

Australian Energy Market Commission

## **RULE DETERMINATION**

National Electricity Amendment (Pricing during market suspension) Rule 2017

**Rule Proponent(s)**

Australian Energy Market Operator

10 October 2017

**RULE  
CHANGE**

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**About the AEMC**

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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## Summary

The Australian Energy Market Commission (AEMC or Commission) has made a rule to strengthen the existing framework for pricing during a market suspension. The final rule made by the Commission is attached to and published with this final rule determination.

The key features of the final rule are:

- Removal of two market suspension pricing regimes from the National Electricity Rules (NER). These are the neighbouring region pricing and pre-dispatch pricing schedule regimes.
- Allowing AEMO to apply dispatch pricing at any time during a market suspension period if:
  - in AEMO's reasonable opinion, it is practicable to resume central dispatch and the determination of dispatch prices and ancillary service prices, and
  - the market was suspended other than in response to a jurisdictional direction.
- Where AEMO has suspended the market in response to a jurisdictional direction, the relevant jurisdiction must agree to a return to dispatch pricing before AEMO can apply this pricing regime.
- Harmonising the price scaling provisions applicable during market suspension with the pricing scaling provisions applicable for other administered prices.
- Amending other NER provisions to reflect the preceding changes.

The final rule is largely the same as the proposed rule. The key difference between the final rule and the proposed rule relates to where AEMO has suspended the market in response to a jurisdictional direction. In this case, the relevant jurisdiction must agree to a return to dispatch pricing before AEMO can apply this pricing regime. Under AEMO's proposed rule, an agreement by the relevant jurisdiction was not required.

The Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NEO for the following reasons:

- Greater transparency around, and predictability of, the pricing arrangements during market suspension. This will promote confidence in the market suspension pricing arrangements. By removing two of the four pricing regimes, the final rule will establish a simple, workable framework which allows AEMO to focus on addressing the underlying cause of the market suspension.
- Providing for prices to be set through the central dispatch process, where conditions allow, will enable prices to be as informationally efficient as practicable, leading to more efficient outcomes even when the spot market is suspended.
- Changes to the price scaling provisions applicable during market suspension will enable AEMO to price-scale in real time, providing participants with accurate and timely pricing information. The changes will also facilitate automation of the price-scaling process, resulting in greater administrative efficiencies for AEMO.

In relation to market suspension under jurisdictional direction, and under the existing NER, central dispatch pricing can only resume when the relevant jurisdiction has revoked its direction; that is, the relevant jurisdiction has the decision making power to resume the market.

The final rule retains this decision making ability of a jurisdiction. It does this by requiring the relevant jurisdiction to agree to a move from the market suspension pricing schedule to central dispatch pricing before AEMO can apply this pricing regime, when the market has been suspended in response to a jurisdictional direction.

AEMO's proposed rule does not require AEMO to obtain the agreement of the relevant jurisdiction if and when AEMO determined that dispatch pricing could resume under a jurisdictionally-directed market suspension. It would be inappropriate to make a rule that indirectly undermines the ability of a jurisdiction to make decisions in relation to the operation of the market during emergency situations.

### **Expedited rule making process**

AEMO also requested that the rule change request be considered an urgent rule change request, under Section 96 of the National Electricity Law (NEL), and therefore be assessed under an expedited rule change process.

The AEMC considered the rule change was a request for an urgent rule and proposed to assess it under an expedited rule change process. No requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered by the Commission under an expedited process.

The final rule will come into effect on 1 December 2017.

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# 1 AEMO's rule change request

## 1.1 The rule change request

On 25 July 2017, the Australian Energy Market Operator (AEMO) made a request to the Australian Energy Market Commission (AEMC or Commission) seeking to amend the National Electricity Rules (NER) in relation to pricing during periods of market suspension.

The AEMC considered the rule change as a request for an urgent rule, and so it has been assessed under the expedited rule change process.

## 1.2 Background

On 23 March 2017, AEMO published its final incident report into the South Australian (SA) state-wide power outage (referred to as the 'Black System event') that occurred on Wednesday 28 September 2016.<sup>1</sup>

As part of its investigations into the Black System event, AEMO identified a number of issues with the framework for market suspension set out in the National Electricity Rules (NER or Rules).<sup>2</sup> The final incident report included a number of recommendations in relation to this framework, including that AEMO review market processes and systems, in collaboration with registered participants, to identify improvements and any associated NER or procedure changes necessary to implement those improvements.<sup>3</sup>

AEMO subsequently established a Market Suspension Technical Working Group (MSTWG) to discuss and develop changes to the market suspension framework, including rule changes where appropriate.<sup>4</sup> This rule change request was informed by those discussions.

On 25 July 2017, AEMO also submitted a rule change request to the AEMC relating to participant compensation following market suspension. The Participant compensation following market suspension rule change request was also informed by discussions at the MSTWG. Information on this rule change request can be found on the AEMC website.<sup>5</sup>

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<sup>1</sup> AEMO, *Black System South Australia 28 September 2016*, March 2017, available at [www.aemo.com.au](http://www.aemo.com.au).

<sup>2</sup> The arrangements for market suspension are set out under clauses 3.14.4 (Declaration of market suspension) and 3.14.5 (Pricing during market suspension) of the NER.

<sup>3</sup> See recommendation 17 of AEMO's final incident report. Two other recommendations in relation to market suspension were also made. These recommendations (15 and 16) are also described in AEMO's final incident report. See [www.aemo.com.au](http://www.aemo.com.au).

<sup>4</sup> The MSTWG comprised representatives from industry and the market bodies and met on four occasions between April and June 2017. Minutes of the MSTWG meetings were provided with the rule change request.

<sup>5</sup> See [www.aemc.gov.au/Rule-Changes/Participant-compensation-following-market-suspensi](http://www.aemc.gov.au/Rule-Changes/Participant-compensation-following-market-suspensi). This rule change request will proceed through the standard (rather than expedited) rule-making process.

## 1.3 Current arrangements

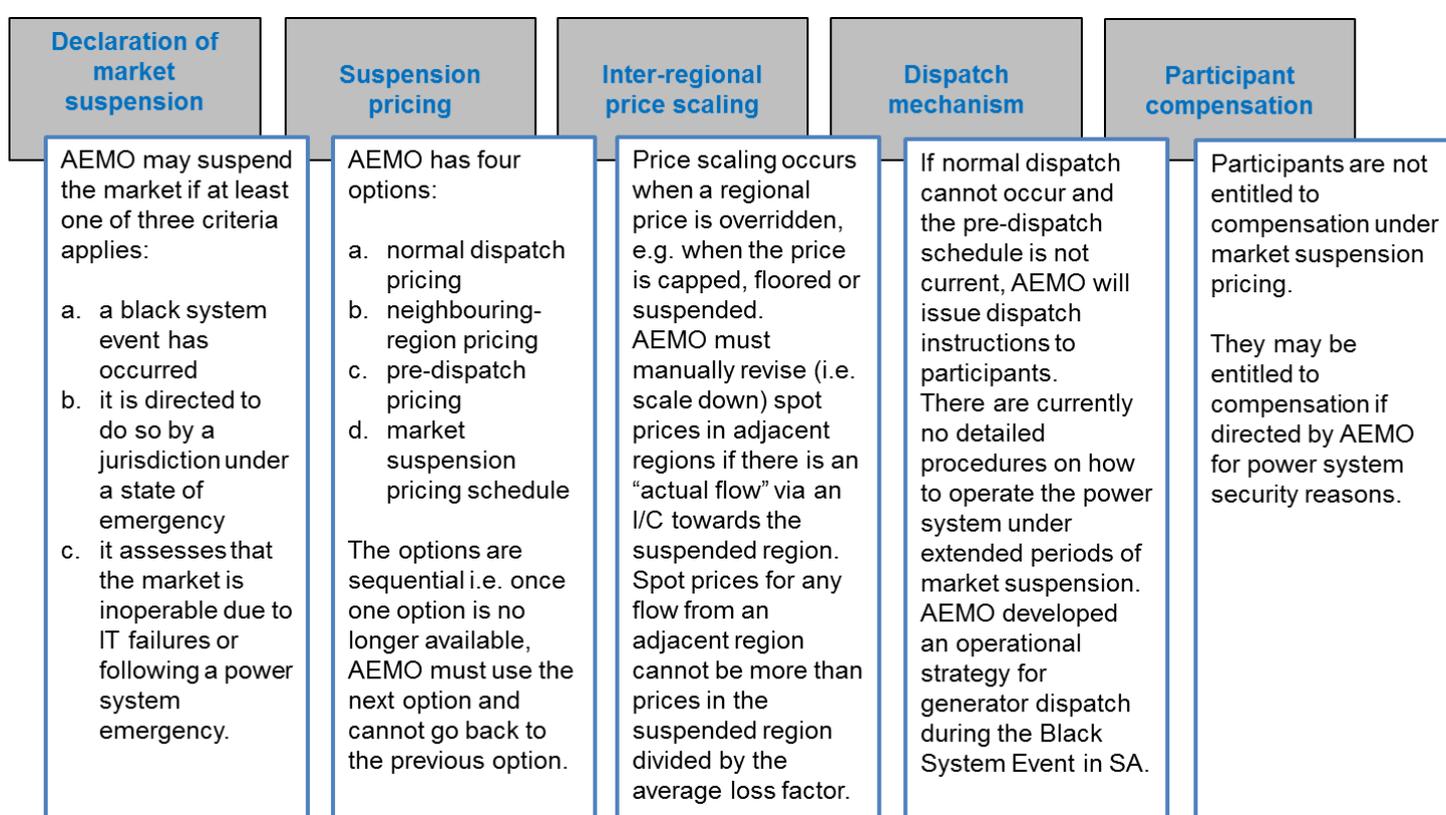
### Market suspension framework

The framework for market suspension is set out under rule 3.14 of the NER, specifically:

- clause 3.14.3 - Conditions for suspension of the spot market
- clause 3.14.4 - Declaration of market suspension
- clause 3.14.5 - Pricing during market suspension.

AEMO manages periods of market suspension in accordance with these provisions and having regard to its supporting operational procedures.<sup>6</sup> The framework for market suspension incorporates a number of key components, as illustrated in Figure 1.1.

**Figure 1.1 Key components of the market suspension framework**



The declaration of market suspension:

- allows AEMO to suspend central dispatch if necessary, and to determine market prices in accordance with the relevant provisions in the rules while the underlying cause is being resolved
- informs market participants that a significant issue is occurring in the market
- provides a framework within which AEMO can manage operational issues whilst continuing to deliver outcomes reflective of current conditions to the extent possible.

<sup>6</sup> AEMO, *Failure of market or market systems*, System Operating Procedure, SO\_OP3706.

Market suspension in the National Electricity Market (NEM) is rare, having occurred only twice since commencement of the NEM.<sup>7</sup>

### **Pricing during market suspension**

This rule change request relates specifically to the arrangements for market suspension pricing, including inter-regional price scaling, set out in clause 3.14.5 of the NER.

The market suspension pricing framework has been designed to deliver outcomes that are as close as possible to outcomes that would be delivered had the spot market not been suspended. To the extent possible, prices for electricity and the eight frequency control and ancillary services (FCAS) markets should be set to reflect current conditions in the market. Where this is not possible, reasonable estimates of typical market prices should be used.

Once the spot market has been declared suspended, the NER requires AEMO to move through, as applicable, a hierarchy of market suspension pricing options as the circumstances of the market suspension unfold. During a period of market suspension, AEMO can move through the pricing regimes based on the circumstances at the time, but is unable to move back to a previous pricing regime. The four pricing regimes are specified in clause 3.14.5 of the NER, and are as follows:

- *Central dispatch pricing*: if the cause of a market suspension is not impacting the ability of AEMO to run central dispatch and determine spot prices in accordance with the NER, then this process should continue to be used. This process allows for orderly bidding and dispatch, and therefore supports the achievement of efficient market outcomes. Currently, this regime is likely to be applicable in the instance a jurisdiction has directed AEMO to suspend the market in a region under the jurisdiction's state of emergency legislation.
- *Neighbouring region pricing*: if central dispatch pricing cannot be used either when suspension is declared or where it is no longer practical in AEMO's reasonable opinion, AEMO must set prices in the suspended region equal to a neighbouring region's prices, adjusted for losses, when:
  - there is a neighbouring region connected to the suspended region by an unconstrained interconnector, and
  - there is no local frequency control ancillary services (FCAS) requirement in the suspended region.
- *Pre-dispatch pricing*: if both central dispatch pricing and neighbouring region pricing are no longer practical in AEMO's reasonable opinion, then AEMO is required to set prices based on a 'current' pre-dispatch pricing schedule. This requires AEMO to determine whether a 'current' pre-dispatch pricing schedule exists for the suspended region. This pricing regime presumes that pre-dispatch outcomes are likely to reflect dispatch outcomes, a presumption that may not be

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<sup>7</sup> The first market suspension was declared on 8 April 2001 following an IT system failure. All regions of the NEM were suspended for a two hour period commencing at 23:30. The second market suspension was declared on 28 September 2016 following a Black System event and subsequent Ministerial Direction. The South Australian region was suspended from 16:30 on 28 September 2016 to 22:30 on 11 October 2016.

the case when and where participant responses to pre-dispatch prices result in dispatch prices differing from pre-dispatch prices.

- *Market suspension pricing schedule*: if central dispatch pricing, neighbouring region pricing and pre-dispatch pricing are no longer practical in AEMO's reasonable opinion, then AEMO must set prices in accordance with a market suspension pricing schedule. Under this schedule, AEMO calculates and publishes, on a weekly basis, a rolling average of half-hourly prices for weekdays and weekends, using spot prices over the previous four completed weeks.<sup>8</sup>

The market suspension pricing schedule is the furthest removed from the current operational and dispatch situation, as it is based on historical prices. As historical prices are used, prices under the market suspension pricing schedule for each dispatch interval are determined in advance.

In contrast, the other three pricing regimes set prices on the basis of current information. To the extent that prices under these other regimes can be determined, these prices are therefore more informationally efficient<sup>9</sup> than prices under the market suspension pricing schedule. Informationally efficient prices contribute to more economically efficient outcomes. For this reason, the market suspension pricing schedule appears last in the hierarchy of pricing regimes.

The NER also requires prices in a neighbouring region to be scaled when (1) either the pre-dispatch pricing regime or market suspension pricing schedule are being used to set prices in the suspended region and (2) there is an actual flow on an interconnector from the neighbouring region toward the suspended region.<sup>10</sup> The purpose of price scaling is to prevent, or manage, the accumulation of negative inter-regional settlement residues (IRSRs).

Further detailed information on the framework for market suspension can be found in the following documents prepared by AEMO:

- *AEMO's rule change request*: Section 3 includes information on declaration of market suspension under NER clause 3.14.3 and pricing during market suspension (including the inter-regional price scaling provisions) under NER clause 3.14.5. This section also provides an overview of dispatch during market suspension as it occurred during the Black System event in SA over the period September/October 2016.<sup>11</sup>
- *AEMO's final incident report for the Black System event in South Australia on 28 September 2016*: Chapter 6 provides a summary of the NER provisions related to market suspension in the NEM and the sequence of events from the system

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<sup>8</sup> For more details, see AEMO, *Guide to the Market Suspension Pricing Schedule*, July 2017.

<sup>9</sup> Informational efficiency relates to the degree to which market prices correctly and quickly reflect new information about the value of an underlying asset. Informationally efficient prices are a necessary requirement for market outcomes to be economically efficient.

<sup>10</sup> NER clause 3.14.5(m).

<sup>11</sup> AEMO, *Market Suspension Rule Changes – Proposal for Urgent Rule*, 25 July 2017, Section 3, pp. 4-7.

shutdown to lifting of market suspension over the period September/October 2016.<sup>12</sup>

## 1.4 Rationale for the rule change request

In its rule change request, AEMO notes that the existing market suspension framework was not originally designed to support the occurrence of an extended period of market suspension in the NEM. As a consequence of the length of the period of market suspension in SA in 2016 - the result of the Black System event and subsequent Ministerial Direction to keep the market suspended<sup>13</sup> - a number of deficiencies in the current framework became apparent.<sup>14</sup>

AEMO has identified three discrete issues in respect of the current arrangements for pricing during market suspension. These are summarised below:

- *Suspension pricing complexity*: Selecting the applicable market suspension pricing regime is a multi-step process based around the price that best reflects current conditions in the market. AEMO considers the current requirement to move sequentially through the four market suspension pricing regimes is unnecessarily complex, requiring detailed and ongoing examination (at least every 30 minutes) of the market against the criteria for moving through the pricing hierarchy. In addition, AEMO considers the neighbouring-region and pre-dispatch pricing regimes (the second and third regimes in the hierarchy) are likely to be either unworkable or have very limited application, increasing decision-making complexity for no obvious gains in efficiency.<sup>15</sup>
- *Inconsistency between central dispatch and pricing*: The requirement to move sequentially through the four market suspension pricing regimes is subject to the restriction that AEMO progressively moves away from central dispatch (the first market suspension pricing regime) but never back towards it. During the Black System event in SA, despite the central dispatch process having returned to normal operation, the rules prevented AEMO from moving back through the hierarchy in order to apply dispatch pricing. This meant that parties participating in the central dispatch process were responding to price signals provided by the market suspension pricing schedule (the fourth market suspension pricing regime) that were unrelated to market conditions at that time, rather than to price signals created by the normal central dispatch process.<sup>16</sup>

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<sup>12</sup> AEMO, *Black System South Australia 28 September 2016*, March 2017, Chapter 6, pp. 82-88.

<sup>13</sup> NER clauses 3.14.3(a)(1) and (2).

<sup>14</sup> AEMO's response to the prolonged period of market suspension was guided by the provisions in the NER. The Australian Energy Regulator (AER) is currently undertaking its Black System Compliance Review of which one area of focus is market suspension. In its December 2016 Quarterly Compliance Report, the AER stated that "given that the duration of the market suspension was longer than was contemplated during the design stage of the suspension arrangements, the AER is looking closely at this area and its impacts." The AER is predominantly investigating participants' compliance with power system security obligations under Chapter 4 of the NER and market operation requirements under Chapter 3 of the NER. See [www.aer.gov.au](http://www.aer.gov.au).

<sup>15</sup> See section 4.2.1 of the rule change request.

<sup>16</sup> See section 4.2.2 of the rule change request.

- *Differences in price-scaling arrangements*: The lack of an automated process for pricing during market suspension led to a number of issues during the Black System event in SA, including uncertainty around the prices that would apply in neighbouring-regions, and the risks of error associated with AEMO staff having to handle and compute large volumes of pricing data manually. While these issues could be reduced or eliminated through automation, AEMO asserts that automation requires harmonisation of the price scaling provisions applicable to market suspension with other price scaling provisions in the NER. The key differences between the price scaling provisions applicable to market suspension and other price scaling provisions include references to:<sup>17</sup>
  - “actual” rather than “energy” flow
  - “spot” rather than “dispatch” price, and
  - “interconnector” rather than “regulated interconnector”.

## 1.5 Solutions proposed in the rule change request

AEMO sought to resolve the issues discussed above by proposing a rule (the proposed rule) that seeks to amend a number of provisions in the NER. The proposed changes are set out in section 5 of the rule change request and are summarised in Figure 1.2.

**Figure 1.2 Solutions proposed in the rule change request**

ISSUES	SOLUTIONS
1. Suspension pricing complexity	Simplify the process for price determination during market suspension by removing the “neighbouring region pricing” and “pre-dispatch pricing” regimes from the market suspension pricing hierarchy
2. Inconsistency between central dispatch and pricing	Allow a return to dispatch pricing while the market is suspended, if practicable
3. Differences in price scaling arrangements	Harmonise the price scaling provisions during market suspension with the pricing scaling provisions for the MPC, MFP, APC and AFP to facilitate automation
Drafting and consequential changes	References to “pricing” changed to “dispatch pricing”, clarification of how suspension pricing interacts with other forms of price capping/intervention, clarification of the process for declaring suspension, removal of redundant clauses

Section 6 of the rule change request then provides a summary of the proposed amendments to the NER. These include the following:

- Amendments to clause 3.14.5 (Pricing during market suspension) to remove the neighbouring-region and pre-dispatch pricing regimes and thereby simplify the decision-making process. This clause would also be amended to allow AEMO to revert to dispatch pricing during market suspension where practicable.

<sup>17</sup> See section 4.2.3 of the rule change request.

- Amendments to clause 3.14.5(m) to better align the price scaling provisions for market suspension with price scaling for other forms of administered pricing in the NER.

AEMO also proposed a number of additional amendments to the NER, including those that are consequential to the changes being proposed, and a number of others aimed at clarifying the meaning of, or removing redundant, provisions. These are set out in section 4.2.4 of the rule change request and include (but are not limited to) the following:

- Multiple changes throughout clauses 3.14.4 (Declaration of market suspension) and 3.14.5 (Pricing during market suspension) to refer to the determination of dispatch rather than spot prices. This would allow AEMO to streamline its administration of market suspension through automation.
- The insertion of a new clause 3.14.5(g1) to clarify how market suspension pricing interacts with other forms of price capping or intervention, including clarification that administered pricing is applicable during periods of market suspension.

AEMO's consideration of the proposed rule in terms of how it contributes to the National Electricity Objective (NEO), and the expected benefits and costs of the proposed rule, are set out in sections 7 and 8 of the rule change request, respectively. Overall, AEMO considers that the proposed changes will provide the market with greater pricing certainty in real time, and better pricing signals that reduce the need for (and cost of) operational intervention to keep the power system secure during market suspension.

AEMO also considers that the proposed changes will facilitate the automation of suspension pricing and associated processes, allowing for significantly improved operational outcomes during periods of market suspension.

## **1.6 The rule making process**

On 15 August 2017, the Commission published a notice under section 95 of the National Electricity Law (NEL) advising of its intention to commence the rule making process and consultation in respect of the rule change request.<sup>18</sup> A consultation paper identifying specific issues for consultation was also published. Submissions closed on 12 September 2017.

Seven submissions were received, which are available on the AEMC website.<sup>19</sup>

The Commission considered that the rule change request was a request for an urgent rule as defined in s. 96 of the NEL. Accordingly, the Commission commenced an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 29 August 2017.

No requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.<sup>20</sup>

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<sup>18</sup> This notice was published under s. 95 of the National Electricity Law (NEL).

<sup>19</sup> <http://www.aemc.gov.au/Rule-Changes/Pricing-during-market-suspension>.

<sup>20</sup> Section 96 of the NEL.

## 2 Final rule determination

### 2.1 The Commission's determination

In accordance with section 102 of the NEL, the Commission has made this final rule determination in relation to AEMO's Pricing during market suspension rule change request.

In accordance with section 103 of the NEL, the Commission has determined to make a rule (final rule) which reflects the rule proposed by AEMO with some amendments.

The Commission's reasons for making the rule, the key features of the final rule, and additional amendments made, are described further in this chapter.

### 2.2 Rule making test

Under section 88(1) of the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the NEO.<sup>21</sup> This is the decision making framework that the Commission must apply.

The NEO is set out in section 7 of the NEL as follows:

“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.”

### 2.3 Assessment framework

In assessing the rule change request, the Commission considers that the relevant aspect of the NEO is the efficient operation and use of electricity services with respect to the price of supply of electricity and the reliability of the national electricity system.

To give effect to the NEO, the following principles have been used to guide the assessment of this rule change request:

- *Risk management*: whether the proposed changes improve the ability of market participants to manage price risk, and AEMO to manage operational risk, during periods of market suspension.
- *Transparency and predictability*: whether the proposed rule clarifies the rules with respect to pricing during market suspension, thereby promoting confidence in the market suspension pricing arrangements.
- *Information provision*: whether the proposed rule promotes timely provision of accurate pricing information, allowing for efficient dispatch decisions by market participants and efficient operational decisions by AEMO.

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<sup>21</sup> Section 88 of the NEL.

- *Relationship between costs and prices*: whether the ability to move back to central dispatch pricing while the market is suspended, and the savings resulting from greater automation, result in lower costs and more economically efficient prices during market suspension.
- *Efficient investment and operational decisions*: whether the proposed rule achieves the above-mentioned principles, and whether the proposed rule is likely to result in more efficient operational decisions on the part of AEMO and market participants.

The AEMC has also considered the potential trade-offs associated with simplifying the market suspension pricing arrangements. In particular, the Commission has considered whether the benefits associated with reducing the number of pricing regimes and simplifying the decision making process for applying them are likely to outweigh the potential costs of removing two of the four suspension pricing regimes which, in certain (albeit potentially limited) circumstances, may still provide the best estimate of prices given the most recent market conditions.

## 2.4 Overview of final rule

Having regard to the issues raised in the rule change request and submissions, the Commission is satisfied that the final rule will, or is likely to contribute to the achievement of the NEO. This was supported in the main by all submissions received to the consultation paper.

The final rule made by the Commission is attached to and published with this final rule determination. The key features of the final rule are:

- Removal of two market suspension pricing regimes from the NER. These are the neighbouring region pricing and pre-dispatch pricing schedule regimes.
- Allowing AEMO to apply dispatch pricing at any time during a market suspension period if:
  - in AEMO's reasonable opinion, it is practicable to resume central dispatch and the determination of dispatch prices and ancillary service prices, and
  - the market was suspended other than in response to a jurisdictional direction.
- Where AEMO has suspended the market in response to a jurisdictional direction, the relevant jurisdiction must agree to a return to dispatch pricing before AEMO can apply this pricing regime.
- Harmonising the price scaling provisions applicable during market suspension with the pricing scaling provisions applicable for other administered prices in the NER. This amends the existing market suspension price scaling provisions in the following two ways:
  1. move from "spot price" scaling to "dispatch price" scaling, and
  2. change the trigger for price scaling from "actual flow on an interconnector towards the suspended region" to "net energy flow on a regulated interconnector towards the suspended region"

- Amending other NER provisions to reflect the preceding changes. These amendments are:
  - referring to dispatch prices rather than spot prices
  - clarifying how market suspension pricing interacts with other forms of price capping or intervention
  - changes to the price scaling arrangements to refer to “net energy flow” to clarify that, where there is more than one regulated interconnector between regions, it is the aggregate flow that is considered
  - changes to the process for declaring a market suspension in cl. 3.14.4(a) to clarify that suspension is effected by AEMO’s notice to the market.

The final rule is largely the same as the proposed rule. The key differences between the final rule and the proposed rule are summarised below and explained in more detail in chapter 3 of this final determination:

- Where AEMO has suspended the market in response to a jurisdictional direction, the relevant jurisdiction must agree to a return to dispatch pricing before AEMO can apply this pricing regime. Under AEMO’s proposed rule, an agreement by the relevant jurisdiction was not required.
- Further simplification of the NER through deletion of redundant clauses.
- Renumbering of provisions in clause 3.14.5 as a result of removing two of the market suspension pricing regimes simplification of the NER through deletion of redundant provisions.

## 2.5 Summary of reasons

Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NEO for the following reasons:

- Greater transparency around, and predictability of, the pricing arrangements during market suspension, thereby promoting confidence in the market suspension pricing arrangements. By removing two of the four market suspension pricing regimes, the final rule will establish a simpler, more practical framework which allows AEMO to focus on addressing the underlying cause of the market suspension.
- Providing for prices to be set through the central dispatch process, where conditions allow, will enable parties participating in the dispatch process to respond to efficient price signals, leading to more efficient outcomes, even when the spot market is suspended.
- Changes to the price scaling provisions applicable during market suspension will enable AEMO to price-scale in real time, providing participants in affected regions with accurate and timely pricing information upon which to make efficient decisions. The changes will also facilitate automation of the price-scaling process, resulting in greater administrative efficiencies for AEMO. While the changes may have some impact on price-scaling outcomes in a neighbouring

region, any costs are likely to be outweighed by the savings resulting from greater automation of the process.

In relation to market suspension under jurisdictional direction, and under the existing NER, central dispatch pricing can only resume when the relevant jurisdiction has revoked its direction; that is, the relevant jurisdiction has the decision making power to resume the market.

The final rule retains this decision making ability of a jurisdiction. It does this by requiring the relevant jurisdiction to agree to a move from the market suspension pricing schedule to central dispatch pricing before AEMO can apply this pricing regime, when the market has been suspended in response to a jurisdictional direction.

AEMO's proposed rule does not require AEMO to obtain the agreement of the relevant jurisdiction if and when AEMO determined that dispatch pricing could resume under a jurisdictionally-directed market suspension. It would be inappropriate to make a rule that indirectly undermines the ability of a jurisdiction to make decisions in relation to the operation of the market during emergency situations.

### 3 Commission's considerations

This chapter outlines a number of matters relevant to the rule change request which were highlighted in the AEMC consultation paper as key issues for consideration by stakeholders. The Commission's assessment of these issues, having had regard to the views of stakeholders and its own analysis, have shaped the Commission's final determination on the rule change request, including the drafting of the final rule.

#### 3.1 Issue 1 – Suspension pricing complexity

##### 3.1.1 AEMO's view

AEMO considers the current requirement to move sequentially through the four market suspension pricing regimes is unnecessarily complex, requiring detailed and ongoing examination (at least every 30 minutes) of the market against the criteria for moving through the pricing hierarchy. In addition, AEMO considers the neighbouring-region and pre-dispatch pricing regimes (the second and third regimes in the hierarchy) are likely to be either unworkable, or have very limited application, increasing decision-making complexity for no obvious gains in efficiency.

In terms of the neighbouring region pricing regime, AEMO notes the following:

- Application of the neighbouring region pricing regime requires an unconstrained interconnector between the suspended region and an unsuspended neighbouring region. However, the rules do not specify which neighbouring region to use when there is more than one unconstrained interconnector. In practice, AEMO sets prices in the suspended region based on the prices in the region which has an adjoining interconnector with the greatest headroom.<sup>22</sup>
- Maintaining dispatch pricing in a neighbouring region requires AEMO to set flow constraints on all the interconnectors connected to a suspended region (this is necessary to avoid prices diverging between neighbouring regions). The constraints are intended to vary according to the latest pre-dispatch schedule if current, or fixed at the latest flow measurement where a current pre-dispatch schedule does not exist. As noted below, it can be difficult to determine whether a pre-dispatch schedule is current.

Overall, AEMO considers that the possibility of having more than one neighbouring region, and having to impose multiple interconnector flow constraints at a time of probable control room stress, makes this regime potentially unworkable.

In terms of the pre-dispatch schedule, AEMO states that use of this regime first requires AEMO to establish whether a pre-dispatch schedule remains current for the suspended region. Where the market has been suspended due to a black system, it is unlikely that a current pre-dispatch schedule will exist as this would have been issued pre-event and would therefore not reflect current system conditions. While a current pre-dispatch schedule may exist if a suspension is the result of a jurisdictional direction or an IT failure, it is unlikely to remain current for long given that any material change to demand, supply or network configuration could render it invalid. Overall, AEMO

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<sup>22</sup> See AEMO System Operating Procedure SO\_OP3706, Failure of Market or Market Systems.

considers the efficiencies of including this pricing regime within the market suspension pricing hierarchy, even for events that are very short (for example, up to one hour), would be likely to be outweighed by the uncertainty and complexity associated with applying this regime for a short window.

### 3.1.2 Stakeholders' views

All stakeholders submitting on the consultation paper noted the suspension pricing complexity problem faced by AEMO. The majority of these stakeholders agreed with the removal of the pre-dispatch or neighbouring-region pricing regime should be removed. A couple of stakeholders supported retaining these pricing options.

ERM Power, the Department of the Premier and Cabinet of the Government of South Australia (South Australian Government), the Australian Energy Council (AEC) and ENGIE supported AEMO's proposal to remove both the pre-dispatch schedule and neighbouring-region price options for pricing during market suspension.

ERM Power stated that pre-dispatch pricing requires continual assessment by AEMO of the validity of the pricing schedule. ERM Power further stated that it is unlikely a pre-dispatch schedule would remain valid for more than three dispatch intervals from the time the market becomes suspended (including the interval the pricing is based on).<sup>23</sup> This is because actual supply and, in particular, demand can differ materially from the forecasts used to determine the pre-dispatch pricing schedule, particularly during high-demand periods.

The South Australian Government's submission noted that resources devoted to a pre-dispatch schedule's validation and assessment would be better devoted to managing the power system during a period of market suspension. It also noted that neighbouring-region pricing involves more administrative complexity where there is more than one neighbouring-region, adding complexity with no apparent benefit.<sup>24</sup>

The AEC's submission was broadly in agreement with that of ERM Power and the South Australian Government. The AEC agreed that the current requirement for AEMO to move sequentially through the four market suspension pricing regimes should be simplified, and supported AEMO's proposal to remove two pricing regimes.<sup>25</sup> ENGIE expressed support in its submission for all aspects of AEMO's rule change proposal.<sup>26</sup>

EnergyAustralia noted that retaining pre-dispatch and neighbouring-region pricing could be of value, and supported retaining these options but removing mandatory consideration. EnergyAustralia agreed with AEMO that mandatory consideration of both pre-dispatch and neighbouring-region pricing should be removed due to the complexity and cost, and as false price signals can lead to opportunistic bidding behaviour. However, EnergyAustralia considered there are benefits to retaining these two pricing options during market suspension for instances where they suit market conditions. It noted that pre-dispatch pricing would be likely to more accurately reflect

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<sup>23</sup> ERM Power, Submission to consultation paper, p. 2.

<sup>24</sup> Department of Premier and Cabinet (Government of South Australia), Submission to the consultation paper, p. 2.

<sup>25</sup> AEC, Submission to the consultation paper, p. 1.

<sup>26</sup> ENGIE, Submission to the consultation paper, p. 1.

the cost of supply than the market suspension pricing schedule, particularly if the market were to be suspended during a period of high prices.<sup>27</sup> Meridian Energy Australia did not express support for the removal of the neighbouring-region or pre-dispatch pricing options, identifying value in both of these regimes. Its submission argued there would be value in using the pre-dispatch pricing schedule for a set period of time. In Meridian Energy Australia's view, the pre-dispatch schedule would have the advantage that, after commencing use of the pre-dispatch schedule, participants would be aware of likely outcomes and have time to adjust to any new market suspension pricing regime that may apply thereafter.<sup>28</sup>

Meridian Energy Australia noted they were unsure whether the removal of neighbourhood pricing would be in the long-term interests of customers. Meridian Energy Australia further argued that the solution to a suspended region having more than one neighbouring region was to identify the neighbouring region with the lowest price, rather than the region with the largest headroom.<sup>29</sup>

### **3.1.3 Analysis and conclusions**

As discussed in section 1.3, prices under neighbouring region pricing and the pre-dispatch pricing schedule are likely to be more informationally efficient<sup>30</sup> than prices under the market suspension pricing schedule. However, the Commission views these benefits of neighbouring region pricing and the pre-dispatch pricing schedule are outweighed by their costs.

Both pricing regimes can be complex and administratively resource-intensive. In terms of neighbouring region pricing, the Commission agrees with AEMO that determining prices under this regime is difficult when more than one region neighbours the suspended region. In this case, AEMO would be required to impose multiple interconnector flow constraints at a time of probable control room stress. Furthermore, the Rules do not specify which neighbouring region to use when there is more than one unconstrained interconnector.

In relation to the pre-dispatch pricing schedule, the benefits of retaining this pricing regime as an option is likely to be limited; the longer the period of market suspension lasts, the less likely that the schedule remains reflective of current market conditions. Furthermore, the exact duration over which the schedule remains 'current' during a period of market suspension cannot be determined in advance, with estimates from stakeholders ranging from 5 minutes to an hour. Therefore, any incremental benefit from retaining this price regime is likely to be outweighed by the uncertainty associated with applying it for a brief (but unknown) time window, and the costs to AEMO from having to consider this regime in its hierarchy of market suspension pricing regimes.

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27 EnergyAustralia, Submission to the consultation paper, p. 2.

28 Meridian Energy Australia, Submission to the consultation paper, p. 2

29 *ibid*, pp. 1-2.

30 Informational efficiency relates to the degree to which market prices correctly and quickly reflect new information about the value of an underlying asset. Informationally efficient energy prices is a necessary requirement for energy market outcomes to be economically efficient.

Of the four market suspension pricing regimes, central dispatch pricing provides the most informationally efficient prices. It is therefore more appropriate for AEMO during market suspension to focus its finite resources on resuming the market and resuming central dispatch pricing, even if that means fewer resources are devoted to administering neighbouring region pricing or the pre-dispatch pricing schedule. In doing so, central dispatch pricing can be more quickly re-established than if AEMO's resources were to spread between efforts to resume the market and efforts to administer neighbouring region pricing or the pre-dispatch pricing schedule.

Therefore, in the Commission's view, the benefits of a quicker return to a more informationally efficient pricing regime outweigh the costs of having less informationally efficient pricing regimes during a period of market suspension. By removing two of the four pricing regimes, the final rule will establish a simple, workable, practical framework which allows AEMO to focus on addressing the underlying cause of the market suspension, thereby promoting efficient operational decisions.

## **3.2 Issue 2 – Inconsistency between central dispatch and pricing**

### **3.2.1 AEMO's view**

Selecting a pricing regime is a multi-step process of escalation based on the price intended to reflect most recent market conditions. This is subject to the restriction that AEMO progressively moves away from dispatch pricing in the suspension pricing hierarchy, but never back towards it.

During the Black System event in SA, despite the central dispatch process having returned to normal operation, the rules prevented AEMO from moving back through the hierarchy in order to apply dispatch pricing. This meant that parties participating in the central dispatch process were responding to price signals provided by the market suspension pricing schedule (the fourth market suspension pricing regime) that were unrelated to market conditions at that time, rather than to price signals created by the normal central dispatch process. This had the following consequences:

- A large proportion of generation was offered at negative prices resulting in negative dispatch prices which were then overridden by the market suspension pricing schedule.
- AEMO issued directions to secure the power system with plant that had been displaced by plant offering low prices.

### **3.2.2 Stakeholders' views**

Stakeholder submissions supported allowing AEMO to revert to central dispatch pricing under market suspension when central dispatch operations are normal. EnergyAustralia stated in its submission that allowing this could minimise uncertainty and prevent perverse pricing and dispatch outcomes in the market.<sup>31</sup> It further added that when pricing is not reflective of market conditions, it incentivises bidding

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<sup>31</sup> EnergyAustralia, Submission to the consultation paper, p. 1.

behaviours that lead to inefficient outcomes, as was the case with market suspension between 27 September and 11 October 2016 in South Australia.<sup>32</sup>

ERM Power stated the proposed rule would simplify arrangements and deliver greater pricing certainty for generation dispatch, increased transparency and a return to efficient price signals and optimal generation dispatch.<sup>33</sup> The AEC was also in support, stating that central dispatch pricing is the "preferred market outcome".<sup>34</sup> The AEC, like EnergyAustralia, pointed to South Australia's extended market suspension due to Ministerial Direction from 28 September to 11 October 2016 as a basis for AEMO to revert to central dispatch pricing.<sup>35</sup> ENGIE's submission supported all aspects of AEMO's rule change proposal.

The South Australian Government noted its support for AEMO to be able to revert to central dispatch pricing under market suspension. The South Australian Government also noted that:

“[a] fundamental concern for South Australia during the Black System event of 28 September 2016 was to avoid the potential for the exercise of market power in pricing during the extreme and unprecedented circumstances of that event. In order to ensure the integrity of the electricity wholesale spot market in South Australia during that event, a Ministerial direction was given to AEMO under clause 3.14.3(2) of the NER to suspend the spot market in the South Australian region until the direction was revoked.<sup>36</sup>”

Given this concern, the South Australian Government considered that, where Ministerial direction has been made to suspend the market, the decision by AEMO to revert to central dispatch pricing whilst the market is suspended “should be linked to the body determining the need for suspension”. The South Australian Government considered that:

“in the absence of a mechanism linking back to the affected jurisdiction that initiated the suspension, clause 3.14.3(2) appears to have no meaningful outcome and the scenario emerges that NEM Ministers' powers to issue directions to suspend the market would be undermined.<sup>37</sup>”

### 3.2.3 Analysis and conclusions

The Commission considers that providing for prices to be set through the central dispatch process, where certain conditions allow as noted below, will enable parties participating in the dispatch process to respond to efficient price signals, leading to more efficient outcomes even when the spot market is suspended. As noted in section 3.1, central dispatch pricing provides the most informationally efficient prices, of the

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32 *ibid*, pp. 1-2.

33 ERM Power, Submission to the consultation paper, pp. 1-2.

34 AEC, Submission to the consultation paper, p. 1.

35 *ibid*, p. 2.

36 Department of Premier and Cabinet (Government of South Australia), Submission to the consultation paper, p. 2

37 *ibid*, p. 3

four market suspension pricing regimes, especially the market suspension pricing schedule.

AEMO should be allowed to apply dispatch pricing at any time during a market suspension period if:

- in AEMO's reasonable opinion, it is practicable to resume central dispatch and the determination of dispatch prices and ancillary service prices, and
- the market was suspended other than in response to a jurisdictional direction.

The rule change request did not consider the matter of jurisdictional direction to suspend the market. As this is unaffected by the rule change request, it would not be appropriate as part of this rule change to indirectly affect this power of direction. In relation to market suspension under jurisdictional direction, and under the existing NER, central dispatch pricing can only resume when the relevant jurisdiction has revoked its direction; that is, the relevant jurisdiction has the decision making power to resume the market.

The final rule retains this decision making ability of a jurisdiction. It does this by requiring the relevant jurisdiction to agree to a move from the market suspension pricing schedule to central dispatch pricing before AEMO can apply this pricing regime, when the market has been suspended in response to a jurisdictional direction.

AEMO's proposed rule does not require AEMO to obtain the agreement of the relevant jurisdiction if and when AEMO determined that dispatch pricing could resume under a jurisdictionally-directed market suspension. It would be inappropriate to make a rule that indirectly undermines the ability of a jurisdiction to make decisions in relation to the operation of the market during emergency situations.

### **3.3 Issue 3 – Differences in the price scaling arrangements**

#### **3.3.1 AEMO's view**

The lack of an automated process for pricing during market suspension led to a number of issues during the Black System event in SA, including uncertainty around the prices that would apply in neighbouring regions, and the risks of error associated with AEMO staff having to handle and compute large volumes of pricing data manually. While these issues could be reduced or eliminated through automation, AEMO asserts that automation requires harmonisation of the price scaling provisions applicable to market suspension with other price scaling provisions in the NER.

There are three points of difference between the price scaling provisions during market suspension compared with other price scaling arrangements. These are:

- *Actual flow versus energy flow*: The trigger for price scaling during market suspension is an "actual flow" toward a suspended region, rather than an "energy flow" (the need to measure actual flow means scaled prices cannot be calculated in real time).
- *Spot price versus dispatch price*: Price scaling under market suspension applies to the 30 minute "spot price" rather than the 5 minute "dispatch price" (dispatch price scaling is a pre-requisite for automation).

- *Interconnector versus regulated interconnector*: Price scaling under market suspension applies to interconnectors rather than to “regulated” interconnectors (AEMO does not consider it appropriate to apply price scaling to non-regulated interconnectors).

AEMO’s proposal is to eliminate these differences by aligning price-scaling provisions during market suspension with the other price-scaling provisions in the NER.

### 3.3.2 Stakeholders' views

Meridian Energy Australia stated that they were unable to analyse the issues raised in relation to price scaling arrangements, though they did “understand the logic of the position proposed by AEMO” in relation to the removal of non-regulated interconnectors from the price scaling arrangements.<sup>38</sup>

ENGIE stated that they supported AEMO’s rule change proposal, noting AEMO’s positions expressed in its rule change request.<sup>39</sup>

ERM Power stated their support for alignment to inter-regional price scaling provisions in the NER. It stated the change in reference to dispatch rather than to spot prices for price scaling during market suspension has the effect of removing ex-post price scaling for regions with flow towards the region under market suspension, which leads to uncertainty in pricing for regions not subject to market suspension.<sup>40</sup>

The AEC expressed their support for aligning price scaling arrangements in the NER. The AEC stated the alignment of price scaling between market suspension periods and other administered prices removes inconsistency between regions under market suspension and those that are not.<sup>41</sup> The South Australian Government stated their support of AEMO’s proposed automation of the market suspension regime as it would reduce administrative burden and lower the risk of error.<sup>42</sup>

### 3.3.3 Analysis and conclusions

The Commission considers that changes to the price scaling provisions applicable during market suspension will enable AEMO to price-scale in real time, providing participants in affected regions with accurate, timely and informationally efficient prices upon which to make decisions. The changes will also facilitate automation of the price-scaling process, resulting in greater administrative efficiencies for AEMO.

While the changes may have some impact on price-scaling outcomes in a neighbouring region, any costs are likely to be outweighed by the savings resulting from greater automation of the process.

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<sup>38</sup> Meridian Energy Australia, Submission to the consultation paper, pp. 2–3.

<sup>39</sup> ENGIE, Submission to the consultation paper.

<sup>40</sup> ERM Power, Submission to the consultation paper, p. 2.

<sup>41</sup> AEC, Submission to the consultation paper, p. 2.

<sup>42</sup> Department of Premier and Cabinet (Government of South Australia), Submission to the consultation paper, p. 2.

## 3.4 Consequential and other amendments

### 3.4.1 AEMO's view

#### Application of the APC during periods of market suspension

AEMO has proposed several consequential amendments to clarify how suspension pricing interacts with other forms of price capping or intervention by introducing new clause 3.14.5(c1) into the NER.<sup>43</sup> One of these proposed amendments relates to clarifying that dispatch prices during market suspension would be subject to the administered price provisions set out in clause 3.14.2 of the NER – specifically, that the administered price cap (APC) would apply in instances where spot prices before and/or following the declaration of market suspension exceed the cumulative price threshold (CPT). AEMO considers that application of the market suspension pricing schedule is a form of administered pricing, with implications aligned to those arising from the application of the APC.

#### Other consequential amendments

In addition to the proposal to apply the APC during periods of market suspension, AEMO proposed numerous other amendments to the NER including:

- amendments that AEMO considers are consequential to the changes being proposed in relation to Issues 1-3, and
- amendments aimed at clarifying the meaning of, or removing redundant, provisions.

These are set out in section 4.2.4 of the rule change request and include the following:

- Multiple changes throughout clauses 3.14.4 (Declaration of market suspension) and 3.14.5 (Pricing during market suspension) to refer to the determination of dispatch rather than spot prices. This would allow AEMO to streamline its administration of market suspension through automation. As discussed above, AEMO proposed changes to 3.14.5 to apply the APC during periods of market suspension.
- Multiple changes to clause 3.9.2 (Determination of spot prices) to include market suspension in the list of possible exceptions to dispatch algorithm pricing, consistent with the proposal to determine suspension prices on a dispatch interval basis. Similarly, the reference to suspension pricing has been removed from clause 3.9.2(h), which deals with the determination of spot prices.

Furthermore, AEMO's submission to the consultation paper proposed a consequential amendment additional to that proposed in its rule change request. AEMO's additional proposed consequential amendment relates to clause 3.14.5(g1) and clarifies that, in the two possible scenarios where pricing solutions are brought forward from a previous dispatch interval, price scaling will not occur following subsequent application of the market suspension pricing schedule.

One of these scenarios (the identification of a manifestly incorrect input) was captured in AEMO's original proposal of clause 3.14.5(g1); the second scenario (a missed

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<sup>43</sup> This has been renumbered from the new clause 3.14.5(g1) proposed in the rule change request.

dispatch interval due to an unsuccessful run of the central dispatch algorithm, as per clause 3.8.21(b)) is captured in AEMO's revised proposal of clause 3.14.5(g1).<sup>44</sup>

### **3.4.2 Stakeholders' views**

ERM Power, Meridian Energy Australia and South Australia Government commented specifically on AEMO's proposed consequential and other amendments. ENGIE provided overall support to AEMO's rule change request.

On having the APC apply during periods of market suspension, ERM Power and Meridian Energy Australia supported this, but for different reasons. ERM Power expressed support for clarifying that dispatch prices during market suspension are also subject to the APC, ensuring this risk management provision remains in effect.<sup>45</sup> Meridian Energy Australia stated it did not see a reason why administered pricing provisions, which exist for the protection of consumers and the market, would not apply differently under market suspension.<sup>46</sup>

The South Australian Government did not indicate whether it supported AEMO's proposed consequential and other amendments, but stated it was interested in understanding whether there is an opportunity to align the suspension pricing regime with the administered pricing framework under the cumulative price threshold.

### **3.4.3 Analysis and conclusions**

The potential for participants to face unmanageably high levels of price risk exists even during periods of market suspension. This potential is the greatest under central dispatch pricing, which under the Commission's final rule can apply even when the market is suspended.

It is also possible that prices under the market suspension pricing schedule could reach very high levels for a sustained period, which could undermine the financial viability of market participants. Under the market suspension pricing schedule, AEMO calculates and publishes, on a weekly basis, a rolling average of half-hourly prices for weekdays and weekends, using spot prices over the previous four completed weeks, for the spot electricity and 8 FCAS markets. To the extent that prices over the previous four weeks were at sustained high levels, it is possible that prices under the market suspension pricing schedule may also be similarly elevated.

The APC mechanism is designed to limit participants' financial exposure to the wholesale spot market during prolonged periods of high prices. On the basis that pricing during market suspension is intended to reflect current conditions in the market (or typical market prices), the Commission considers that the APC is the appropriate mechanism to manage risk during these periods.

AEMO has also proposed that participants should be eligible to claim compensation under the APC participant compensation framework where the APC is applied to prices

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<sup>44</sup> AEMO, Submission to the consultation paper.

<sup>45</sup> ERM Power, Submission to the consultation paper, p. 2.

<sup>46</sup> Meridian Energy Australia, Submission to the consultation paper, p. 3

in the suspension pricing schedule.<sup>47</sup> This issue will be considered by the Commission in the *Participant compensation following market suspension rule change*.<sup>48</sup>

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<sup>47</sup> AEMO, *Market Suspension Rule Changes – Participant Compensation*, 25 July 2017.

<sup>48</sup> Further details on this rule change, including AEMO's rule change proposal, can be found at: <http://www.aemc.gov.au/Rule-Changes/Participant-compensation-following-market-suspensi>

## Abbreviations

AEC	Australian Energy Council
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
APC	Administered Price Cap
COAG	Council of Australian Governments
CPT	Cumulative Price Threshold
FCAS	Frequency Control Ancillary Services
IRSR	Inter-Regional Settlements Residue
MCE	Ministerial Council on Energy
MSTWG	Market Suspension Technical Working Group
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules
South Australian Government	Department of the Premier and Cabinet, Government of South Australia

## A Summary of submissions

This appendix sets out the issues raised in consultation on this rule change request and the AEMC's response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this table.

Stakeholder	Issue	AEMC response
AEMO	The AEMC should consider proposed drafting clarifying that in all instances when pricing solutions are brought forward from a previous interval price, scaling will not occur following subsequent application of the market suspension pricing schedule. This includes the scenario where pricing solutions being brought forward from a previous dispatch interval following a missed dispatch interval under 3.8.21(b).	Noted.
EnergyAustralia	We urge a review of the scaling mechanism to address concerns around the consequences of the price scaling process.	Noted. As mentioned in the submission, this is out of scope for this rule change process.
Meridian Energy Australia	The actual form of words used in a rule change can impact on market outcomes and participants. We would be concerned if changes introduced in this rule change could lead to confusion in how they interact in themselves and with other rules in the NER.	Noted. The AEMC conducts a robust consultation process on its rule changes and any matters that could be unclear can be raised by stakeholders.

## **B Legal requirements under the NEL**

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

### **B.1 Final rule determination**

In accordance with s. 102 of the NEL, the Commission has made this final rule determination in relation to the rule proposed by AEMO. In accordance with s.103 of the NEL, the Commission has determined to make the rule proposed by AEMO, with amendments.

The Commission's reasons for making this final rule determination are set out in section 2.5.

A copy of the final rule is attached to and published with this final rule determination. Its key features are described in section 2.4

### **B.2 Power to make the rule**

The Commission is satisfied that the final rule falls within the subject matter about which the Commission may make rules. The final rule falls within s. 34 of the NEL as it relates to:

- the operation of the national electricity market (clause (1)(a)(i))
- the operation of the national electricity system for the purposes of the safety, security and reliability of that system (clause (1)(a)(ii))
- the activities of persons (including Registered participants) participating in the national electricity market or involved in the operation of the national electricity system (clause (1)(a)(iii)).

#### **B.2.1 Northern Territory legislative considerations not required**

From 1 July 2016, the National Electricity Rules (NER), as amended from time to time, apply in the Northern Territory, subject to derogations set out in Regulations made under the NT legislation adopting the NEL.<sup>49</sup> Under those Regulations, only certain parts of the NER have been adopted in the NT.<sup>50</sup> As the proposed rule relates to parts of the NER that currently do not apply in the Northern Territory, the Commission has not assessed the proposed rule against additional elements required by Northern Territory legislation.<sup>51</sup>

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<sup>49</sup> National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations.

<sup>50</sup> For the version of the NER that applies in the Northern Territory, refer to : [http://www.aemc.gov.au/Energy-Rules/National-electricity-rules/National-Electricity-Rules-\(Northern-Territory\)](http://www.aemc.gov.au/Energy-Rules/National-electricity-rules/National-Electricity-Rules-(Northern-Territory)).

<sup>51</sup> National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

### **B.3 Commission's considerations**

In assessing the rule change request, the Commission considered:

- its powers under the NEL to make the rule
- the rule change request
- the fact that there is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles<sup>52</sup>
- submissions received during consultation
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NEO.

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of Australian Energy Market Operator's (AEMO) declared network functions.<sup>53</sup> The final rule is compatible with AEMO's declared network functions because it does not affect the performance of the functions at all.

### **B.4 Civil penalties and conduct provisions**

The final rule does not amend any clauses that are currently classified as civil penalty or conduct provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as civil penalties or conduct provisions.

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<sup>52</sup> Under s. 33 of the NEL, the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for Energy. On 1 July 2011 the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

<sup>53</sup> Section 91(8) of the NEL.