



Australian Energy Market Commission

RULE PROPOSAL

**Proposed National Electricity Amendment
(Minor Changes) Rule 2013**

**Proposed National Gas Amendment (Minor
Changes) Rule 2013**

**Rule Initiated by
AEMC**

18 April 2013

**RULE
CHANGE**

Inquiries

The Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E: aemc@aemc.gov.au

T: (02) 8296 7800

F: (02) 8296 7899

About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. The AEMC has two principal functions. To make and amend the national electricity and gas rules - and to conduct independent reviews of the energy markets for the MCE.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

1 Introduction

The Australian Energy Market Commission (AEMC or Commission) is responsible for the rule-making functions conferred on it under legislation.

As part of its Rule-making function, the Commission reviews, amends and maintains:

- the National Electricity Rules in accordance with the National Electricity Law (NEL); and
- the National Gas Rules in accordance with the National Gas Law (NGL).

The purpose of this function, among other things, is to improve and enhance the quality of the National Electricity Rules and the National Gas Rules (the Rules).

2 AEMC's power to initiate the making of a Rule

Under section 91(2) of the NEL:

"The AEMC must not make a Rule without a request under subsection (1) unless-

- (a) it considers the Rule corrects a minor error in the Rules; or
- (b) it considers the Rule involves a non-material change to the Rules; or
- (c) the Rule is in respect of any matter that is prescribed by the Regulations as a matter on which it may make a Rule on its own initiative."

Under section 295(2) of the NGL:

"The AEMC must not make a Rule without a request under subsection (1) unless-

- (a) it considers the Rule corrects a minor error in the Rules; or
- (b) it considers the Rule involves a non-material change to the Rules; or
- (c) the Rule is in respect of any matter that is prescribed by the Regulations as a matter on which it may make a Rule on its own initiative."

3 Rule proposal

These Rule proposals, initiated by the Commission, seek to:

- correct several minor errors, including formatting, typographical and cross referencing anomalies in the Rules;
- correct inconsistencies in the treatment of Chapter 10 glossary terms in the body of the NER;
- insert notes relating to civil penalty and conduct provisions in the NGR; and
- remove expired provisions from the Rules.

Given that all four of the above categories are minor and non-material in nature, the Commission considers that the proposed Rules satisfy the requirements of section 91(2) of the NEL and section 295(2) of the NGL (as the case may be).

The proposed amendments to the Rules are specified in the attached:

- Proposed National Electricity Amendment (Minor Changes) Rule 2013; and
- Proposed National Gas Amendment (Minor Changes) Rule 2013.

4 Expedited Rule making process for Minor Changes Rule proposal

Under section 87 of the NEL a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on the national electricity market".

Under section 290 of the NGL a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on a market for gas or the regulation of pipeline services".

As the proposed changes to the NEL and NGL are minor or non-material in nature, the Commission considers that the proposed Rules are unlikely to have a significant effect on the National Electricity Market (NEM), a market for gas or the regulation of pipeline services. The proposed Rules therefore fall within the definition of a non-controversial rules under section 87 of the NEL and section 290 of the NGL (as relevant).

On this basis, under section 96(1)(a) of the NEL and section 304(1)(a) of the NGL respectively, the Commission proposes that these Rule proposals be consulted on and determined under an expedited process with a four week consultation period.

5 Contribution to the National Electricity Objective and National Gas Objective

Under section 88 of the NEL, the Commission may only make a Rule if it is satisfied that the Rule will or is likely to contribute to the achievement of the national electricity objective (NEO).

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

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to-

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”

Under section 291 of the NGL, the Commission may only make a Rule if is satisfied that the Rule will or is likely to contribute to the achievement of the national gas objective (NGO).

The NGO is set out in section 23 of the NGL as follows:

"The objective of this Law is to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, quality, safety, reliability and security of supply of natural gas."

The Commission considers that the proposed Rules, if made, will improve the quality of the Rules in terms of accuracy and consistency. The Commission considers that the proposed Rules are likely to contribute to the achievement of the NEO and NGO, although the efficiency benefits that will result from the proposed Rules are likely to be very small given the minor or non-material nature of the changes proposed.

As with previous similar AEMC initiated rule changes, these minor corrections and non-controversial changes will make the Rules clearer to stakeholders. This is important as the Rules inform stakeholders of their rights and obligations in relation to participating in the NEM and gas markets and stakeholders rely on these Rules in their commercial transactions.

6 Any relevant MCE statements of policy principles

Under section 33 of the NEL and section 73 of the NGL, the Commission must have regard to any relevant MCE statement of policy principles in making a Rule. There is no MCE statement of policy principles relevant to these Rule proposals.

7 Compatibility with AEMO's declared network functions

Under section 91(8) of the NEL, the Commission may only make a Rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed Rule is compatible with the proper performance of the Australian Energy Market Operator's (AEMO) declared network functions. At present Victoria is the only relevant "adoptive jurisdiction".

Given the proposed Rules only seek to make minor or non-material changes to the electricity Rules, the Commission is satisfied the proposed Rule is compatible with the proper performance of AEMO's declared network functions.

Under section 295(4) of the NGL, the Commission may only make a Rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed Rule is compatible with the proper performance of the Australian Energy Market Operator's (AEMO) declared system functions. At present Victoria is the only relevant "adoptive jurisdiction".

Given the proposed Rules only seek to make minor or non-material changes to the gas Rules, the Commission is satisfied the proposed Rule is compatible with the proper performance of AEMO's declared system functions.

8 Consultation under the expedited process

The Commission has published notices under sections 95 and 96 of the NEL and sections 303 and 304 of the NGL to assess the proposed Rules under an expedited Rule making process. The Commission is now accepting written requests not to make a rule under the expedited process and is inviting written submissions on the proposed Rules.

Written requests not to make a Rule under the expedited process under section 96 of the NEL or section 304 of the NGL must include reasons for the request, and must be lodged with the Commission by 2 May 2012. Requests may be lodged either online or by mail, in accordance with the requirements specified below.

Written submissions on the subject matter of these proposed Rules are to be lodged online or by mail by 16 May 2012 in accordance with the requirements set out below.

Where practicable, submissions should be prepared in accordance with the

Commission's Guidelines for making written submissions on rule change proposals¹. The Commission publishes all submissions on its website subject to a claim of confidentiality.

All enquiries on this project should be addressed to Victoria Hillier on (02) 8296 7800.

8.1 Lodging a submission electronically

Electronic submissions must be lodged online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function and selecting the project reference code ["ERC0155"] and/or ["GRC0020"]. The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Upon receipt of the electronic submission, the Commission will issue a confirmation email. If this confirmation email is not received within 3 business days, it is the submitter's responsibility to ensure the submission has been delivered successfully.

8.2 Lodging a submission by mail

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. The submission should be sent by mail to:

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Or by Fax to (02) 8296 7899.

The envelope must be clearly marked with the project reference code: ["ERC0155"] and/or ["GRC0020"].

Except in circumstances where the submission has been received electronically, upon receipt of the hardcopy submission the Commission will issue a confirmation letter.

If this confirmation letter is not received within 3 business days, it is the submitter's responsibility to ensure successful delivery of the submission has occurred.

¹ This guideline is available on the Commission's website.