



Australian Energy Market Commission

RULE PROPOSAL

NATIONAL ELECTRICITY AMENDMENT (MINOR CHANGES 1) RULE 2021

PROPONENT

AEMC

25 FEBRUARY 2021

RULE

INQUIRIES

Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

E aemc@aemc.gov.au

T (02) 8296 7800

Reference: ERC0324

CITATION

AEMC, Minor changes 1, RULE PROPOSAL, 25 February 2021

ABOUT THE AEMC

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

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.

CONTENTS

1	INTRODUCTION	1
1.1	Background	1
1.2	Proposed Rule	1
1.3	Assessment framework	1
2	PROCESS FOR THIS RULE CHANGE	4
2.1	The Commission's power to initiate the making of a rule	4
2.2	Treatment as a non-controversial rule change	4
2.3	Key dates	4
3	LODGING A SUBMISSION	6
3.1	Lodging a request not to make a rule under an expedited process	6
3.2	Lodging a submission to this rule change proposal	6
3.3	Process for lodging a request or submission	6
	Abbreviations	7

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 includes proposed amendments identified by the Commission since the last minor changes rules, which were completed in December 2020.

1.2 Proposed Rule

The *National Electricity Amendment (Minor changes 1) Rule 2021* (electricity Rule) is proposed by the AEMC to correct minor errors and make non-material changes in the NER.

In particular, the proposed electricity Rule seeks to:

- simplify and ensure consistency across the NER, including changing references to the “*National Electricity Law*” to “*NEL*” and moving local definitions in Chapter 9 out of a table into the format used elsewhere in the NER;
- remove duplication in definitions that resulted from a drafting error in the National Electricity Amendment (Simplification of NER definitions) Rule 2020 No. 17, including omitting definitions in Chapter 10 that cross-reference definitions set out in clause 6B.A1.2 (for example, “date of issue” and “network charges”);
- correct a cross-reference in the definition of “customer energy” in clause 11.52.1(d) from “clause 3.15.6A(o)(3)” to “clause 3.15.6A(a0)”; and
- correct punctuation and formatting errors, including italicisation and bolding of defined terms.

The proposed 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 under the NEL if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).¹ This is the decision making framework that the Commission must apply.

The NEO is:²

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:³

(a) the national electricity system

(b) one or more, or all, of the local electricity systems⁴

(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.

Contribution of proposed electricity Rule to the achievement of the NEO

The Commission considers that the proposed electricity Rule is likely to contribute to the achievement of the NEO. The Commission considers that the proposed electricity Rule, if made, will improve the quality of the NER in terms of accuracy and consistency.

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 important as the NER inform stakeholders of their rights and obligations in relation to participating in the NEM, and stakeholders rely on these rules in their commercial transactions. Clearer and more consistent rules will reduce the regulatory burden on stakeholders and allow for more efficient provision of electricity services.

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

1 Section 88 of the NEL.

2 Section 7 of the NEL.

3 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.

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

NEL.⁵ Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.⁶

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.⁷

A differential rule is a rule that:

- varies in its terms 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.⁸

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 proposed electricity Rule only seeks to make minor or non-material changes to the energy rules, the Commission is satisfied that the proposed electricity Rule is compatible with the proper performance of AEMO's declared network/system functions.

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.

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.

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

2.2 Treatment as a non-controversial rule change

Under s. 87 of the NEL, a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on the national electricity market". As the proposed changes to the NEL are minor or non-material in nature, the Commission considers that the proposed electricity Rule is unlikely to have a significant effect on the NEM. The proposed electricity Rule therefore falls within the definition of a non-controversial rule under s. 87 of the NEL.

Rule changes that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation and the Commission is required to publish its final rule determination within eight weeks of commencing the rule change process under the uniform energy laws.

The Commission has decided to use an expedited process to consider this rule change proposal provided that it does not receive any valid requests not to use the expedited process by 11 March 2021.⁹ To be valid, an objection should set out the reasons why the rule change proposal is likely to have a significant impact on the NEM.

2.3 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: 25 February 2021
- Objections to an expedited process to be received by: 11 March 2021
- Submissions to the proposal to be received by: 25 March 2021

⁹ The Commission has published a notice under sections: 95 and 96 of the National Electricity Law to commence and assess this rule change proposal as a non-controversial rule.

- Final decision to be published under an expedited process by: 22 April 2021.

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 Carlos Dias at carlos.dias@aemc.gov.au or on (02) 8296 7800.

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 11 March 2021 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 25 March 2021 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.¹⁰ 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, using the "lodge a submission" function and selecting the project reference code ERC0324.

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.

¹⁰ This guideline is available on the Commission's website, 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