



Australian Energy Market Commission

RULE DETERMINATION

NATIONAL ELECTRICITY AMENDMENT (CONTINGENCY ARRANGEMENTS FOR FIVE MINUTE SETTLEMENT IMPLEMENTATION) RULE 2021

Australian Energy Market Operator

9 SEPTEMBER 2021

DETERMINATION

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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SUMMARY

- 1 The Australian Energy Market Commission (Commission) has made a final determination on the contingency arrangements for five minute settlement (5MS) implementation rule change request submitted by the Australian Energy Market Operator (AEMO). The Commission determined to make no rule and the *National Electricity Amendment (Five minute settlement) rule 2017* (5MS rule) and the soft start of *National Electricity Amendment (Global settlements) rule 2018* (GS rule) will therefore begin on 1 October 2021, as scheduled.
- 2 On 30 July 2021, AEMO submitted a rule change request to the AEMC. The request proposed to provide contingency options for a potential delay to the implementation of 5MS and GS if it was determined to be necessary. AEMO sought to delay the implementation of these rules if an issue occurred that it could not manage to allow the successful commencement of 5MS on 1 October 2021.
- 3 On 1 September 2021, AEMO published a '5MS start notice' indicating that no issue had occurred that would prevent the successful commencement of 5MS. Therefore, AEMO considered no delay was needed and recommended to the Commission that 5MS should commence on 1 October 2021 as scheduled.
- 4 In submissions, stakeholders considered no delay should occur if AEMO's readiness assessment indicated that a delay was not needed. While not proposing a delay, some stakeholders raised concerns that risks remained for the successful commencement of 5MS on 1 October, particularly for market participants. The Commission notes AEMO has identified risk mitigation strategies and contingency arrangements to address these concerns and encourages industry to continue to engage in these processes.

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Table 1: Key commencement dates

ASPECT OF RULE OR REFORM	COMMENCEMENT DATE
5MS and GS soft start	1 October 2021
Wholesale demand response mechanism	24 October 2021
GS financial start	1 May 2022

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1 RULE CHANGE REQUEST AND RULE MAKING PROCESS

This chapter sets out an overview of:

- AEMO's rule change request
- the rule making process.

1.1 AEMO's rule change request

On 30 July 2021, the Australian Energy Market Operator (AEMO) made a request to the Australian Energy Market Commission (AEMC or Commission). AEMO sought to delay the commencement of the 5MS rule and all associated rules if a contingency event occurred that would cause essential capability criteria to not be met for 5MS rule commencement from 1 October 2021.¹

In its rule change request, AEMO considered that while the program was on track, risk remained that issues may arise in the final two months that could not be managed for the successful commencement of 5MS and GS soft start on 1 October 2021. AEMO indicated that the implementation program faced some key risks including the potential for:

- an unexpected significant issue during the 5MS Market Trial
- an essential capability issue for participant readiness (without a contingency response).²

AEMO suggested that three situations may arise:

1. **No delay is needed:** no contingency event occurs that prevents the successful commencement of 5MS and GS soft start. Therefore, no delay would be needed and 5MS and GS soft start should commence on 1 October 2021 as currently scheduled.
2. **A 'short delay' is needed:** a contingency event occurs that can be resolved to allow for a successful market start before the proposed change freeze to be observed from 17 December 2021.³ A 'short delay' to 5MS and GS commencement would therefore be needed.
3. **An 'extended delay' is needed:** a contingency event occurs that can only be resolved for 5MS and GS soft start commencement after the proposed change freeze begins on 17 December 2021. An 'extended delay' to 5MS implementation would therefore be needed.

AEMO proposed to publish a '5MS start notice' by 1 September 2021. AEMO stated this notice would notify the AEMC and market whether a contingency event had occurred such that market commencement on 1 October 2021 would not be feasible. If such a contingency event occurred, then AEMO would indicate the time required to remedy the issue and

1 More detail on AEMO's rule change request can be found in the [AEMO's rule change request](#) or the [AEMC's consultation paper](#).

2 AEMO, rule change request, p. 3.

3 The change freeze is the period where AEMO proposes to not implement major regulatory reforms and system changes to accommodate market participants' lower resource availability when managing summer operations and holiday leave arrangements.

recommend an alternative commencement date (likely 1 December 2021, 1 February 2022 or 1 April 2022).

AEMO also requested that the rule change request be considered an urgent⁴ rule change request and, as a result, be assessed under an expedited rule change process. AEMO considered its rule change request met the requirements of an urgent rule under the NEL as, if not made as a matter of urgency, the inability to implement 5MS could result in imminent prejudice or threat to the effective operation and administration of the wholesale electricity market.

1.2 The rule making process

On 5 August 2021, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.⁵ A consultation paper identifying specific issues for consultation was also published. Submissions closed on 2 September 2021.

The Commission accepted that the rule change request was a request for an urgent rule as defined in s. 96 of the NEL for the reasons set out by AEMO in its rule change request. Accordingly, the Commission commenced an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 19 August 2021.

No requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.⁶

The Commission received 10 submissions. All relevant issues relating to the assessment framework and AEMO's '5MS start notice' are addressed in section 3.2. A summary of other issues raised and the Commission's response is contained in appendix A.

4 Section 96 of the NEL.

5 This notice was published under s. 95 of the National Electricity Law (NEL).

6 Section 96 of the NEL.

2 FINAL RULE DETERMINATION

This chapter sets out the:

- Commission's final rule determination
- rule making test for changes to the NEL
- Commission's assessment framework for considering the rule change request
- Commission's consideration of no rule against the NEO.

2.1 The Commission's final rule determination

The Commission's final rule determination in relation to the contingency arrangements for 5MS implementation rule change request is to make no rule. Therefore, 5MS will commence on 1 October 2021, as currently scheduled.

The Commission's reasons for making this final rule determination are set out in section 2.4.

Further information on the legal requirements for making this final rule determination is set out in appendix B.

2.2 Rule making test

2.2.1 Achieving the NEO

Under 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).⁷ This is the decision making framework that the Commission must apply.

The NEO is:⁸

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
- (b) the reliability, safety and security of the national electricity system.

2.3 Assessment framework

In assessing the rule change request against the NEO the Commission has considered the following principles:

- **Essential capability readiness** — if a contingency event occurs and a delay to the start of 5MS and GS is required, the minimum time needed to resolve issues for the successful commencement of 5MS and GS soft start.

⁷ Section 88 of the NEL.

⁸ Section 7 of the NEL.

- **Industry implementation costs** — the extent to which a delay to the start of 5MS and GS could increase costs associated with finalising the implementation of 5MS or GS, or impact participants' delivery of other reforms or usual business operations.
- **Contract market implications** — a potential delay to the start of 5MS will have flow on impacts for existing and future hedging contracts for energy. This could impact industry risk management capabilities and potentially add costs that could be passed onto consumers.
- **Summer implementation risk** — the level of additional risk associated with commencing 5MS during summer, when the power system must manage additional risks related to increased electricity demand and climatic events, such as bushfires and storms.
- **Delayed benefits** — the extent to which a potential delay to the commencement of the 5MS and GS rules would defer the realisation of benefits from 5MS and GS that would flow to consumers.
- **Impact on other reforms** — the effect of a delay to the start of 5MS and GS on the commencement of schedules in other rules which have been made, and other industry reforms that are in the process of being implemented.

2.4 Summary of reasons

The Commission has determined to make no rule delaying 5MS. Therefore, there will also be no consequential impact on the commencement of other rules identified in the consultation paper that would be impacted by a delay to 5MS and GS.⁹ Having regard to the issues raised in submissions, including AEMO's '5MS start notice', the Commission is satisfied that a decision to make no rule will contribute to the achievement of the NEO for the following reasons:

- AEMO's '5MS start notice' indicated no issues had occurred and essential readiness capability will be met for the successful commencement of 5MS on 1 October 2021
- no delay to commencement ensures the benefits of 5MS and GS can be realised as early as possible
- no delay will allow industry implementation programs to continue as scheduled, thereby minimising additional implementation costs
- there will be no disruption to the contracts market as a result of a delay, or increased risk for summer operations
- no delay will have the lowest impact on other regulatory reforms and ensures the current regulatory reform implementation schedule can proceed unchanged.

Accordingly, the Commission's final rule determination is to not make a rule. Therefore, 5MS and GS soft start will commence on 1 October 2021.

⁹ The Commission identified 14 rules that have already been made that have schedules that would be impacted by a delay to 5MS and GS (some only in relation to a delay to GS financial start). Consultation paper, pp. 16-17.

3 CONTINGENCY PLANNING AND ESSENTIAL CAPABILITY READINESS 5MS

This chapter outlines:

- contingency planning and AEMO's '5MS start notice'
- stakeholder views
- AEMC analysis and conclusion.

3.1 AEMO's '5MS start notice'

AEMO's '5MS start notice', provided as a submission on 1 September 2021, recommended no delay was needed and 5MS should commence on 1 October 2021, as scheduled.¹⁰

Throughout August, AEMO gathered information through its 5MS market trial and from industry readiness reporting. It undertook a readiness assessment against the essential criteria required for the successful commencement of 5MS and GS on 1 October 2021. The readiness assessment did not identify any unexpected contingency issues. AEMO therefore concluded that the date change contingency arrangements set out in the Rule Change request do not need to be triggered. Accordingly, AEMO advised the Commission that the 5MS rule should commence on 1 October 2021 as scheduled.

AEMO engaged with the established 5MS working groups on the assessment and hosted a 5MS Executive Forum on 30 August, where 20 industry participants indicated no objection to AEMO's recommendation of 'no delay'.¹¹

In its submission, AEMO noted its readiness assessment noted risks to successful operation of 5MS and identified mitigation strategies and contingency plans to address these risks.

3.2 Stakeholder views

Submissions generally supported the AEMC's proposed approach and assessment framework. Furthermore, stakeholders considered if a delay to the commencement date was needed, it should be no longer than necessary and driven by AEMO's essential capability readiness assessment.¹²

Despite generally agreeing with the assessment framework and AEMO's '5MS start notice' as the basis for the AEMC's delay or no delay decision, some stakeholders did raise concerns regarding remaining implementation risks, particularly for participants.¹³ The Commission encourages these parties to continue to engage with AEMO on the mitigation strategies and contingency plans to address these concerns.

¹⁰ AEMO submission, p. 2.

¹¹ Industry participants: AGL, ActewAGL, Alinta, APA, Ausgrid, EnergyAustralia, Essential Energy, Evo Energy, Hydro Tasmania, IntelliHub, Jemena, Origin Energy, PlusES, Red Energy, SA Power Networks, SA Water, Snowy Hydro, Stanwell, Tango Energy and TasNetworks. AEMO 5MS executive forum 30 August 2021, meeting notes, p. 3.

¹² AFMA, AusNet Services, EnergyQueensland, Neoen, Origin Energy, Red Energy and Lumo Energy, Snowy Hydro and Stanwell submissions.

¹³ Infigen Energy, Red Energy and Lumo Energy submissions.

3.3 Analysis and conclusion

The Commission has determined to make no rule. 5MS will therefore begin as scheduled on 1 October 2021. In making this determination, the Commission considered AEMO's '5MS start notice' recommendation and industry submissions that generally supported using AEMO's recommendation as the key factor in considering a potential delay.

ABBREVIATIONS

5MS	Five minute settlement
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
GS	Global settlements
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEO	National electricity objective
NER	National Electricity Rules
UFE	Unaccounted for energy
WDRM	Wholesale demand response mechanism

A SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in consultation on this rule change request and the AEMC's response to each issue. If an issue raised in a submission has been discussed in the main body of this document, it has not been included in this appendix.

Some stakeholders provided feedback on the issues relating to the short delay and extended delay options in submissions. The Commission appreciates the consideration of these issues and the feedback provided. However, as a delay was not necessary, the Commission has not responded to the individual issues raised or made an assessment on the preferred extended delay.

Table A.1: Summary of key trade-offs for extended delay options raised in submissions

STAKEHOLDER(S)	ISSUE(S)
Neoen and EnergyQueensland	Preferred 1 February 2022 extended delay option. Reasons included: benefits of 5MS should be realised as soon as possible; the costs of further delaying would be significant.
AFMA, Infigen, Origin Energy, Snowy Hydro and Stanwell	Preferred 1 April 2022 extended delay option. Reasons included: additional risk associated with implementing 5MS in the middle of summer and commencing at the beginning of a quarter aligned with contracts.

B LEGAL REQUIREMENTS UNDER THE NEL

This appendix sets out the relevant legal requirements under the NEL for the AEMC to make this final rule determination.

B.1 Final rule determination

In accordance with s. 102 of the NEL the Commission has made this final rule determination in relation to the rule change request proposed by AEMO.

The Commission has determined to make no rule in relation to AEMO's rule change request.

The Commission's reasons for making this final rule determination are set out in section 2.4.

B.2 Commission's considerations

In assessing the rule change request the Commission considered:

- its powers under the NEL to make the rule
- the rule change request
- submissions received during consultation
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NEO.

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.¹⁴

B.3 Northern Territory

From 1 July 2016, the NEL, as amended from time to time, apply in the Northern Territory, subject to derogations set out in regulations made under the Northern Territory legislation adopting the NEL (referred to here as the NT Act).¹⁵ The NT Act provides for an expanded definition of the national electricity system in the context of the application of the NEO to rules made in respect of the Northern Territory, as well as providing the Commission with the ability to make a differential rule that varies in its terms between the national electricity system and the Northern Territory's local electricity system.

The Commission has determined not to make a rule and, consequently, has not needed to consider whether to make a differential rule in respect of the Northern Territory.

¹⁴ Under s. 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

¹⁵ NT Act: National Electricity (Northern Territory) (National Uniform Legislation) Act 2015. Regulations: National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulation.