



National Electricity Amendment (Transmission Last Resort Planning) Rule 2007 No.3

under the National Electricity Law as applied by:

- (a) the National Electricity (South Australia) Act 1996;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (d) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (e) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (f) the National Electricity (Victoria) Act 2005 of Victoria; and
- (g) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

A handwritten signature in blue ink, which appears to read 'John Tamblyn', is positioned above the printed name and title.

John Tamblyn
Chairman
Australian Energy Market Commission

National Electricity Amendment (Transmission Last Resort Planning) Rule 2007 No.3

1. Title of Rule

This Rule is the *National Electricity Amendment (Transmission Last Resort Planning) Rule 2007 No.3*.

2. Commencement

This Rule commences operation on 15 March 2007.

3. Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

5.6.4 Last Resort Planning Power

(a) In this clause 5.6.4:

directed party means one or more *Registered Participants* directed by the *AEMC* in accordance with this clause 5.6.4 and may include:

- (1) a single *Registered Participant*;
- (2) two or more *Registered Participants* who are directed by the *AEMC* to jointly and co-operatively comply with a direction under paragraph (c).

direction notice is a notice issued under paragraph (i).

Purpose

(b) The purpose of a *last resort planning power* is to ensure timely and efficient *inter-regional transmission* investment for the long term interests of consumers of electricity.

AEMC last resort planning power

(c) The *AEMC* may, in accordance with this clause 5.6.4, direct one or more *Registered Participants*:

- (1) to identify a *potential transmission project* and apply the *regulatory test* to that project; or
- (2) to apply the *regulatory test* to a *potential transmission project* identified by the *AEMC*.

(d) The *AEMC* must exercise a *last resort planning power*:

- (1) consistently with the purpose referred to in paragraph (b); and
- (2) in accordance with the *last resort planning power guidelines*.

Advice from the Inter-regional Planning Committee

(e) The *AEMC* may request advice from the *Inter-regional Planning Committee* in relation to the exercise of the *last resort planning power*, in accordance with the *last resort planning power guidelines*.

(f) For the purpose only of providing advice to the *AEMC* in relation to the exercise of the *last resort planning power*, the *AEMC* may, in accordance with the *last resort planning power guidelines*, request *NEMMCO* to appoint up to 4 additional persons to the *Inter-regional Planning Committee* to:

- (1) provide expertise and advice in relation to *generation* and *distribution* issues; and
- (2) present the views of *Market Customers* and end user consumers of electricity.

Relevant considerations

- (g) In deciding whether or not to exercise a *last resort planning power* the *AEMC* must take into account:
 - (1) advice provided by the *Inter-regional Planning Committee*;
 - (2) the two most recent *Annual National Transmission Statements*;
 - (3) *Annual Planning Reports* published by *Transmission Network Service Providers* under clause 5.6.2A; and
 - (4) other matters that are relevant in all the circumstances.
- (h) In deciding whether or not to exercise the *last resort planning power* the *AEMC* must:
 - (1) identify a problem relating to *constraints* in respect of *national transmission flow paths* between *regional reference nodes* or a *potential transmission project* (**the problem** or **the project**);
 - (2) make reasonable inquiries to satisfy itself that there are no current processes underway for the application of the *regulatory test* in relation to the problem or the project;
 - (3) consider whether there are other options, strategies or solutions to address the problem or the project, and must be satisfied that all such other options are unlikely to address the problem or the project in a timely manner;
 - (4) be satisfied that the problem or the project may have a significant impact on the efficient operation of the *market*; and
 - (5) be satisfied that but for the *AEMC* exercising the *last resort planning power*, the problem or the project is unlikely to be addressed.

Direction notice

- (i) The *AEMC* must exercise a *last resort planning power* by giving a direction notice in writing to a directed party that states:
 - (1) the relevant action under paragraph (c) that the directed party is required to undertake; and
 - (2) the *AEMC's* reasons for exercising the *last resort planning power*.
- (j) A direction notice given by the *AEMC* under paragraph (i) may specify one or more of the following:
 - (1) one or more alternative projects which a directed party must consider when applying the *regulatory test* to *potential transmission projects*;
 - (2) the time period within which the application of the *regulatory test* must be carried out by a directed party; or

- (3) consultation and publication requirements that are in addition to those required by the *regulatory test*.
- (k) The *AEMC* must *publish* the direction notice referred to in paragraph (i) on its website.
- (l) A directed party must comply with:
 - (1) a direction notice;
 - (2) the requirements of the *last resort planning power guidelines*; and
 - (3) the requirements for the application of the *regulatory test*.
- (m) If a directed party (an **earlier directed party**) fails to comply with a direction notice, the *AEMC* may:
 - (1) in accordance with this clause 5.6.4, give a direction notice to a *Registered Participant* other than the earlier directed party; and
 - (2) inform the *AER* of the earlier directed party's failure to comply with the direction notice.

Annual reporting for last resort planning power

- (n) The *AEMC* must report annually on the matters which the *AEMC* has considered during that year in deciding whether or not to exercise the *last resort planning power*, and may include the information in its Annual Report published under s.27 of the Australian Energy Market Commission Establishment Act 2004 (South Australia).

Last resort planning power guidelines

- (o) The *AEMC* must develop and *publish* guidelines ('the *last resort planning power guidelines*') for or with respect to:
 - (1) the processes to be followed by the *AEMC* in exercising the *last resort planning power*;
 - (2) a request to *NEMMCO* to appoint a person as an additional member of the *Inter-regional Planning Committee* as referred to in paragraph (f);
 - (3) the advice to be provided to the *AEMC* by the *Inter-regional Planning Committee*, including the terms of reference for any such advice;
 - (4) the matters that the *Inter-regional Planning Committee* and the *AEMC* may consider in recommending or nominating a person as an appropriate directed party; and
 - (5) the provision of information to the *AEMC* in relation to the exercise of the *last resort planning power*.
- (p) The *AEMC* must develop and *publish* the *last resort planning power guidelines* in accordance with the *transmission consultation procedures*.

- (q) The *AEMC* must develop and *publish* the first *last resort planning power guidelines* by 1 January 2008 and there must be such guidelines available at all times after that date.
- (r) The *AEMC* may from time to time and in accordance with the *transmission consultation procedures*, amend or replace the *last resort planning power guidelines*.

[4] Rule 6A.20 Transmission consultation procedures

In rule 6A.20, after “*AER*” insert “or the *AEMC*” wherever occurring.

[5] Rule 6A.20 Transmission consultation procedures

In rule 6A.20(f)(2), after “*AER*’s” insert “or the *AEMC*’s”.

[6] Chapter 10 New Definitions

In Chapter 10, insert the following new definitions in alphabetical order:

last resort planning power

The *AEMC*’s power to direct a *Registered Participant* under clause 5.6.4(c).

last resort planning power guidelines

The guidelines made by the *AEMC* relating to the exercise of the *last resort planning power* and referred to in clause 5.6.4(o)-(r).

potential transmission project

New transmission network investment identified by the *AEMC* which, in the opinion of the *AEMC*, is likely, if constructed, to relieve forecast *constraints* in respect of *national transmission flow paths* between *regional reference nodes*.

[7] Chapter 10 Amended definitions

In Chapter 10, omit the following current definitions and substitute:

publish, publication

- (a) In the case of an invitation or notice referred to in clauses 6A.11.3(a)(5), 6A.12.2(a)(3) and (4) or 6A.20(b)(3), publish on the *AER's* website or the *AEMC's* website, as the case requires, and in a newspaper circulating generally throughout Australia.
- (b) In the case of a notice referred to in clauses 6A.12.2(a)(2), 6A.13.3 or 6A.20(e)(2), publish on the *AER's* website or the *AEMC's* website, as the case requires, in the South Australian Gazette and in a newspaper circulating generally throughout Australia.
- (c) Where referred to in any other provision of Chapter 6A (other than Part I), publish on the *AER's* website and make a copy available at the offices of the *AER*.
- (d) In any other case, make available to *Registered Participants* electronically.

transmission consultation procedures

The procedures set out in Part H of Chapter 6A that must be followed by:

- (a) the *AER* in making, developing or amending guidelines, models or schemes or in reviewing methodologies; or
- (b) the *AEMC* in developing or amending guidelines.

END OF RULE
