



**Australian Energy Market Commission**

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## **CONSULTATION PAPER**

# National Electricity Amendment (Market Participant Suspension Framework) Rule 2016

**Rule Proponent**  
COAG Energy Council

9 June 2016

**RULE  
CHANGE**

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Reference: ERC0202

## **Citation**

AEMC, *Market Participant Suspension Framework*, Consultation Paper, 9 June 2016, Sydney.

## **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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# 1 Introduction

On 9 December 2015 the COAG Energy Council (Council or Energy Council) submitted a rule change request to the Australian Energy Market Commission in relation to suspending a market participant from the National Electricity Market (NEM) when it is under external administration. The request also proposed an amendment that would allow the suspension from the NEM of some but not all of the registrations of a market participant, instead of the current arrangement, that does not permit such a selective approach.

This Consultation Paper has been prepared to facilitate public consultation, and to seek stakeholder submissions, on the rule change request.

This paper:

- provides relevant background to the rule change request;
- provides a summary of the rule change request, including the key issues identified by the Council;
- identifies a number of questions and issues to facilitate the consultation; and
- outlines the process for making submissions.

Submissions on the rule change request are to be received by 7 July 2016. Details on how to lodge a submission are contained in Chapter 6 of this consultation paper.

## 2 Background

The COAG Energy Council considers that the market participant suspension framework in the NER should be clarified and enhanced, to minimise financial risk to the market and other market participants.

This chapter provides:

- background to the broader purpose of suspending market participants from the market;
- an explanation and elaboration of external administration and its relationship with market participant suspension;
- a summary of the prudential arrangements that are used to mitigate financial risks in the NEM; and
- a summary of the relevant aspects of the AEMC’s review on NEM financial market resilience.

### 2.1 The purpose of market participant suspension

The NEM is a gross pool market, operated by the Australian Energy Market Operator (AEMO). The aggregate amount of money paid into the NEM has to match the aggregate amount paid out of it. In order to maintain and safeguard this balance, AEMO may, if certain conditions are met, suspend market participants from the NEM. These conditions are reflected in “default events”.<sup>1</sup> Generally, these events indicate that a market participant may pose a danger to the financial integrity of the NEM. The majority of these events can be grouped into three types:

- failure to make market payments to AEMO as and when requested;
- a problem with the credit support of the market participant; or
- an insolvency process is initiated against the market participant.

In any of these cases AEMO may issue a “default notice” specifying the alleged default and requiring the market participant to remedy the default. If the market participant does not comply with this request, AEMO may suspend the market participant, by issuing a “suspension notice”. Suspension in this regard means that after the date and time specified by AEMO in the suspension notice, the market participant will not be able to trade in the NEM. That is, it will not be able to receive payments or purchase electricity from the spot market.

Only those participants identified as “market participants” under the NER are subject to these arrangements.

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<sup>1</sup> See Cl. 3.15.21 (a) of the NER.

Market participants include:<sup>2</sup>

- Market Generators;
- Market Small Generation Aggregators;
- Market Customers (retailers and large customers that participate in the market);
- Market Network Service Providers.

## 2.2 External administration

A company – usually for reasons of financial distress – may be placed in one of the forms of external administration whereby control of the company transfers from the directors to an external administrator who conducts the affairs of the company.

External administration constitutes a default event in the NER.<sup>3</sup> The *Corporations Act (2001)* provides for the different forms of corporate external administration.

Under some forms of external administration, the company may continue to trade while it undergoes rehabilitation. In some cases external administration can lead to the winding up of the company; in others management rights could be returned to the directors and continued operation could be allowed in a “business as usual” way for the company.

Enforcement of claims against a company under external administration would require the appointed third party’s or a court’s permission. Hence, outstanding debts are harder to collect from such companies. Administrators, receivers and liquidators may be personally liable for debts incurred by the company during their appointment. As a result, they may be reluctant to continue trading. Additionally, the appointed third party’s duty is to act in the best interest of the creditors.

## 2.3 Prudential arrangements

As the purchase and sale of electricity in the NEM is through AEMO, AEMO acts as a central clearing counterparty for all transactions. As financial settlement occurs up to five weeks after electricity is actually dispatched, there are large amounts of outstandings creating financial risks that AEMO needs to manage.

Credit support is collateral that helps to lower the risk of shortfall in payments made by a net payer to AEMO, and therefore lowers the risk of a payment shortfall to the net receivers from AEMO. Credit support requirements are part of a broader prudential framework that is set out in clause 3.3 of the NER. AEMO may suspend any market

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<sup>2</sup> Traders, Reallocators and Transmission Network Service Providers are also market participants for some purposes, and are subject to the prohibition on participating in the market while under external administration. See Cl. 2.5A (b) (2), 2.5B (b) (2), and 3.6.5 (b) of the NER.

<sup>3</sup> See Cl. 3.15.21 (a) (11) of the NER.

participant that fails to provide credit support in accordance with the NER, with the purpose of maintaining the financial integrity of the NEM.

Credit support amounts are designed to cover the financial exposure of market participants to AEMO in respect of accrued amounts over a period of approximately five weeks.<sup>4</sup> In case of a default event, AEMO may draw down the credit support provided by the market participant.

Generators<sup>5</sup> are usually net receivers of payments from AEMO, therefore are generally required to provide much lower amounts of credit support than retailers<sup>6</sup>, which are net payers to AEMO. AEMO determines individual credit support levels for each market participant at the start of its registration and then revises this regularly.<sup>7</sup>

## **2.4 Retailers of last resort**

If a retailer is suspended from the market, one or more other retailers will take responsibility for its customers under the retailer of last resort (ROLR) framework in the National Energy Retail Law.<sup>8</sup> These other retailers are called retailers of last resort (ROLR) and are designated as the ROLR by the AER. If a ROLR event occurs the AER appoints a ROLR in respect of the failed retailer's customers.<sup>9</sup> The National Energy Retail Law sets out the arrangements for the transfer of customers to ROLRs. The transfer must happen as soon as possible.

ROLR events have the potential to impose significant burdens on the ROLRs because the transfer of the failed retailer's customers to the ROLR can greatly increase its financial obligations in the NEM, including increased credit support and costs arising from exposure to the spot price in respect of the new unhedged parts of its portfolio.

Since the ROLR framework determines what happens to a retailer's customers if the retailer is suspended from the market, it is relevant to any decision by AEMO to suspend or not suspend a retailer under external administration.

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4 See Cl.3.1.1A and 3.15.16 of the NER.

5 For the sake of simplicity, market participants defined in the NER as Market Generators will be referred to as Generators in this Consultation Paper.

6 For the sake of simplicity, market participants defined in the NER as Market Customers will be referred to as Retailers in this Consultation Paper.

7 See AEMO's Credit Limit Procedures.

8 The National Energy Retail Law applies in all NEM jurisdictions other than Victoria. Victoria's ROLR arrangements are set out in jurisdictional instruments.

9 See Part 6 of the National Energy Retail Law.

## 2.5 Related AEMC work

Many issues in this Consultation Paper were previously examined in AEMC's NEM Financial Market Resilience Review<sup>10</sup>(the Review), which was completed in March 2015.

### Objectives of the Review

In the Review the AEMC was asked by the COAG Energy Council to provide advice on risks to the financial stability of the National Electricity Market (NEM), and whether any additional measures may be required to manage those risks. Financial stability relates to the smooth flow of funds between market participants in the NEM so that the buying and selling of electricity continues to operate as intended.

While the NEM has operated effectively to date, its operating environment has evolved significantly since the market began. This includes changes to industry structure and regulatory obligations.

More specifically, in the context of the evolving operating environment of the NEM, the Review considered:

- the potential threats to the financial stability of the NEM; and
- how the NEM could best be prepared to manage and respond to risks, if they occur.

### AEMC Recommendations

In the Review, the AEMC recommended a number of measures to improve the financial resilience of the National Electricity Market. These recommendations sought to minimise the disruptions to consumers and maintain the financial stability of the market and public confidence, if a market participant fails. Addressing regulatory measures related to Market Participant suspension was part of these recommendations and would contribute to this overall objective.

In the final report of the review, the Commission noted that the current framework for suspending a market participant under external administration is unclear, and that, where a market participant is registered in more than one category of registration, there could be the possibility of suspending just one registration of a market participant.

Therefore the following changes were recommended in the AEMC review in respect of the NEM:

- removing the ambiguity regarding AEMO's ability not to suspend a market participant under external administration from the market;

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<sup>10</sup> See <http://www.aemc.gov.au/Markets-Reviews-Advice/NEM-financial-market-resilience>

- clarifying AEMO's ability to selectively suspend one of a market participant's registration categories;
- requiring AEMO to consider a range of factors when considering whether to suspend a market participant under external administration; and
- in case of a non-suspension decision, requiring AEMO to notify the relevant market participant and the AER of that decision, along with the conditions its imposing on the market participant.

These recommendations were considered by the COAG Energy Council in developing the Rule change request.

### 3 Rule change request

This chapter summarises the issues identified and solutions proposed in the rule change request.

#### 3.1 Issues identified in the rule change request

According to the rule change request, the current rules give rise to uncertainty as to whether a market participant that has multiple registrations (for instance a market generator and a retailer) could remain operating in the market if one of its registrations was suspended. In part, this relates to whether AEMO may suspend one but not all registrations of a market participant.

In the Council's view, the current rules are also unclear as to whether a market participant under external administration<sup>11</sup> should be automatically excluded from the market, or if AEMO has the discretion to not suspend the market participant.

It is argued that this lack of clarity arises because on the one hand clause 3.15.21 (a) (11) identifies the appointment of an external administrator as a default event<sup>12</sup>, which may mean that AEMO has a general discretion not to suspend a market participant under external administration. On the other hand, clause 2.4.1 (c) jointly with 3.3.1 (b) states that a market participant must not be under external administration while participating in the market.

#### 3.2 Proposed solutions

The COAG Energy Council proposes to amend the rules in the following way:

- in respect of market participants under external administration, remove the lack of clarity about AEMO's level of discretion regarding suspending a market participant under external administration by omitting clause 3.3.1(b) which states that a market participant cannot participate in the market while under external administration;
- in respect of any market default, allow AEMO not to suspend one or more of a market participant's market registrations by amending the clause that defines the procedure for issuing and the extent of a suspension notice;
- in respect of participants under external administration, require AEMO to consider a range of factors in the rules when considering whether to suspend a market participant under external administration by inserting a new clause that sets out these conditions; and

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<sup>11</sup> The concept of external administration is further explained in 2.2 of this Consultation paper.

<sup>12</sup> The current rules give discretion to AEMO over suspending a market participant if a default event occurs in relation to it.

- require AEMO to notify the relevant market participant, the AER and the COAG Energy Council, and allow AEMO to impose conditions on a market participant and require compliance with them, if a decision to not suspend a market participant under external administration is made.

The COAG Energy Council's rule change request includes a proposed rule, its contribution to the National Electricity Objective, the timing, as well as the potential benefits and costs. The Council identified the following benefits arising from the possibility of not suspending a market participant under external administration. These are:

- “suspending a participant from the market may impede any corporate rescuing initiatives that could be in the process of being explored around that time and may actually extract value from the failed company;
- suspending the generation assets of a failed market participant may lead to security of supply concerns; and
- it could be beneficial from the perspective of financial system stability in the NEM to keep the failing business, or part of the business, operating in the NEM.”<sup>13</sup>

In respect of costs the COAG Energy Council states that it is unlikely that the Rule change will increase costs on participants or expose them to additional risk.

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<sup>13</sup> See p. 5 of the COAG Energy Council's Request at: <http://www.aemc.gov.au/getattachment/5dbefa15-0d0a-4872-9870-0d9bb1b3b5e9/Rule-change-request.aspx>

## 4 Assessment framework

The AEMC must assess proposed changes to the NER based on whether the proposed rule, will, or is likely to contribute to the achievement of the National Electricity Objective (NEO), as set out in Section 7 of the National Electricity Law (NEL).

Section 7 of the NEL states:

“The objective of this Law is 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.”

Based on a preliminary assessment of this rule change request, the most relevant aspects of the NEO, are the efficient operation and use of electricity services for the long-term interests of consumers, with respect to the price, reliability and security of supply of electricity.

To determine whether the proposed rule, if made, is likely to promote the NEO, the following principles may be taken into account.

### 4.1 Financial stability

Financial stability contributes to achievement of the NEO, because there is less risk present in a financially stable environment meaning that resources are not used for financial risk mitigation. Financial instability can deter investment, which can cause higher prices and less reliable supply (discussed further below). It is proposed to test the contribution of the rule change request to maintaining efficient operation of electricity services via preserving the financial stability of the NEM.

The rule change request relates to financial stability, because the decision to allow a market participant in financial distress to continue operating can have a significant financial impact on the market.

### 4.2 Reliability and system security

Reliability and system security are an integral part of the NEO, and the avoidance of supply disruptions is in the long term interest of consumers. They also underpin national economic activity, efficient operation and investment decisions. These may be relevant to this rule change, because the decision about suspending or not suspending a generator may affect the level of supply available, which can affect the level of reliability.

### **4.3 Regulatory certainty and flexibility**

Regulatory frameworks should be sufficiently certain with clear and objective processes for change. This is because participants base much of the planning of their operations and activities on their knowledge and understanding of current regulatory requirements. At the same time, processes need to be flexible enough to be able to accommodate change and/or specific circumstances. An appropriate balance of certainty and flexibility would enhance efficiency of the market by allowing participants to make long term investments with confidence.

Regulatory certainty and flexibility is a relevant criterion to test in this rule change, particularly in respect of AEMO's discretion over the ability not to suspend a market participant or part of its registrations.

<b>Issue 1</b>	<b>Appropriate assessment framework</b>
<b>1.</b>	<b>Are the principles and the assessment framework proposed above appropriate for assessing the proposed rule against the NEO?</b>
<b>2.</b>	<b>Should reliability and security of supply of electricity be taken into account while assessing this rule change request?</b>

## 5 Issues to consider

This chapter sets out a number of issues for consultation. Stakeholders are encouraged to make written submissions to the AEMC on these issues, as well as any other relevant aspects of the rule change request or this consultation paper.

### 5.1 Financial stability in the market

One of the proposed rule's primary aims is to enhance and clarify the toolset AEMO is able to use to limit the risk of financial contagion emerging as a result of a market participant entering external administration.

#### 5.1.1 Market participant suspension causing financial instability

As context for a discussion of financial stability, set out below is a description of how financial contagion can spread following, firstly, a generator becoming insolvent, and secondly, a retailer becoming insolvent.<sup>14</sup> In general, the AEMC's NEM Financial Market Resilience Issues Paper identified two possible sets of circumstances for a financial contagion as either a sudden surge in spot prices or a long unplanned outage of generation units or transmission network capacities.

- **Generator insolvency** – This is most likely to occur at times of high prices, given the contracting arrangements most generators have entered into. When spot prices are high, if a generator is unable to meet its obligations to its counterparties it may become insolvent, leading to any over the counter (OTC) contracts being cancelled. This would expose the generator's counterparties to spot prices or forward/futures prices that have already been driven up because of existing high spot prices, increasing these even further with additional demand appearing in the market. For the generator's retailer counterparties, higher spot exposure also results in higher credit support demand from AEMO to be met in a few days or risk facing suspension from the market.
- **Retailer insolvency** – A retailer insolvency may cause a contagion through triggering a sequence of ROLR events. A retailer failure can be caused by many factors, including high spot prices, failure of a generator with whom it has a high concentration of OTC contracts, among others. If an insolvent retailer is suspended from the market, the AER appoints one or several ROLRs that will take over the load from the failed retailer. An increase in load will lead to increased payment obligations and credit support demand from AEMO that will have to be met in a potentially short period of time. If the appointed ROLRs cannot comply, they could themselves become insolvent which may trigger additional suspension and ROLR events leading to further financial instability in the NEM.

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<sup>14</sup> These scenarios were discussed in Chapter 5 of NEM Financial Market Resilience Issues Paper.

As can be seen here, the risk associated with continued operation under external administration is not the same for all types of registrations. Generators, in general, are net receivers from the NEM. They can however in some cases be required to make payments to AEMO. One example is the “causer pays” procedure for frequency control ancillary services (FCAS).

On the other hand retailers are net payers in almost all cases, therefore allowing them to continue trading in the NEM despite being under external administration poses a higher risk of shortfall in payments to the market. It is more difficult to envisage circumstances under which the non-suspension of a retailer under external administration would not create financial risks for other market participants than in case of the non-suspension of a generator.

### **5.1.2 Effect of suspension or non-suspension while under external administration**

This section considers the trade-offs in terms of financial stability of not suspending a market participant under external administration.

Some of the benefits described below are framed in terms of the non-suspension by AEMO allowing continued operation of the market participant. While this could be the outcome of such an AEMO decision, whether the market participant does in fact continue operation depends on other factors, including decisions of the external administrator.

#### **Benefits of Continued Operation of Market Participant under External Administration**

If a generator is allowed to continue operation despite being under external administration, it can continue supplying electricity to the market. Depending on the conditions, less supply could lead to immediate spot price surges and lack of cover under hedge contracts, – increasing the risk of financial instability in the NEM. Similarly, it may be easier for an external administrator to sell a generator or retailer as a going concern if its ability to trade in the market is preserved. This should increase the likelihood of it being able to continue to operate going forward.

In addition, were AEMO to allow a market participant under external administration to continue to participate in the market, and if third parties were on notice that the market participant was under financial distress, they may decide to adjust their dealings with that market participant over time. This may reduce the shock to the market if the market participant is ultimately suspended from the market.

#### **Risks of Continued Operation of Market Participant under External Administration**

There may be some financial risk associated with allowing a market participant under external administration to continue operating in the market. For example, risk may be associated with it continuing to accumulate debt. However, this could be partially mitigated provided the participant continues to meet its credit support requirements, because current prudential arrangements provide cover against shortfall in payments

to the NEM for a certain period. At the same time, it should be noted that the current prudential framework including credit support requirements was designed on an existing premise, that companies under financial distress will not be present in the market. By changing this premise, the sufficiency of such arrangements might be affected both generally and for any particular market participant and it may be necessary to review these arrangements.

**Issue 2 Risks of external administration**

3. **A market participant in financial distress may pose a threat to the financial integrity of the market. Examples include allowing continued operation and possible accumulation of debt towards the spot market or immediate removal from the market and possible exacerbation of financial contagion. What other risks to the NEM may be associated with a market participant under external administration continuing to participate in the market?**

**5.2 Selective suspension of one of multiple registrations**

Where one corporate entity holds multiple registrations (such as, for a “gentailer”, both generator and retailer registrations) the risks and benefits associated with continued operation are interlinked. However in some cases there may be benefit in AEMO suspending one registration but not another. As described above, there may be greater risks to the market of a retailer in financial difficulty continuing to participate in the market. At the same time, the risks of not suspending a generator may be lower and the benefits higher. The proposed rule change would allow for a selective suspension of one registration of a market participant. For example, in the case of a gentailer, AEMO may decide to suspend their retailer registration only and not their generator registration.

This is the only part of this rule change that is not restricted solely to market participants under external administration. This would apply to any default under clause 3.15.21. These defaults are almost all of a financial nature.

**Issue 3 Selective suspension**

4. **Where a market participant holds multiple registrations, are there any negative consequences of AEMO being able to suspend one of these registrations but not another as a result of financial default? If so, how might they be managed?**

### 5.3 Reliability and system security

The extent to which AEMO should take into account reliability and system security considerations when considering suspension of a market participant under external administration is considered in this section.

Clause 4.1.1 (b) of the NER provides that AEMO has responsibility to maintain and improve power system security. Allowing generators to continue operating in the NEM, despite the fact that they are under external administration, may assist AEMO to achieve power system security.

For a given level of demand, reducing the available generation could impact reliability. Retailers on the other hand are purchasers of electricity, therefore their removal from the system would not have a direct effect on reliability. However, if the suspension of a large retailer causes a generator and other market participants financial distress through their over-the-counter (OTC) contracts that could, indirectly, also have a detrimental effect on the whole market.

This rule change proposes amendments to certain clauses in Chapter 3 of the NER (Market Rules) in respect of prudential requirements and the conditions and procedures for market suspension. While system security is included as part of the justification for these changes, the rules proposed do not expressly permit AEMO to consider reliability and system security when making decisions on market suspension. If AEMO should consider system impacts as well as market impacts when making a decision to suspend a market participant under external administration, a further question is whether the system impacts should be given the same weight as the market impacts.

As described above, an additional consideration to be taken into account here is that non-suspension by AEMO is no guarantee that the market participant will continue to trade or participate in the market.

#### **Issue 4 Reliability and financial stability**

5. **Should AEMO be required to consider reliability and power system security when making a decision on whether to suspend a market participant under external administration?**
6. **If system considerations should be taken into account, should they be given the same weighting as financial stability?**
7. **Should these considerations be different depending on the type of registration (generators, retailers)?**

### 5.4 AEMO discretion

The proposed rule change aims to clarify the rules around suspension of market participants. The proposed rule would clarify that AEMO has discretion in respect of whether to suspend a market participant under external administration.

AEMO has a number of statutory functions set out in the National Electricity Law. Whenever AEMO carries out these functions, it must have regard to the NEO.<sup>15</sup> AEMO's existing discretion over suspension in the case of all default events other than external administration would not be changed as a result of this rule change.

If the suspension of a market participant under external administration is dependent on AEMO discretion as opposed to being automatic, this may create uncertainty amongst stakeholders (including the market participant under external administration). If suspension is at AEMO's discretion, it may be harder for stakeholders to predict the outcome and plan accordingly.

On the other hand, leaving AEMO with no discretion over suspension would not allow flexibility to tailor decisions to specific circumstances. Discretion would allow AEMO to consider each situation and possible effects on the market as a whole, among other things.

As an alternative middle ground between full discretion and automatic suspension of participants under external administration, AEMO discretion could be limited by specific guidelines or factors. These factors would have to be taken into account before AEMO makes a decision to suspend a market participant under external administration. The rule change request includes a factor related to whether the market participant has sufficient guaranteed funding to meet relevant trading amounts. Other factors could include:

- whether the market participant has sufficient staff and resources;
- likelihood of the market participant failing to comply with the NER;
- the overall significance/materiality of the generator in the context of the NEM.

Factors could contribute to certainty, but could restrict AEMO's ability to consider relevant circumstances, unless it was made clear that AEMO may also take into account other relevant matters.

AEMO could also have the power to impose conditions on the market participant under external administration. For example, one condition could be that the market participant provides regular evidence of its source of guaranteed funding to meet its financial obligations towards AEMO.

In addition, AEMO could be required to consult first with other bodies such as the AER. This would introduce additional perspectives. However if another stakeholder must be consulted before a decision is made, the process could be slowed down.

Finally, the NER could provide that a market participant under external administration could continue to participate in the market, but only for a certain period of time. If there were time limitations applied to a non-suspension, the level of certainty among other market participants would be higher, because they would know the deadline by

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<sup>15</sup> See Cl. 49 (3) of the NEL.

which the issue had to be resolved. Alternatively, this may unduly restrict AEMO's ability to provide a more preferable outcome for the market.

<b>Issue 5</b>	<b>AEMO discretion</b>
6.	<b>How limited should AEMO's discretion be in respect of making a decision to suspend or not suspend a market participant?</b>
7.	<b>Should there be a definite list of factors for AEMO to consider? Should AEMO be able to impose conditions?</b>
8.	<b>Are there other bodies with whom AEMO should consult prior to making a suspension decision?</b>
9.	<b>Should there be a time limit attached to a decision by AEMO not to suspend a market participant?</b>
10.	<b>Should AEMO be required to consult, such as with the AER, to understand likely impacts of suspending a retailer on end-use customers?</b>

## **5.5 Role of AER**

There are restrictions on enforcement action against companies that are under external administration. External administration creates a protected environment for the relevant company. The Corporations Act – which governs the rights and obligations of appointed third parties for companies under external administration – provides that legal proceedings and enforcement processes cannot be commenced against the company unless the external administrator or the court agrees.

This then would affect the ability of the AER to take action against a market participant under external administration for breach of the NER. Such breaches could include failing to comply with obligations required as part of participating in the market such as, for a generator, complying with dispatch instructions from AEMO.

In such a case, the integrity of the market could be jeopardised, because it could mean that there is a market participant operating in the market in respect of which the rules cannot be enforced in the way they are for all other market participants.

If the AER was to be consulted by AEMO before the decision over non-suspension was made by AEMO that would provide an additional perspective on the impacts of allowing continued participation in the market and the risks continued participation in the market might present. However this could slow down the decision making process as described in 5.4 above. To speed up the process one further option would be to allow AEMO to make a preliminary decision to not suspend a market participant under external administration prior to receiving the AER's input, but provide that this decision would only be valid for a certain period of time. Any decision beyond this would require input from the AER.

Alternatively, or perhaps in combination with the above, it would be possible to allow AEMO to impose additional specific conditions that the market participant under external administration would have to observe or face suspension from the market. This could include regular reporting to the AER.

**Issue 6                      Compliance and AER's role**

- 11.    How significant is the risk of a market participant under external administration not complying with the NER?**
- 12.    Should AER be consulted before a decision of non-suspension is made by AEMO?**
- 13.    Should AEMO have broader discretion for a limited time when a fast decision needs to be made, then after this initial period, AER approval would be needed for an “extended non-suspension”?**

## 6 Lodging a submission

The Commission invites written submission on this rule change proposal by 7 July 2016. Submissions are to be lodged online via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), or by mail to:

Australian Energy Market Commission PO Box A2449 Sydney South NSW 1235

The envelope must be clearly marked with the project reference code: ERC0202.

Alternatively, submissions may be sent by fax to (02) 8296 7899.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.<sup>16</sup>

The Commission publishes all submissions on its website subject to a claim of confidentiality.

All enquiries on this project should be addressed to Istvan Szabo on (02) 8296 7800.

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<sup>16</sup> This guideline is available on the Commission's website.

## Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
COAG Energy Council	Council of Australian Governments' Energy Council
Commission	See AEMC
NEL	National Electricity Law
NERL	National Energy Retail Law
NEM	National Electricity Market
NEO	National Electricity Objective
ROLR	Retailer of Last Resort