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Australian Energy Market Commission

## **RULE PROPOSAL**

# NATIONAL ELECTRICITY AMENDMENT (MINOR CHANGES 3) RULE 2020

### **PROPONENT**

AEMC

16 JULY 2020

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# 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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# 1 INTRODUCTION

As part of its rule making function, the Australian Energy Market Commission (Commission or AEMC) reviews, amends and maintains the National Electricity Rules (NER) in accordance with the National Electricity Law (NEL).

The purpose of this function, among other things, is to improve and enhance the quality of the NER.

This consultation paper has been prepared to facilitate public consultation on the rule change proposal and to seek stakeholder submissions.

This paper:

- provides a summary of, and background to, the rule change proposal
- outlines the process for making submissions.

## 1.1 Background

The Commission undertakes AEMC initiated rule change proposals to correct minor errors in the energy rules or make clarifications that are minor or non-material in nature. This rule change proposal corrects minor errors in the NER resulting from the consolidation of the National Electricity Amendment (Integrated System Planning) Rule 2020 (**Integrated System Planning Rule**). The Integrated System Planning was recommended by the Energy Security Board in accordance with the process under section 90F of the National Electricity Law and commenced on 1 July 2020.

## 1.2 Proposed Rule

The *National Electricity Amendment (Minor Changes 3) Rule 2020 (electricity Rule)* is proposed by the AEMC to correct minor errors and make non-material changes in the NER. In particular, the electricity Rule seeks to correct minor errors including:

- correcting the insertion of rule 5.16B to appear chronologically after clause 5.16A.5
- correcting the reference to 'NTNDP' in clause 3.14.5A(k) to refer to 'Inputs, Assumptions and Scenario Report (as defined in clause 5.10.2)'
- correcting the reference to 'NTNDP' in clauses 5.20B.1(f) and 5.20B.3(c) to refer to 'Inertia Report'
- amending the definition of 'regulatory investment test for transmission' in Chapter 10 of the NER to reflect the intended amendments to the definition under item [5] of Schedule 3 of the Integrated System Planning Rule
- correcting the reference to 'RIT Proponent' in clause 5.16A.4(h) to 'RIT-T Proponent'
- deleting paragraph (a1)(4) in rule 5.21 to reflect the intended deletion of that paragraph under item [69] of the Integrated System Planning Rule
- italicisation of the word 'path' in 'optimal development path' in clause 5.22.5(d)(5)

- correcting the name of the Amending Rule in the transitional provisions in Chapter 11 of the NER
- correcting punctuation and formatting errors involving full stops, commas, numbering levels, bolding and italicisation.

The electricity Rule is published with this rule proposal.

## 1.3

## Assessment framework

### 1.3.1

### Achieving the NEO

#### National Electricity Objective

The Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).<sup>1</sup> This is the decision making framework that the Commission must apply.

The NEO is:<sup>2</sup>

- to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to -
- (a) price, quality, safety, reliability and security of supply of electricity; and
  - (b) the reliability, safety and security of the national electricity system.

Under the Northern Territory legislation adopting the NEL, the Commission must regard the reference in the NEO 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:<sup>3</sup>

- (a) the national electricity system
- (b) one or more, or all, of the local electricity systems<sup>4</sup>
- (c) all of the electricity systems referred to above.

For the purpose of the proposed electricity Rule, the Commission proposes to regard the reference to the "national electricity system" in the NEO to be a reference to item (c) above.

#### Conclusion

The Commission considers that the electricity Rule, if made, will improve the quality of the NER in terms of accuracy and consistency.

The Commission considers that the electricity Rule is likely to contribute to the achievement of the NEO. As with previous minor rule changes initiated by the Commission, these minor corrections and non-material changes will make the NER clearer to stakeholders. This is

<sup>1</sup> Section 88 of the NEL.

<sup>2</sup> Section 7 of the NEL.

<sup>3</sup> Section 14A of Schedule 1 to the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (referred to here as the NT Act), inserting section 88(2a) into the NEL as it applies in the Northern Territory.

<sup>4</sup> These are specified Northern Territory systems, defined in schedule 2 of the NT Act.

important as the NER inform stakeholders of their rights and obligations in relation to participating in the national energy market, and stakeholders rely on these rules in their commercial transactions.

### 1.3.2 Northern Territory rule-making requirements

The NER, as amended from time to time, apply in the Northern Territory, subject to derogations set out in regulations made under the Northern Territory legislation adopting the NEL.<sup>5</sup> Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.<sup>6</sup>

As the proposed electricity Rule, in part, relates to the parts of the NER that apply in the Northern Territory, the Commission is required to assess whether to make a uniform or differential rule (defined below) under Northern Territory legislation.

Under the NT Act, the Commission may make a differential rule if, having regard to any relevant 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.<sup>7</sup>

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 the local electricity systems, and has effect with respect to all of those systems.<sup>8</sup>

The Commission proposes to make a uniform rule.

### 1.3.3 Additional assessment requirements

Under s. 33 of the NEL, the Commission must have regard to any relevant MCE statements of policy principles in making an energy rule. There are currently no MCE statements of policy principles.

Under s. 91(8) of the NEL, the Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of the Australian Energy Market Operator's (AEMO's) declared electricity network. Given the electricity Rule only seeks to make minor or non-material changes to the

5 The regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modifications) Regulations.

6 For the version of the NER that applies in the Northern Territory, refer to: [www.aemc.gov.au/regulation/energy-rules/northern-territory-electricity-market-rules/current](http://www.aemc.gov.au/regulation/energy-rules/northern-territory-electricity-market-rules/current).

7 Section 14B of Schedule 1 to the NT Act, inserting section 88AA into the NEL as it applies in the Northern Territory.

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

NER, the Commission is satisfied that the electricity Rule is compatible with the proper performance of AEMO's declared network functions.

## 2 PROCESS FOR THIS RULE CHANGE

### 2.1 The Commission's power to initiate the making of a rule

Under s. 91(2) of the NEL:

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

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

As the electricity Rule outlined in chapter 1 make changes that are minor and non-material in nature, the Commission considers that the electricity Rule satisfies the requirements of s. 91(2) of the NEL.

### 2.2 Key dates

Given the tightly defined nature of the issues, this rule change proposal is brief. Nevertheless, submissions are invited in relation to the matters identified above, and any other relevant issue.

The key dates for stakeholders in this process are as follows:

- Commencement of this rule change process: 16 July 2020
- Objections to an expedited process to be received by: 30 July 2020
- Submissions to the proposal to be received by: 13 August 2020
- Final decision to be published under an expedited process by: 27 August 2020.

## 3 LODGING A SUBMISSION

The Commission invites requests not to make a rule under the expedited process and written submissions on this rule change proposal.

All enquiries on this project should be addressed to Jessica Scranton at [jessica.scranton@aemc.gov.au](mailto:jessica.scranton@aemc.gov.au) or on (02) 8296 7866.

### 3.1 Lodging a request not to make a rule under an expedited process

Written requests not to make a rule under the expedited process in s. 96 of the NEL must include reasons for the request, and must be lodged with the Commission by 30 July 2020 in accordance with the process specified below.

### 3.2 Lodging a submission to this rule change proposal

Written submissions on the rule change proposal must be lodged with the Commission by 13 August 2020 in accordance with the process specified below. Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.<sup>9</sup> The Commission publishes all submissions on its website, subject to accepted claims of confidentiality.

### 3.3 Process for lodging a request or submission

Please lodge submissions, or requests not to make a rule under the expedited process, online via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), using the "lodge a submission" function and selecting the project reference code ERC0308.

The request or submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

If you are not able to lodge submissions or requests online, please contact us, and we will provide instructions for alternative methods to lodge the submission or request.

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<sup>9</sup> This guideline is available on the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au).

## ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEO	National electricity objective