

# Reliability Panel AEMC

**Australian Energy Market Commission**  
Reliability Panel

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Our ref: REL0063

22 December 2017

Mr John Pierce  
Chairman  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

**By email: [john.pierce@aemc.gov.au](mailto:john.pierce@aemc.gov.au)**

Dear Mr Pierce,

## **National Electricity Rules: Rule change request – Reliability Panel governance arrangements**

The Reliability Panel (the Panel) has completed a review of its governance arrangements. The Panel considered a review of this nature was timely given heightened interest in governance across the sector, the potential for the Panel to take on additional accountabilities in the future, and because such periodic assessments reflect good practice. The review assessed governance arrangements established under Chapters 3 and 8 of the Rules, in the context of the existing scope of Panel roles and responsibilities.

The Panel concluded that the majority of existing arrangements are both appropriate and robust. Nonetheless, several improvement opportunities were identified regarding:

- panel composition, and appointments and removal of members
- consultation procedures
- timing and publication of specific reports and reviews.

Accordingly, we submit this rule change request, including a proposed rule, to the Australian Energy Market Commission (AEMC) for your consideration under section 91 of the National Electricity Law (NEL). The proposed rule seeks to increase transparency and further the effective operation of the Panel by amending and/or clarifying the Panel's governance arrangements.

The enclosed rule change request sets out a statement of the issues being addressed by the proposed rule, a description of the proposed rule, and our consideration of how the proposed rule promotes the national electricity objective. We have also explained the costs and benefits of the proposed rule.

We consider this rule change is not controversial, and therefore request that the AEMC consider the merits of 'expediting' the rule change request under section 96(1)(b) of the NEL.

Yours sincerely,



Neville Henderson  
Chair, Reliability Panel

## Rule change proposal

### Reliability Panel governance arrangements

Amendments to the National Electricity Rules – Chapters [3 and 8]

December 2017

#### Panel members

Neville Henderson (Chairman)	Chairman and AEMC Commissioner
Trevor Armstrong	Chief Operating Officer, Ausgrid
Lance Balcombe	Chief Executive Officer, TasNetworks
Murray Chapman	Executive Officer, Strategy & Innovation, AEMO
Mark Collette	Executive Energy, EnergyAustralia
Royce De Sousa	General Manager - Energy & Sustainability, Visy
Gavin Dufty	Manager Policy and Research, St Vincent de Paul Society, Victoria
Miles George	Strategic Adviser, Infigen Energy Ltd
Chris Murphy	Strategic Advisor, Meridian Energy and General Manager - Energy Market Interfaces, Telstra
Richard Wrightson	Executive General Manager, Wholesale Markets, AGL Energy

# Reliability Panel

## AEMC

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## 1. Introduction

This rule change request has been prepared by the Reliability Panel (the Panel) regarding clauses 3.13.3, 8.8 and 8.9 of the National Electricity Rules (NER), which set out the governance arrangements of the Panel. If adopted, the proposed rule change would strengthen and clarify the Panel’s governance arrangements.

### The AEMC Reliability Panel

The Panel is a specialist panel established by the Australian Energy Market Commission (AEMC) in accordance with section 38 of the National Electricity Law (Law) and the NER. The Panel comprises industry and consumer representatives as well as a representative of the Australian Energy Market Operator (AEMO). The Panel has specific responsibilities under the NER to set standards and guidelines and also in relation to monitoring, reviewing and reporting on the safety, security and reliability of the national electricity system. The Panel also undertakes reviews and advises the AEMC at its request.

### Rule change proponent

AEMC Reliability Panel  
PO Box A2449  
SYDNEY SOUTH NSW

### Scope and nature of issues and proposed rules

The table below shows the range of the governance issues that the proposed rule change seeks to address, and the nine proposed changes. Regarding the nature of the changes proposed, column three shows that:

- three of the proposed rule changes involve altering existing governance arrangements (marked ‘P’ for policy changes)
- six of the proposed rule changes solely aim to improve clarity of existing arrangements or address clear omissions in the current rules (marked ‘C’ for clarity).

Governance issue	Proposed change	
Panel composition, and appointments and removal of members	• Provide for appointment of an acting chair	P
	• Appointments to have regard to persons with security and safety interests, in addition to reliability interests	C
	• Outline the purpose of discretionary Panel members	C
	• AEMC to have regard to majority opinion when making appointments from classes of Registered Participants	P
	• Clarify the circumstances for removal of Panel member	C
Consultation procedures	• Ensure Panel tasks have appropriate consultation processes	P
	• Clarify consultation procedures	C
Timing and publication of specific reports and reviews	• Align publication of the Panel’s annual market performance reviews to the financial year	C
	• AEMO’s demand forecast reports to be published on AEMO website	C

## Background to the proposed rules

### Purpose

In February 2017 the Chair of the Panel initiated internal work to identify whether the current governance structure for the Panel was appropriate given the pace of change in the energy market. The review was to assess governance arrangements in the context of the existing scope of Panel roles and responsibilities.

The review was completed in July 2017, with the Panel agreeing to submit a rule change request to the AEMC on several key governance matters.

The Panel considered that a proactive self-assessment of the Panel's governance arrangements was timely given:

- Heightened interest in governance from the COAG Energy Council and the Finkel Review.
- The pace of change in the energy market. The Panel wishes to know its 'house is in order' for discharging both existing and potential future duties.
- Periodic reviews are good practice for any entity as they increase public confidence, effectiveness and efficiency.

### Approach

The Panel identified key Panel governance matters through:

- legal and policy analysis of the governance provisions in the NER
- discussions with Panel secretariat staff who had recently led projects for the Panel
- consideration of best practice governance arrangements and matters common to committees with comparable roles and composition
- reflection on operational and administrative challenges.

The governance matters that have been identified are those that:

- warrant review given changes in the energy sector
- create significant, practical problems for the Panel's operation
- lack clarity in the NER
- do not reflect the intended policy intent of the NER.

## 2. Issues and proposed solutions

### Panel composition, and appointments and removal of members

#### 2.1 Acting chair

NER clause 8.8.2(a)(1) states that the chair of the Panel must be a commissioner appointed by the AEMC. Currently the NER do not provide for the nomination of an acting chair. If the standing chair required extended leave, for instance for health or family reasons, or simply to travel, then the efficient operation of the Panel could be compromised. At the extreme, it could mean the Panel could not make a decision if Panel members' views were equally divided on a matter as the chairperson holds the casting vote.

Therefore, the proposed rule seeks to amend the NER to allow the chair of the AEMC to appoint a commissioner (other than the AEMC chair) as an acting chair of the Panel for a specific period of time.

#### 2.2 Discretionary Panel members

##### *Current rules*

NER clause 8.8.2 establishes that the Panel be composed of seven to ten members. It is to comprise an AEMC commissioner to act as chair, the CEO (or a delegate) of AEMO, and at least five but not more than eight persons appointed by the AEMC.

Five of the AEMC-appointed representatives must include a person each representing a particular registered participant category under the NER, specifically: generators; market customers; transmission networks; distribution networks. These appointees are to be made in consultation with the class of Registered Participants the appointee 'is to represent' and are to have gained one third of votes of that class.<sup>1</sup> In addition, there must be a representative of the interests of end-use customers, through consultant with bodies that represent end use electricity customers.<sup>2</sup>

The AEMC may choose to appoint up to three more Panel members. The NER do not specify the experience, sector or location required of these three discretionary members.

In making these five to eight appointments the AEMC must 'to the extent reasonably practicable' seek to ensure that the persons appointed:

- Are 'broadly representative, both geographically and by reference to Registered Participants and participating jurisdictions, of those persons with direct interests in reliability of electricity supply under the market arrangements'.
- Are independent of AEMO.
- Are independent of all system operators (except for the transmission service provider representative).
- May include registered participants or their representatives or participating jurisdictions.<sup>3</sup>

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<sup>1</sup> NER clause 8.8.2(c1).

<sup>2</sup> NER clause 8.8.2(d1).

<sup>3</sup> NER clause 8.8.2(c).

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These provisions give the AEMC some discretion over the sector, experience and interests of three of the eight appointments to ensure the AEMC appointments are 'broadly representative'.

For example, while the Panel must comprise one end-use customer representative<sup>4</sup>, the Commission may consider it beneficial also to appoint a discretionary member to represent certain customer interests not represented by the non-discretionary Panel member. For instance, representatives of small business owners in the situation where residential customers were adequately represented.

## *Clarity regarding the appointment of discretionary members*

Currently discretionary appointments to the Panel, while permitted, are not mentioned in the NER at all, beyond the single phrase "at least five but not more than eight other persons appointed by the AEMC" (NER cl. 8.8.2(a)(3)). In the interests of public transparency the Panel considers it desirable to clarify in the NER the general purpose of allowing for such members, and how such members are to be appointed and removed by the AEMC.

For example, new rules coming into effect on 1 December 2017 will provide, in relation to the Information Exchange Committee (a representative body with tasks including managing the business-to-business procedures in the energy market), that:

*AEMO must appoint at least two, but may appoint up to four, Discretionary Members to represent a class or classes of B2B Parties whose interests are, in AEMO's reasonable opinion, not adequately represented on the Information Exchange Committee. Prior to making any such appointments, AEMO may consult with any person or persons determined by AEMO.*<sup>5</sup>

In the interests of flexibility, the Panel does not propose including any more detailed prescriptions in the NER – beyond provisions such as those cited above – regarding the discretionary Panel members. The Panel may elaborate further principles or policies relating to the appointment of discretionary members in a non-NER document.

Therefore, the proposal is to amend the NER to clearly acknowledge the purpose of discretionary members on the Panel and specify that discretionary members are to be appointed and removed with appropriate consultation, as with the person representing the interests of end-user customers.

## **2.3 Security, safety and DNSP independence**

Since security and safety are among the Panel's functions under the Law,<sup>6</sup> the Panel considers that NER should be amended to require the Panel to broadly represent persons with direct interests not only in reliability, as is currently required (cl. 8.8.2(c)(1)), but also the security and safety of electricity supply.

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<sup>4</sup> NER clause 8.8.2 (a)(3)(E)

<sup>5</sup> New rule 7.17.10(d), introduced in National Electricity Amendment (Updating the electricity B2B framework) Rule 2016. It is available at: <http://www.aemc.gov.au/getattachment/422d3612-d3f0-4cc9-8421-204455a6f350/Final-rule.aspx>

<sup>6</sup> National Electricity Law s.38.

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Therefore, the Panel proposes the NER be amended in order to have the provisions on Panel representation be consistent with the Panel's functions under the Law.

An additional matter is whether the exemption for independence from system operators, which currently applies to the TNSP Panel member (NER cl. 8.8.2(c)(4)), should also apply to the Panel member representing DNSPs given that increasingly distribution networks are having to coordinate with the system operator in order to operate a safe, secure, reliable system as TNSPs do. Therefore, the Panel considers that whatever exemptions apply to TNSPs should also apply to DNSPs. The Panel proposes to amend the NER to extend the exemption for independence from system operators to the Panel member representing DNSPs as well.

### 2.4 Have regard to the majority opinion for registered participant appointments

Currently the AEMC may only appoint a person representing a class of Registered Participant if that person is agreed to by at least "*one third in number of the relevant class of Registered Participants*" (NER clause 8.8.2(c1)(1)). The NER does not give the AEMC guidance on how it should regard two nominees from the same class of Registered Participants both of whom have at least the minimum one third of votes.

The Panel considers it beneficial for the NER to provide guidance in regards to such an event. It proposes that an additional provision be inserted in the appointment clause requiring the AEMC to have regard to the preference expressed by the majority of the Registered Participants in the relevant class who voted on the nominees. The Panel's view is that there may be factors that the AEMC may be aware of and/or want to consider – such as the overall skills mix of the Panel, succession planning, diversity or member availability – that warrant retaining some flexibility for the AEMC to choose between two or more candidates.

### 2.5 Removal of a Panel member

Clause 8.8.2(d) of the NER currently sets out several circumstances in which the AEMC may remove any member of the Panel. The Panel considers that some of these circumstances duplicate other provisions of the NER, and other circumstances do not appear to be relevant.

- A Panel member may be removed if they become insolvent or under administration (clause. 8.8.2(d)(1)). Being under administration is a concept that applies to corporations, not people. While a Panel member may, as a person, become insolvent, it is not clear that this is necessarily a reason why they would no longer be able to perform their duties on the Panel. (The latter concept is covered separately – clause 8.8.2(d)(5) provides for a Panel member to be removed if they fail to discharge their obligations.)
- A Panel member may be removed if they resign (clause 8.8.2(d)(3)). However, a separate provision allows a Panel member to resign from the Panel by giving written notice (clause. 8.8.2(e)). It is possible that clause (d)(3) was intended to refer instead to a Panel member resigning from their employer, for example resigning from employment with a generator where that person was appointed to the Panel to represent generators (under cl. 8.8.2(a)(3)(A)). But if a person resigns from their employer it does not necessarily follow that they cease to be able to represent the relevant category of the energy sector. Clause 8.8.2(c1)(2) requires the AEMC to remove a representative member if one third of



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the relevant Registered Participants agree, and this could cover the situation where a person no longer represents the relevant sector.

- A Panel member may be removed if they die (clause. 8.8.2(d)(3)). This provision is not necessary because on dying they cease to be a person. With no existence or legal agency, they are automatically no longer on the Panel. (Even if this were not the case, the general provision allowing removal for failing to discharge the Panel member's obligations would cover this situation.)
- A Panel member may be removed if the AEMC is required to remove the person under other provisions (clause. 8.8.2(d)(4)). This provision is not necessary as the other provisions suffice.

Therefore, the Panel proposes to streamline the clauses relating to the removal of Panel members by deleting the clauses relating to where a person becomes insolvent or under administration, where a person resigns or dies and where the AEMC is required to remove persons under other provisions.

## Consultation procedures

### 2.6 Fit-for-purpose consultation

Different consultation processes are used for different duties of the Panel. The "Panel review process" (NER clauses 8.8.3(d)-(l)) is expressed to apply generally to Panel determinations or reviews. However, for certain specified duties the Panel is required to use the "Rules Consultation Procedures" (NER clause 8.9).<sup>7</sup> AEMO and the AER also use this procedure for several tasks. The existing procedures are presented in Table 1.

The two procedures are quite different. The Panel review process has one round of public consultation and one report, with a mandatory public meeting. The Rules Consultation Procedures have two rounds of public consultation and an optional public meeting, with a draft report and a final report. Although this latter procedure does not contain exact timing provisions for the publication of reports, it is potentially more than twice as long as the Panel specific review process.

While there may be benefit in having a longer and a shorter consultation procedure for use with different tasks, it is appropriate to consider whether the Panel's tasks have been allocated the appropriate consultation procedures.

The Panel considers robust and effective consultation is an important component of any project that it undertakes. However, it is also mindful of the need for timely decision-making and provision of information to the market, and of not imposing unnecessary duplicative calls on stakeholders' limited resources (contributing to 'consultation fatigue').

The Panel proposes two changes be made in the rules to existing consultation procedures as they are appropriate from a governance perspective, achieve consistency, and would meet public expectations of timely delivery of Panel market reports and reviews. These are:

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<sup>8</sup> Reliability Panel review process, cl. 8.8.3(d); Rules Consultation Procedures, cl. 8.9(b). "Interested parties" is defined in the Rules but not in relation to the reliability standard and settings review.

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- *Annual Market Performance Review*: As this is a factual report of the state of the market, it is proposed that no consultation be required on a draft report.
- *Reliability Standard and Settings Review Guidelines*: it is proposed that the initial determination of the guidelines continue to be the longer Rules Consultation Procedure (now completed, 2016). Should the Panel wish to periodically review the established guidelines the shorter Panel consultation process should apply, as is the case for other guidelines such as guidelines on AEMO's exercise of power to issue directions and exercise of power to enter into contracts for reserves.

### 2.7 Clarify consultation procedures

Given the importance of public consultation, the rules on the consultation procedures the Panel uses should be clear and appropriate. The two forms of consultation procedures the Panel uses are set out in NER clauses 8.8.3(d)-(l) and 8.9, as discussed above.

Certain parts of the existing procedures are unclear. For example, the requirement to give notice to all Registered Participants and interested parties.<sup>8</sup> It could be considered unclear as to whether this requires individual notices to each party that the Panel considers is "interested" (which would be impracticable), or whether publication on a website is sufficient.

Other parts of the procedures may no longer be appropriate. For example, the Panel review process includes a mandatory public meeting for any determination or review by the Panel (cl. 8.8.3(f)), unlike the Rules Consultation Procedures that have an optional meeting (cl. 8.9(f)). While it may be useful to permit such a meeting, the value of mandating one is unclear.

The Rules Consultation Procedures require AEMO to publish notices and reports by the Panel relating to the matter under consultation. However, the AEMC has its own website on which Panel reports are currently published; there is no need for the reports to be published in two places. Publication by the AEMC, rather than AEMO, is appropriate given that the AEMC established the Reliability Panel (Law s. 38(1)) and AEMC employees provide secretariat services for the Panel.

Therefore, the Panel proposes that the relevant consultation procedures in the NER be amended to:

- provide that notices and reports from the Panel are to be published on the AEMC website
- for the Panel review process, provide that a public meeting must be held if a stakeholder requests one, but is otherwise optional.

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<sup>8</sup> Reliability Panel review process, cl. 8.8.3(d); Rules Consultation Procedures, cl. 8.9(b). "Interested parties" is defined in the Rules but not in relation to the reliability standard and settings review.

**Table 1: Existing allocation of consultation procedures**

Panel review process (cl 8.8.3) – one round of consultation	Rules Consultation Procedures (cl 8.9) – two rounds of consultation
<p>Generally, all Panel determinations and reviews other than those which are specified to use the Rules Consultation Procedures. Includes:</p> <ol style="list-style-type: none"> <li>1. Annual market performance review (cl 8.8.3(b))</li> <li>2. Review system standards in terms of whether they appropriately and adequately describe the expected technical performance conditions of the power system (cl 8.8.1(a)(6))</li> <li>3. Review implementation of automatic access standards and minimum access standards as performance standards (cl 8.8.1(a)(7))</li> <li>4. Power system security standards (cl 8.8.3(a)(1))</li> <li>5. Determination of system restart standard (cl 8.8.3(a)(5))</li> <li>6. Determination of template for generator compliance programs (cl 8.8.3(a)(6), (ba))</li> <li>7. Development and amendment of principles and guidelines on how AEMO should maintain power system security while taking into account the costs and benefits (cl 8.8.1(a)(2a), (c)(1))</li> <li>8. Guidelines covering AEMO’s exercise of power to issue directions re maintaining power system in reliable operating state (cl 8.8.1(a)(3), 8.8.3(a)(2))</li> <li>9. If Panel considers it necessary or desirable, determination of guidelines for power system frequency reviews conducted by AEMO under clause 5.20A.1; requests for protected event declaration by AEMO under clause 5.20A.4; or the Reliability Panel's determination of protected events under clause 8.8.4 (cl 8.8.1(a)(2d))</li> <li>10. Policies and guidelines covering AEMO’s exercise of power to enter into contracts for reserves (cl 8.8.1(a)(4), 8.8.3(a)(3))</li> <li>11. Guidelines identifying operating incidents for purposes of definition of “reviewable operating incident” (cl 8.8.1(a)(9), 8.8.3(a)(4))</li> </ol>	<ol style="list-style-type: none"> <li>1. Reliability Standard and Settings Review (cl 3.9.3A(d)(1))</li> <li>2. Development and amendment of reliability standard and settings guidelines (cl 3.9.3A(b))</li> <li>3. Determinations regarding plant standards (cl 5.3.3(b4)), 8.8.1(a)(8))</li> <li>4. Determine which non-credible contingency events are to be protected events and any conditions applicable (cl 8.8.1(a)(2c), 8.8.4(b))</li> </ol>

## Timing and publication of specific reports and reviews

### 2.8 Timing of annual market performance review

As set out in NER clause 8.8.3(b), at least once each calendar year and at such other times as the AEMC may request, the Panel must conduct the annual market performance review.

The data that the Panel uses as an input into this report is, however, only available on a financial year basis. Therefore, for the past several years the annual market performance review has covered a financial year period.

In order to make the timing of this review clearer to market participants the Panel proposes to amend the NER to clarify that the Panel will conduct the annual market performance review in respect of each financial year, and will publish the review before the end of the following financial year. For example, the annual market performance review for 2016-17 will be published no later than 30 June 2018.

### 2.9 Publication of AEMO's demand forecast reports

NER clause 3.13.3(v) sets out that by 1 November each year, AEMO must provide a report to the Panel on the accuracy of its demand forecasts. The NER also sets out that the Panel must publish these reports.

However, it is not clear why the Panel is required to publish these reports. In practice, AEMO publishes the report itself directly on its website. Further, while the Panel reviews these reports for information, it is not clear under the current NER as to whether the Panel has any additional role (e.g. peer reviewing).

Therefore, the Panel does not consider that it makes sense for the Panel to publish this report. AEMO has its own website on which demand forecast information can be (and is) published. The Panel therefore proposes to amend the NER to state that AEMO will periodically publish information on its own website regarding the accuracy of its demand forecasts.

Making it clear that AEMO will publish the information on its own website also makes it clear that the Panel does not have a role in the accuracy of AEMO's forecasts, which is appropriate since the Panel does not have sufficient information to assess such matters.

Further, the Panel understands that AEMO is moving to a more dynamic way of publishing its forecast accuracy information. AEMO proposes to replace the written annual reports with periodic forecast accuracy measures on an online dashboard that is frequently updated. As a result, it is proposed that the requirement for annual publication be modified to periodically updated.

## 3. Furthering the National Electricity Objective

The national electricity objective (NEO) is set out in section 7 of the Law and states:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interest 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.

The Panel considers the proposed rule changes would be likely to contribute to the achievement of the NEO by promoting more efficient operation of electricity services for the long term interest of consumers with respect to the reliability and security of the national electricity system. The key mechanisms in this rule change request for furthering these aspects of the NEO are improved operational efficiency, timeliness and transparency.

The connection between governance and the efficient functioning of the NEM in the context of reliability and security matters has been well documented. For instance the recent *Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future* (the Finkel report) stated that:

Best practice governance is required to facilitate well-functioning energy markets and public confidence in the NEM.<sup>9</sup>

The Panel is a critical body in the NEM's governance framework. It provides expert industry advice and making certain decisions regarding reliability and security. The proposals in this rule change request would allow the Panel to operate more efficiently in discharging its responsibilities. For instance, allowing for the appointment of an acting chair, and requiring composition to include representation of security and safety, as well as reliability, interests. Efficiency gains in the operations of the Panel are likely to further the efficient operation of electricity services for the long term interest of consumers.

Timeliness has been one feature of recent discussions of governance in the NEM. The need for market bodies to respond to issues in a timely way has been noted in several recent reports and proposals to improve timeliness have been made by the *Review of Governance Arrangements for Australian Energy Markets Final Report* (the Vertigan Report) and the Finkel review, including in relation to the AEMC's work.<sup>10</sup> The proposal in this rule change for fit-for-purpose consultation request aims to aid timeliness of the Panel's work by aligning the consultation process to the task at hand, and bring information quickly to market participants.

Finally, the long term interests of consumers are supported by proposed amendments to the NER to make existing governance arrangements easier to understand, and thereby more

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<sup>9</sup> The Commonwealth of Australia, *Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future*, June 2017, Canberra, p. 157.

<sup>10</sup> The Commonwealth of Australia, *Independent Review into the Future Security of the National Electricity Market: Blueprint for the Future*, June 2017, Canberra, p. 157. The Commonwealth of Australia, *Review of Governance Arrangements for Australian Energy Markets Final Report*, 2015, Canberra, p. 8.

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transparent. Greater transparency would be achieved in regards to the following arrangements: the ability of the AEMC to appoint discretionary members; mechanisms for removal of a Panel member; timing the annual market performance review; and publication of AEMO's demand forecast

The Panel requests the AEMC to consider this rule change request as a request for a non-controversial rule under section 96(1)(b) of the Law and to 'expedite' the rule change request.

The Panel considers that the rule change proposal is non-controversial, that is, unlikely to have a significant effect on the national electricity market,<sup>11</sup> as:

- The majority of the amendments (six of nine) involve clarifications to the existing rules rather than changes in policy or effect.
- The 'policy' change of allowing for the appointment of an acting chair is an internal matter for the Panel, is standard governance practice, and maintains the requirement for the Panel chair to be an AEMC commissioner.

For these reasons, the Panel considers the rule change request is non-controversial.

The Panel has gathered information from AEMO in regards to proposal 2.9.

### **5. Expected benefits and costs**

The costs associated with these proposals will be negligible, since they largely relate to clarifying Panel procedures. The costs of the proposals will therefore be limited to the amendment of existing AEMC and Panel internal procedures.

No participant or government implementation costs are expected to flow from the proposals.

The benefits of this rule change will be to promote transparency and clarity for market participants in relation to Panel processes.

### **6. Proposed amendments to NER**

See over.

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<sup>11</sup> National Electricity Law section 87.

## ATTACHMENT to rule change request:

### Current version of National Electricity Rules 3.9.3A, 3.13.3, 8.8 and 8.9 with proposed changes in mark-up

#### 3.9.3A Reliability standard and settings review

##### Reliability standard and settings guidelines

- (a) The *Reliability Panel* must develop ~~and~~ publish, and may amend from time to time, guidelines (the *reliability standard and settings guidelines*) that set out the principles and assumptions that the *Reliability Panel* will use in conducting the *reliability standard and settings review*.
- (b) The *Reliability Panel* must develop ~~and amend~~ the *reliability standard and settings guidelines* in accordance with the *Rules consultation procedures* and must amend the *reliability standard and settings guidelines* in accordance with the consultation process set out in clauses 8.8.3(d) to (l).
- (c) There must be *reliability standard and settings guidelines* in force at all times after the date on which the *Reliability Panel* publishes the first *reliability standard and settings guidelines* under these *Rules*.

#### 3.13.3 Standing data

- (u) ~~By 1 November each year, AEMO must~~ periodically prepare and publish on its website information ~~provide a report to the Reliability Panel~~ on:
  - (1) the accuracy of the demand forecasts to date in the most recent *statement of opportunities*; and
  - (2) any improvements made by AEMO or other relevant parties to the forecasting process that will apply to the next *statement of opportunities*.
- (v) ~~The Reliability Panel must publish each report provided to it under paragraph (u) within ten business days after being provided with that report.~~[Deleted]

## Part E Reliability panel

### 8.8 Reliability Panel

#### 8.8.1 Purpose of Reliability Panel

- (a) The functions of the *Reliability Panel* are to:
  - (1) monitor, review and report on the performance of the *market* in terms of *reliability* of the *power system*;
  - (1a) on the advice of AEMO, determine the *system restart standard*;
  - (1b) review and make recommendations on the *reliability standard* and *reliability settings* under clause 3.9.3A;

- (2) review and, on the advice of *AEMO*, determine the *power system security standards*;
- (2a) for the purposes of clause 4.2.6(b), develop and *publish* principles and guidelines that determine how *AEMO* should maintain *power system security* while taking into account the costs and benefits to the extent practicable;
- (2b) determine, and modify as necessary, and *publish* the *template for generator compliance programs*;
- (2c) on the advice of *AEMO*, determine which *non-credible contingency events* are to be *protected events* and any conditions applicable to the determination, [in accordance with clause 8.8.4](#);
- (2d) if the *Reliability Panel* considers it necessary or desirable, determine guidelines for *power system frequency reviews* conducted by *AEMO* under clause 5.20A.1; requests for *protected event* declaration by *AEMO* under clause 5.20A.4; or the *Reliability Panel's* determination of *protected events* under clause 8.8.4;
- (3) while *AEMO* has power to issue *directions* in connection with maintaining or re-establishing the *power system* in a *reliable operating state*, determine guidelines governing the exercise of that power;
- (4) while *AEMO* has power to enter into contracts for the provision of *reserves*, determine policies and guidelines governing *AEMO's* exercise of that power;
- (5) report to the *AEMC* and *participating jurisdictions* on overall *power system reliability* matters concerning the *power system* and on the matters referred to in clauses 8.8.1(a)(1b), (2), (2c) and (3), and make recommendations on *market* changes or changes to the *Rules* and any other matters which the *Reliability Panel* considers necessary;
- (6) monitor, review and *publish* a report on the *system standards* in terms of whether they appropriately and adequately describe the expected technical performance conditions of the *power system*;
- (7) monitor, review and *publish* a report on the implementation of *automatic access standards* and *minimum access standards* as *performance standards* in terms of whether:
  - (i) their application is causing, or is likely to cause, a material adverse effect on *power system security*; and
  - (ii) the *automatic access standards* and *minimum access standards* should be amended or removed;
- (8) consider requests made in accordance with clause 5.3.3(b2) and, if appropriate, determine whether an existing Australian or international standard, or a part thereof, is to be adopted as a *plant standard* for a particular class of *plant*; and
- (9) determine guidelines identifying or providing for the identification of operating incidents and other incidents that are of significance for the



purposes of the definition of “Reviewable operating incident” in clause 4.8.15.

- (b) In performing its functions set out in clause 8.8.1(a)(1) the *Reliability Panel* must not monitor, review or report on the performance of the *market* in terms of *reliability* of *distribution networks*, although it may collate, consider and report information in relation to the *reliability* of *distribution networks* as measured against the relevant standards of each *participating jurisdiction* in so far as the *reliability* of those *networks* impacts on overall *power system reliability*.
- (c) The principles and guidelines *published* under clause 8.8.1(a)(2a):
  - (1) must be developed, and may only be amended, in accordance with the consultation process set out in clause 8.8.3;
  - (2) must include transitional arrangements which take into account the need to allow for the development and testing of an appropriate methodology by *AEMO*; and
  - (3) must take into account the results of any decision to revise *network constraints*.
- (d) A request for declaration of a *protected event*, or revocation of a declaration, may only be made, and must be determined, in accordance with clause 8.8.4.

## 8.8.2 Constitution of the Reliability Panel

- (a) The *Reliability Panel* must consist of:
  - (1) a commissioner of the *AEMC* appointed by the *AEMC* to act as chairperson for a period of up to three years;
  - (2) the chief executive officer or a delegate of *AEMO*; and
  - (3) at least 5 but not more than 8 other persons appointed by the *AEMC* for a period of up to three years, such persons to include:
    - (A) a person representing *Generators*;
    - (B) a person representing *Market Customers*;
    - (C) a person representing *Transmission Network Service Providers*;
    - (D) a person representing *Distribution Network Service Providers*; ~~and~~
    - (E) a person representing the interests of end use customers for electricity; and
    - (F) at the *AEMC*'s discretion, up to 3 other persons representing interests not otherwise represented, in order to achieve the broad representation described in clause 8.8.2(c)(1).
- (b) Subject to clause 8.8.2(d) any person who has previously served on the *Reliability Panel* is eligible for reappointment to the *Reliability Panel* in accordance with this clause 8.8.2.

- (c) In making appointments to the *Reliability Panel* under clause 8.8.2(a)(3), the *AEMC* must, to the extent reasonably practicable and subject to clause 8.8.2(c1), give effect to the intention that the persons so appointed:
- (1) should be broadly representative, both geographically and by reference to *Registered Participants* and *participating jurisdictions*, of those persons with direct interests in *the reliability and safety of electricity supply* under the *market arrangements and in power system security*;
  - (2) may include *Registered Participants* or their *representatives* or *participating jurisdictions*;
  - (3) must be independent of *AEMO*; and
  - (4) must, except in the case of the persons representing *Transmission Network Service Providers* appointed under clauses 8.8.2(a)(3)(C) and (D), be independent of all *System Operators*,
- and if at any time:
- (5) a person on the *Reliability Panel*, other than the chief executive officer or a delegate of *AEMO*, ceases to be independent of *AEMO*; or
  - (6) a person on the *Reliability Panel*, other than the persons representing ~~*Transmission*~~ *Network Service Providers* appointed under clauses 8.8.2(a)(3)(C) and (D), ceases to be independent of any *System Operator*,
- the *AEMC* must remove that person from the *Reliability Panel*.
- (c1) The persons referred to in clauses 8.8.2(a)(3)(A), (B), (C) and (D) must be appointed and removed by the *AEMC* after consultation with the class of *Registered Participants* the person is to represent, and the *AEMC* must:
- (1) appoint a person agreed to by at least one third in number of the relevant class of *Registered Participants*, *having regard to the preference expressed by the majority of the Registered Participants in the relevant class who responded in writing to the consultation by the AEMC*; and
  - (2) commence consultation on the removal of such a person if requested to do so by a member of the relevant class of *Registered Participants*, and must remove that person if so agreed by at least one third in number of the relevant class of *Registered Participants*.
- (d) The *AEMC* may remove any member of the *Reliability Panel*, including the chairperson, at any time during his or her term in the following circumstances:
- (1) ~~the person becomes insolvent or under administration~~[deleted];
  - (2) the person becomes of unsound mind or his or her estate is liable to be dealt with in any way under a law relating to mental health;
  - (3) ~~the person resigns or dies~~[deleted];
  - (4) ~~the AEMC is required to remove the person under clause 8.8.2(c) or 8.8.2(c1)(2)~~[deleted]; or

- (5) the person fails to discharge the obligations of that office imposed by the *Rules*.
- (d1) The person referred to in clauses 8.8.2(a)(3)(E) and (F) must be appointed and removed by the *AEMC* after such consultation ~~with such bodies representing the interests of end use customers for electricity and other persons~~ as the *AEMC* considers appropriate with the interests those persons represent and, subject to such consultation, may be removed at any time for any reason.
- (e) A person may resign from the *Reliability Panel* by giving notice in writing to that effect to the *AEMC*.
- (f) The *Reliability Panel* must meet and regulate its meetings and conduct its business in accordance with the *Rules*.
- (g) A decision of the *Reliability Panel* on any matter may be made by a majority of the members comprising the *Reliability Panel*. Where the members of the *Reliability Panel* are equally divided on any matter, the chairperson has a casting vote.
- (h) If the chairperson of the *Reliability Panel* is unable to perform the obligations of that office for an extended period of time (including any period in which a scheduled meeting of the *Reliability Panel* is held), the chairperson must notify the *AEMC* as soon as practicable. After being so notified the *AEMC* must appoint another commissioner of the *AEMC* (other than the chairperson of the *AEMC*) as an acting chairperson of the *Reliability Panel* for the relevant period. The acting chairperson has the same powers and functions as the chairperson.

### 8.8.3 Reliability Panel review process

- (a) As soon as practicable, the *Reliability Panel* must determine:
  - (1) the *power system security standards*;
  - (2) the guidelines referred to in clause 8.8.1(a)(3);
  - (3) the policies and guidelines referred to in clause 8.8.1(a)(4);
  - (4) the guidelines referred to in clause 8.8.1(a)(9);
  - (5) the *system restart standard*; and
  - (6) the *template for generator compliance programs*,
 in accordance with this clause 8.8.3.
- (aa) The *system restart standard* must:
  - (1) be reviewed and determined by the *Reliability Panel* in accordance with the *SRAS Objective*;
  - (2) identify the maximum amount of time within which *system restart ancillary services* are required to restore *supply* in an *electrical sub-network* to a specified level, under the assumption that *supply* (other than that provided under a *system restart ancillary services* agreement acquired by *AEMO* for that *electrical sub-network*) is not available from any neighbouring *electrical sub-network*;

- (3) include the aggregate required reliability of *system restart ancillary services* for each *electrical sub-network*;
  - (4) apply equally across all *regions*, unless the *Reliability Panel* varies the *system restart standard* between *electrical sub-networks* to the extent necessary:
    - (A) to reflect any technical system limitations or requirements; or
    - (B) to reflect any specific economic circumstances in an *electrical sub-network*, including but not limited to the existence of one or more *sensitive loads*;
  - (5) specify that a *system restart ancillary service* can only be acquired by *AEMO* under a *system restart ancillary services* agreement for one *electrical sub-network* at any one time;
  - (6) include guidelines to be followed by *AEMO* in determining *electrical sub-networks*, including the determination of the appropriate number of *electrical sub-networks* and the characteristics required within an *electrical sub-network* (such as the amount of *generation* or *load*, or electrical distance between *generation centres*, within an *electrical sub-network*); and
  - (7) include guidelines specifying the diversity and strategic locations required of *system restart ancillary services*.
- (b) At least once each ~~calendar~~ *financial year* and at such other times as the *AEMC* may request, the *Reliability Panel* must conduct a review of the performance of the *market* in terms of *reliability* of the *power system*, the *reliability standard*, the *power system security standards*, the *system restart standard*, the guidelines referred to in clause 8.8.1(a)(3), the policies and guidelines referred to in clause 8.8.1(a)(4) and the guidelines referred to in clause 8.8.1(a)(9) ~~in accordance with this clause 8.8.3~~. *The Reliability Panel must conclude each annual review under this clause by the end of the financial year following the financial year to which the review relates.*
- (ba) At least every 5 years from the date the *template for generator compliance programs* is determined pursuant to clause 8.8.3(a) and at such other times as the *AEMC* may request, the *Reliability Panel* must conduct a review of the *template for generator compliance programs* in accordance with this clause 8.8.3. Following such a review, the *Reliability Panel* may amend the *template for generator compliance programs* in accordance with its report to the *AEMC* submitted under clause 8.8.3(j).
- (c) Subject to paragraph (c1), the *AEMC* must advise the *Reliability Panel* of the terms of reference for any determination or review by the *Reliability Panel*.
- (c1) The *AEMC*:
- (1) may advise the *Reliability Panel* of standing terms of reference in relation to the reviews described in clauses 8.8.3(b) and 8.8.3(ba) from time to time; and
  - (2) may, but is not required to, advise the *Reliability Panel* of terms of reference in relation to the review described in clause 8.8.1(a)(1b).

- (c2) The *Reliability Panel* must follow the consultation process in paragraphs (d) to (l) when carrying out its functions, unless otherwise specified in this paragraph or elsewhere in the *Rules*. The *Reliability Panel* is not required to follow the process in paragraphs (de) to (l) for the purposes of its functions under clauses 8.8.1(a)(1b), 8.8.1(a)(2c), 8.8.1(a)(8) or 8.8.3(b).
- (d) The *Reliability Panel* must give notice to all *Registered Participants* of the commencement of a determination or review by requesting the *AEMC* to publish the notice pursuant to paragraph (k). The notice must give particulars of the terms of reference for the determination or review (as the case may be), and the deadline for the receipt of any submissions to the *Reliability Panel* ~~and the date and place for the meeting referred to in clause 8.8.3(f). The notice must be given at least 8 weeks prior to the meeting or such other time specified by the *AEMC* in any request for a review.~~
- (e) The deadline for receipt of submissions must not be earlier than 4 weeks following publication of the notice required under paragraph (d) ~~prior to the meeting~~ or such other time specified by the *AEMC* in any request for a review.
- (f) The *Reliability Panel* ~~may~~<sup>ust</sup> hold a meeting open to the public for any determination or review by the *Reliability Panel*, and must hold such a meeting if an interested party requests one in writing. The *Reliability Panel* must give reasonable notice of any such meeting.
- (g) The meeting referred to in paragraph (f):
  - (1) may be conducted in person, by telephone, video conference or other method of communication selected by the *Reliability Panel*; and
  - (2) if conducted in person, must be held in the capital city of one of the *participating jurisdictions* as selected by the *Reliability Panel*.
- (h) The *Reliability Panel* may obtain such technical advice or assistance from time to time as it thinks appropriate including, without limitation, advice or assistance from *AEMO* and any *Registered Participant*.
- (i) In undertaking any review and preparing any report and recommendations, the *Reliability Panel* must take into consideration the policy statements, directions or guidelines published by the *AEMC* from time to time.
- (j) Following the conclusion of the meeting (if any) conducted pursuant to paragraph (f) and consideration by the *Reliability Panel* of any submissions or comments made to it, the *Reliability Panel* must submit a written report to the *AEMC* on the review setting out its recommendations or determinations, its reasons for those recommendations or determinations and the procedure followed by the *Reliability Panel* in undertaking the review or determination. The report must be submitted to the *AEMC* ~~no later than 6 weeks after the meeting referred to in clause 8.8.3(f) or such other~~ by the deadline for reporting specified by the *AEMC* in any request for a review.
- (k) The *AEMC* must, within 10 *days* of receiving from the *Reliability Panel* a notice, report or other document pursuant to this clause 8.8.3, publish that document on the *AEMC* website ~~the written report of the *Reliability Panel*, make the report publicly available~~ (with the exclusion of material that

cannot be disclosed consistently with the *AEMC's* obligations of confidentiality).

- (l) The recommendations of the *Reliability Panel* may include (without limitation) recommended *changes* to the *Rules* in relation to matters concerning *reliability* of the *power system*.

#### **8.8.4 Determination of protected events**

- (a) A request for declaration of a *non-credible contingency event* as a *protected event* or for the revocation of such a declaration may only be submitted by *AEMO*. The request must be in accordance with clause 5.20A.4 or clause 5.20A.5 as applicable.
- (b) The *Reliability Panel* must comply with the *Rules consultation procedures* in relation to the determination of each request under paragraph (a).
- (c) In determining the request, the *Reliability Panel* must have regard to the information provided by *AEMO* in the request and may request further information or obtain such technical advice or assistance from time to time as it thinks appropriate including, without limitation, information, advice or assistance from *AEMO* and any *Registered Participant*.
- (d) In determining the request, the *Reliability Panel* may undertake its own assessment of the costs and benefits of managing the *non-credible contingency event* as a *protected event*, including:
  - (1) costs to operate the *power system* in a *secure operating state* if the event is declared;
  - (2) costs associated with any proposal for a new or modified *emergency frequency control scheme* or other *network* investment in connection with managing the event;
  - (3) the benefits of mitigating the consequences of the event occurring by managing it as a *protected event*.
- (e) In making a determination that declares a *non-credible contingency event* to be a *protected event* or revokes that declaration, the *Reliability Panel* must have regard to the *national electricity objective*.
- (f) When the *Reliability Panel* makes a determination under this clause, then subject to the provisions in the *Rules* applicable to *protected events*, the *Reliability Panel* may at the same time determine any other matters that the *Reliability Panel* considers necessary or appropriate in relation to the *protected event*, which may include:
  - (1) provision for the declaration of the *protected event* or the revocation of a declaration to come into effect at a future time, which may be a specified date or may be determined by reference to matters specified in the determination, such as the commissioning of a new or modified *emergency frequency control scheme* or the satisfaction of other conditions specified in the determination;
  - (2) matters relating to the availability and operation of an *emergency frequency control scheme*;

- (3) matters relating to *AEMO's* operation of the *power system* for that *protected event*; and
  - (4) changes to the principles and guidelines published under clause 8.8.1(a)(2a) to apply in respect of the *protected event* for the purposes of clause 4.2.6(b).
- (g) When the *Reliability Panel* makes a determination under this clause that provides for the availability and operation of a new or modified *emergency frequency control scheme* in connection with a *protected event*, the *Reliability Panel* must at the same time determine the *protected event EFCS standard* applicable to the scheme.
  - (h) The final report of the *Reliability Panel* under the *Rules consultation procedures* must include:
    - (1) if the *Reliability Panel* has determined to make a declaration, the terms of the declaration, any conditions applicable to it and any other matters determined under paragraph (f) or (g);
    - (2) the rationale for the determination, including the costs and benefits that the *Reliability Panel* had regard to and the rationale for any *protected event EFCS standard* determined by the *Reliability Panel*; and
    - (3) where applicable, any other options considered and the corresponding expected *power system security* outcomes and costs and benefits.
  - (i) The *Reliability Panel* must maintain and publish a list of all *protected events* (including events that will be *protected events* when the relevant declaration comes into effect) and each *protected event EFCS standard*.

## Part F Rules consultation procedures

### 8.9 Rules Consultation Procedures

- (a) These provisions apply wherever in the *Rules* any person (the *consulting party*) is required to comply with the *Rules consultation procedures*. For the avoidance of doubt, the *Rules consultation procedures* are separate from, and do not apply to, the process for changing the *Rules* under Part 7 of the *National Electricity Law*.
- (b) The *consulting party* must give a notice to all persons nominated (including *Intending Participants* in the class of persons nominated) by the relevant provision as those with whom consultation is required or, if no persons are specifically nominated, *AEMO*, all *Registered Participants* and *interested parties*, (**Consulted Persons**) giving particulars of the matter under consultation, [by publishing the notice in accordance with rule 8.9\(c\)](#).
- (c) Except where the *consulting party* is the *AEMC*, or the *AER*, the *consulting party* must provide a copy of the notice referred to in rule 8.9(b) to *AEMO*, [or to the AEMC where the consulting party is the Reliability Panel](#). Within 3 *business days* of receipt of the notice *AEMO* must *publish* the notice on its website. Where the *AEMC* [or the Reliability Panel](#) is the *consulting party*, the *AEMC* must *publish* the notice referred to in rule 8.9(b) on its

website. Where the *AER* is the *consulting party*, the *AER* must *publish* the notice referred to in rule 8.9(b) on its website.

- (d) The notice must invite interested Consulted Persons to make written submissions to the *consulting party* concerning the matter.
- (e) A written submission may state whether a Consulted Person considers that a meeting is necessary or desirable in connection with the matter under consultation and, if so, the reasons why such a meeting is necessary or desirable. To be valid, a submission must be received not later than the date specified in the notice (not to be less than 25 *business days* after the notice referred to in rule 8.9(b) is ~~published~~*given*).
- (f) The *consulting party* must consider all valid submissions within a period of not more than a further 20 *business days*. If the *consulting party*, after having considered all valid submissions, concludes that it is desirable or necessary to hold any meetings, the *consulting party* must use its best endeavours to hold such meetings with Consulted Persons who have requested meetings within a further 25 *business days*.
- (g) Following the conclusion of any meetings held in accordance with rule 8.9(f) and the *consulting party's* consideration of a matter under consultation, the *consulting party* must publish a draft report *in accordance with rule 8.9(h)*, available to all Consulted Persons, setting out:
  - (1) the conclusions and any determinations of the *consulting party*;
  - (2) its reasons for those conclusions;
  - (3) the procedure followed by the *consulting party* in considering the matter;
  - (4) summaries of each issue, that the *consulting party* reasonably considers to be material, contained in valid written submissions received from Consulted Persons or in meetings, and the *consulting party's* response to each such issue; and
  - (5) in a notice at the front of the draft report, an invitation to Consulted Persons to make written submissions to the *consulting party* on the draft report,

and, subject to its confidentiality obligations, the *consulting party* must make available to all Consulted Persons, on request, copies of any material submitted to the *consulting party*.

- (h) Except where the *consulting party* is the *AEMC*, or the *AER*, the *consulting party* must provide a copy of the draft report referred to in rule 8.9(g) to *AEMO*, or to the *AEMC* where the *consulting party* is the *Reliability Panel*. Within 3 *business days* of receipt of the draft report *AEMO* must *publish* the draft report on its website. Where the *AEMC* or the *Reliability Panel* is the *consulting party*, the *AEMC* must *publish* the draft report referred to in rule 8.9(g) on its website. Where the *AER* is the *consulting party*, the *AER* must *publish* the draft report referred to in rule 8.9(g) on its website.
- (i) To be valid, a submission invited in a notice referred to in rule 8.9(g)(5) must be received not later than the date specified in the notice (not to be less than 10 *business days* after the publication of the draft report pursuant



to rule 8.9(h) or such longer period as is reasonably determined by the *consulting party* having regard to the complexity of the matters and issues under consideration).

- (j) The *consulting party* must consider all valid submissions within a period of not more than a further 30 *business days*.
- (k) Following the conclusion of the *consulting party's* consideration of all valid submissions the *consulting party* must publish a final report [in accordance with rule 8.9\(1\)](#), available to all Consulted Persons, setting out:
  - (1) the conclusions and any determinations of the *consulting party* on the matter under consultation;
  - (2) its reasons for those conclusions;
  - (3) the procedure followed by the *consulting party* in considering the matter;
  - (4) summaries required pursuant to rule 8.9(g)(4); and
  - (5) summaries of each issue, that the *consulting party* reasonably considers to be material, contained in valid written submissions received from Consulted Persons on the draft report and the *consulting party's* response to each such submission,

and, subject to its confidentiality obligations, the *consulting party* must make available to all Consulted Persons, on request, copies of any material submitted to the *consulting party*.

- (l) Except where the *consulting party* is the AEMC, or the AER, the *consulting party* must provide a copy of the final report referred to in rule 8.9(k) to AEMO, or to the AEMC where the *consulting party* is the [Reliability Panel](#). Within 3 *business days* of receipt of the final report AEMO must *publish* the final report on its website. Where the AEMC or the [Reliability Panel](#) is the *consulting party*, the AEMC must *publish* the final report referred to in rule 8.9(k) on its website. Where the AER is the *consulting party*, the AER must *publish* the final report referred to in rule 8.9(k) on its website.
- (m) The *consulting party* must not make the decision or determination in relation to which the *Rules consultation procedures* apply until the *consulting party* has completed all the procedures set out in this clause.
- (n) Notwithstanding rule 8.9(m), substantial compliance by a *consulting party* with the procedures set out in this clause is sufficient.