



Australian Energy Market Commission

RULE DETERMINATION

NATIONAL ELECTRICITY AMENDMENT (ESTABLISHING VALUES OF CUSTOMER RELIABILITY) RULE 2018

PROPONENT

COAG Energy Council

5 JULY 2018

RULE

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 rule that assigns responsibility for establishing values of customer reliability (VCR) in the National Electricity Market (NEM) and the Northern Territory to the Australian Energy Regulator (AER). The final rule has been made in response to a rule change request submitted by the COAG Energy Council on 22 December 2017.

What are VCRs and how are they used?

2 VCRs indicate the value different types of customers place on having reliable electricity supply under different conditions, measured in dollars per kilowatt hour. VCRs play an important role in a variety of contexts within the NEM. For example, VCRs are used by the Reliability Panel in conducting the reliability standard and settings review and by the AER and network service providers in a variety of network regulation and planning processes.

The final rule

3 The final rule is a more preferable final rule. It is generally consistent with the rule change request, but includes differences regarding timing of the VCR calculations and the level of guidance in the NER provided to the AER. The key features of the final rule include:

- the AER will assume responsibility for determining the VCR methodology and calculating VCRs
- a VCR objective: the VCR methodology and values of customer reliability should be fit for purpose for any current or potential uses of VCRs that the AER considers to be relevant
- the AER is required to follow the *Rules consultation procedures*, both when developing the initial VCR methodology, and when reviewing the VCR methodology
- the AER must consult with AEMO, the Reliability Panel, jurisdictional regulators, registered participants and interested persons in the development, review and update of the VCR methodology
- both the VCR methodology and VCR estimates are required to be updated at least every 5 years, with annual adjustments each year by a mechanism to be determined by the AER and included in the methodology.

Benefits of the final rule

4 The Commission considers the key benefits of the final rule are:

- assigning responsibility for developing a nationally consistent VCR methodology and calculating VCR estimates to one market body removes unnecessary duplication and decreases the administrative burden for bodies calculating VCRs and for stakeholders contributing to their development
- the AER is the appropriate body because the responsibility most closely aligns with its statutory functions. As the economic regulator the AER is familiar with and well equipped to assess trade-offs between reliability and cost
- the timeframes and overarching processes for developing the VCR methodology and estimates will enhance transparency and certainty
- specifying a VCR objective provides appropriate guidance to the AER, but enables the AER to determine the methodology.

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1 COAG ENERGY COUNCIL'S RULE CHANGE REQUEST

1.1 The rule change request

On 22 December 2017, the Council of Australian Governments (COAG) Energy Council made a request to the Australian Energy Market Commission (AEMC or Commission) to make a rule to establish the Australian Energy Regulator (AER) as responsible for developing a methodology for the calculation of values of customer reliability (VCR), and for updating and reviewing VCRs on a regular basis.

The COAG Energy Council also requested that the rule change request be considered a non-controversial¹ rule change request and, as a result, be assessed under an expedited rule change process.

1.2 Current arrangements

VCRs indicate the value different types of customers place on having reliable electricity supply under different conditions, measured in dollars per kilowatt hour. There is no single body responsible for determining VCRs, and there has only been one comprehensive national examination of VCRs. This examination was carried out by the Australian Energy Market Operator (AEMO) in 2014.

The National Electricity Rules (NER) include one reference to VCR. This reference is in relation to the Reliability Panel having regard to any VCR determined by AEMO. The rule is:²

Requirements for reliability standard and settings review

(e) in conducting the reliability standard and settings review the Reliability Panel:

...

(4) must have regard to any value of customer reliability determined by AEMO which the Reliability Panel considers to be relevant.

There are no other references to VCR in the NER. This means that no single body is formally responsible for reviewing and updating VCR estimates on a regular basis.

1.3 Rationale for the rule change request

The COAG Energy Council considers that the VCR is a key input in determining the level of reliability that has the most value to customers.³ This impacts the level of investment and maintenance expenditure in electricity infrastructure.

As there is no single body responsible for establishing VCRs on a regular basis, there has been variation in both the methodology and the resulting VCRs in previous estimations. The variations impact transparency and make it difficult to compare reliability performance between networks. The lack of responsibility of a single body also results in duplication of VCR estimations and higher costs on network planners, systems operators, regulators and policy makers.⁴

Establishing the AER as responsible for the on-going review and updating of VCRs for each regulated network will result in nationally consistent VCRs and would allow improvements to methodology from experience gained.⁵

1 Section 96 of the NEL.

2 National Energy Rules, s.3.9.3A.

3 Rule change request, p. 3.

4 Rule change request, p. 1.

5 Rule change request, p. 3.

Having a nationally consistent and updated VCR will assist the AER to better:⁶

- design the service target performance incentive schemes (STPIS)
- monitor the regulatory investment test assessment
- analyse and report network service provider's reliability performances
- assess a network's capital forecast as part of its consideration of a network's revenue proposal.

Nationally consistent VCRs would also be useful in other contexts, for example to improve jurisdictional arrangements for setting network reliability standards, for network planning and network augmentation.⁷

1.4 Solution proposed in the rule change request

The COAG Energy Council sought to resolve the issues discussed above by proposing a rule to allow the AER to assume responsibility for establishing VCRs. This would have the effect of requiring the AER to estimate VCRs, including to:

- develop a single methodology including direct customer engagement, such as through surveys, that can be used for estimating VCRs on a consistent basis across the National Electricity Market (NEM)
- develop VCRs to reflect the range and geographic locations of customers in each network
- update VCRs at least every five years to align with the standard setting process and revenue determination process for each network business, where possible
- in between five yearly updates, adjust VCRs by an appropriate methodology each year
- undertake public consultation in making any changes to the VCR methodology to allow stakeholder views to be taken into account
- publish any changes to VCRs following any updates, annual adjustments in VCRs, and reviews.⁸

The rule change request also makes reference to the AER being required to regularly review, update and publish the VCR methodology. However, it provides no further detail as to how often this should occur or the degree of consultation this should require.⁹

The rule change request proposes that the AER be required to have regard to the current and potential uses of VCRs in making decisions about updating VCR estimates and reviewing the methodology.¹⁰ The COAG Energy Council has also indicated that the AER is expected to initially review the methodology of AEMO's 2014 Value of Customer Reliability Review and consider whether any improvements should be made.¹¹

The rule change request does not include any proposed changes to clause 3.9.3A of the NER or consider whether the rule should apply to the Northern Territory.

1.5 Relevant background

1.5.1 Estimating VCRs

Estimating VCRs is a complex and subjective process. Just as different customers might be prepared to pay a diverse array of prices to, say, purchase a new car in order to be able to commute to work, so too might they value the reliability of their electricity supply very differently.

6 Rule change request, p.3.

7 Rule change request, p. 4.

8 Rule change request, p. 2

9 Ibid.

10 Ibid.

11 Ibid.

How consumers value electricity supply depends on what they use their energy for, from heating water in residential homes to helping to run a small business to powering large-scale manufacturing processes. The value they place on reliability therefore depends on the value they place on these services and because these services differ, so too does the value of reliability.

In addition to what services the customer uses the electricity for, VCR will be influenced by many factors, including the type of customer, their access to alternative energy sources, their demographics and the extent to which they have experienced interruptions in the past. It will also be influenced by the duration, frequency, timing and location of an interruption. For example, a customer may place little value on avoiding a 10-minute outage that affects only her neighbourhood. But she may be prepared to pay much more on a per unit of energy basis to avoid an outage that plunges the entire state into darkness for five hours.

Because the actual costs to customers of supply interruptions cannot be observed unless consumers directly participate in the wholesale market, they must be estimated. One means of doing so is via 'survey-based' approaches, where data is gathered about the expected costs to customers of hypothetical events.¹²

1.5.2

Current uses of VCRs

VCRs are used in a number of areas in the NEM. Some of the current uses of VCRs are detailed below. The list is not exhaustive, and does not include potential uses of VCRs in the future. VCRs are currently used:

- by the AER and network service providers
 - in service target performance incentive schemes (STPIS) as the key measure for linking outcome performance with the STPIS incentive
 - as an input in most regulatory investment test assessments
 - in regulatory resets as a key factor in assessing major capital projects
 - to assess a network's capital forecast as part of revenue proposals
- by jurisdictional network regulators in the setting of transmission and distribution reliability standards and targets, for example in IPART's 2016 Electricity Transmission Reliability Standards¹³
- by the Reliability panel
 - as a consideration in reviews, for example to quantify the value of unserved energy in the 2016 Review of the System Restart Standard¹⁴
 - to inform wholesale market settings such as market price caps
- by network service providers to deliver better network investment decisions – increasingly to determine timing for minor capital projects and operational projects as well as for major capital projects.

1.5.3

Context of the rule change request

In Australia, VCRs have only been estimated a limited number of times, and those estimates have varied significantly.¹⁵ There has only been one comprehensive national examination of VCRs in the NEM.

¹² The different approaches include estimating direct costs, estimating costs based on the economic cost of substitution, contingent valuation surveys and choice modelling. 'Modelling-based' approaches can also be used, which include considerations of gross national product per kWh of electricity consumed, wage income per kWh consumed or the costs of standby generation.

¹³ IPART, Electricity Transmission Reliability Standards, 2016, p. 5.

¹⁴ Reliability Panel AEMC Review of the System Restart Standard, 2016, p. 45.

¹⁵ Rule change request, p. 3.

This national examination was carried out by AEMO in 2014.¹⁶ It estimated the NEM-wide average VCR at \$33,460/MWh.¹⁷

In 2013, the Commission carried out reviews of the national framework for transmission and distribution reliability. In these reviews the Commission recommended making the AER responsible for establishing VCRs as this would be consistent with its role as the economic regulator.¹⁸ Further, the Commission proposed that the AER:

- develop, publicly consult on, and publish a national methodology for estimating the VCRs on a consistent basis across the NEM
- update VCRs at least every five years, and escalate the VCRs by an appropriate methodology each year in between updates
- publish any changes to VCR values and the methodology
- develop VCRs to reflect the range of customers and geographic locations within each NEM jurisdiction
- take into account the range of uses for VCR measures when updating the methodology and VCR values
- use AEMO's methodology and measures of VCRs as a starting point for their review, further refined with public consultation.¹⁹

On 13 December 2013 the Standing Council on Energy and Resources (now COAG Energy Council) agreed to make the AER responsible for determining VCRs for use in setting of reliability requirements.²⁰

1.6 The rule making process

On 10 May 2018, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.²¹ A consultation paper identifying specific issues for consultation was also published. Submissions closed on 7 June 2018.

The Commission considered that the rule change request was a request for a non-controversial rule²² in accordance with 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 24 May 2018.

No requests to not carry out an expedited rule change process were received. Accordingly, the rule change request was considered under an expedited process.²³

The Commission received 19 submissions. Issues that are not discussed in the body of this document have been summarised and responded to in Appendix A.

16 AEMO, Value of Customer Reliability Review, 2014, www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Planning-and-forecasting/Value-of-Customer-Reliability-review

17 Because this is an average, there will be customers who value reliability more highly, or by not as much.

18 AEMC, Review of the national framework for distribution reliability, 2013, p. 49; AEMC, Review of the national framework for transmission reliability, 2013, pp. 53.

19 AEMC Review of the national framework for distribution reliability, 2013, pp. 48-49; ; AEMC, Review of the national framework for transmission reliability, 2013, pp. 53-54.

20 Standing Council on Energy and Resources 5th meeting communique, 13 December 2013, p. 2.

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

22 Non-controversial rule is defined in s. 87 of the NEL as "a Rule that is unlikely to have a significant effect on the national electricity market".

23 Section 96 of the NEL.

2 FINAL RULE DETERMINATION

This chapter outlines:

- the Commission's final rule determination
- the rule making test for changes to the NER
- the more preferable rule test
- the assessment framework for considering the rule change request
- the Commission's consideration of the more preferable final rule against the national electricity objective (NEO)
- the Commission's consideration in deciding whether to make a uniform or differential rule in accordance with the Northern Territory legislation adopting the NEL.²⁴

2.1 The Commission's final rule determination

The Commission's final rule determination is to make a more preferable final rule.²⁵ The more preferable rule is generally consistent with the proposal, but includes slight differences regarding timing and guidance on methodology. The more preferable final rule made by the Commission is attached to, and published with, this final rule determination. It will commence on 13 July 2018.

The Commission's reasons for making this final rule determination are set out in section 3.

In relation to the rule's application in the Northern Territory, the Commission has determined to not make a differential rule. Section 2.2.3 sets out the definition of a differential rule and the Commission's ability to make a differential rule.

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 NEO.²⁶ This is the decision making framework that the Commission must apply.

The NEO is:²⁷

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

Making a more preferable rule

Under s. 91A of the NEL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or

²⁴ National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

²⁵ s91A of the NEL.

²⁶ Section 88 of the NEL.

²⁷ Section 7 of the NEL.

issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO.

In this instance, the Commission has made a more preferable rule. The reasons are summarised in section 2.4.2 below.

2.2.3

Making a differential rule

Under the Northern Territory legislation adopting the NEL, the Commission may make a differential rule if 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.

As the proposed rule relates to parts of the NER that apply in the Northern Territory, the Commission has assessed the draft rule against additional elements required by the Northern Territory legislation.²⁸

2.3

Assessment framework

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

- **Impact on market efficiency.** In assessing this rule change request, the Commission considered whether clarifying responsibility and increasing certainty, transparency and accountability in terms of the provision of a key reliability metric to the market would have the potential to increase market efficiency and therefore be in the long term interests of consumer.
- **The regulatory and administrative burden.** The impact of the proposed rule was assessed against the potential cost savings from clarifying responsibility for the development of VCRs and associated potential to limit unnecessary duplication of effort in the development of VCRs.

The Commission considers that the relevant aspect of the NEO is promotion of the efficient operation of electricity services with respect to reliability of supply of electricity and reliability of the national electricity system.

2.4

Summary of reasons

2.4.1

Key features

The more preferable final rule made by the Commission is attached to and published with this final rule determination. The key features of the more preferable final rule are:

- the AER will assume responsibility for determining the VCR methodology and calculating national VCRs²⁹
- a VCR objective: the VCR methodology and values of customer reliability should be fit for purpose

²⁸ From 1 July 2016, the NER, as amended from time to time, apply in the NT, subject to derogations set out in regulations made under the NT legislation adopting the NEL. Under those regulations, only certain parts of the NER have been adopted in the NT. (See the AEMC website for the NER that applies in the NT.) National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

²⁹ Clauses 8.12(b) and 8.12(g) of the NER.

for any current or potential uses of VCRs that the AER considers to be relevant³⁰

- the VCR methodology must include direct engagement of end use customers (which may include surveys), and include a mechanism for adjusting the values of customer reliability on an annual basis³¹
- the AER is required to consult on the VCR methodology using the *Rules consultation procedures* and to publish the first VCRs calculated under the VCR methodology by 31 December 2019³²
- the AER is required to review the methodology in accordance with the *Rules consultation procedures* and publish updated VCRs determined under the revised methodology at least once every five years³³
- relevant parties who must be consulted by the AER in developing and reviewing the VCR methodology are prescribed, including the Reliability Panel, AEMO, jurisdictional regulators, registered participants and other interested persons³⁴
- the AER must maintain on its website the VCRs as updated from time to time.³⁵

Further detail on the more preferable final rule can be found in section 3 below.

2.4.2

Contribution to the achievement of the NEO

Having regard to the issues raised in the rule change request and during consultation, the Commission is satisfied that the more preferable final rule will, or is likely to, contribute to the achievement of the NEO for the following reasons:

- assigning responsibility for developing a nationally consistent VCR methodology and calculating VCR estimates to body one removes unnecessary duplication, and decreases the administrative burden and costs both for bodies calculating VCRs and for stakeholders contributing their development
- the AER is the appropriate body for developing the VCR methodology and calculating VCR estimates on an on-going basis because the responsibility most closely aligns with its statutory functions.
- prescribing a timeframe and overarching processes for developing the VCR methodology and estimates enhances transparency and certainty.

Compared to the proposed rule the more preferable final rule will, or is likely to, better contribute to the achievement of the NEO for the following reasons:

- promoting the objective for the VCR methodology provides improved certainty and accountability
- requiring the AER to follow the *Rules consultation procedures* improves the transparency of the process
- allowing the AER to determine the VCR methodology without prescribing parameters allows the AER to determine fit-for-purpose VCR estimates in a rapidly changing energy market
- requiring the AER to publish both the VCR estimates, and the VCR methodology promotes transparency
- the timeframe proposed in the rule change request would require the first VCRs to be published in advance of April 2019, which is not a feasible timeframe to develop a robust VCR methodology and calculate and publish VCRs.

30 Clauses 8.12(a) and 8.12(e) of the NER.

31 Clauses 8.12(d)(1) and 8.12(d)(2) of the NER.

32 Clauses 8.12(b) and 8.12(g)(1) of the NER.

33 Clauses 8.12(b)(2) and 8.12 (g)(2) of the NER.

34 Clause 8.12(h) of the NER.

35 Clause 8.12(g) of the NER.

2.4.3 **Application to the Northern Territory**

Under the Northern Territory legislation adopting the NEL, the Commission must regard the reference in the national electricity objective to the “national electricity system” as a reference to whichever of the following the Commission considers appropriate in the circumstances having regard to the nature, scope or operation of the proposed rule:³⁶

- (a) the national electricity system
- (b) one or more, or all, of the local electricity systems
- (c) all the electricity systems referred to above.

The Commission considers it appropriate in the context of the final rule to regard the reference in the national electricity objective to the “national electricity system” as a reference to (c) above.

This final rule relates to parts of the NER that apply in the Northern Territory. In making the final rule, the Commission has also considered whether a uniform or differential rule should apply to the Northern Territory. The final rule determination is to make a uniform rule because establishing the AER as responsible for determining the VCR methodology and estimating VCRs is as important in the Northern Territory as the NEM. A uniform rule promotes consistency and provides a clear and transparent process of estimating VCRs within the Northern Territory. The Commission does not consider there are reasons for a variation in terms as the rule can be applied in the same way in the Northern Territory.

³⁶ Section 14A of Schedule 1 to the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015, inserting section 88(2a) into the NEL as it applies in the Northern Territory.

3 ASSESSMENT OF THE RULE CHANGE REQUEST

This chapter outlines the key issues considered by the Commission in making its final determination and final rule. It sets out the proponent's views, stakeholder views and the Commission's analysis in relation to:

- responsibility for establishing VCRs
- methodology for calculating VCR estimates and for adjusting VCRs on an annual basis
- timing of VCR calculations
- process for developing and updating methodology
- additional issues for consultation.

3.1 Responsibility for establishing VCRs

3.1.1 COAG Energy Council's view

The COAG Energy Council proposed that the AER be assigned responsibility for establishing, reviewing, updating and publishing a VCR methodology and VCR estimates across the NEM on an ongoing basis.³⁷ The COAG Energy Council considers that having VCRs which are developed by a single independent body using a consistent methodology is preferable to VCRs being determined jurisdictionally. This is likely to provide consistency, and allows a national VCR to be able to be determined.

The COAG Energy Council considers that the AER is the appropriate body to undertake the VCR estimation. The COAG Energy Council considers that the proposed VCR functions are consistent with the AER's statutory functions, as it will inform economic regulation activities, including setting of economic incentive schemes, performance reports for network businesses and monitoring regulatory investment tests.³⁸

3.1.2 Stakeholder views

Stakeholders overwhelmingly supported VCRs being developed by a single independent body. The AER, AEMO, and the majority of other stakeholders also supported the AER being assigned responsibility for estimating VCRs.³⁹ For example, the Public Interest Advocacy Centre (PIAC) commented that "having the AER as the single national body responsible for establishing the VCR will encourage consistency and confidence in the results". The Energy Users Association of Australia commented that "this role is consistent with the AER's statutory functions as VCR values have a significant influence on its network regulatory functions".⁴⁰

A number of stakeholders considered that either the AER or AEMO would be appropriate bodies to determine VCRs. There were also suggestions from stakeholders that the AER be supported by the AEMO and the Reliability Panel when determining VCRs, utilising AEMO and the Reliability Panel's expertise.⁴¹

Endeavour Energy, Meridian Energy and Transgrid suggested alternatives to the AER. Endeavour Energy

³⁷ Rule change request, p. 2.

³⁸ Rule change request, p. 1.

³⁹ Submissions to the consultation paper: AER, p. 1; AEMO, p. 2; PIAC, p. 1; Major Energy Users, p. 2; Australian Energy Council, p. 1; Energy Queensland, response 1.2; Jemena, p. 1; S&C Electric Company, p. 3; Energy Users Association of Australia, p. 2; Energy Consumers Australia, p. 1; IPART, p.1; AusNet Services, p. 1; Citipower, Powercor & United Energy, p. 1; Energy Networks Australia, p. 1; Master Electricians Australia, p. 1.

⁴⁰ PIAC, submission to the consultation paper, p. 1; Energy Users Association of Australia, submission to the consultation paper, p. 2.

⁴¹ Submissions to the consultation paper: Energy Networks Australia, p. 1; AEMO, p. 2; Major Energy Users, p. 2; AusNet Services, p. 2; Energy Queensland, response 1.2; Transgrid, p. 2.

recommended that AEMO be established as the responsible party, both due to AEMO's experience in conducting a comprehensive national examination of VCRs, and concerns that the AER would be in a position of "setting a key input into asset management decisions which it will subsequently have to address".⁴² Conversely Meridian Energy suggested that assigning responsibility to the Reliability Panel, who have overall market responsibility for reliability may add value.⁴³ Transgrid raised several issues it suggested should be addressed if the AER is to be assigned responsibility. These issues were around separation of roles within the AER, lack of specific expertise in "identifying the optimal value of reliability for customers", and utilisation of the Reliability Panel's expertise on reliability.⁴⁴

3.1.3

Analysis

The final rule establishes the AER as the sole body responsible for determining VCRs.⁴⁵ The Commission considers that:

- having a single body responsible for establishing VCRs will provide consistency and transparency of estimates and avoid unnecessary duplication and administrative costs
- the AER is the appropriate body for developing the VCR methodology and calculating VCR estimates on an on-going basis because the responsibility most closely aligns with its statutory functions.
- the AER is familiar with the most detailed uses of VCR estimates, for example in STPIS, most regulatory investment test assessments, regulatory resets in assessing major capital projects, and assessing a network's capital forecast as part of revenue proposals
- the AER has existing regulatory functions in both the NEM and the Northern Territory. In contrast, the provisions of the NER that set out AEMO and the Reliability Panel's roles do not currently apply in the Northern Territory.

The Commission notes that AEMO and the Reliability Panel would be valuable contributors to the development of the VCR methodology and the calculation of VCR estimates. The Commission therefore considers, and the final rule provides, that the AER must consult with both AEMO and the Reliability Panel when developing the VCR methodology.

3.2

Methodology for calculating VCR estimates and annual adjustments

3.2.1

COAG Energy Council's view

The COAG Energy Council proposed the following in relation to the VCR methodology:

- when updating VCR estimates and reviewing the methodology the AER should have regard to the current and potential uses of VCRs⁴⁶
- the methodology should include direct customer engagement, such as through surveys, to determine the VCRs⁴⁷
- in considering the granularity of VCR estimates the AER should be required to develop VCRs to reflect the range and geographic locations of customers in each network.⁴⁸

In addition to updating VCRs on a five yearly basis, the rule change request suggests that the AER should adjust VCRs each year by an appropriate methodology.⁴⁹ The rule change request does not

42 Endeavour Energy, submission to the consultation paper, p. 2.

43 Meridian Energy, submissions to the consultation paper, p. 2.

44 Transgrid, submission to the consultation paper, p. 2.

45 Clause 8.12 of the NER.

46 Rule change request, p. 2.

47 Ibid.

48 Ibid.

49 Ibid.

suggest any guidance to the AER for the methodology for such updates.

3.2.2 The Commission's initial view

In the consultation paper the Commission highlighted that there is a distinction between the NER providing guidance to the AER on the methodology used to determine VCRs and guidance regarding the objectives of the methodology. The Commission's initial view was that setting the objective in the NER is likely to be beneficial but guidance regarding the methodology is not.

3.2.3 Stakeholder views

Providing guidance on the objectives of the VCR methodology was supported by all stakeholders who commented on the objective.⁵⁰ For example, Jemena stated in its submission that "the NER should provide an objective for the AER in calculating VCRs and that objective should be that VCRs are fit for purpose for the current and potential uses of VCRs".⁵¹

While most stakeholders agreed that the NER should not be overly prescriptive on the methodology for determining VCRs, submissions included recommendations that the AER be required to have regard to a variety of factors when determining the methodology. Some of the factors stakeholders recommended the AER be required to take into account included:⁵²

- range of customers
- geographic locations of customers
- climate zones
- time of day and season
- duration of outages
- frequency of outages
- tolerance to interruption
- low probability, high impact events
- voltage levels
- representation of consumers with distributed energy e.g. photovoltaic systems or batteries installed
- the customer experience from a whole-of system perspective
- willingness to pay to maintain or improve reliability
- willingness to accept current or lower reliability in return for lower costs
- willingness of consumers to implement demand response
- different costs of substitution and levels of expectation for different consumer groups
- correlation of acceptance of outages with increased information
- consumer biases e.g. uncertainty aversion
- consideration of social utility of investments to increase reliability
- the high value placed on supply reliability for specific customer segments, e.g. hospitals and medical precincts.
- high level principles.

50 Submissions to the consultation paper: Energy Queensland, response 2.2; Endeavour Energy, p. 1; Energy Users Association of Australia, p. 2; Major Energy Users, p. 2; Energy Consumers Australia, p. 2; Meridian Energy, p. 2.

51 Jemena, submission to the consultation paper, response 2.2.

52 Submissions to the consultation paper: IPART, p. 2; PIAC, p. 1-2; AEMO, p. 2; Citipower, Powercor & United Energy, p. 3; Major Energy Users Inc, p. 2; St Vincent de Paul Society and SACCOS, p. 1; Energy Networks Australia, p. 2; Jemena, p. 2; Energy Queensland, response 2.2; Endeavour Energy, p. 1; Meridian Energy, p. 2; Transgrid, p. 2.

Stakeholders recommending no additional guidance be provided to the AER in relation to the methodology reasoned that determining VCR methodology is complex; there are many variations in approaches, and the approach may change over time. For example, Energy Consumers Australia (ECA) noted that “the estimation of VCRs is a complex task and there are number of valid approaches”.⁵³

Additionally, a number of stakeholders noted the importance of including direct customer engagement, such as through surveys, to determine the VCRs as a requirement in the methodology.⁵⁴

3.2.4

Analysis

The final rule provides an objective that the AER is to develop a methodology and calculate VCRs that are fit for purpose for the current and potential uses of VCRs that the AER considers to be relevant.⁵⁵ Including an objective in the NER is likely to be beneficial, as it provides clarity of purpose, assisting in focusing the VCR reviews.

The final rule does not provide guidance on the VCR methodology. As the Commission highlighted in the consultation paper, determining the VCR methodology is complex with a wide range of options when determining techniques for gathering data, deciding on the required granularity of customer location and customer types, and determining the outage durations that should be examined, amongst other factors. Submissions have reinforced the complexity and the wide range of options that should be examined when developing the VCR methodology. Given the very wide range of legitimate factors to be taken into account, the Commission does not consider it is appropriate to direct the AER through guidance within the NER regarding the methodology.

The one exception to this is direct engagement with customers, including both retail customers and customers connected to transmission networks purchasing electricity directly from the spot market. The Commission considers, and the final rule provides, that direct engagement with customers (which may include surveys) is required to determine the VCR estimates.⁵⁶

Including direct customer engagement in the rule does not seek to prescribe the parameters examined in the VCR methodology; rather it reflects the necessity of directly engaging with customers when determining VCRs within those parameters determined by the AER. Without seeking views directly from customers it would not be possible to determine the values customers place on having reliable electricity supply.

3.3

Timing

3.3.1

COAG Energy Council’s view

Timing of initial review

No specific timing was proposed in the rule change request for the first review of VCRs to be completed. However, the COAG Energy Council considered it should be done in time for the next round of regulatory determinations (for New South Wales, Tasmania, Northern Territory and Australian Capital Territory DNSPs).⁵⁷ The AER is due to publish final determinations for the next round of regulatory determinations in April 2019. The first VCRs would therefore need to be published in advance of this to be incorporated into the determinations.

Timing of subsequent reviews

53 Energy Consumers Australia, submission to the consultation paper, p. 2.

54 Submissions to the consultation paper: Energy Users Association of Australia, p. 2; Major Energy Users, p. 2; IPART, p. 2.

55 Clause 8.12(a) and 8.12(e) of the NER.

56 Clause 8.12(d)(1) of the NER.

57 Rule change request cover letter.

The rule change request proposes that the AER be required to update the VCRs at least every five years.⁵⁸ This requirement was a recommendation from both of the AEMC's reviews of the national frameworks for distribution reliability and transmission reliability. The Commission considered that updating the VCRs every five years provided an appropriate balance between stability of the VCR for long term network planning, and maintaining the relevance of VCRs to reflect changes in customer preferences.⁵⁹

Annual adjustments

In addition to the five yearly updates of VCRs, the change request proposed that the AER be required to adjust the VCRs by an appropriate methodology each year.⁶⁰

3.3.2 The Commission's initial view

In the consultation paper, the Commission provided an initial view on the timing for the first estimates of VCRs to be completed. The Commission proposed that the AER is required to publish the first VCRs by no later than 31 December 2019 (just less than 18 months after the final rule will be published).

3.3.3 Stakeholder views

Timing of initial review

In relation to the timing of the development of the first VCR estimates, April 2019 was seen to be too soon to develop a robust methodology, and calculate VCR estimates. Stakeholders mostly supported 31 December 2019 as an achievable timeframe for the AER to be required to publish the first VCR estimates.⁶¹

There were no commonly held views on an alternative date for the initial estimations of VCRs. Alternate dates or timeframes put forward by stakeholders included determining VCRs:

- prior to the start of each jurisdictions determination
- by 30 June 2019
- by 30 June 2020
- in 2023
- not less than 18 months before a Revenue Proposal is due to be lodged with the AER.⁶²

Timing of subsequent reviews

The majority of stakeholders supported updating VCRs at least every five years, with some of those stakeholders recommending flexibility being allowed. For example, the Independent Pricing and Regulatory Tribunal (IPART) supported a five year cycle, but noted flexibility around timing was appropriate, both as the approach may require updating to maintain consistency with the purpose of the VCR methodology as VCR uses change, and to allow the AER to bring forward reviews if necessary.⁶³

58 Rule change request, p. 2.

59 AEMC, Review of the national framework for distribution reliability, September 2013, p. 51; AEMC, Review of the national framework for transmission reliability, 2013, p. 53.

60 Rule change request, p. 2.

61 Submissions to the consultation paper: Australian Energy Council, p. 1; Energy Consumers Australia, p. 2; Endeavour Energy, p. 6; Jemena, p. 1; Meridian Energy, p. 2; Major Energy Users, p. 2; Transgrid, p. 3; IPART, p. 3; AER, p. 1; AEMO, p. 1; AusNet Services, p. 2; Master Electricians Australia, p. 2.

62 Submissions to the consultation paper: Energy Users Association of Australia, p. 3; Energy Queensland, Citipower, Powercor & United Energy, p. 2; S&C Electric Company, p. 3; Energy Queensland, response 3.1, Energy Networks Australia, p. 3.

63 IPART, submission to the consultation paper, p. 3.

Four of the Victorian DNSPs expressed concern due to the timing of the initial, and likely five year reviews, falling at a stage in the Victorian Electricity Distribution Price Review process where the DNSPs would encounter difficulties in adequately consulting with stakeholders prior to updating their proposals to reflect any updated VCRs. As a solution to this AusNet Services suggested an annual review of VCRs, or that VCRs be determined prior to each revenue review.⁶⁴ Citipower, Powercor & United Energy recommended in their submission that reviews occur either one year prior to initial regulatory proposals for each jurisdiction, or on a six yearly cycle so the review falls at a different time in each jurisdiction's regulatory review cycle each time.⁶⁵ Additionally Energy Networks Australia suggested that updated VCR values are updated "no less than 18 months before a Revenue Proposal is due to be lodged with the AER for the relevant network service provider".⁶⁶

Annual adjustments

Mixed views on requiring annual adjustment of VCR estimates were presented by stakeholders. Meridian Energy, Endeavour Energy, Jemena, Energy Queensland and the Australian Energy Council were broadly supportive of annual adjustments, with some of these stakeholders recommending the adjustments be restricted to a prescribed indexation factor to maintain stability of the VCRs.⁶⁷ Transgrid suggested that annual escalation factors already included in the methodology would be appropriate, however, any other adjustments would not be required.⁶⁸

Both ECA and PIAC were of the view that whether an annual adjustment of VCRs is required should be determined by the AER when the methodology is determined.⁶⁹ Major Energy Users did not consider that annual adjustments of VCRs are needed as the VCRs are an approximation.⁷⁰

3.3.4

Analysis

Timing of initial review

The Commission considers, and the final rule provides, that initial VCR estimates should be published by 31 December 2019.⁷¹ This will allow the AER time to consult on and develop the VCR methodology under the *Rules consultation procedures* and calculate the VCR estimates in a robust manner. The Commission notes that 18 months is a similar time that AEMO took to undertake the previous national review and will result in new VCR estimates in time with the five yearly review cycle from AEMO's review.

Timing of subsequent reviews

The final rule requires both VCR estimates and the VCR methodology to be reviewed at least every five years.⁷² The Commission considers this provides an appropriate balance between stability of VCRs for long term network planning, and maintaining the relevance of VCRs to reflect changes in customer preferences. The rule does not restrict the AER from reviewing the methodology and calculating updated VCRs more frequently than every five years.

Although a five yearly review may not fall at an ideal time in the Victorian DNSPs regulatory

64 AusNet Services, submission to the consultation paper, p. 2.

65 Citipower, Powercor & United Energy, p. 2.

66 Energy Networks Australia, p. 3.

67 Submissions to the consultation paper, Meridian Energy, p. 3; Endeavour Energy, p. 6; Jemena, p. 3; Energy Queensland, response to 4.2; Australian Energy Council, p. 1.

68 Transgrid, submission to the consultation paper, p. 3.

69 Energy Consumers Australia, submission on the consultation paper, p. 2; PIAC, submission on the consultation paper, p. 2.

70 Major Energy Users, submission to the consultation paper, p. 2.

71 Clause 8.12(g)(1) of the NER.

72 Clauses 8.12(f)(1) and 8.12(g)(2) of the NER.

determination cycle, given there are different regulatory determinations cycles both for different jurisdictions and for DNSPs and TNSPs within most jurisdictions, there is no ideal time to update VCRs for all DNSPs and TNSPs. Irrespective of the timeframe of the reviews, the timing of the updated VCRs will be less convenient for some DNSPs and TNSPs than others.

The Commission notes that if the AER considers there is value in altering the timing of the review of VCR estimates, for example to allow DNSPs in Victoria to consider any changes in VCRs the AER may do so.

Annual adjustments

The final rule also requires VCRs to be adjusted annual by a methodology determined by the AER.⁷³ The methodology for the annual adjustments will be determined at the same time as the overall VCR methodology. On balance the Commission considers adjusting VCRs annually by a predetermined methodology will promote transparency and allow for certainty of values for planning purposes.

The Commission notes that annual adjustments provide a VCR for each year which NSPs are able to use in their regulatory proposals, regardless of the timing of their regulatory proposal compared to the five yearly review of VCR estimates and methodology.

3.4 Process for developing and updating methodology

3.4.1 COAG Energy Council's view

The COAG Energy Council proposed that the AER be required to develop a single methodology that can be used for estimating VCRs on a consistent basis across the NEM.⁷⁴ However, the request is silent on the consultation requirements for developing the initial methodology. The rule change request also suggests that the methodology should be reviewed and updated on a regular basis, but provides no suggestion for how often this should occur.⁷⁵

The rule change request proposes that the AER be required to undertake public consultation in making any changes to the VCR methodology to allow stakeholder views to be taken into account. However, again it is silent on the form that this consultation should take.

3.4.2 The Commission's initial view

In the consultation paper the Commission highlighted that when developing a methodology or guidelines requiring public consultation, the *Rules consultation procedures* would generally be used. Therefore, it would likely be appropriate to require the AER to follow the *Rules consultation procedures* both when developing and subsequently updating the VCR methodology, unless the variations are minor or administrative amendments.

The Commission also highlighted it may be appropriate that AER be required to specifically consult with certain parties in developing, reviewing and updating the methodology under the *Rules consultation procedures*, for example AEMO and the Reliability Panel.

3.4.3 Stakeholder views

Stakeholders were overwhelmingly of the view that robust consultation, with a wide range of stakeholders is required.

⁷³ The AER may chose a methodology that is zero change to the VCR, however, they will need to specify that is the annual update methodology; clause 8.12(d)(2) of the NER.

⁷⁴ Rule change request, p.2.

⁷⁵ Ibid.

Many stakeholders supported the AER being required to follow the *Rules consultation procedures* to develop and update the VCR methodology, or a similar detailed process.⁷⁶ For example, PIAC in their submission noted the AER should follow the *Rules consultation procedure* both when initially developing and subsequently reviewing the VCR methodology because this will help ensure transparency in the VCR setting process and confidence in its application.⁷⁷ St Vincent de Paul Society and SACOSS recommended that an open and vigorous consultation process be undertaken.⁷⁸

ECA, Major Energy Users and the Energy Users Association of Australia recommended the formation of consumer reference groups, or industry working groups to guide the AER and play a role in the process of determining VCRs.⁷⁹

Stakeholders provided feedback on whether specific parties should be consulted with when determining and reviewing the VCR methodology. The specific parties suggested in submissions include:

- AEMO
- the Reliability Panel
- jurisdictional regulators
- consumers of all sizes
- consumer groups
- industry participants
- network service providers (NSPs).⁸⁰

On the issue of whether the AER should be enabled to make minor or administrative amendments without undertaking the *Rules consultation procedures*, the majority of stakeholders who commented on this issue were supportive.⁸¹ For example, Meridian Energy agreed that genuine minor or administrative amendments should be made outside of the *Rules consultation procedure* as long as there was some appropriate consultation.⁸²

3.4.4

Analysis

The final rule requires the AER to both develop and review the VCR methodology in accordance with the *Rules consultation procedures*.⁸³ The Commission considers that this will provide transparency and accountability in the development of the VCR methodology. The *Rules consultation procedures* provides a robust consultation framework, with extensive consultation with a wide range of stakeholders.

The final rule allows the AER to make minor and administrative amendments outside of the *Rules consultation procedures*.⁸⁴ The Commission considers this provides the right balance between transparency and administrative burdens.

Under the final rule, for developing both the initial VCR methodology and reviews of the VCR

76 Submissions to the consultation paper: Energy Queensland, response 5.2; Meridian Energy, p. 3; Jemena, response 5.2, S&C Electric Company, p. 4; Energy Users Association of Australia, p. 3; Energy Consumers Australia, p. 3; Master Electricians Australia, p. 1; PIAC, p. 2; Energy Networks Australia, p. 2; Endeavour Energy, p. 7; Transgrid, p. 2.

77 PIAC, submission to the consultation paper, p. 2.

78 St Vincent de Paul Society and SACOSS submission to the consultation paper, p. 1.

79 Submissions to the consultation paper: Major Energy Users, p. 3; Energy Consumers Australia, p. 3; Energy Users Association of Australia, p. 1.

80 Submissions to the consultation paper: Energy Users Association of Australia, p. 3; Energy Queensland, responses to 5.1 & 6.2; Australian Energy Council, p. 1; Jemena, responses to 5.1 & 6.2; Meridian Energy, pp. 3-4; S&C Electric Company, p. 4; IPART, pp. 2-3; AEMO, pp. 2-3; Major Energy Users, p. 3; Energy Networks Australia, p. 2; Endeavour Energy, pp. 6-7; Transgrid, p. 2.

81 Submissions to the consultation paper: Endeavour Energy, p. 8; Energy Queensland response 6.3; Jemena response 6.3.

82 Meridian Energy, submission to the consultation paper, p. 4.

83 Clause 8.12(b) of the NER.

84 Clause 8.12(c) of the NER.

methodology, the AER will be required to consult with:

- the Reliability Panel, as they are currently required to have regard to VCRs in the NER⁸⁵
- AEMO, as it carried out the only previous comprehensive national review of VCRs and will likely utilise the VCRs in a range of circumstances
- each jurisdictional regulator (except where such regulator is the AER), as they set reliability standards (or advise the body or Minister responsible for setting the reliability standard)
- Registered Participants, which includes network service providers
- such other persons who, in the AER's reasonable opinion, have, or have identified themselves to the AER as having, an interest in the VCR methodology.⁸⁶

The Commission notes that although the rule does not require the AER to explicitly consult with consumer groups or a consumer reference group, they would easily qualify under the requirement to consult with such other persons who, in the AER's reasonable opinion, have, or have identified themselves to the AER as having an interest in the VCR methodology. Further, the methodology requires direct customer engagement when determining the VCR estimates. Therefore, the Commission expects that the AER will closely engage with consumer groups when developing the VCR methodology.

3.5 Additional issues

Additional issues raised in the consultation paper were publication requirements, amendment of clause 3.9.3A(e)(4) of the NER, and issues specific to the Northern Territory.

3.5.1 COAG Energy Council's view

Publication requirements

The rule change request proposes that VCRs must be published following any updates, annual adjustments in VCRs and reviews.⁸⁷ A requirement to publish the VCR methodology, both when initially developed, and when updated is not explicitly included in the rule change request.

Amendment of clause 3.9.3A(e)(4) of the NER

The rule change request does not address the existing requirement in the NER for the Reliability Panel to have regard to any value of customer reliability determined by AEMO.

Issues specific to the Northern Territory

The rule change request proposes developing a methodology for estimating VCRs on a consistent basis across the NEM, but does not consider whether a differential rule is required for the Northern Territory.

3.5.2 Stakeholder views

Publication requirements

Stakeholders supported the VCR estimates and methodology being published, both when initially determined, and when any updates or adjustments occurred. For example, Endeavour Energy stated this approach "would be consistent with a general trend towards improving transparency by all parties within the regulatory framework."⁸⁸

⁸⁵ s.3.9.3A of the NER.

⁸⁶ Clause 8.12(h) of the NER.

⁸⁷ Rule change request, p. 2.

⁸⁸ Endeavour Energy, submission to the consultation paper, p. 8.

Amendment of clause 3.9.3A(e)(4) of the NER

Submissions which addressed the amendment of clause 3.9.3A(e)(4) of the NER agreed that should the AER be responsible for calculating VCRs, the clause would require amendment to require the Reliability Panel to have regard to any value of customer reliability determined by the AER.⁸⁹

Issues specific to the Northern Territory

Four submissions received addressed this issue, all of which agreed that a differential rule was not required, and the same process could apply in the Northern Territory.⁹⁰

3.5.3

Analysis

Publication requirements

The final rule requires publication of the VCR estimates and the VCR methodology, both when initially determined, and when any updates or adjustments occur.⁹¹ The Commission considers this will improve transparency of process, and certainty of estimates for planning purposes. Under the chapter 10 NER definition of “publish/publication”, a document is published by the AER where it is published on its website, is made available for inspection at the AER’s offices, and in the case of a document inviting written submissions from members of the public, is published in a newspaper circulating generally throughout Australia.

Amendment of clause 3.9.3A(e)(4) of the NER

As AEMO will no longer determine a VCR, the rule will be amended to replace AEMO with the AER.⁹²

Issues specific to the Northern Territory

The Commission considers that a differential rule is not required for the Northern Territory. Assigning responsibility for determining VCRs and providing a mechanism for the regular review of VCRs is just as important in the Northern Territory as it is in the NEM, and there are no reasons for a variation in terms as the rule can be applied in the same way in the Northern Territory. The Commission considers applying the same rule to the Northern Territory promotes consistency and provides a clear and transparent process for VCR estimates within the Northern Territory.

89 Endeavour, submission to the consultation paper, p. 8; Meridian Energy, submission to the consultation paper, p. 4; Major Energy Users, submission to the consultation paper, p. 3; Energy Users Association of Australia, submission to the consultation paper, p. 4; Jemena, submission to the consultation paper, s7.1; Energy Queensland, submission to the consultation paper, s.8.1; PIAC, submission to the consultation paper, p. 3; Australian Energy Council, p. 1.

90 Endeavour Energy, submission to the consultation paper, p. 8; Major Energy Users, submission to the consultation paper, p. 3; Energy Users Association of Australia, submission to the consultation paper, p. 4; S&C Electric Company, submission to the consultation paper, p. 5.

91 Clauses 8.12(d)(3), 8.12(f)(2) and 8.12(g) of the NER.

92 Clause 3.9.3A(e)(4) of the NER.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
COAG	Council of Australian Governments
Commission	See AEMC
DNSP	Distribution Network Service Provider
ECA	Energy Consumers Australia
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National electricity market
NEO	National electricity objective
NERL	National Energy Retail Law
NERO	National energy retail objective
NGL	National Gas Law
NGO	National gas objective
NSP	Network Service Provider
VCR	Value of customer reliability
PIAC	Public Interest Advocacy Centre
STPIS	service target performance incentive schemes
TNSP	Transmission Network Service Provider

A SUMMARY OF OTHER ISSUES RAISED IN SUBMISSIONS

This appendix sets out the issues raised in the first round of 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 table.

Table A.1: Summary of other issues raised in submissions

STAKEHOLDER	ISSUE	AEMC RESPONSE
Other considerations on the process for determining methodology		
Energy Queensland (responses to 6.4); Jemena (response to 6.4); PIAC (p.2); S&C Electric Company (p.5); Meridian Energy (p.4); Major Energy Users (pp.2-3); Endeavour Energy (p.8); Citipower, Powercor & United Energy (p.3).	Appropriate for each review to consider the previous methodology as it adds stability and consistency to the VCRs.	The Commission does not consider it necessary to include a specific requirement in the rules for the AER to consider the previous methodology. In the case of the first methodology, the requirement for the AER to consult with AEMO will likely involve consideration of AEMO's methodology. For all future reviews, the AER will consider the previously determined methodology as a matter of course when reviewing VCR methodologies.
AEMO (pp.2-3)	In addition to the consultation undertaken as part of the general Rules consultation procedures, include close engagement with AEMO throughout the development and implementation of the methodology so as that AEMO's insights and learnings from the 2014 VCR work are reflected in the outcome.	The final rule requires the AER to consult with AEMO under the Rules consultation procedures. The Commission expects the AER will consult closely with AEMO to gain insights and learnings from AEMO's experience in calculating VCRs. The Commission notes the market institutions have a variety of coordination and information sharing procedures and methods to facilitate cooperation.
Meridian Energy (p.3)	Rules consultation procedures should be the minimum acceptable standard, an enhanced obligation to consult and inform the wider community should be imposed on the decision maker.	The Commission considers that requiring the AER to follow the Rules consultation procedure provides adequate obligations. This does not prevent the AER from undertaking additional consultation should they decide it is required.
Application of VCRs		
Energy Users Association of Australia (p.1, 4).	Suggest an additional clause that make it mandatory for networks to apply the AER values in the revenue reset proposals and in their evaluation of RiT-T, RiT-D and contingent project proposals, but give them the options of also proposing an alternative measure with the AER having the sole discretion of whether to accept this alternative measure.	The uses of VCRs is outside of the scope of the rule change request. A separate rule change request would be required to consider this proposal. The Commission expects that AEMO and jurisdictional regulators will use the VCRs determined by the AER where

STAKEHOLDER	ISSUE	AEMC RESPONSE
	Would also like a commitment from AEMO that it will apply the AER's values in its work, and a commitment from the jurisdictional regulators setting reliability standards that they will use the AER's values.	appropriate, however, the Commission has no binding authority over jurisdictional regulators' reliability standards, and requiring AEMO to apply the AER's VCR values is outside of the scope of the change request.
Jemena (response to 7.1)	The VCR related references to AEMO in the Regulatory Investment Test (RIT)-D guidelines should be amended to refer to the AER, and that the AER's VCR must be used in undertaking RITs, noting that the RIT-D guidelines only refer to AEMO's VCR as a possible source of VCR.	This is a matter for the AER to consider.
PIAC (p.2)	The AER should publish a Guideline for applying the VCR in a variety of potential applications.	
Energy Networks Australia (p.2)	Identifying other potential uses of VCRs would be useful to ensure the objectives of having an independent body to provide a consistent approach is achieved and to ensure the methodology process is robust and fit for purpose. Without certainty of the full range of uses of the VCR, it would be difficult to ensure that the methodology for VCRs is fit for purpose as intended.	The Commission considers that prescribing potential future uses of VCRs in the NER is not appropriate. The uses may change over time and depend on decisions by parties outside of the Commission's control.
Stability of VCRs		
Energy Consumers Australia (p.2)	Large step changes in VCRs can be problematic when operating with an incentives framework for maintaining reliability (STPIS). Need to avoid annual ratcheting being followed by a large step up or down following the five year change.	Assigning ongoing responsibility for establishing VCRs to the AER is likely to result in consistent estimation techniques and reduce the likelihood of volatility in VCR estimates.
Transgrid (p.3)	It is important the VCRs are relatively stable over a reasonable timeframe.	
Citipower, Powercor & United Energy (p.3)	The amount by which VCRs can change should be capped to plus or minus 20% of the previously estimated value.	
Other considerations		
Master Electricians Australia (p.2)	The time taken to connect customers should form a key part of any consideration of reliability. Master Electricians Australia supports that VCRs must take account not only of existing connections, but also of those connections that are planned and/or requested.	As the Master Electricians Australia submission notes, this matter is out of scope of this rule change.
St Vincent de Paul Society & SACOSS (p.1)	Responsible body should be tasked with exploring the interactions between the various VCRs (wholesale, transmission and distribution), in	The St Vincent de Paul Society and SACOSS can raise this issue during the AER's consultation on the VCR methodology.

STAKEHOLDER	ISSUE	AEMC RESPONSE
	particular the overall end cost to consumers and the corresponding level of reliability received at the meter.	
Transgrid (p.3)	Recommend transitional arrangements to help NSPs manage the changes of VCR estimates as they can have significant impacts on current capital work programs underway. Setting values two years ahead as the Reliability Panel does for Standard and Settings would be helpful.	The Commission does not consider that transitional arrangements are required because there will be annual VCRs which can be used in each instance.

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. 99 of the NEL the Commission has made this final rule determination in relation to the rule proposed by the COAG Energy Council.

The Commission's reasons for making this final rule determination are set out in section 3.

A copy of the more preferable final rule is attached to and published with this final rule determination. Its key features are described in section 2.4.

B.2 Power to make the rule

The Commission is satisfied that the more preferable rule falls within the subject matter about which the Commission may make rules. The more preferable rule falls within the rule making powers of s. 34 of the NEL as it relates to:

- regulating the operation of the national electricity market⁹³
- regulating the operation of the national electricity system for the purposes of the safety, security and reliability of that system⁹⁴
- regulating the activities of persons (including Registered participants) participating in the national electricity market or involved in the operation of the national electricity system⁹⁵
- facilitating and supporting the provision of services to retail customers;⁹⁶ and
- any matter or thing contemplated by the NEL, or is necessary or expedient for the purposes of the NEL.⁹⁷

B.3 Commission's considerations

In assessing the rule change request the Commission considered:

- it's powers under the NEL to make the rule
- the rule change request
- submissions received during first round 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.⁹⁸

93 Clause 34(1)(a)(i) of the NEL.

94 Clause 34(1)(a)(ii) of the NEL.

95 Clause 34(1)(a)(iii) of the NEL.

96 Clause 34(1)(a)(iv) of the NEL.

97 Clause 34(1)(b) of the NEL.

98 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.

B.4 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 NER 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.

B.5 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 NER 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.