



Australian Energy Market Commission

RULE DETERMINATION

National Electricity Amendment (Minor Changes) Rule 2017

19 April 2017

**RULE
CHANGE**

Inquiries

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E: aemc@aemc.gov.au

T: (02) 8296 7800

F: (02) 8296 7899

Reference: ERC0217

Citation

AEMC 2017, Minor Changes, Rule Determination, 19 April 2017 , Sydney

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.

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.

Summary

The Commission has determined under sections 102 and 103 of the National Electricity Law (NEL), to make the *National Electricity Amendment (Minor Changes) Rule 2017 No. 3* (the Rule).

The Rule:

- corrects several minor errors, including formatting, typographical, cross referencing anomalies and definitional inconsistencies in the Rules; and
- omits Chapter 10 definitions that are not used in the National Electricity Rules (NER).

The Rule was proposed by the Commission and aims to promote clarity of meaning and remove identified errors in the NER. The final Rule made by the Commission differs from the Rules proposed by the Commission with a few additional minor errors identified for correction since the Rule change process was commenced. The Commission considers that the electricity rule is likely to contribute to the achievement of the National Electricity Objective (NEO) and therefore satisfies the Rule making test under section 88 of the NEL.

Contents

1	The AEMC's Rule Change Proposal.....	1
1.1	The Rule Proposal and commencement of Rule making process	1
1.2	Rationale for the Rule Change Request	1
1.3	Solution proposed in the Rule Change Request	1
2	Final Rule Determination.....	2
2.1	Commission's determination	2
2.2	Commission's considerations.....	2
2.3	Commission's power to make the Rule	3
2.4	Rule making test.....	3
3	Commission's reasons.....	5
3.1	Differences between the proposed Rule and the final Rule	5
3.2	Assessment of Rule	6
	Abbreviations.....	7

1 The AEMC's Rule Change Proposal

1.1 The Rule Proposal and commencement of Rule making process

The Commission has power to make a Rule without a request if it considers that the Rule corrects a minor error in the Rules or makes a non-material change to the Rules.¹

On 9 March 2017, the Commission initiated the proposed National Electricity Amendment (Minor Changes) Rule 2017 under sections 95 and 96(1)(a) of the NEL, subject to any requests not to expedite the Rule making process.

The Commission initiated the proposed electricity Rule under the expedited process in section 96(1)(a) of the NEL as it considered the Rule was unlikely to have a significant effect on the National Electricity Market (NEM) and therefore fell within the definition of a non-controversial rule under section 87 of the NEL.

The AEMC did not receive any requests not to expedite the Rule making process. Accordingly, the Rule change proposal was considered under an expedited process.

The Commission invited submissions on the Rule change proposal by 6 April 2017. The Commission received one submission on the Rule change proposal from Energy Networks Australia on 7 April 2017.²

1.2 Rationale for the Rule Change Request

As part of the AEMC's rule making functions conferred on it under legislation, the Commission reviews, amends and maintains the Rules in accordance with the NEL. The purpose of this function, among other things, is to improve and enhance the quality of the Rules.

The Rule change proposal has been prompted by the identification of various minor errors and non-material changes that should be corrected or made to improve the quality and clarity of the Rules.

1.3 Solution proposed in the Rule Change Request

The Commission proposed a Rule that seeks to:

- correct minor errors, including formatting, typographical, cross referencing anomalies and definitional inconsistencies in the Rules; and
- omit Chapter 10 definitions that are not used in the NEL.

¹ Section 91(2) of the NEL

² Final Determination submissions: Energy Networks Australia

2 Final Rule Determination

From 1 July 2016, the National Electricity Rules (NER), as amended from time to time, apply in the Northern Territory, subject to derogations set out in Regulations made under the NT legislation adopting the NEL.³ Under those Regulations, only certain parts of the NER have been adopted in the NT⁴. The final rule amends Chapters 3, 5, 5A and 7 (which do not currently apply in the NT), and include amendments to Chapters 6, 8 and 10, which are parts of the NER that currently apply in the Northern Territory. For this reason, the Commission has:

- for the purposes of applying the rule making test under section 88 of the National Electricity (NT) Law, regarded the reference in the NEO to the national electricity system, as a reference to the national electricity system as defined in the National Electricity Law; and
- for the purposes of section 88A of the National Electricity (NT) Law made a uniform rule.

2.1 Commission's determination

In accordance with sections 102 and 103 of the NEL the Commission has made this final Rule determination and the final Rule in relation to the rule proposed by the Commission.

The *National Electricity Amendment (Minor Changes) Rule 2017 No. 3* is published with this final Rule determination. The final Rule differs from the Rule proposed by the Commission with a few additional minor errors identified for correction since the Rule change process was commenced. The key differences between the proposed Rule and the final Rule are described in section 3.1 below.

The *National Electricity Amendment (Minor Changes) Rule 2017 No.3* will commence operation on 2 May 2017.

2.2 Commission's considerations

In assessing the Rule Change Request the Commission considered:

- the Commission's powers under the NEL to make the Rule;
- the Rule Change Proposal;

³ National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations.

⁴ For the version of the NER that applies in the Northern Territory, refer to : [http://www.aemc.gov.au/Energy-Rules/National-electricity-rules/National-Electricity-Rules-\(Northern-Territory\)](http://www.aemc.gov.au/Energy-Rules/National-electricity-rules/National-Electricity-Rules-(Northern-Territory)).

- the Commission’s analysis as to the ways in which the proposed Rule will or is likely to, contribute to the achievement of the National Electricity Objective (NEO); and
- the compatibility with the Australian Energy Market Operator's (AEMO) declared network functions.

2.3 Commission’s 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 the matters set out in section 34 of the NEL as it relates to 34(1)(b) of the NEL under which the Commission may make Rules for or with respect to any matter or thing contemplated by the NEL, or which are necessary or expedient for the purposes of the NEL. The Commission considers the Rule necessary and expedient for the purposes of the NEL.

2.4 Rule making test

Under section 88(1) 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 NEO. This is the decision making framework that the Commission must apply.

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.”

The Commission considers that the final Rule will improve the quality of the NER in terms of accuracy and consistency. The Commission considers that the proposed Rule is likely to contribute to the achievement of the NEO. However, the efficiency benefits that will result from the final Rule are considered 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-material changes will make the NER clearer to stakeholders. This is important as the NER inform stakeholders of their rights and obligations for participating in the NEM and stakeholders rely on the NER in their commercial transactions and documentation.

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 AEMO's declared network functions. At present Victoria is the only relevant "adoptive jurisdiction". The Commission is satisfied that the final Rule is compatible with AEMO's declared network functions because it makes only minor and non-material changes to the NEL and does not change AEMO's functions in any material respect.

3 Commission's reasons

The final Rule corrects minor errors and makes non-material changes to the NER. The Commission has analysed the Rule change proposal and for the reasons set out below, has determined to make the final Rule.

3.1 Differences between the proposed Rule and the final Rule

The final Rule differs from the proposed Rule by way of the following minor amendments including:

- to clause 3.6.5(a)(4D), where the word “interconnectors” has been substituted with “interconnectors”;
- to clause 5.17.3(a)(5), where the word “or” has been omitted;
- to clause 5.20A.4(b)(5) where the words “Reliability Panel” have been italicised, as it is a defined term in the NER;
- to clause S5.1.10.1a, where the word “Clause” has been removed from the heading;
- to clause S5.1.10.1a(e), where the words “connection agreement” have been italicised, as it is a defined term in the NER;
- to clause S5.1.10.1a(f), where the words “application to connect” have been italicised, as it is a defined term in the NER;
- to clause 8.8.4(d), where the words ‘non-credible contingency event’ have been italicised, as it is a defined term in the NER;
- to clause 11.97.2(a), where the word “cl” has been amended to “clause”;
- to the Chapter 10 definition of “real estate development”, the words “(in the context of Chapter 5A)” have been removed;
- proposed amendment [76] of the Proposed National Electricity Amendment (Minor Changes) Rule 2017, which related to clause 8.8.3 (aa) in the NER, has been omitted as the proposed minor rule change has been addressed by the National Electricity Amendment (Emergency frequency control schemes) Rule 2017 No. 2; and
- proposed amendments [56], [57] of Schedule 1 and [23] of Schedule 2 of the Proposed National Electricity Amendment (Minor Changes) Rule 2017, which related to clause 6.6.3 in the NER, has been omitted as the proposed minor rule change has been addressed by the National Electricity Amendment (Demand management incentive scheme) Rule 2015 No. 8.

3.2 Assessment of Rule

The final Rule supports effective and transparent regulation and operation of the NEM by:

- correcting minor errors, including formatting, typographical, cross referencing anomalies and definitional anomalies in the Rules; and
- omitting Chapter 10 definitions that are not used in the NER.

The Commission considers the amendments will increase the accuracy and consistency of the NER thereby promoting a clearer understanding of the provisions of these Rules.

Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
NEL	National Electricity Law
NEO	National Electricity Objective