible for Rules and policy advice covering the National Electricity Market. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

About the AEMC Reliability Panel

The Panel is a specialist body within the AEMC and comprises industry and consumer representatives. It is responsible for monitoring, reviewing and reporting on the safety, security and reliability of the national electricity system and advising the AEMC in respect of such matters. The Panel's responsibilities are specified in section 38 of the National Electricity Law (NEL).

Disclaimer

The views and recommendations set out in this document are those of the Reliability Panel and are not necessarily those of the Australian Energy Market Commission.

Reliability Panel Members

Chairman

Ian C Woodward, Commissioner, Australian Energy Market Commission

Other AEMC Reliability Panel Members

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Hugh Gleeson, Chief Executive Officer, United Energy

Mark Grenning, Chief Advisor Energy, Rio Tinto

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Contents

Abbreviations.....	v
Summary	vi
1. Background to this Review	1
1.1 Context of the review.....	1
1.2 Panel’s Terms of Reference for the Review.....	1
1.3 Consultation process.....	1
1.4 Initial comments on the Issues Paper	2
2. Template for Generator Compliance Programs	5
2.1 Why do we need the template for generator compliance programs?	5
2.2 What are the requirements for the template for compliance programs under the Rules?	6
2.3 What are the examples for the development of the template for generator compliance programs?	8
3. Questions for the Review	9
Appendix A: Example of compliance principles from the NGF	11
Appendix B: Examples of compliance guidelines and a template for generator compliance programs from the NGF	13
Appendix C: Example of a template for generator compliance programs from Roaring 40s and Pacific Hydro	15
Appendix D: Example of a template for generator compliance programs from NEMMCO..	17
Appendix E: Panel’s Terms of Reference for the Review	19

Abbreviations

AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NGF	National Generators Forum
NSP	Network Service Provider
Panel	Reliability Panel
Rules	National Electricity Rules

Summary

Compliance with technical standards is crucial to ensuring power system security in the NEM. Ensuring high levels of compliance with effective standards is fundamental to the safe and reliable operation of the power system within the power system's technical envelope. If this were not the case, the risk of a major power system incident would materially increase.¹

The October 2008 Rule change (Performance Standard Compliance of Generators)² included requirements for the Reliability Panel (Panel) to develop a template for generator compliance programs based on a public consultation process. The template seeks to define "good electricity industry practice" for the purposes of the Rules, and hence provides certainty for generators as to what is required of their compliance programs. Generators must develop and maintain compliance programs in line with the template. The template must be regularly reviewed by the Panel in order to provide a continual improvement focus.

This Issues Paper represents the first stage in the Panel's review to develop the template for generator compliance programs.

The objectives of this review are to:

- determine compliance principles for the template for generator compliance programs, having regard for the Rules requirements already established;
- establish the scope, content, and format of the template for generator compliance programs; and
- propose processes for implementing the template for generator compliance programs.

The Rules provide that as part of the public consultation process under clause 8.8.3 of the Rules, NSPs will be involved in the development of the template for generator compliance programs. They also provide an ongoing role for the Panel including an obligation to review the template every three years or as the AEMC directs.

The Panel is publishing this Issues Paper for initial comments in accordance with clause 8.8.3. The Panel is seeking views on the issues that should be addressed in this review. For example, the Panel recognises that the review needs to address the relationship between objectives of the template for generator compliance programs, as set out in the Rules, and the scope, content, and format of the template.

¹ Final Report of the AEMC Review of Enforcement of and Compliance with Technical Standards (dated 1 September 2006), p.4.

² National Electricity Amendment (Performance Standard Compliance of Generators) Rule 2008 No. 10.

The original Rule change was proposed by the National Generators Forum (NGF) in February 2008. Examples for developing the template of generator compliance programs have been provided from the NGF, Roaring 40s and Pacific Hydro, and NEMMCO. These examples are not endorsed by the Panel. They are included in appendices A, B, C and D of this Issues Paper because they are examples which may assist stakeholders in providing comments. In particular, the Panel is seeking stakeholder views on the following issues:

- are there benefits in adopting a set of compliance principles and what are these benefits in terms of meeting the Rules requirements for the template for generator compliance programs?
 - if so, are the examples of compliance principles in Appendix A appropriate?
- are there benefits in adopting compliance program categories and, if so, what are these benefits in terms of meeting the requirements in the Rules for the template for generator compliance programs?
- is it necessary to draft guidelines for template for generator compliance programs and, if so, are the example guidelines in Appendix B appropriate?
- what should be covered in the scope of the template for generator compliance programs, how should it be structured and what should it contain?
- how prescriptive should the template for generator compliance programs be for each performance standard e.g. should test methodologies be included?
 - how should the variation in individual performance standards and versions of the Rules be handled?
 - whether the examples for developing the template for generator compliance programs in appendices A, B, C and D are appropriate to be incorporated into the Panel's template or what modifications should be considered?
- how can it be ensured that the template for generator compliance programs meets "good electricity industry practice" that would provide certainty for Generators as to what is required of their compliance programs? Stakeholders are invited to submit examples of existing compliance programs they consider would be appropriate in determining a best practice solution in formulating a template for generator compliance programs.
- having regard to the current processes for implementing the template for generator compliance programs already set in the Rules, what other implementation and transition issues may need to be addressed and how would these be put into effect?
- are there any other matters that should be considered important?

The Panel will release a Draft Report incorporating comments to the Issues Paper and draft template for generator compliance programs for consultation on 17 April 2009.

The Panel will also hold a meeting open to all Registered Participants on its draft template for generator compliance programs. This meeting will be held at the office of the AEMC on 12 June 2009 from 10.00 am to 12.00 pm.

The Panel will submit the Final Report and template for generator compliance programs to the AEMC on 23 July 2009 for publication.

Interested stakeholders are invited to provide initial comments on the Issues Paper. Comments should be received by 5 pm on 6 March 2009. Comments must cite the project reference code: "REL0032". Comments may be sent electronically to submissions@aemc.gov.au or by mail to:

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

or by Fax: (02) 8296 7899.

1. Background to this Review

1.1 Context of the review

On 23 October 2008, the Australian Energy Market Commission (AEMC) published a notice under sections 102 and 103 of the National Electricity Law (NEL) of the making of the National Electricity Amendment (Performance Standard Compliance of Generators) Rule 2008 No. 10 and associated Rule determination. The Rule commenced operation on 23 October 2008.

The AEMC considered that the Rule change would promote efficient operation and use of electricity services and reliability, safety and security of the NEM through a range of measures including the establishment of a framework where the processes and accountabilities for maintaining generator compliance are clearly defined.

An outcome from that Rule change is that, as part of the framework of compliance programs, the Reliability Panel (Panel) will develop the template for generator compliance programs based on a public consultation process and review this template within a defined time period in accordance with clause 8.8.3 of the National Electricity Rules (Rules) every three years or as the AEMC directs. Following such a review in accordance with clause 8.8.3(ba), the Panel may amend the template in accordance with its report to the AEMC submitted under clause 8.8.3(j).

At the second round of consultation of the Rule change process, the Panel indicated that it supported the AEMC's conclusions. It also foreshadowed that the period of time for the Panel to develop the initial template for generator compliance programs would be approximately nine months after the date that the final Rule was approved.

1.2 Panel's Terms of Reference for the Review

Clause 8.8.1(a)(2b) of the Rules requires the Panel to determine and publish the template for generator compliance programs and clause 8.8.3(a)(6) of the Rules requires the Panel to conduct the review to develop the template.

The AEMC has requested the Panel to undertake the review to develop the template for generator compliance programs in accordance with section 38 of the NEL, clause 8.8.3(c) of the Rules and the national electricity objective.

To this end, in November 2008, the AEMC approved the Terms of Reference for the Panel's review to develop the template for generator compliance programs. The Terms of Reference are contained in Appendix E.

1.3 Consultation process

This review is likely to have important implications for National Electricity Market (NEM) stakeholders, including Generators, network service providers (NSPs) and NEMMCO. Consistent with its philosophy of engaging with those parties, the Panel

plans to involve stakeholders by seeking initial comments, submissions and holding meetings during this review and on each of its draft decisions.

The Terms of Reference from the AEMC require the Panel to deliver its Final Report by July 2009.

The following key dates outline the intended consultation process leading up to the delivery of the Panel's Final Report to the AEMC on its template for generator compliance programs.

Date	Milestone
22 January 2009	Publish Issues Paper
6 March 2009	Close of submissions on Issues Paper
17 April 2009	Publish Draft Report
29 May 2009	Close of submissions on Draft Report
12 June 2009	Public Meeting
23 July 2009	Submit Final Report to AEMC
31 July 2009	Publish Final Report

1.4 Initial comments on the Issues Paper

The Panel invites initial comments from interested parties in response to the Issues Paper by 5pm (Australian Eastern Standard Time) on 6 March 2009. Submissions may be sent electronically or by mail in accordance with the following requirements.

1.4.1 Lodging a submission electronically

Comments must be sent by email to submissions@aemc.gov.au. The email must cite the project reference code: "REL0032". The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. The submission must be in PDF format, and must also be forwarded to the Panel via ordinary mail.

Upon receipt of the electronic version of the submission, the Panel will issue a confirmation email. If this confirmation email is not received within 3 business days, it is the submitter's responsibility to ensure successful delivery of the submission has occurred.

1.4.2 Lodging a submission by mail

The submission must be on letterhead (if an organisation), signed and dated by the respondent. The submission should be sent by mail to:

The Reliability Panel
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

or by Fax: (02) 8296 7899.

The envelope must be clearly marked with the project reference code: "REL0032".

Except in circumstances where the submission has been submitted electronically, upon receipt of the hardcopy submission the Panel will issue a confirmation letter. If this confirmation letter is not received within 3 business days, it is the submitter's responsibility to ensure successful delivery of the submission has occurred.

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2. Template for Generator Compliance Programs

2.1 Why do we need the template for generator compliance programs?

In its 2006 review of enforcement of and compliance with technical standards, the AEMC considered that the process of establishing compliance programs for Generators was flawed.³ It considered that the Rules were silent on how a compliance agreement should be established if a Generator could not agree with the relevant NSP and NEMMCO on the requirements for a compliance program.⁴ The Rules also provided little guidance on the factors that should be taken into account in agreeing to a compliance program.⁵ It considered that there were flaws in the negotiate-agree model for compliance programs under the Rules for Generators. The AEMC made a number of recommendations including the development of guidelines (i.e. the template for generator compliance programs) in its 2006 review. It considered the guidelines would allow greater clarity on the form that a compliance program might take and clarity on what would be required to demonstrate compliance.

In its Rule change proposal in February 2008, the National Generators Forum (NGF) proposed (and modified in some cases) the implementation of some of the recommendations from the AEMC's 2006 review. It considered that the template would effectively define "good industry practice" for the purposes of the Rules, allow for improvement in compliance plans based on market experience, allow the AER to audit compliance with the Rules in advance of incidents, and require Generators to develop and maintain compliance programs using the template.

In October 2008, the AEMC decided in its final Rule determination of the NGF Rule change proposal that the Panel will develop the template for generator compliance programs based on a public consultation process and review this template within a defined time period in accordance with clause 8.8.3 of the Rules every three years or as the AEMC directs. Following such a review in accordance with clause 8.8.3(ba), the Panel may amend the template in accordance with its report to the AEMC submitted under clause 8.8.3(j).

For the framework of compliance programs to function effectively, it was anticipated by the AEMC that:

- Registered Participants (Generators) will institute and maintain generator compliance programs based on the template;

³ Final Report of the AEMC Review of Enforcement of and Compliance with Technical Standards (dated 1 September 2006), p.43.

⁴ Final Report of the AEMC Review of Enforcement of and Compliance with Technical Standards (dated 1 September 2006), p.43.

⁵ Final Report of the AEMC Review of Enforcement of and Compliance with Technical Standards (dated 1 September 2006), p.43.

- the AER will regularly conduct spot audits of selected Generators' compliance programs as part of its compliance monitoring activities; and
- Generators will engage with external auditors to independently audit their compliance programs to determine whether they are required to amend their compliance programs and amend if required.

According to the transitional provisions under Rule 11.23:

- Registered Participants, which implemented compliance programs immediately after the commencement of the Rule change, must institute and maintain a compliance program set out in Rule 4.15(b) three months after the date that the Panel publishes its initial template for generator compliance programs under clause 8.8.3 or until a date that the Panel determines;
- Registered Participants, which implemented compliance programs immediately prior to the commencement of the Rule change (i.e. under the Old Clause 5.7.3(b)⁶), must maintain compliance with those programs until three months after the date that the Panel publishes its initial template under clause 8.8.3 of the Rules or until a date that the Panel determines; and
- Registered Participants, which have not implemented compliance programs under the Old Clause 5.7.3(b) must implement and maintain compliance programs under the Old Clause 5.7.3(b) until three months after the date that the Panel publishes its initial template under clause 8.8.3 of the Rules or until a date that the Panel determines.

2.2 What are the requirements for the template for compliance programs under the Rules?

Under Rule 4.15(ca), the template for generator compliance programs must:

- (1) cover all performance standards; and
- (2) define suitable testing and monitoring regimes for each performance standard so that a Registered Participant can select a regime that complies with the obligations set out in rules 4.15(a), 4.15(b) and 4.15(c) for their particular plant.

Rule 4.15(a) requires that a Registered Participant must:

- (1) ensure that its plant meets or exceeds the performance standard applicable to its plant; and
- (2) ensure that its plant is not likely to cause a material adverse effect on power system security through its failure to comply with a performance standard; and

⁶ Old Clause 5.7.3(b) means the clause 5.7.3(b) in the version of the Rules that was in force immediately prior to the commencement of the National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008.

- (3) immediately ensure that its plant ceases to be likely to cause a material adverse effect on power system security through its failure to comply with a performance standard, if:
 - (i) the Registered Participant reasonably believes that by failing to comply with a performance standard, its plant is likely to cause a material adverse effect on power system security; or
 - (ii) NEMMCO advises the Registered Participant that by failing to comply with a performance standard, the Registered Participant's plant is likely to cause a material adverse effect on power system security.

Rule 4.15(b) requires that a Registered Participant who engages in the activity of planning, owning, controlling or operating a plant to which a performance standard applies must institute and maintain a compliance program which complies with Rule 4.15(c). The compliance program must be instituted, as soon as reasonably practicable, but no later than:

- (1) 6 months after the day that NEMMCO gives notice to the Registered Participant of registration of the performance standard under Rule 4.14(n); or
- (2) 6 months after the day on which the plant commences operation.

Rule 4.15(c) requires that a compliance program instituted and maintained under Rule 4.15(b) must:

- (1) be consistent with the template for generator compliance programs; and
- (2) include procedures to monitor the performance of the plant in a manner that is consistent with good electricity industry practice; and
- (3) be modified to be consistent with any amendments made under clause 8.8.3(ba) to the template for generator compliance programs, by no later than 6 months after amendments to the template for generator compliance programs are published or by a date determined by the Reliability Panel; and
- (4) provide reasonable assurance of ongoing compliance with each applicable performance standard.

The Panel is considering the need to provide a set of principles for the derivation of the template for generator compliance programs which consolidates the various requirements and objectives of the template. The principles would be used by the Panel in developing the template and by participants as they sought to adapt and apply the template specifically to their generating systems. The template must be able to be applied to a wide variety of generation technologies and to plant of various ages that needs to demonstrate compliance with different technical standards.

2.3 What are the examples for the development of the template for generator compliance programs?

The examples for the development of the template for generator compliance programs are set out in appendices A, B, C and D of this Issues Paper. These examples from the NGF, Roaring 40s and Pacific Hydro, and NEMMCO are not endorsed by the Panel. They are included because they are examples which may assist stakeholders in providing comments.

3. Questions for the Review

The Panel has formulated the questions in this section in order to facilitate this review. Stakeholders are encouraged to consider these questions when preparing their submissions to this review. In addition, the Panel seeks comments from stakeholders on any other related aspects of the template for generator compliance programs subject to this review.

In particular, the Panel is seeking stakeholder views on broad and specific issues related to developing the template for generator compliance programs:

- are there benefits in adopting a set of compliance principles and what are these benefits in terms of meeting the Rules requirements for the template for generator compliance programs?
 - if so, are the examples of compliance principles in Appendix A appropriate?
- are there benefits in adopting compliance program categories and, if so, what are these benefits in terms of meeting the requirements in the Rules for the template for generator compliance programs?
- is it necessary to draft guidelines for template for generator compliance programs and, if so, are the example guidelines in Appendix B appropriate?
- what should be covered in the scope of the template for generator compliance programs, how should it be structured and what should it contain?
- how prescriptive should the template for generator compliance programs be for each performance standard e.g. should test methodologies be included?
 - how should the variation in individual performance standards and versions of the Rules be handled?
 - whether the examples for developing the template for generator compliance programs in appendices A, B, C and D are appropriate to be incorporated into the Panel's template or what modifications should be considered?
- how can it be ensured that the template for generator compliance programs meets "good electricity industry practice" that would provide certainty for Generators as to what is required of their compliance programs? Stakeholders are invited to submit examples of existing compliance programs they consider would be appropriate in determining a best practice solution in formulating a template for generator compliance programs.
- having regard to the current processes for implementing the template for generator compliance programs already set in the Rules, what other implementation and transition issues may need to be addressed and how would these be put into effect?
- are there any other matters that should be considered important?

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Appendix A: Example of compliance principles from the NGF

See attached paper by the NGF.

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Appendix B: Examples of compliance guidelines and a template for generator compliance programs from the NGF

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Appendix C: Example of a template for generator compliance programs from Roaring 40s and Pacific Hydro

See attached paper by Roaring 40s and Pacific Hydro.

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Appendix D: Example of a template for generator compliance programs from NEMMCO

See attached paper by NEMMCO.

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Appendix E: Panel's Terms of Reference for the Review

[Reproduced below]

Reliability Panel Review to Develop the Template for Generator Compliance Programs AEMC Terms of Reference (21 November 2008)

Introduction

On 23 October 2008, the Commission published a notice under sections 102 and 103 of the National Electricity Law (NEL) of the making of the National Electricity Amendment (Performance Standard Compliance of Generators) Rule 2008 and associated Rule determination. The Rule commenced operation on 23 October 2008.

An outcome from that Rule change is that, as part of the framework of compliance programs, the Reliability Panel (Panel) will develop the template for generator compliance programs based on a public consultation process and review this template within a defined time period in accordance with clause 8.8.3 of the National Electricity Rules (Rules) every three years or as the Commission directs. Following such a review in accordance with clause 8.8.3(ba), the Panel may amend the template for generator compliance programs in accordance with its report to the AEMC submitted under clause 8.8.3(j).

At the second round of consultation of the Rule change process, the Panel indicated that it supported the Commission's conclusions. It also foreshadowed that the period of time for the Panel to develop the initial template for generator compliance programs would be approximately nine months after the date that the final Rule was approved.

In accordance with clause 8.8.3(c) of the Rules, the AEMC advises the Panel of these terms of reference for its review to develop the template for generator compliance programs.

Purpose of the Review

As required by clause 8.8.1(a)(2b) of the Rules, the Panel is to determine and publish the template for generator compliance programs.

As required by clause 8.8.3(a)(6) of the Rules, the Panel is to conduct the review to develop the template for generator compliance programs in accordance with clause 8.8.3 of the Rules.

The AEMC requests the Panel, in accordance with section 38 of the NEL, clause 8.8.3 of the Rules and the national electricity objective in the NEL, to undertake a review. The Panel must undertake the review to develop the template for generator compliance programs.

Process

This review is likely to have important implications for National Electricity Market stakeholders, including generators, network service providers and NEMMCO. Consistent with its philosophy of engaging with those parties and as required by clause 8.8.3, the AEMC requests the Panel to involve stakeholders by seeking submissions on the template for generator for compliance programs.

Timing

Recognising the extensive work program within the Panel, the Panel should aim to complete its review by July 2009.