

Australian Energy Market Commission

RULE DETERMINATION

NATIONAL ELECTRICITY AMENDMENT (REMOVAL OF UNACCOUNTED FOR ENERGY FROM LIABLE LOAD IN THE RETAILER RELIABILITY OBLIGATION) RULE 2021

PROPONENT

Australian Energy Market Operator

23 DECEMBER 2021

RULE

Rule determination

Removal of UFE from liable load in the RRO
23 December 2021

INQUIRIES

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ABOUT THE AEMC

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

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SUMMARY

- 1 The Australian Energy Market Commission (AEMC or Commission) has made a final rule to remove unaccounted for energy (UFE) from the calculation of liable load in the Retailer Reliability Obligation (RRO) and make some minor grammatical changes to clause 4A.F.3(b) of the National Electricity Rules (NER).
- 2 The solution is as proposed by the Australian Energy Market Operator's (AEMO) rule change request, which was submitted on 3 August 2021.
- 3 This rule amendment replaces the term 'adjusted gross energy' (AGE) with a new term, 'adjusted metered energy' (AME), for the purpose of calculating liable load in the RRO. The difference between AGE and AME is that the new term does not include an allocation of UFE. All other aspects of the calculation of liable load and the RRO remain unchanged.
- 4 The Commission is satisfied that the final rule will contribute to the achievement of the national electricity objective (NEO) for the following reasons:
 - it will minimise administrative burden on AEMO to calculate and store additional UFE data to only be used for the RRO
 - due to the immateriality and unpredictability of UFE it is unlikely to undermine market participants' hedging strategies that support reliability in the national electricity market (NEM) during 'reliability gap' or any other periods
 - it is a proportionate response to the risks faced by liable entities (for the purposes of the RRO) and reliability in the NEM during 'reliability gap' periods
 - it provides regulatory clarity for liable entities on the treatment of UFE in the calculation of liable load in the RRO.
- 5 The amending rule commences on 1 May 2022.

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1 AEMO'S RULE CHANGE REQUEST

1.1 The rule change request

On 3 August 2021, AEMO made a request to the AEMC to amend clause 4A.F.3(b) of the NER. AEMO proposed to change the calculation of liable load under the RRO to remove UFE and make some minor grammatical changes.¹

AEMO also requested that the rule change request be considered a non-controversial² rule change request and, as a result, be assessed under an expedited rule change process.

1.2 The rule making process

On 28 October 2021, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.³ A consultation paper identifying specific issues for consultation was also published.

The Commission considered that the rule change request was a request for a non-controversial rule as defined in s. 96 of the NEL. 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 11 November 2021.

No objections to proceeding under the expedited rule change process were received. Accordingly, the rule change request has been considered under an expedited process.⁴

Submissions to the consultation paper closed on 25 November 2021. The Commission received six submissions. Issues raised in submissions are discussed and responded to throughout this final rule determination.

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

2 Section 96 of the NEL.

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

4 Section 96 of the NEL.

2 FINAL RULE DETERMINATION

This chapter outlines the:

- Commission’s final rule determination
- rule making test for changes to the NER
- Commission’s assessment framework for considering the rule change request
- Commission’s consideration of the final rule against the NEO.

2.1 The Commission’s final rule determination

The Commission’s final determination is to make the final rule as proposed by AEMO. The final rule removes UFE from the calculation of liable load in the RRO and makes minor grammatical changes to clause 4A.F.3(b) of the NER.

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 A.

2.1.1 Key features of the final rule

The final rule amends clause 4A.F.3(b) of the NER to remove UFE from the calculation of liable load in the manner proposed by AEMO’s rule change request and makes some minor grammatical changes to the clause.⁵

This rule amendment replaces the term AGE with a new term, AME, for the purpose of calculating liable load in the RRO. The difference between AGE and AME is that the new term does not include an allocation of UFE. All other aspects of the calculation of liable load and the RRO remain unchanged.

2.1.2 Implementation and commencement of the final rule

The final rule will commence on 1 May 2022. This commencement date means the final rule comes into effect on the same date as the start of the *Global settlement and market reconciliation rule* (Global Settlement).⁶ This ensures that the new term AME only applies after the current definition of AGE changes.

As identified by AEMO in its rule change request and in the AEMC’s consultation paper, AEMO will be required to update its *Procurer of Last Resort (PoLR)* cost procedures to give effect to the rule.⁷ AEMO must update its PoLR cost procedures to amend all references in relation to liable load from AGE to AME.

⁵ Schedule 3 of the *National Electricity Amendment (Integrating energy storage systems into the NEM) Rule 2021 No. 13* (IESS Rule) makes amendments to clause 4A.F.3(b)(1) of the NER which commence on 3 June 2024. The final rule ensures that the removal of UFE from liable load under the RRO is preserved once the IESS Rule commences.

⁶ AEMC, *Global settlement and market reconciliation*, final determination, 6 December 2018.

⁷ AEMO, *PoLR cost procedures*, 20 November 2020. Available at https://aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2020/poLR-cost-procedures/final-stage/poLR-cost-procedure_s_v10.pdf?la=en

The Commission considers that AEMO must amend its PoLR cost procedures in time for the commencement of the final rule on 1 May 2022. Further, the Commission considers these amendments to be administrative and accordingly, AEMO is not required to follow the *Rules consultation procedures*.⁸

The final rule has a short implementation time frame as it is a very specific change with limited consequential changes to procedures. An implementation period of just over four months ensures liable entities understand how the rule may impact their risk management strategies for Global Settlement and a potential T-1 reliability instrument.

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 NEO.⁹ This is the decision-making framework that the Commission must apply.

The NEO is:¹⁰

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.

2.2.2 Rule making in the Northern Territory

The NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting the NEL.¹¹ The final rule relates to parts of the NER that apply in the Northern Territory. In making the final rule, the Commission considered whether a uniform or differential rule should apply to the Northern Territory.

The Commission has determined to make a uniform rule as it does not consider that a differential rule will, or is likely to, better contribute to the achievement of the NEO.

See appendix A.4 for further information on these determinations.

2.3 Assessment framework

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

⁸ Clause 3.15.9A(m) of the NER allows AEMO to make minor and administrative amendments to the *PoLR cost procedures* without following the *Rules consultation procedures*.

⁹ Section 88 of the NEL.

¹⁰ Section 7 of the NEL.

¹¹ These regulations under the NT Act are the *National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations 2016*.

- **Regulatory clarity and certainty** — does the proposed solution enable market participants to understand and manage their retailer reliability obligations?
- **Risk allocation to those best able to manage those risks** — to what extent will market participants change their hedging strategies once they are allocated a share of UFE in settlement?
- **Minimising the regulatory and administrative burden** — what are the costs and benefits for market participants and market bodies of implementing the rule change proposal? Are these proportional to the problem the rule change proposal seeks to address?
- **Reliability of the power system during 'reliability gap' periods** — would any change to the calculation of liable load that removes UFE result in any additional risks or benefits to reliability?

2.4 Summary of reasons

The Commission has determined to make a final rule to remove UFE from liable load in the RRO and make minor grammatical changes to clause 4A.F.3(b) of the NER. Having regard to the issues raised in submissions, the Commission is satisfied that a decision to make a final rule will contribute to the achievement of the NEO for the following reasons:

- it will minimise administrative burden on AEMO to calculate and store additional UFE data to only be used for the RRO
- due to the immateriality and unpredictability of UFE it is unlikely to undermine market participants' hedging strategies that support reliability in the NEM during 'reliability gap' or any other periods
- it is a proportionate response to the risks faced by liable entities (for the purposes of the RRO) and reliability in the NEM during 'reliability gap' periods
- it provides regulatory clarity for liable entities on the treatment of UFE in the calculation of liable load in the RRO.

3 UNACCOUNTED FOR ENERGY AND THE CALCULATION OF LIABLE LOAD IN THE RRO

This chapter outlines:

- what is UFE and how large it is
- AEMO’s calculation of UFE for settlement and for the RRO
- potential solutions raised in the consultation paper
- stakeholder views
- AEMC’s analysis and conclusion.

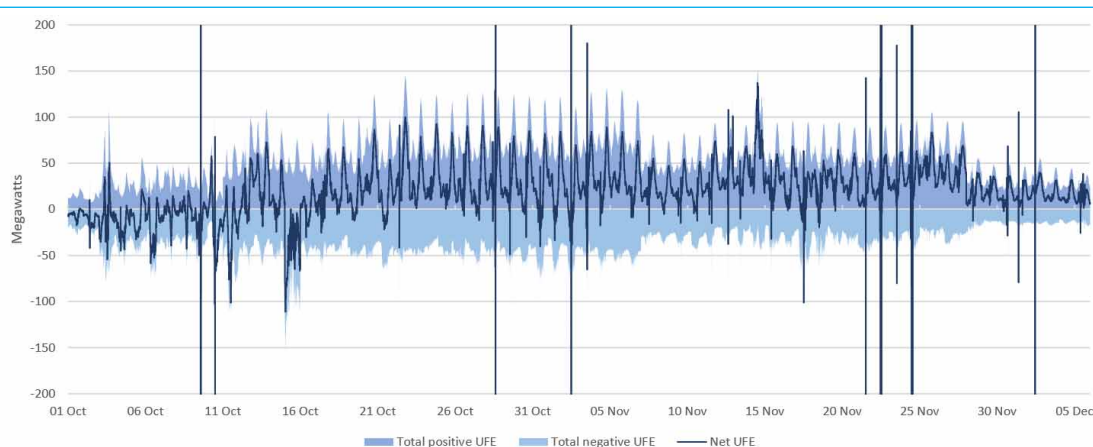
3.1 Unaccounted for energy is small and can be positive and negative

The soft-start for the Global settlement commenced on 1 October 2021 and required AEMO to start calculating UFE and publishing these calculations for the first time.¹²

In the consultation paper, the AEMC did a simplified analysis of UFE for the first 19 days of the measure that showed UFE can be positive or negative and is typically very small with values typically smaller than 50 MW (positive or negative) across the NEM.

The AEMC has updated the analysis to include two months, up to 6 December 2021 and note similar findings (Figure 3.1).

Figure 3.1: Total UFE by each five-minute trading interval



Source: AEMC analysis using AEMO data.

Note: Analysis from 1 October to 6 December 2021. All distribution zones added together for positive and negative sum of unaccounted for energy (UFE). Net UFE shows the sum of all UFE calculated for each 5-minute trading interval. Some instances of very high or low UFE occurred outside this 200 MW range.

¹² AEMC, *Contingency arrangements for five minute settlement implementation*, final determination, 9 September 2021; AEMC, *Delayed implementation of five minute and global settlement*, final determination, 9 July 2020.

3.2 AEMO's calculation of UFE

The *Global settlement and market reconciliation* final determination published in December 2018 placed an obligation on AEMO to calculate UFE at the transmission node identifier (TNI) level.¹³

The inclusion of UFE in the calculation of liable load in the RRO (current rule) requires UFE to be allocated to all liable entities (retailers and opt-in customers) when determining liable load in the RRO. Only retailers are part of AEMO's settlements process, and after the start of the Global Settlement rule, will receive an allocation of UFE.

However, opt-in customers are not part of this settlement process and subsequently wouldn't receive an allocation of UFE from AEMO but rather through the retailer from whom they contract with. As a result, AEMO's calculation of UFE for settlements needs to be calculated only at the TNI level. This means that without the proposed rule change (or some variant), to account for opt-in customers, AEMO would need to calculate UFE according to national metering identifiers (NMIs).

3.3 Potential solutions for the treatment of UFE for the calculation of liable load in the RRO

The consultation paper outlined four potential solutions for the treatment of UFE in the calculation of liable load. These options included:

1. include UFE in the calculation of liable load (no change)
2. exclude UFE allocation from the calculation of liable load (AEMO's proposed solution)
3. partially exclude UFE when calculating liable load (alternative solution)
4. include UFE but provide liable entities the ability to appeal to the AER if UFE is the only cause of non-compliance (alternative solution).

3.4 Stakeholder views

All submissions supported AEMO's proposed rule to remove UFE from the calculation of liable load in the RRO (option two).¹⁴ The specific issues raised in submissions are set out below.

3.4.1 Efficacy of the RRO to ensure reliability during 'reliability gap' periods

Submissions noted that UFE is likely to be small and therefore excluding it would be unlikely to undermine incentives to support reliability in the NEM.¹⁵ Furthermore, UFE would have low materiality in the context of other components of a RRO liable load calculation.¹⁶

¹³ AEMC, *Global settlement and market reconciliation*, final determination, 6 December 2018.

¹⁴ Submissions to consultation paper: AEMO, p. 1; AER, p. 1; Ergon Energy, p. 1; EUAA, p. 1; Origin Energy, p. 1; Shell, p. 2.

¹⁵ Submissions to consultation paper: AER, p. 1; Origin Energy, p. 1.

¹⁶ AEMO, submission to consultation paper, p. 2.

3.4.2

Minimising regulatory and administrative burden

AEMO's calculation and storage of UFE data

Calculating UFE for the purposes of the RRO requires storing NMI level UFE data. Three of the four potential solutions (options one, three and four) discussed in the consultation paper would require AEMO to calculate UFE at the NMI level should there be an opt-in customer.

Submissions indicated that calculating UFE at the NMI level would result in significant additional calculation and storage of data for AEMO.¹⁷

In addition, AEMO advised its systems have been set up to calculate UFE only at the TNI level and AEMO would need to develop a new system and store data to perform the UFE calculation for the RRO.¹⁸

Managing prioritisation of major projects

AEMO noted its need to prioritise effort to major projects and referenced the *2022 Regulatory Implementation Roadmap*. AEMO noted its settlements component for the roadmap in 2022 is already full and therefore it would not be able to re-prioritise its roadmap to establish a system to collect and store UFE data at the NMI level that's only used in the RRO.¹⁹

Complexity and burden of option four

Submissions raised issues with the alternative solution to include UFE but provide liable entities the ability to appeal to the AER if UFE is the only cause of non-compliance (option four). Stakeholders considered this option to be administratively complex and should not be pursued.²⁰ Shell noted this option would add costs to liable entities, AEMO and the AER and would likely require several of the AER's guidelines to be revised to factor in UFE.²¹

3.4.3

Variability and uncertainty of UFE that cannot be managed in advance

Submissions agreed with AEMO's argument in the rule change request, that UFE introduces a source of variability and uncertainty that cannot be managed in advance.²² One stakeholder considered there would be additional costs associated with contracting to meet UFE risks, thereby increasing the costs of compliance without necessarily improving reliability outcomes.²³ Accordingly, these stakeholders supported removing UFE from the calculation of liable load.

Two submissions noted that option three would ensure liable entities received the benefits of negative UFE (to reduce liable load) and would not risk exposure to positive UFE (to increase liable load).²⁴ However, both stakeholders considered option three should not be pursued

17 Submissions to consultation paper: AEMO, p. 1; AER, p. 1.

18 AEMO, submission to consultation paper, p. 2.

19 AEMO, submission to the consultation paper, p. 2.

20 Submissions to the consultation paper: Shell, p.2; Ergon Energy, p. 1.

21 Shell, submission to the consultation paper, p. 2.

22 Submissions to consultation paper: Shell, p. 1; Origin Energy, p. 1; Ergon Energy, p. 1.

23 Shell, submission to consultation paper, p. 2.

24 Submissions to consultation paper: Origin Energy, p. 1; Shell, p. 2.

because its inclusion is not a material issue and, would not change retailer behaviour and provide a small safety net against non-compliance.

3.5 AEMC analysis and conclusion

The Commission considers excluding UFE is unlikely to undermine the incentives that support reliability in the NEM. This is because UFE is expected to be very small and randomly positive and negative (see Figure 3.1) and, stakeholder submissions considered its magnitude was not a material issue that would change retailer behaviour.

Moreover, calculating UFE for the RRO would require AEMO to calculate and store UFE data at the NMI level. This would be a new process that would have significant cost associated and could not be accommodated within AEMO's implementation plans.

The Commission has therefore determined removing UFE for the purposes of calculating liable load in the RRO contributes to the achievement of the NEO.

Accordingly, the final rule amends clause 4A.F.3 of the NER, which will minimise administrative and regulatory burden on AEMO as it will not require AEMO to calculate UFE at the NMI level for the RRO and is unlikely to impact the efficacy of the RRO.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AGE	Adjusted gross energy
AME	Adjusted metered energy
Commission	See AEMC
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEO	National electricity objective
NEM	National Electricity Market
NER	National Electricity Rules
NMI	National metering identifier
PoLR	Procurer of Last Resort
RERT	Reliability and Emergency Reserve Trader
RRO	Retailer Reliability Obligation
TNI	Transmission node identifier
UFE	Unaccounted for energy

A 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.

A.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 proposed by AEMO.

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

A copy of the final rule is attached to and published with this final rule determination. Its key features are described in section 2.1.1.

A.2 Power to make the rule

The Commission is satisfied that the final rule falls within the subject matter about which the Commission may make rules. The final rule falls within s. 34 of the NEL as it is a matter related to the purposes of the Retailer Reliability Obligation (RRO).²⁵ Further, the final rule falls within the matters set out in Schedule 1 to the NEL as it relates to compliance obligations of liable entities,²⁶ and the administration and exercise of the procurer of last resort function by AEMO,²⁷ under the RRO.

A.3 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 MCE statement of policy principles for this rule change request.²⁸

A.4 Rule making in the Northern Territory

Under the Northern Territory legislation adopting the NEL, only certain parts of the NEL have been adopted in the Northern Territory.

²⁵ Section 34(ab) of the NEL.

²⁶ Schedule 1, item 6D of the NEL.

²⁷ Schedule 1, item 6J of the NEL.

²⁸ 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.

As the final rule relates to parts of the NEL that apply in the Northern Territory, the Commission has assessed whether to make a uniform or differential rule (defined below) under Northern Territory legislation.

Under the Northern Territory legislation adopting the NEL, the Commission may make a differential rule if, having regard to any relevant Ministerial Council on Energy (MCE) statement of policy principles, a different rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule. A differential rule is a rule that:

- varies in its term as between:
 - the national electricity system, and
 - one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems

but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of s. 91(8) of the NEL.

A uniform rule is a rule that does not vary in its terms between the national electricity system and one or more, or all, of the local electricity systems, and has effect with respect to all of those systems.²⁹

The Commission's determinations on whether to make a uniform or differential rule are set out in chapter 2.

A.5 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NEL be classified as civil penalty provisions.

The final rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as civil penalty provisions.

A.6 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NEL be classified as conduct provisions.

The final rule does not amend any rules that are currently classified as conduct provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as conduct provisions.

²⁹ Clause 14 of Schedule 1 to the NT Act, inserting the definitions of "differential Rule" and "uniform Rule" into section 87 of the NEL as it applies in the Northern Territory.