



Australian Energy Market Commission

DRAFT RULE DETERMINATION

National Electricity Amendment (AER
Authorisation of Software Changes by AEMO)
Rule 2014

Rule Proponent
AER

30 January 2014
For and on behalf of the Australian Energy Market Commission

**RULE
CHANGE**

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About the AEMC

The Council of Australian Governments (COAG), through its then Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. In June 2011, COAG established the Standing Council on Energy and Resources (SCER) to replace the MCE. The AEMC has two main functions. We make and amend the national electricity, gas and energy retail rules, and we conduct independent reviews of the energy markets for the SCER.

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Summary

The Australian Energy Market Commission (AEMC or Commission) has made this draft rule determination in response to the rule change request from the Australian Energy Regulator (AER) regarding the Australian Energy Market Operator (AEMO)'s IT change management process. The draft rule removes from the National Electricity Rules (NER) the requirement for the AER to authorise changes made by AEMO to the software required for the operation of the national electricity market (NEM). This amendment will better promote efficiency, and therefore the national electricity objective (NEO), than the rule proposed by the AER.

Rule change request

The rule change request sought to remove from the NER the requirement for the AER to authorise AEMO's software changes. In addition, the AER proposed that a new requirement be inserted under which AEMO would be required to make software changes in accordance with its IT Change Management Procedures Manual (Manual).¹

Commission's decision

The Commission considers that, the proposed rule would be unlikely to provide a more efficient change management process relative to the current rules. Specifically having had regard to the views of stakeholders in submissions to the consultation paper, and having undertaken its own analysis and review, the Commission considers that the additional amendment proposed by the AER is unlikely to promote further efficiency. The Commission therefore proposes to make a draft more preferable rule which it considers will, or is likely to, better contribute to the NEO than the proposed rule.

The draft rule differs from the proposed rule in that while it removes the NER requirement on the AER to approve changes made by AEMO to the software required for the operation of the market, it does not insert a new requirement for AEMO to make software changes in accordance with its IT Change Management Procedures Manual.

Reasons for the Commission's decision

The Commission considers it appropriate to make this draft rule because:

- it removes a redundant requirement and better aligns the NER with the AER's broader statutory role and functions under the NEL;
- it avoids unnecessary and potentially duplicative regulation by recognising that regulatory arrangements in the NEL already exist which act to constrain AEMO's

¹ This document describes AEMO's IT change management process which applies to all changes to the IT environment for market systems, real time systems and office systems. It is available on AEMO's website. See www.aemo.com.au for more information.

ability to make software changes which are detrimental to the running of the NEM; and

- there are some specific rules in the NER that impose requirements and checks on how AEMO amends its software, including the requirements for it to document the operation of the online dispatch process, to appoint a market auditor annually to review the process for software management, and to report to the AER on the outcomes of change management processes for software alterations.

Invitation for submissions

The AEMC welcomes submissions on this draft rule determination, including the draft rule, by 13 March 2014.

Contents

1	The AER's rule change request.....	1
1.1	The rule change request	1
1.2	Rationale for rule change request	1
1.3	Solution proposed in the rule change request.....	2
1.4	Relevant background.....	2
1.5	Commencement of rule making process	3
1.6	Consultation on draft rule determination.....	4
2	Draft rule determination	5
2.1	Commission's draft determination.....	5
2.2	Commission's considerations.....	5
2.3	Commission's power to make a rule.....	5
2.4	Rule making test.....	6
2.5	More preferable rule.....	6
3	Commission's reasons.....	8
3.1	Assessment of issues.....	8
3.2	Draft rule	9
4	Commission's assessment approach	11
5	Assessment of issues	12
5.1	Removing the AER from the process	12
5.2	Elevating the status of the Manual	15
	Abbreviations.....	18
A	Summary of issues raised in submissions	19

1 The AER's rule change request

1.1 The rule change request

On 20 July 2012, the Australian Energy Regulator (AER) made a request to the Australian Energy Market Commission (AEMC or Commission) to remove from the National Electricity Rules (NER) the requirement for the AER to authorise the Australian Energy Market Operator (AEMO)'s software changes.

The AER proposed that a new requirement be inserted in its place under which AEMO would be required to make software changes in accordance with its IT Change Management Procedures Manual (Manual).²

The AER's rule change request includes a proposed rule and is accompanied by a letter of support from AEMO.³

After initially assessing the rule change request, the AEMC sought additional information from the AER in order to obtain clarification on certain aspects of the rule change request. Specifically, the AEMC asked for a more detailed explanation of why the AER considered the rule change request to be 'non-controversial', and on which aspects of the national electricity objective (NEO) the proposed rule would impact. The AER's response to these questions is published on the AEMC website as supplementary material to the rule change request.

1.2 Rationale for rule change request

In its rule change request, the AER provided its rationale for seeking the proposed changes to the NER. This rationale can be summarised as follows:

- The AER has reviewed the process used to meet its obligations under clause 3.17.1 of the NER and reached the view that, given the processes established through AEMO's IT Change Management Procedures Manual, consideration of each individual software amendment by the AER would add very little value to the change management process.⁴
- The proposed rule, if implemented, would codify the current practice and require AEMO to maintain its IT Change Management Procedures Manual, which it would continue to develop in consultation with registered participants.⁵

² This document describes AEMO's IT change management process which applies to all changes to the IT environment for market systems, real time systems and office systems. It is available on AEMO's website. See www.aemo.com.au for more information.

³ See www.aemc.gov.au.

⁴ AER rule change request, 20 July 2012, p. 3.

⁵ *ibid*, p. 4.

- The proposed rule change, if implemented, would create efficiencies by removing the AER from a process it has not actively participated in for several years.⁶

1.3 Solution proposed in the rule change request

The AER proposed to address the issues identified above by making a rule that amends Chapter 3 of the NER. Specifically, the AER has proposed that an amendment be made to:

- remove the obligation on the AER to authorise changes made by AEMO to the computer software required under Chapter 3 of the NER for the operation of the market; and
- impose a new obligation on AEMO to make software changes in accordance with its IT Change Management Procedures Manual.⁷

1.4 Relevant background

Under clause 3.17.1 of the NER, AEMO is required to obtain authorisation from the AER for any changes to computer software which are required for the operation of the NEM. This requirement appears to have originated from the National Electricity Code (Code). Since the commencement of the NEM, the Code prohibited NEMMCO (National Electricity Market Management Company) (now AEMO) from making any changes to software programs without authorisation from the National Electricity Code Administrator (NECA).

In 1999, NECA, in its interpretation of the obligation, implemented a method of automatically approving NEMMCO's software changes (or deeming approval) provided they met certain conditions. These conditions can be summarised as follows:

- the proposed software change must have been subject to the change management procedures set out in the NEM system IT procedures manual, in particular the consultation requirement;
- that if six or more registered participants gave notice objecting to a proposed change, then the proposed change would be withdrawn; and
- where a proposed software change was withdrawn by NEMMCO in the circumstances above, either the participants' objections had to be resolved and the change resubmitted through the change management procedure or NEMMCO must put forward a specific application for authorisation of the

⁶ AER rule change request, 20 July 2012, p. 4.

⁷ These changes would be effected through amendments to the NER clause 3.17.1 and the inclusion of a new definition in Chapter 10 of the NER.

proposed change from NECA. In this case, NECA would consult all registered participants before deciding whether or not to authorise the change.⁸

In 2005, the AER assumed NECA's responsibilities for authorising NEMMCO's software changes and continued to interpret the rule in the same manner as NECA.

AEMO's IT Change Management Procedures Manual describes the change management process that applies to all changes made by AEMO to the IT environment for market systems, real time systems and office systems.⁹ Among other things, the Manual sets out the conditions under which software changes could be deemed to be automatically authorised by the AER. The Manual is a document which AEMO is not obliged to establish or maintain under the NER.

AEMO has gradually developed the Manual, which currently contains a set of conditions in section 4 by which software changes are authorised by the AER. More information about these conditions is contained in section 3.2.

After reviewing its obligations under clause 3.17.1, the AER reached the view that authorising each of AEMO's software amendments would add little value to the software change management process, given the processes established in AEMO's IT Change Management Procedures Manual.

1.5 Commencement of rule making process

On 24 October 2013, the Commission published a notice under ss. 95 and 96 of the National Electricity Law (NEL) advising of its intention to commence the rule making process and the first round of consultation in respect of the rule change request. The notice further advised stakeholders of the AEMC's intention to subject the rule change request to the expedited rule making process under s. 96 of the NEL on the basis of it being a 'non-controversial rule'.¹⁰ A consultation paper prepared by the AEMC identifying specific issues and questions for consultation was also published with the rule change request. Submissions closed on 21 November 2013.

Three objections were received in relation to the rule change request proceeding through the expedited process.¹¹ Consequently, the Commission was required to assess the objections to determine whether they were misconceived or lacking in substance. On 12 November 2013, the Commission made the decision that the objections were not misconceived or lacking in substance, and so decided that the rule

⁸ See the 'Approval of market software changes' section of the NECA website: www.neca.com.au.

⁹ AEMO, IT Change Management Procedures Manual, p. 6.

¹⁰ Section 87 of the NEL defines a 'non-controversial rule' as 'a rule that is unlikely to have a significant effect on the national electricity market'. This is because the AER considered that this rule change will not have a significant effect because there will be no practical changes to the operation of the market. The proposed changes would essentially codify the current practice by which AEMO amends its software.

¹¹ Under an expedited process, the Commission has six weeks from the publication of the notice under s. 95 of the NEL to publish a final rule determination. Unlike the standard rule change process, an expedited process does not require a draft rule determination be published.

change request should proceed through the standard rule change process. On 14 November 2013, a notice advising of this decision was published.

Three submissions on the rule change request were received, as part of the first round of consultation.¹² These are available on the AEMC website.¹³ A summary of the issues raised in submissions and the Commission's response to each issue is contained in Appendix A.

1.6 Consultation on draft rule determination

In accordance with the notice published under s. 99 of the NEL, the Commission invites submissions on this draft rule determination, including the draft rule, by 13 March 2014.

In accordance with s. 101(1a) of the NEL, any person or body may request that the Commission hold a hearing in relation to the draft rule determination. Any request for a hearing must be made in writing and must be received no later than 6 February 2014.

Submissions and requests for a hearing should quote the project number "ERC0151" and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

¹² Submissions were received from Origin, GDF Suez and AEMO.

¹³ www.aemc.gov.au.

2 Draft rule determination

2.1 Commission's draft determination

In accordance with s. 99 of the NEL, the Commission has made this draft rule determination in relation to the rule proposed by the AER.

The Commission has determined it should not make the rule as proposed by the AER, but should instead make a more preferable rule.¹⁴ The draft rule incorporates one of the two key changes proposed in the AER's rule change request.

The Commission's draft rule is attached to and published with this draft rule determination. Its key features are described in section 3.1.

2.2 Commission's considerations

In assessing the rule change request, the Commission has considered:

- the Commission's powers under the NEL to make the rule;
- the rule change request and supplementary information provided by the AER;
- submissions received during the first round of consultation; and
- the ways in which the proposed rule will or is likely to, contribute to the NEO.

There is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles relating to this rule change request.¹⁵

2.3 Commission's power to make a rule

The Commission is satisfied that the draft rule falls within the subject matter about which the Commission may make rules. The draft rule falls within both ss. 34(1)(a)(i) and 34(1)(a)(iii) of the NEL which relates to both "the operation of the national electricity market" and "the activities of persons (including registered participants) participating in the national electricity market or involved in the operation of the national electricity system".

¹⁴ Under s. 91A of the NEL the AEMC may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if the AEMC is satisfied that having regard to the issue or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will or is likely to better contribute to the achievement of the national electricity objective.

¹⁵ Under s. 33 of the NEL, the AEMC must have regard to any relevant MCE Statement of Policy Principles in making a rule.

2.4 Rule making test

Under s. 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. This is the decision making framework that the Commission must apply.

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

“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.”

For the rule change request, the Commission considers that the relevant aspect of the NEO is "the reliability, safety and security of the national electricity system".¹⁶

2.5 More preferable rule

Under s. 91A of the NEL, the Commission may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if it is satisfied that, having regard to the issues or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will or is likely to better contribute to the achievement of the NEO.

The Commission considers that the AER's proposed rule is unlikely to contribute to the achievement of the NEO. This is because, while removing the AER from AEMO's software change process should contribute to efficient outcomes by improving administrative efficiency, placing a new requirement on AEMO to make software changes in accordance with its Manual would, in effect, create a new process that the AER would be obliged to monitor. This could potentially cancel out the efficiency benefit that could occur from removing the current obligation on the AER. Consequently, the Commission has determined to make a draft more preferable rule.

Having regard to the issues raised by the rule proposed in the rule change request, the Commission is satisfied that the draft rule will, or is likely to, better meet the NEO than the proposed rule. This is because it maintains the efficiency benefit as intended by the AER's rule change request.

Specifically, the more preferable rule will:

¹⁶ Under section 88(2), for the purposes of section 88(1) the AEMC may give such weight to any aspect of the NEO as it considers appropriate in all the circumstances, having regard to any relevant MCE Statement of Policy Principles.

- enhance administrative efficiency by removing from the NER a requirement for the AER to participate in a process that is not consistent with its broader statutory role and functions under the NEL; and
- promote good regulatory design by avoiding unnecessary and potentially duplicative regulation recognising that the NEL and the NER already provide a constraint on AEMO's ability to make software changes which may be detrimental to the operation of the market.

3 Commission's reasons

The Commission has analysed the rule change request and assessed the issues and propositions related to it.

It accepts that the AER should no longer be required to authorise AEMO's software changes. However it is not of the view that a new requirement should be inserted into the NEL which requires AEMO to make software changes in accordance with its IT Change Management Procedures Manual.

For the reasons set out below, the Commission has determined that a more preferable rule should be made. Its analysis of the proposed rule is also set out below.

3.1 Assessment of issues

This section summarises the Commission's assessment of the proposed rule. The matters raised are discussed in Chapter 5.

The key issue that the rule change request seeks to address is the redundant nature of the requirement for the AER to approve AEMO's software changes, given that the AER does not have expertise in the area of AEMO's software changes. Further, AEMO's software is the delivery mechanism for market operation which is governed by the NEL and AEMO's Procedures. As stated in the rule change request, given the processes established through AEMO's IT Change Management Procedures Manual, the AER's consideration of AEMO's software amendments would add very little value to the IT change management process.

The proposed rule seeks to address this issue by:

- removing the obligation on the AER to authorise software changes made by AEMO; and
- imposing a new obligation on AEMO to make software changes in accordance with its IT Change Management Procedures Manual.

The Commission considers the proposal to remove the AER from AEMO's IT change management process is appropriate. This is because the AER is unlikely to have the relevant background to effectively authorise changes to software required for the operation of the NEM. The AER is responsible for ensuring that AEMO is carrying out its general functions under the NEL. It is essentially outside the remit of the AER to monitor each individual change made by AEMO to its computer software. Removing the AER from this process would better align the NEL with the AER's broader statutory role and functions under the NEL.

In addition, there are regulatory arrangements in the NEL and NEL which act to constrain AEMO's ability to make software changes that may be detrimental to the operation of the market. There are some specific rules in the NEL that impose requirements and checks on how AEMO changes software. These include requirements

on AEMO to fully document the operation of the online dispatch process, to appoint a market auditor annually to review the process for software management, and to report to the AER on the outcomes of change management processes for software alterations.

The proposal also requires AEMO to make software changes in accordance with its IT Change Management Procedures Manual. It seeks to achieve this by elevating AEMO's IT Change Management Procedures Manual into the NEL. The Commission considers that this proposal is unnecessary and would be unlikely to promote further efficiency given the current regulatory arrangements mentioned above.

Further, the Commission notes that the NEL provides AEMO with the flexibility to make software changes without authorisation from the AER. AEMO's functions under the NEL include the following:

- to operate and administer the wholesale exchange (s. 49(1)(a));
- to promote the development and improve the effectiveness of the operation and administration of the wholesale exchange (s. 49(1)(b));
- in undertaking these functions, AEMO must have regard to the NEO (s. 49(3)); and
- has the power to do all things necessary or convenient for or in connection with its statutory functions (s. 49(A)).

Having had regard to the views of stakeholders in submissions to the consultation paper, and having undertaken its own analysis and review, the Commission proposes to make a draft rule which it considers will, or is likely to, better contribute to the NEO than the proposed rule.

3.2 Draft rule

The Commission has decided to make a draft rule which is a more preferable rule than the AER's proposed rule.

The draft rule retains an element of the proposed rule in that it removes the NEL requirement on the AER to approve each change made by AEMO to the software required for the operation of the market. However, it does not insert a new requirement for AEMO to make software changes in accordance with its IT Change Management Procedures Manual.

The Commission considers it appropriate to make this draft rule because:

- it removes a redundant requirement and better aligns the NEL with the AER's broader statutory role and functions under the NEL ; and
- avoids unnecessary and potentially duplicative regulation by recognising that there are already regulatory arrangements in place in the NEL and NEL which

act to constrain AEMO's ability to make software changes which are detrimental to the running of the NEM.

4 Commission's assessment approach

This chapter describes the analytical framework applied to assess the rule change request in accordance with the requirements set out in the NEL (and explained in Chapter 2).

The Commission's assessment of this rule change request has considered whether the proposed rule promotes the national electricity objective (NEO), as set out in section 2.4 of this draft rule determination.

In assessing the rule change proposal against the NEO, the Commission has considered the likely long term impacts and benefits of adopting the proposed rule compared to the counterfactual of not making the proposed change to the NER. It has also considered whether the proposed rule will, or is likely to, contribute to the achievement of the NEO.

In assessing how the proposed rule is likely to promote the efficient operation of the national electricity system, and use of electricity services, the Commission has considered:

- the appropriate roles and responsibilities of the AER and AEMO as set out in the NEL and NER; and
- the appropriate status of the IT Change Management Procedures Manual within the current energy market governance framework.

In addition to the above, the Commission's considerations have also included stakeholders' comments in the objections to the expedited rule change process, and in the submissions made to the content of the rule change request.

5 Assessment of issues

This chapter sets out the Commission's views in relation to:

- removing the obligation on the AER to authorise AEMO's software changes; and
- elevating the status of AEMO's IT Change Management Procedures Manual into the NER.

In considering these matters, the Commission has had regard to the views of stakeholders in submissions to the consultation paper.

5.1 Removing the AER from the process

5.1.1 Rule proponent's view

The AER considers that removing the obligation for it to approve AEMO's software changes is appropriate and will create efficiencies by formally removing it from a process in which it has not actively participated for several years.¹⁷

5.1.2 Stakeholder's views

In submissions to the consultation paper, stakeholders generally considered that it would be inappropriate for the AER to authorise AEMO's software changes.¹⁸

However, submissions also raised concerns as to whether there would be adequate governance in place for software changes in the instance the AER was removed from the process. GDF Suez noted that, if implemented, the proposed rule would not provide any specific policy guidance or obligation in the NER regarding how NEM software changes should be carried out, other than they must be described in a manual.¹⁹

Origin considered that there should be an appropriate allocation of risks between AEMO and market participants, and that the software change management process should have clearly defined processes and guidelines for reviewing and amending the AEMO Manual.²⁰

In relation to the dispute resolution arrangements, GDF Suez noted that the current process of referral to the AER where six or more participants object is reasonable, and is unlikely to place a large burden on the AER.^{21 22}

¹⁷ AER rule change request, 20 July 2012, p. 4.

¹⁸ Submissions were made by Origin, GDF Suez and AEMO.

¹⁹ GDF Suez submission to the rule change request, 21 November 2013, p. 1.

²⁰ Origin submission to the rule change request, 21 November 2013, p. 1.

²¹ GDF Suez submission to the rule change request, 21 November 2013, p. 2.

5.1.3 Commission's analysis

The Commission's key considerations with regard to removing the obligation on the AER to authorise AEMO's software changes are outlined below.

AEMO's role and functions

The NEL sets out the statutory role and functions of AEMO. Under s. 49 of the NEL, AEMO's list of functions includes:

- to operate and administer the wholesale exchange (s. 49(1)(a));
- to promote the development and improve the effectiveness of the operation and administration of the wholesale exchange (s. 49(1)(b));
- in undertaking these functions, AEMO must have regard to the NEO when carrying out its functions (s. 49(3)); and
- has the power to do all things necessary or convenient for or in connection with its statutory functions (s. 49(A)).

In addition, the NER imposes obligations on AEMO with which it must comply. This includes the obligation on AEMO under clause 3.2.1 to operate and administer the market in accordance with Chapter 3 of the NER and all the other specific rules that require AEMO to perform its functions in a particular manner. If AEMO is in breach of the NER then the AER may take proceedings against AEMO in accordance with Part 6, Division 2 of the NEL. One of the AER's functions is to monitor compliance by AEMO with the NEL, Rules and Regulations made under the NEL.²³

The NER is generally not prescriptive on what resources or facilities AEMO must use in order to perform its functions. This practical detail is left to AEMO to determine as it is ultimately responsible for ensuring that it is compliant with the NER. This is appropriate given that, depending on the resources available and technological developments, AEMO may consider that it is more efficient to automate tasks that had previously been done manually or that certain functions are more appropriately carried out manually.

However, while AEMO has a certain level of discretion in this regard, it must also operate within the boundaries set out in Chapter 3 of the NER.

The Commission is therefore of the view that if software changes are legitimately made pursuant to AEMO's function of administering and operating the wholesale exchange and are not in breach of the NEL or the NER, then there is no need for AER oversight of upgrades, maintenance or enhancement of AEMO's software.

²² AEMO provided a response to the concerns raised by stakeholders with this rule change request, which is available on the AEMC's website.

²³ Section 15(1)(a)(iii) of the NEL.

On this basis, the Commission considers that the deletion of clause 3.17.1 of the NER is likely to be efficient and consistent with the regulatory framework outlined in the NEL and NER, and noted above.

AER's role and function

As explained in the rule change request, AER authorisation of AEMO's software changes would add little value to AEMO's software change process.²⁴ The requirement on the AER appears to have originated from the National Electricity Code. NECA and NEMMCO interpreted the clause in the same manner as the AER and AEMO currently. Due to this manner of interpretation, the AER has no experience in authorising changes made by AEMO to the software required for the operation of the market. This effectively renders the current requirement on the AER as redundant.

In the 14 years this process has been in place, the Commission understands that AEMO has successfully dealt with any issues raised by market participants without ever having to specifically request authorisation from the AER for a software change to which a participant has objected.

Under s. 15 of the NEL, the AER has the power to monitor AEMO's compliance. It does not need to be specifically empowered to monitor software changes in order to be able to monitor compliance generally.

Having regard to the above, the Commission considers that removing the AER from this process would remove a redundant requirement from the NER, and better align it with the AER's broader statutory role and functions under the NEL.

Checks and balances in place in relation to AEMO's software changes

There are some specific rules in the NER that impose requirements and checks on how AEMO makes software changes, for example:

- clause 3.8.21(l) requires AEMO to fully document the operation of the online dispatch process, including the software and algorithms, and make the documentation available to scheduled generators, semi-scheduled generators and market participants on certain conditions;
- clause 3.13.10 requires AEMO to appoint a market auditor, at least annually, to review (among other things) AEMO's process for software management and its procedures and their compliance with the NER. AEMO is also required to publish reports from market auditors; and
- clause 8.7.2 provides an obligation on AEMO to report to the AER on the outcomes of change management processes for software alterations.

²⁴ AER rule change request, 20 July 2012, p. 3.

The above requirements provide a level of ex-post regulation and oversight on the manner in which AEMO makes software changes and the changes that it makes in a given period. These requirements, and the regulatory arrangements established by the NEL, act to constrain AEMO's ability to make software changes which are detrimental to the operation of the market.

5.2 Elevating the status of the Manual

5.2.1 Rule proponent's view

The AER considers that elevating AEMO's IT Change Management Procedures Manual into the NER would codify and streamline the current practice and require AEMO to follow and maintain a robust IT change management process developed in consultation with registered participants before making any amendments.²⁵

5.2.2 Stakeholder views

In its submission to the consultation paper, GDF Suez noted that if the proposed rule was implemented there would be no guidance or obligation in the NER regarding how AEMO's software changes should be carried out, other than they must be described in an AEMO Procedure. Further, it noted that it is important to the stability of the NEM that AEMO's software changes are subject to rigorous change management procedures and that these procedures are bound by transparent and robust governance arrangements.²⁶

In addition, Origin considered that the change management process for software changes to NEM systems should include clearly defined processes and guidelines for reviewing and amending the AEMO Manual. It suggested that a greater level of prescription regarding the types of information that should be included in the Manual, for example, acceptance criteria and published standards. Origin considered that these aspects would allow the risks associated with making software changes to be adequately allocated between AEMO and market participants.²⁷

5.2.3 Commission's analysis

The AER has stated that, among other things, the rule change will require AEMO to follow and maintain a robust IT Change Management Procedures Manual developed in consultation with registered participants before making any amendments. However, the proposed rule does not include any details about the Manual. It does not specify what form it should take, any required content, or any processes for amending the document and consulting with stakeholders.

²⁵ AER rule change request, 20 July 2012, p. 4.

²⁶ GDF Suez submission to the rule change request, 21 November 2013, p. 1.

²⁷ Origin submission to the rule change request, 21 November 2013, p. 1.

As noted previously, the NER is generally not prescriptive on what resources or facilities AEMO must use in order to perform its functions. Given that AEMO is ultimately responsible for ensuring that it is compliant with the NER, the practical detail, including the methods and systems employed to carry out its functions, are the responsibility of AEMO.

Further, Chapter 3 of the NER includes a regulatory framework that gives AEMO broad discretion to establish procedures. It also establishes 'checks' on this power. For example, clause 3.2.1(b) requires AEMO to establish procedures for consultation and, under clause 3.2.1(c), to publish an annual performance indicator.

In its submission, GDF Suez noted that if the proposed rule was implemented there would be no guidance or obligation in the NER regarding how AEMO's software changes should be carried out, other than they must be described in an AEMO Procedure. The Commission notes that if AEMO's IT Change Management Procedures Manual were to be included in the NER, it would need to be defined, its content specified, and a change approval process provided. This additional regulation is disproportionate to the problem identified by the AER given the checks and balances currently in place with regards to AEMO's IT change process.

Given the existing governance and regulatory framework described above, the Commission does not consider it necessary or appropriate to elevate the status of AEMO's IT Change Management Procedures Manual into the NER.

With that said, the Commission acknowledges the concerns raised by stakeholders in regards to the clarity and quality of AEMO's current IT Change Management Procedures Manual.²⁸

AEMO has responded to these issues. In its response, AEMO outlined a set of IT change management objectives and requirements and suggested that these be included in the NER to provide stakeholders with greater regulatory certainty. The Commission has considered this suggestion, but for the reasons outlined above, does not consider that it is appropriate or necessary to include a set of policy objectives for the Manual in the NER.

Notwithstanding this, the Commission considers there may be merit in AEMO discussing these objectives and requirements with stakeholders, possibly through AEMO's IT Change Management Review Committee, and potentially making them publically available on its website or in its IT Change Management Procedures Manual.

In addition, the Commission notes that the issues raised by stakeholders with the Manual could be addressed through participation with AEMO's IT Change Management Review Committee. The committee is made up of representatives from various parts of the energy sector and its main role is to ensure the Manual is relevant to the developing needs of market participants and AEMO, and meets the requirements of all parties. Changes to the Manual must be approved by the committee

²⁸ AEMO provided a response to the concerns raised by stakeholders with this rule change request, which is available on the AEMC's website.

and this requires full consensus with each member organisation having one vote.²⁹ AEMO has advised the Commission that while the committee has not met in a number of years, AEMO will be reconvening the committee in March 2014.

²⁹ AEMO, IT Change Management Procedures Manual, p.46.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
Commission	See AEMC
Manual	AEMO's IT Change Management Procedures Manual
MCE	Ministerial Council on Energy
NEM	National Electricity Market
NGR	National Gas Rules
NEL	National Electricity Law
NEO	national electricity objective
STTM	Short Term Trading Market

A Summary of issues raised in submissions

Stakeholder	Issue	AEMC Response
<i>Governance of the Manual</i>		
Origin	The change management process for software changes to NEM systems should have clearly defined processes and guidelines for reviewing and amending the AEMO Manual. This could also include a greater level of prescription of the types of information that should be included in the Manual, for example, acceptance criteria and published standards. These aspects under the change management framework are required to ensure the risks for making software changes for operating the NEM are adequately allocated between AEMO and market participants. (p.2)	<p>Noted. See section 5.2.3 for further discussion on this matter.</p> <p>Further, in its response to stakeholder concerns, AEMO noted that it recognises the need to improve the Manual and its governance processes. It will take the following action to address Origins concerns:</p> <ul style="list-style-type: none"> • Reconvene the Committee by March 2014 to discuss further recent amendments to the Manual. Under the Manual's governance, arrangements, AEMO must identify changes and convene the Committee for approval. The Manual states that the Committee will meet annually; however this has not occurred in the last four years. AEMO will review the current membership of the Committee and will use the relevant Consultative Forums to ensure that the appropriate stakeholders are involved. • Consult with Registered Participants on changes to the Manual within three months of the AEMC's final rule determination. AEMO's letter to the AER dated 20 June 2012 also noted this. Further issues and suggestions to improve the clarity of the Manual will be considered in this consultation. <p>AEMO is also developing a stakeholder engagement plan on its energy change management processes and frameworks; including the Manual. This will identify how AEMO proposes to consult with industry on energy market changes and will be finalised by March 2014 (p.2).</p>
<i>Change management obligations</i>		

Stakeholder	Issue	AEMC Response
GDF Suez	<p>GDF Suez noted that, if implemented, the proposed new amendment in the NER would not provide any specific policy guidance or obligation in the NER regarding how NEM software changes should be carried out, other than they must be described in a manual. (p.1)</p> <p>GFD Suez considered that a set of policy objectives that AEMO must strive to meet when writing and amending the IT Change Management Procedures Manual should be outlined. These policy objectives might be included in the Rules themselves, or alternatively could be contained outside of the Rules, in a document which could be established by the AER through a consultative process (pp 1-2).</p>	<p>Noted. See section 5.2.3 for further discussion on this matter.</p> <p>Further, in its response to stakeholder concerns, AEMO acknowledged the GDF Suez view that further high level requirements should be included in the NER or in a policy document. In order to provide adequate governance and allow sufficient operational flexibility, AEMO propose a new draft rule which:</p> <ul style="list-style-type: none"> • outlines the content of the IT Change Management Procedures Manual; • directs that AEMO must not alter, reconfigure, reprogram or otherwise modify or enhance any computer software required under Chapter 3 for the operation of the market unless such changes have been made in accordance with the Manual; and • AEMO may make minor or administrative changes to the Manual without consulting with Registered Participants (p.3).
<i>Reporting on change management outcomes</i>		
GDF Suez	<p>The current obligation on AEMO to report to the AER on the outcomes of its change management processes for software alterations is one that has been imposed by the AER under its powers in Rule clause 8.7.2. This reporting obligation should be made more explicit in the Rules to provide more transparency to industry participants. Furthermore, the report provided by AEMO to the AER should also be made available to industry participants as well as the AER. This will give further confidence to the industry participants that the IT change management policies and procedures are being adhered to</p>	<p>Noted. See section 5.1.3 for further discussion on this matter.</p> <p>Further, in its response to stakeholder concerns, AEMO noted that it supports information transparency and considers that the AER's powers under the NER clause 8.7.2 are sufficient (p. 3).</p> <p>AEMO currently provides the AER with the general IT and Change reports monthly, which summarise the change notifications AEMO publishes each month. AEMO will provide this information to stakeholders on request (p. 3).</p>

Stakeholder	Issue	AEMC Response
	appropriately (p.2).	
<i>Dispute Resolution arrangements</i>		
GDF Suez	Market participants seeking to oppose a software change would be required to enter into chapter 8 dispute resolution processes. This seems unnecessarily heavy-handed, and is unlikely to facilitate timely resolution. GDF Suez believes that the current process of referral to the AER where six or more participants object is reasonable, and is unlikely to place a large burden on the AER (p.2).	<p>The Commission notes that AEMO has an established IT change management process, which includes a dispute resolution process. This is contained in its IT Change Management Procedures Manual.</p> <p>In addition, the NEL and NER already contain regulatory arrangements which constrain AEMO from making software changes which are detrimental to the operation of the market. See section 5.1.3 for more discussion on this matter.</p> <p>The Commission further notes that in the submissions to the rule change request, stakeholders did not identify any instances where there was an issue with a software change that had not been dealt with appropriately by AEMO.</p> <p>In its response to stakeholders, AEMO noted that it does not share GDF Suez's view in this regard because the proposed rule does not change the current dispute resolution process as outlined in the Manual (p.3).</p>