

Australian Energy Market Commission

Draft Rule determination

Rule Proposal: *Recovery of Negative Inter-Regional Settlements Residue*

Proponent: *NEMMCO*

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Commissioners:
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Summary

The National Electricity Market Management Company (NEMMCO) has proposed a change to the National Electricity Rules (Rules) regarding the recovery of negative inter-regional settlements residue as part of the Settlements Residue Auction (SRA) process. The proposed Rule change would enable NEMMCO to recover outstanding negative inter-regional settlements residue (negative residues or negative IRSR) from future auction proceeds rather than future auction fees.

The principle aim of the proposed Rule change is to reduce the cost of funding negative residue debt. Requiring SRA unit holders to pay significant fees that were a consequence of market outcomes up to two years previous is likely to discourage future interest in the auction. Currently, the mechanism used takes one-to-two years to fully recover negative residues accrued today. This results in cross-subsidies between those participating in the auction today when the negative residues accrue, and those future participants who fund the debt. This proposal would also reduce the cost of cross-subsiding the debt.

The Commission notes that the proposed Rule change does not review the SRA process. Its aim is to address one component of the process, not to evaluate inter-regional financial trading arrangements in the National Electricity Market (NEM).

A number of substantial issues concerning the broader nature of the settlements residue auction and inter-regional financial trading arrangements in general were raised in submissions to an earlier consultation. The Commission considers that the Congestion Management Review is a more appropriate environment to raise such issues.

Given the proposed Rule change only addresses the problem of funding accumulated negative residues rather than their cause, the Commission has amended the draft Rule to include a sunset. The sunset limits the application of this new recovery regime to three years from its commencement.

The Commission has included a sunset in the draft Rule because the proposal addresses only a subset of issues relating to the settlements residue auction. The combination of a sunset and commitment to address the broader issues provides stakeholders with an opportunity to consider longer term solutions to both the funding issues raised in NEMMCO's proposal and the broader ones raised by stakeholders.

Accordingly, subject to comments received as part of the second round consultation, the Commission intends to make a Rule to address the issues relating to the Rule change proposal. This draft Rule determination sets out the Commission's reasoning in accordance with the requirements of the National Electricity Law (NEL).

1. The proponent's Rule proposal

NEMMCO lodged a proposal with NECA on 8 February 2005 to change the National Electricity Code (now Rules) to amend the process for recovering negative inter-regional settlements residue in the NEM settlement process.

Negative residues occur when power flows from a high priced region to a low priced region. This may happen due to a range of events including:

- The operation of some network constraints and network outage conditions;
- Rapid changes to power flows occurring within thirty minutes;
- Frequency Control Ancillary Service (FCAS) constraints; and
- Islanding events.

Clause 3.6.5(4)(i) in the Rules permits NEMMCO to recover negative residues from positive residues accrued within the same billing period (a week). If the value of negative residues accumulated within a billing week is greater than the available positive residues, then Clause 3.6.5(4)(i) currently allows NEMMCO to treat the net negative residues as an auction expense, recoverable from future auction fees.

NEMMCO also incurs an interest cost on the financing required to cover the net negative residue debt. This interest is deemed an auction expense and is also recovered through auction fees. The longer the recovery period, the higher the interest cost to cover the borrowed amount.

Large negative residues have contributed to significant increases in auction fees to enable NEMMCO to recover the residues. In its proposal, NEMMCO lists recent years' auction fees: \$624,000 in 2003/04; \$908,000 in 2004/05; \$2,602,000 in 2005/06. NEMMCO is currently carrying forward a liability in excess of \$3M in 2004/05 including annual interest costs of around \$140,000 due to negative residues.

NEMMCO is concerned about the impact the increasing accumulation of net negative residues is having on auction fees and believes that rising auction fees will discourage interest in the SRA. In its proposal, NEMMCO suggested that having a substantial number of parties participating in the SRA process enhances the auction's efficiency.

In preparing the proposal, NEMMCO considered a number of possible alternatives for recovering negative residues. Ten options were assessed ranging from continuing the status quo to recovery through a market levy to a complete overhaul of the SRA process. NEMMCO concluded that any market levy was relatively inefficient, the status quo by nature does not improve the current situation, and a radical change to the SRA process could not be justified at this time.

Because nearly every option considered resulted in the end-user significantly contributing to the cost of negative residues, NEMMCO considered the simplest of the options should be pursued. This is reflected in its proposal. NEMMCO believed this option did not require the SRA unit to be redefined; did not require changes to the settlement systems to account for inter-week processing and accounts; and addressed the inefficiencies inherent in the current process.

The proposal would provide NEMMCO with the option to recover net negative residues from future auction proceeds rather than future auction fees. This, NEMMCO believes, is the preferred option as it “has the advantage of efficiency because of its directness.”

The figures below illustrate the current process (figure 1) and NEMMCO’s proposed process (figure 2).

Figure 1: current process for recovery of negative residues

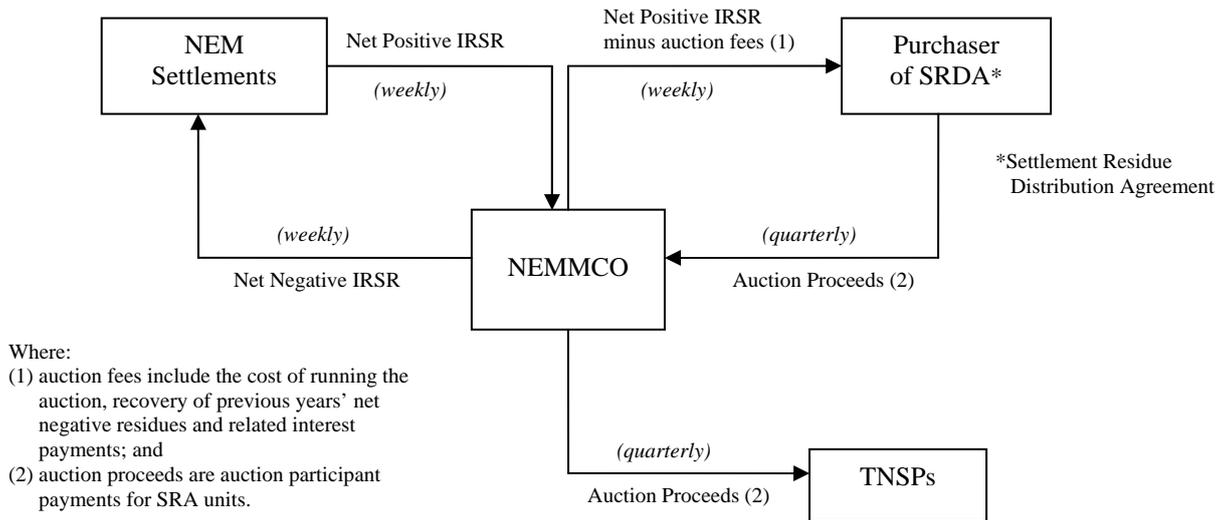
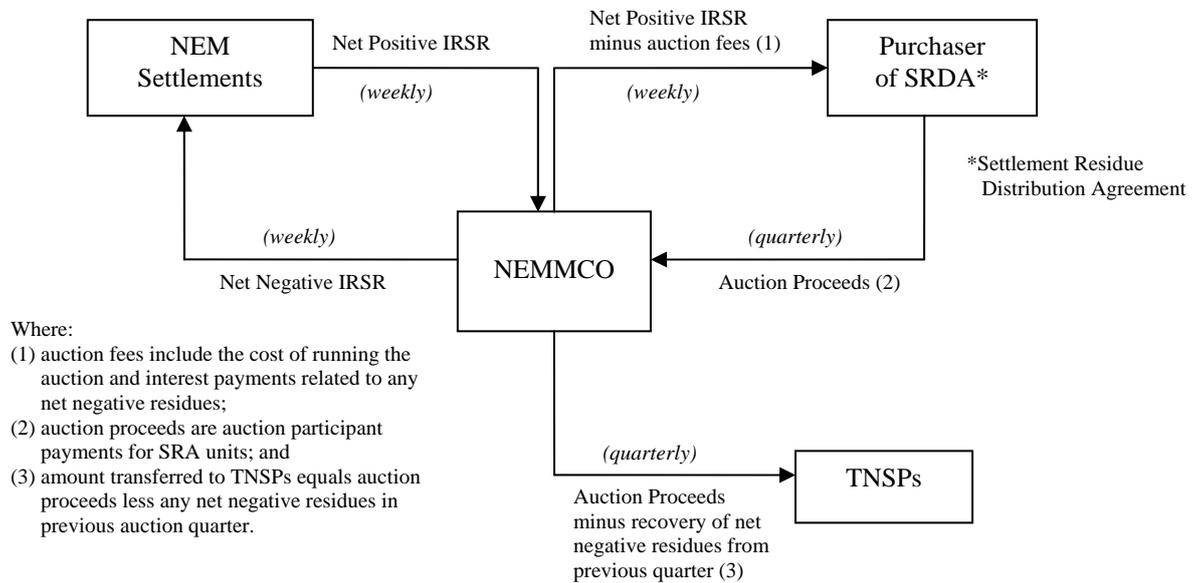


Figure 2: NEMMCO’s proposed process for recovery of negative residues



NEMMCO states that this proposal requires no change to the design or operation of the SRA and is largely consistent with the treatment of negative residues in the absence of the SRA.

NEMMCO would continue to collect interest payments incurred to cover net negative residues between payments of auction proceeds through auction fees as NEMMCO views the cost as an ongoing expense of running the auction process.

2. The draft Rule determination

The Commission has determined, in accordance with section 99 of the NEL, to make the draft Rule set out in Attachment 1 of this draft Rule determination. The wording of the draft Rule amends aspects of the proposed Rule as put forward by NEMMCO, for the reasons set out at section 5 of this determination.

In coming to its decision, the Commission has considered:

- the Rule change proposal and proposed Rule put forward by NEMMCO (see section 1);
- submissions received; and
- requirements under the NEL (see section 3).

The Commission has applied the statutory Rule making test and for the reasons set out in section 6 of this draft Rule determination, is satisfied that the draft Rule is likely to contribute to the achievement of the NEM objective.

3. Requirements under the NEL

3.1 *The Rule making test*

Under s.88 of the NEL, the Commission is only able to make Rules if it is satisfied that the Rule contributes to achieving the NEM objective. The Commission must also consider any relevant MCE statements of policy principles and any regulatory regulations.

This Rule proposal is likely to increase the efficiency of the SRA process and therefore meets the objective to promote efficient investment in and use of electricity services for the long term interests of consumers. Section 6 explains in more detail how the proposal meets the NEM objective.

There are currently no MCE statements of policy principle or regulatory requirements applicable to this Rule change proposal.

4. Consultation process

Following receipt of the (then) Code change proposal, NECA's Code Change Panel issued an invitation for submissions on 17 February 2005. The Panel received seven submissions commenting on the proposal from the Electricity Retailers Association of

Australia (ERAA), Hydro Tasmania, Macquarie Generation, NRG Flinders, Snowy Hydro Limited (Snowy Hdyro), Tarong Energy Corporation Limited (Tarong Energy), and TransGrid.

These submissions were all generally supportive of the proposal in the context of addressing the specific problem of funding net negative residues. The submissions did raise, however, substantial issues in the broader context of the SRA and the contributing causes of negative residues. These issues are discussed in section 5.

Under the transitional powers in the NEL, as the Code change proposal was not finalised at the date of commencement of the Commission on 1 July 2005, the proposal moved to the Commission where it is now being treated as a Rule making request.

Part 3 (3) of Schedule 3 of the NEL enables the AEMC to:

dispense with a relevant Rule-making step if this step duplicates a relevant Code change step already undertaken under the National Electricity Code.

The Commission considered the first round consultation undertaken by the Code Change Panel and decided to consider the submissions received as if the Commission had undergone the first round consultation process itself. Submitting parties confirmed with the Commission that these submissions still represented their views on this proposal. The next step in the Rule-making process is for the Commission to publish this draft Rule determination and accompanying notice under s.99 of the NEL.

The Commission invites submissions on the matters raised in the draft Rule determination by 3 March 2006. Any interested person or body wanting a hearing on this draft Rule determination must send their request in writing to the Commission no later than 27 January 2006.

After the Commission has received and considered any submissions it will proceed to making a final Rule determination.

5. Matters raised in analysis and consultation

All the submissions received broadly support NEMMCO's core proposal to amend the recovery mechanism for negative settlements residue. The Commission has therefore considered separately any issues relating to the core proposal from broader, more substantial issues. This discussion includes any issues raised in submissions or encountered in the Commission's analysis of the proposal.

The Commission considers issues relating directly to the operation of the proposed Rule change in section (5.1), and considers broader substantial issues related to the SRA and inter-regional trading as a whole in section (5.2). Issues discussed in section (5.1) include:

- recovery of negative residue from auction proceeds (section 5.1.1);
- recovery of interest payments (section 5.1.2);
- recovery of existing accumulated debt (section 5.1.3); and
- impact on end use customers (section 5.1.4).

Broader issues covered in (5.2) include:

- intra-billing week deduction of negative settlements residue (section 5.2.1);
- management of negative settlements residue accumulation (section 5.2.2); and
- discussion of the issue of negative residues (section 5.2.3).

5.1 Issues related to operation of proposed Rule change

5.1.1 Recovery of negative residues from auction proceeds

Current Process

Inter-regional settlements residue is the difference between the value of energy in one region and the value of that energy once it has been transferred to another region. Positive residues arise if the energy is transferred from a low-priced region to a high-priced region. The amount paid for the energy in the high-priced region being transferred from the low-priced region will be more than what NEMMCO pays the generators in the low-priced region. This is the normal market outcome.

If energy is transferred from a high-priced region to a low-priced region, the value paid for the energy is less than what NEMMCO must pay the generators in the high-priced region. This is a less common event. Over a 12 month period (1 April 2004 to 31 March 2005) this occurred on average 3.7% of trading intervals and was around 0.12% of the magnitude of total inter-regional settlements residue.¹ During this period, NEMMCO could apply its intervention powers, under Chapter 8A Part 8 of the Rules, to contain the accumulation of negative residues. (This process is described in section 5.2.1).

To recovery negative residues, NEMMCO first nets off any negative residues from positive residues accrued within the same billing week. If the value of the negative residues accumulated within a billing week exceeds the available positive residues, then NEMMCO treats the net negative residues as an auction expense and recovers it from future auction fees.

What the proponent said

NEMMCO is concerned about the impact increasing net negative residues will have on both auction fees, and therefore SRA participation, and the liability of funding the associated debt. The proponent believes recovering net negative residue from auction proceeds rather than auction fees will help make the SRA more efficient by promoting participation, and will assist in controlling the related debt and associated interest costs.

What the submissions said

All submissions expressed broad support for the core proposal to recover negative inter-regional settlements residue from auction proceeds.

¹ NEMMCO Settlement Residue Auction Information Memorandum, 1 July 2005, p. 16.

The Commission's considerations and reasoning

The main objective of the proposed Rule change is to reduce the cost of funding negative residue debt. This includes both reducing the cost associated with funding the loan, but also NEMMCO's liability that has developed with funding negative residue debt over a number of years.

There are cost saving benefits from moving to a funding regime that reduces the recovery period from years to months. One apparent saving is the reduction in interest costs associated with servicing the loan.

There are also economic benefits from the change. The existing recovery mechanism experiences a lag of a year or two between incurring the negative residue and recovering it from auction fees. This lag means future SRA unit holders are cross-subsiding those participating in the auction today. By reducing the time delay from years to months, there is a corresponding reduction in the cross-subsidies between current auction participants and future ones.

One consideration is the impact on auction proceeds, and the follow on impact on transmission customers. Auction proceeds are passed on to the relevant TNSP, who in turn passes the proceeds on to their customers through a reduction in transmission charges. However, as discussed in more detail in section 5.1.4, this is unlikely to have a material impact on customers.

The core proposal to change how NEMMCO recovers accumulated negative residue has the support of all the submissions received and provides incremental benefit to the auction process.

The Commission's finding in relation to this issue

Given the broad support for the Rule proposal and its analysis of the issues involved, the Commission proposes to support conditionally the proposal. The draft Rule specifies the terms of the draft decision. Clause 3.6.5(a)(4A) in the draft Rule sets out the substance of the proposal.

This clause outlines the three-tiered collection mechanism to enable NEMMCO to recover net negative residue. The first tier allows NEMMCO to continue its current practice of netting negative residue from positive residue within the same billing week. (See section 5.2.1 for discussion on this issue). The next tier amends NEMMCO's existing practice to allow recovery of net negative residue from auction proceeds received in the next quarter. Should the auction proceeds from that quarter be insufficient to cover the net negative residue amount, the third tier allows collection of any outstanding amount from subsequent auction proceeds until fully recovered. The draft Rule also amends clause 3.18.4(a)(1) to clarify that any net negative residue amount have been considered prior to auction proceeds being passed to the relevant Network Service Provider.

5.1.2 Recovery of interest payments

Current Process

NEMMCO currently incorporates any interest costs associated with funding net negative residues into auction fees.

What the proponent said

In its proposal, NEMMCO outlined that interest costs arising from financing negative residues would continue to be funded from auction fees under this proposal. NEMMCO views these inherent costs as a normal cost of running the auction and would therefore continue to recover them through auction fees.

What the submissions said

NRG stated in its submission that:

These [interest costs] are costs auction participants are in no position to manage, provide no direct benefit to SRA holders, and are not incurred as a result of positive settlement residues, the right to which participants compete at auction.

It argues interest costs should be recovered through auction proceeds.

The Commission's considerations and reasoning

The accumulation of both positive and negative settlements residue is a consequence of inter-regional trading in the NEM. The design of the Settlement Residue Auction provides a way to distribute and recover these residues.

Under the SRA process, only net positive residues are passed through to unit holders. The design assumed that negative residues would not be significant. This structure could suggest to auction participants that they were only bidding for access to positive residues. On the other hand, if the SRA is a way to better manage the risks of trading between regions, the Commission considers participants would recognise there are both up- and down-side risks, despite only being directly exposed to one side.

If negative residues were recovered from auction participants in the same manner that positive residues are currently distributed, i.e. have auction participants pay NEMMCO the proportion of negative residues associated with the quantity of units held on a weekly basis, then NEMMCO would not need to finance negative residues through debt. Since this is not the case, NEMMCO needs a mechanism to recover the interest accrued from financing negative residues through borrowing.

NEMMCO incurs costs and expenses to establish, administer, and conduct the auction process. These auction costs exist whether settlements residue is positive or negative. The Commission agrees that interest costs are not incurred as a result of positive residues. The costs are incurred, however, as a result of running the auction process.² Without a way to finance negative residues, NEMMCO would not be able to run effectively the settlements auction.

² "National Electricity Market Settlement Residue Auction Rules", NEMMCO, 1 September 2004, p. 2.

The Commission's finding in relation to this issue

For the reasons set out above, the Commission considers interest should continue to be funded from auction fees.

5.1.3 Recovery of existing accumulated debt

Current Process

NEMMCO publishes its yearly auction fees prior to the auctioning of the first tranche of a particular quarter's units. The Settlement Residue Committee determines the total amount to recover in auction fees over the next financial year, including accumulated net negative residues from the previous financial year. The fees for each quarter in that year are set accordingly, just prior to the first auction. Clause 3.6.5(a)(4)(i) in the Rules permits NEMMCO to recover outstanding negative residues from auction expense fees.

NEMMCO collects an even portion of the fees each quarter, allocating the recovery amounts between directional interconnectors on average historical clearing prices.

Since the fee recovery amount is set before the current financial year is over, any negative residues and associated costs from the current year cannot be completely aggregated until the end of the year. They are therefore rolled into the following year's auction fees. This introduces a time lag of up to two years between accruing the debt and fully recovering it.

What the proponent said

NEMMCO does not explicitly discuss how it intends to recover existing debt associated with accrued negative residues should its Rule change progress forward. In discussions with the Commission, NEMMCO clarified it would anticipate using the existing and new recovery methods in tandem until the existing method had fully recovered all existing negative residue debt.

What the submissions said

NRG Flinders' submission notes that the proposal does not explain how NEMMCO plans to recover any existing shortfall due to accrued negative residues. NRG believes additional benefits may be available by clarifying the intended recovery mechanism for the existing debt.

The Commission's consideration and reasoning

While the Rule change proposal allows for the recovery of newly accrued negative residues from the following quarter's auction proceeds, there are difficulties in recovering existing debt using the proposed method. Since the Settlement Residue Committee sets fees a year in advance, trying to recover existing debt from future auction proceeds would result in NEMMCO collecting the value of existing debt twice: once from auction fees and once from future auction proceeds. The Commission recognises this lag requires the proposed Rule to have transitional measures.

The Commission considers that an appropriate transitional provision would allow for auction fees to recover negative residues accumulated prior to commencement of the proposed Rule change.

However, an effect of running the two recovery mechanisms in parallel is a possible reduction in the auction proceeds passed on to the relevant TNSPs. Auction bids may not yet reflect the potential for higher settlements residue since auction fees would still be recovering existing negative residue debt. At the same time, NEMMCO would be recovering negative residues from the next quarter's auction proceeds. This would mean until all existing debt related to negative residues clear, TNSPs could receive a lower contribution to their network fees, resulting in higher costs for transmission customers, and ultimately, end users.

While this process results in having two parallel recovery mechanisms it is only a temporary measure. The Commission considers this process will minimise the disruptive impact to the auction process and participants.

The Commission's finding in relation to this issue

The Commission's view is that a Savings and Transitional provision is necessary to ensure existing negative residue debt is recovered with minimal disruptive impact to the auction process and participants, and transmission customers. To run in parallel the current recovery method through auction fees and the proposed recovery method through future auction proceeds appears to be the least disruptive transitional arrangement. The process is articulated in the draft Rule in clause 11.1.1(a).

5.1.4 Impact on end use customers

Current process

Clause 3.6.5(a)(6) of the Rules states that any portion of settlements residue distributed to a Network Service Provider will be used to offset network charges. This includes any adjustments resulting from routine or special revised statements or any received auction proceeds.³

What the proponent said

The proponent acknowledged that all of the options considered, including the status quo, would ultimately result in the end-user significantly contributing to the cost of negative residues. The one option that did not, required a very radical change to the whole SRA process which NEMMCO believes can not be justified at this time.

What the submissions said

TransGrid pointed out in its submission that while NEMMCO's argument that the net effect between recovering negative residues through auction fees or auction proceeds is the same, experience to date might prove otherwise. This experience indicates that SRA proceeds are on average about half the value of the residues. TransGrid suggests

³ NEMMCO SRA Information Memorandum, p. 23.

recovering negative residues from auction proceeds will have a much greater effect on customers compared to recovery from positive residues or auction fees.

However, while TransGrid states that NEMMCO's proposal will increase uncertainty as to the value of auction proceeds passed through to customers each quarter, the uncertainty is unlikely to be material if NEMMCO's estimate that annual negative residues total about \$800,000 is correct.

The Commission's consideration and reasoning

Recovering negative residues from auction proceeds will introduce a level of volatility for TNSPs, and therefore end use customers. Driving this volatility is the uncertainty of when counter-price flows might occur and the value of negative residues accrued during those periods. This uncertainty is not present in the current recovery mechanism as auction fees are set ahead of time and include a pre-determined negative residue recovery amount. TNSPs know, on average, what to expect from auction proceeds each quarter.

However, it is possible that the increase in expected IRSR to unit holders (due to lower auction fees) could result in higher auction proceeds (as demand for the higher residues would push up auction bids). If this is the case, then the net effect of moving negative residue recovery from auction fees to auction proceeds could be minimal. The trade-off to consider, then, is between the reduction in interest costs and the increase in auction proceeds volatility.

By reducing the lag between incurring and recovering negative residues, the interest will accumulate at a slower rate than it is currently. This leads to an efficiency improvement in the settlement residue auction process by reducing unnecessary costs. Since auction participants account for auction fees in their bids for units, a reduction in auction fees should lead to the auction process being more competitive, enabling higher auction proceeds to flow through to end users.

A potential rise in auction proceed volatility could negatively impact on future transmission fees. However, it has been suggested that while some uncertainty in the value may result from this proposed Rule change, this uncertainty is unlikely to be material. The Commission notes that while volatility could increase, the materiality is expected to be small.

The Commission's finding in relation to this issue

The Commission considers that, as quoted in submissions, the impact on end use customers is unlikely to be material.

5.2 Broader issues related to SRA and inter-regional financial trading more generally

A number of broad-based and substantial issues were raised in submissions. These issues are discussed individually with the Commission's combined consideration of these issues presented in section 5.2.4.

5.2.1 Management of negative settlements residue accumulation

Current process

The derogation described under Part 8 Network Constraint Formulation of Chapter 8A of the Rules places an obligation on NEMMCO to reduce the duration of significant counter-price flows, thereby slowing the accumulation of negative residues. This derogation enables NEMMCO, during times of significant counter-price flows, to:

...use reasonable endeavours to apply an alternative formulation for that network constraint for the expected duration of the significant counter price flow. The alternative form of the network constraint must apply for the expected period of the significant counter price flow if the original formulation of the network constraint were used.⁴

Following consultation, NEMMCO published its procedure for managing the accumulation of negative residues under the above Rules provision. The Dispatch Operating Procedure details how NEMMCO limits the relevant interconnector flow to restrict the accumulation of negative residues over \$6,000 for each occurrence, and advises the Market via Market Notices of its actions.⁵ The procedure is not specified in the Rules beyond the provisions in the Participant derogation in Chapter 8A Part 8.

This procedure was developed as part of NEMMCO's "Final Report: Management of network limitations within the Snowy Region and constraint formulation in the NEM – interim actions", published July 2003. NEMMCO's previous procedure allowed for counter-price flows to occur up to an accumulated negative residue of \$10,000 for the directional inter-connector and billing period.

In response to concerns raised in submissions to its draft report, NEMMCO modified the existing \$10,000 trigger level and accumulation principles. Changes included treating each occurrence individually and not using the billing period accumulation to offset the trigger. In addition, if the accumulation of negative residues over the period of counter-price flows is forecast to reach a value of \$6,000, then NEMMCO would use reasonable endeavours to apply constraints to prevent the accumulation provided system security could be maintained.⁶ NEMMCO incorporated this revised procedure into the "Operating Procedure: Dispatch" document on 11 November 2003.⁷

NEMMCO recently reviewed the "Procedures for Management of Negative Residues", in consultation with the market, and issued a final determination on 20 September 2005. No change to the mechanism was made.

What the proponent said

NEMMCO's proposal did not discuss reviewing its procedure for limiting the accumulation of gross negative residues.

⁴ *National Electricity Market Rules*, Chapter 8A Part 8 (c).

⁵ "Operating Procedure: Dispatch", Document Number: SO_OP3705, NEMMCO, p. 28.

⁶ "Final Report: Management of network limitations within the Snowy Region and constraint formulation in the NEM – interim actions," NEMMCO, 3 July 2003, p. 34.

⁷ "Operating Procedure: Dispatch," p. 2.

What the submissions said

Tarong Energy noted in its submission that a review of the current arrangements for limiting the gross negative residue within a billing period to \$10,000 should occur “if proposals for arrangements such as congestion support payments and contracts are progressed.” Its view is such arrangements would render the limit unnecessary with “little or no benefit to the efficient operation of the market or NEMMCO”.

NRG Flinders noted that the improved shortfall funding arrangements could largely eliminate the inefficiencies and distortions of the existing model. This, the submission states, could enable NEMMCO to relax the \$10,000 limit threshold under certain circumstances.

Macquarie Generation stated that if NEMMCO believed that the SRA process would be enhanced by having a substantial number of parties participating, then it followed that:

NEMMCO should provide a clear guarantee that it will continue to proactively manage counter-price flows to maximize SRA interest and participation.

Macquarie Generation elaborated in discussions with the Commission that “proactively manage” meant they would want the Rules to mandate the negative residues trigger mechanism and value. In its view, this would ensure NEMMCO could not amend the procedure as it saw fit. In particular, this applies to adjusting the trigger value which could negatively impact the future value of settlements residue and therefore impact on inter-regional hedging.

5.2.2 Intra-billing week deduction of negative settlements residue

Current Process

Section 3.6.5.4(i) of the Rules currently requires NEMMCO to deduct any accrued negative IRSR from positive IRSR values within the same billing period. The net amount is then distributed to SRA unit holders.

However, there is a zero floor on net IRSR that can be distributed for a SRA unit over a billing period. If the net residue is negative, there is no available IRSR to distribute. NEMMCO is unable to recover these net negative residues from current auction participants so currently recovers it from future auction participants through auction fees.

What the proponent said

NEMMCO’s Rule change does not propose any change to the practice of netting off negative settlements residue accrued against positive inter-regional settlements residue within the same billing week.

What the submissions said

Snowy Hydro, Macquarie Generation, and NRG Flinders all commented on the existing practice of netting weekly positive and negative IRSR as part of recovering any negative settlements residue. Snowy Hydro stated in its submission that:

any netting of positive residues in the billing weeks (or in any other period) ultimately reduces the effectiveness of the SRAs as a hedging tool.

Macquarie Generation believes there is:

no clear economic reason why settlement residue unit holders should effectively fund negative residues resulting from network constraints and high demand.

NRG Flinders stated the removal of this practice would achieve a consistent negative residue funding approach across all timeframes and would enhance the Rule change proposal's benefits.

The submissions propose extending NEMMCO's Rule change proposal to enable all negative residues to be recovered from future auction proceeds rather than continuing the current practice of netting off accrued negative residues from positive ones within a billing week.

5.2.3 Discussion of the issue of negative residues

Current Process

The intention of the IRSR auctions is to make the NEM more efficient and competitive by providing a means of reducing price difference risks in inter-regional trading. The process of recovering negative residues from auction fees was designed shortly after the NEM commenced and was based on the assumption that negative residues would not be significant. This has not necessarily been the case, particularly following the commissioning of the QNI interconnector.⁸

What the proponent said

The proponent stated that rare but significant events can greatly impact the annual level of accumulated negative residues. In its Rule change proposal, NEMMCO listed four possible causes of counter-price flows but provided no details on how these events produce negative settlements residue.

What the submissions said

Hydro Tasmania stated in its submission that NEMMCO did not adequately describe the issue of negative inter-regional settlements residue in its proposal.

In particular, Hydro Tasmania is concerned that the two major potential causes of negative residues are not explicitly mentioned in the proposal. Missing was any discussion on how settlement deficits can occur naturally as a result of efficient dispatch given:

⁸ NEMMCO Rule change proposal, p. 1.

- *the effect of the regional market settlement process in the case of a network limit that constrains both generators within a region and an interconnector flow; and*
- *the physical arrangement of the transmission network, if it includes a limiting flow within a loop.*

Hydro Tasmania explained in discussions with the Commission that NEMMCO's proposed change would not introduce a way to effectively fund these naturally occurring deficits.

Also missing from the proposal is the acknowledgement that:

NEMMCO will continue to make anti-competitive interventions in the market to limit such negative residues...after this proposed change.

In its submission, Hydro Tasmania argued that while NEMMCO is driven to make “anti-competitive interventions” because of insufficient funding mechanisms for negative residues, these short term solutions do not address the larger underlying causes of negative residues and thus the need for intervention. Hydro Tasmania believes that NEMMCO in its application, and (then NECA), now the AEMC, in its consideration should explicitly consider the issue in a wider context, even if the larger issues cannot be immediately resolved.

5.2.4 The Commission's consideration and reasoning in relation to significant broader issues

The Commission considers these broader issues to be substantial matters requiring further consideration.

The mixed and diverse positions on some of these issues, particularly the management of accumulating negative residues (issue 5.2.2), indicates stakeholders hold diverse perspectives on how to best address the concerns raised.

The Commission considers that it is preferable to address these issues in a broader context than this Rule change proposal. The Congestion Management Review (CMR) is a more appropriate environment for their investigation. Accordingly, the Commission intends to include consultation on these broader matters in its issues paper for the CMR. Analysing the issues in that environment will enable stakeholders to consider their implications in a wider, more appropriate context, rather than seeking to consider them within the narrower scope of this Rule change proposal.

The Commission also acknowledges the view that while this Rule change will deliver an incremental improvement to the status quo, it does not address the more substantial issues highlighted in submissions. To encompass the importance of addressing those underlying issues in a comprehensive way, the Commission is placing a sunset on the proposed Rule change. The draft Rule will expire three years following commencement of the Rule. Should the draft Rule be left to expire, the recovery mechanism would revert back to the current settlements residue auction fee process for negative residue recovery.

A sunset serves two main purposes. First, it signals that the proposed Rule change only addresses one aspect of a more substantial set of issues; it addresses the funding of

negative settlements residue rather than their underlying cause. Second, it indicates that the Commission considers the funding mechanism for negative residues, which is at the heart of this Rule change proposal, to be open for further consideration in the CMR, together with measures to better address their underlying causes.

The Commission considers that this process will allow for the market to receive the incremental benefit from the proposed Rule change while also providing an environment to consider the broader issues raised in submissions.

5.2.5 The Commission's findings in relation to significant broader issues

The Commission believes that time limiting the draft Rule (a “sunset”) will provide a signal to stakeholders that this proposal is viewed as an interim solution, open to review in the broader context of the Congestion Management Review. The sunset in the draft Rule will operate in the following manner. First, it allows for suspension of the existing recovery regime (currently described in clause 3.6.5(a)(4)). The draft Rule then applies the new recovery regime (3.6.5(a)(4A)) for three years. Finally, when the new regime expires, the draft Rule reinstates the existing regime. At the time the existing regime is reinstated, any residual negative residue debt will be recovered by the regime operating at the time the debt was incurred.

5.3 Summary of differences between the proposed and the draft Rule

Following from the above discussions, the Commission has determined to amend NEMMCO's original Rule change proposal to: (i) clarify the transitional arrangements of how NEMMCO will recover already accrued negative residue debt, and (ii) implement a sunset on the draft Rule.

The draft Rule specifies that:

- After netting any negative residues from positive residues accumulated within a billing week, the new recovery regime will enable NEMMCO to recover any net negative residues from auction proceeds (3.6.5(a)(4A));
- NEMMCO will continue to recover all outstanding debt accumulated prior to commencement of the Rule change under the existing regime (11.1.1(i));
- The existing recovery regime will be suspended for three years while the new regime is in effect, then reinstated after the new regime expires (3.6.5(c)(i) and 3.6.5(c)(ii)); and
- Any residual negative residue debt present when the new regime expires will be recovered using the recovery mechanism in place when the residue was incurred (11.1.1(b)).

In addition to these changes, the Commission modified the wording in parts of the proposed Rules to improve their effectiveness as Rules and for consistency in drafting.

6. Commission's reasons for draft determination in terms of the Rule making test

The Rule-making test requires the Commission to be satisfied that a Rule it proposes to make will contribute to the achievement of the NEM objective. The NEM objective is concerned with promoting the efficient use of and investment in electricity services in the NEM for the long term interests of consumers of electricity. For the purposes of this Rule proposal, the relevant electricity services include transmission system services and the sale of electricity.

6.1 Assessment against Rule making test

An important component of an effective market is to promote efficiency in the costs of operating the market. The proposed change to the settlements residue auction process will produce a cost savings by reducing the interest costs associated with funding negative residue debt. This will improve the efficiency of running the auction process.

The draft Rule enables a significant reduction in the time needed to recover negative residues. This change promotes lower settlements residue auction costs as the associated interest costs to funding negative residues will decline. This cost savings is an efficiency gain for all auction participants.

A more efficient auction process is likely to lead to additional participation in the auction, which in turn encourages inter-regional trading, and therefore promotes efficient use of the transmission and generating systems. The economic benefits associated with establishing a more efficient auction process are in the long term interests of electricity consumers.

In addition, the more efficient recovery of negative residues would reduce the degree of inter-temporal cross-subsidisation between auction participants. Under the current arrangement, future auction participants cover costs incurred in current auctions. These inter-temporal cross subsidies mean future participants have no control over these costs, or ability to manage them. In addition, such a long recovery period results in unnecessarily high costs, which are avoidable, at least in part.

The proposed Rule change takes steps towards reducing these inter-temporal cross subsidies by reducing the recovery period of outstanding negative residues. These steps also assist in reducing the cost of running the SRA.

While this Rule change proposes to reduce SRA costs in one specific area only, this change does improve the running of the auction. The decreased costs of running the auction, together with the potential for increased use of the auction process, are both in the interests of end users. The Commission, therefore, believes that the Rule change proposal meets the NEM objective.

Attachment 1: Draft Rule

See “Draft Rule” attachment on website.