



**RULE**

Australian Energy Market Commission

**CONSULTATION PAPER**

**NATIONAL ELECTRICITY AMENDMENT  
(IMPROVING CONSULTATION  
PROCEDURES IN THE RULES) RULE**

**NATIONAL GAS AMENDMENT  
(IMPROVING CONSULTATION  
PROCEDURES IN THE RULES) RULE**

**PROPONENT**

Australian Energy Market Operator

16 DECEMBER 2021

## INQUIRIES

Australian Energy Market Commission  
GPO Box 2603  
Sydney NSW 2000

E [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)  
T (02) 8296 7800

Reference: ERC0323

## CITATION

AEMC, Improving consultation procedures in the Rules, Consultation paper, 16 December 2021

## ABOUT THE AEMC

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

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

## CONTENTS

<b>1</b>	<b>Executive summary</b>	<b>C</b>
<b>1</b>	<b>AEMO’s rule change request</b>	<b>1</b>
1.1	The current processes and AEMO’s case for improving consultation procedures	1
1.2	AEMO’s rule change request (January 2021)	2
1.3	AEMO’s rule change request addendum (November 2021)	3
<b>2</b>	<b>Views on the proposed changes - electricity</b>	<b>5</b>
2.1	Detailed matters on which the Commission would like stakeholders’ views	6
2.2	One required round of consultation	6
2.3	Principles for an additional round of consultation	8
2.4	Form of the required round of consultation	10
2.5	Form of additional consultation	11
2.6	Application to Reliability Panel consultations and other processes	12
2.7	Right of stakeholders to request a change	12
<b>3</b>	<b>Views on the proposed changes - gas and retail</b>	<b>14</b>
3.1	Proposed changes to the NGR consultation processes	14
3.2	Background on the consultation processes under the NGR	14
3.3	The retail consultation procedure	16
<b>4</b>	<b>Our rule-making requirements and proposed assessment framework for this rule change</b>	<b>18</b>
4.1	Achieving the NEO and NGO	18
4.2	Proposed assessment framework	19
4.3	Making a more preferable rule	19
4.4	Rule making in the Northern Territory - NER	19
4.5	Rule making in Western Australia - NGR	21
	<b>Abbreviations</b>	<b>35</b>
	<b>APPENDICES</b>	
<b>A</b>	<b>List of instruments requiring consultation under relevant procedures</b>	<b>22</b>
<b>B</b>	<b>Outline of consultation processes under the NER</b>	<b>28</b>
B.1	The Rules Consultation Procedures	28
B.2	The Transmission Consultation Procedures and The Distribution Consultation Procedures	29
B.3	Modified process for consultation under Chapter 7 of the NER	29
B.4	The Reliability Panel consultation process	30
<b>C</b>	<b>Outline of consultation processes under the NGR</b>	<b>31</b>
C.1	AEMO’s ordinary process	31
C.2	AEMO’s expedited process	31
C.3	Standard consultative procedure	32
C.4	Expedited consultative procedure	33
C.5	Extended consultative procedure	33
	<b>TABLES</b>	
Table A.1:	Rules consultation procedures - NER	22

Table A.2:	Standard consultative procedures - NGR	25
Table A.3:	Extended consultative procedures - NGR	26
Table A.4:	Expedited consultative procedures - NGR	27

# 1 EXECUTIVE SUMMARY

1 The Australian Energy Market Commission (AEMC or the Commission) is seeking input on the Australian Energy Market Operator's (AEMO) proposal to streamline the consultation framework for the procedures and guidelines used in the energy sector. The consultation framework has been raised with the Commission on numerous occasions in recent years, both through other rule change proposals on specific matters and informally as part of reform activities.

2 Robust consultation is critical to the development and successful implementation of good policy. However, the volume of reform activities currently occurring and the corresponding high volume of consultation activities market participants and interested parties are subject to, can make it challenging for key stakeholders to be actively involved in all relevant processes.

3 Because of the pace of change in the market, it is important that the regulatory framework is flexible while still ensuring participants have the right and ability to provide input into changes that affect them.

## 4 **AEMO's proposal**

5 AEMO's proposal aims to make consultation on the subordinate instruments made under the rules more effective and more efficient for stakeholders and decision-makers, by making the standard consultation process shorter and more adaptable to differing circumstances.<sup>1</sup> AEMO proposes changes to both gas and electricity consultation frameworks. The Commission will also consider related changes to the retail frameworks.

6 The National Electricity Rules (NER), the National Gas Rules (NGR) and the National Energy Retail Rules (NERR) require many matters to be specified in guidelines, procedures, methodologies and reports. The Australian Energy Regulator (AER), AEMO, the Reliability Panel and the Information Exchange Committee (IEC), amongst others, are responsible for developing and amending these subordinate instruments. In many cases, industry participants must comply with these instruments once they are made.

7 AEMO's rule change request proposes:

- a new consultation framework for most electricity instruments (i.e subordinate instruments established under the NER), with one round of consultation as the default, rather than two, but with principles that indicate when further consultation may be appropriate
- the removal of one of the existing consultation processes for gas instruments, specifically removal of the extended consultation procedure, set out in the NGR.<sup>2</sup>

8 In addition to these proposed changes to the NER and NGR, the Commission is also

---

1 Supplementary proposal, p. 2 - 3. The AEMO proposal referred to in this paper includes both the original AEMO rule change proposal (8 January 2021) and AEMO's supplementary proposal dated 22 November 2021. References to the proposed rule are to the rule proposed in the supplementary proposal.

2 AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p.2.

interested in views on whether the retail consultation procedure also requires changes, for consistency.

## **9 Scope and key considerations**

10 The Commission views the potential application of the rule change proposal as significant. A new consultation framework may impact over 100 subordinate instruments in the NER, around 30 instruments in the NGR and six instruments in the NERR. It is also material given the breadth of matters that subordinate instruments address in the gas, electricity and retail rules, and the fact that these instruments are (in many cases) legally binding on stakeholders.

11 The use of subordinate instruments could increase in the future and stakeholders are encouraged to consider the proposed changes in this context. The Commission notes that if we make a final rule, it would not apply to consultation processes that are already underway.

12 The Commission recognises the optimal level of consultation may vary depending on the issues involved or the instrument that is being consulted on. The Commission also recognises the complexity of having several different consultation processes, as is currently the case. This rule change proposal is therefore a timely opportunity to consider different ways in which streamlined consultation can be undertaken, while also improving information flows and transparency. We encourage stakeholders to tell us what the future state of consultation on subordinate instruments should look like. The Commission's proposed assessment criteria for decisions on this rule change include efficacy, efficiency, flexibility and transparency, and we are seeking input on the proposed rule in relation to these attributes in particular.

13 The Commission supports fit-for-purpose consultation. On numbers alone there appears room for simplifying the existing arrangements. Currently more than 11 different consultation frameworks are used to develop and review subordinate instruments under the energy rules published by the Commission: five in the NER, five in the NGR and one in the NERR. In addition, other clauses may require a decision-maker to consult without specifying a process and other consultation processes are detailed for specific clauses. The Commission considers that simplification may be able to improve efficiency, while maintaining appropriate effectiveness and transparency of consultation.

14 The Commission welcomes stakeholder views on the opportunities and risks of changing the current consultation frameworks, compared to retaining them. The Commission is particularly interested in stakeholders' views on the development of a flexible framework. This framework should accommodate the various levels of consultation that may be required, with accompanying guidance to ensure the level of consultation reflects the importance and complexity of the issue or instrument.

15 The AER submitted a letter supporting AEMO's rule change request.<sup>3</sup> AEMO also lodged an addendum to the initial request. This now forms part of its proposal, as outlined in this paper.<sup>4</sup>

<sup>3</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, pp. 1, 21-22.

**16                    How to make a submission**

- 17                    Please lodge your written submission 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 codes **ERC0323** or **GRC0060**. Submissions on the rule change request must be lodged by **3 February 2022**.
- 18                    The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. Tips for making a submission are available here: [www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/our-work-3](http://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/our-work-3)
- 19                    The Commission publishes all submissions on its website, subject to confidentiality requirements and certain other exceptions as noted on our submissions webpage. Please clearly mark any sections of your submission which you consider contain confidential material.
- 20                    All enquiries on this project should be addressed to Ed Orum on (02) 8296 7852 or [edward.orum@aemc.gov.au](mailto:edward.orum@aemc.gov.au).

---

4    AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021

# 1 AEMO'S RULE CHANGE REQUEST

## 1.1 The current processes and AEMO's case for improving consultation procedures

The NER require many matters, such as technical information, forecasting processes and service specifications to be specified in other instruments including guidelines, determinations, procedures and reports. These "subordinate instruments" are variously issued by AEMO, the AER, the Reliability Panel and the Information Exchange Committee, amongst others.

In developing or amending these instruments, the responsible body is likely to have an obligation to undertake consultation following one of three NER consultation procedures:

- the Rules consultation procedures (RCP)
- the transmission consultation procedures; or
- the distribution consultation procedures.

### 1.1.1 AEMO's case for streamlining consultation

AEMO developed this rule change request with the AER. AEMO highlighted in its rule change request that the National Electricity Market (NEM) and the power system are in a transformational phase and that the pace of change, in this respect, is quickening. It pointed out that new business models are developing to respond to this change. However, regulatory approaches, processes and systems will also need to change to address market and operational needs.<sup>5</sup>

AEMO considers that a key part of any regulatory response will be the adoption of more principles-based regulation in the NER and the increased use of subordinate instruments. It therefore considers it will be important that required consultation is straightforward, flexible and robust.<sup>6</sup>

### 1.1.2 AEMO's concerns with the existing Rules consultation procedures

In its rule change request, AEMO expressed concerns with the existing consultation processes under the NER and the NGR. In particular, it observes that:

- having multiple procedures is inefficient for stakeholders and decision-makers, and unnecessary for instruments of a similar type and function
- the RCP do not give decision-makers sufficient flexibility to tailor consultation to the issue under consideration, because two formal rounds of consultation may not always be necessary; timeframes may be too long for uncontroversial changes and too short for more complex instruments or major reforms; stakeholder briefing and discussion forums (as opposed to individual meetings) may not be able to be accommodated in the

5 AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p. 3.

6 AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p. 3.

timeframes; and there is no generally applicable exemption for minor or administrative changes and this may discourage incremental improvements to subordinate instruments.

- AEMO should be able to formulate its own amendment proposals to initiate the consultation process for certain procedures under Chapter 7 of the NER
- the current process does not expressly prescribe a maximum time within which a decision is to be made or published
- the special requirements for minor or administrative exemptions in Chapter 7 are inconsistent and impractical.<sup>7</sup>

AEMO's rule change request also provides examples of recent processes where it felt the RCP were unsuitable because either a shorter process would have sufficed or an extended process would have been more appropriate. These include the:

- **Procurer of last resort cost procedures** - a heavily prescribed process, where there was only one submission to the first stage of consultation which raised issues beyond the scope of the procedures
- **Five minute settlement and global settlement procedure changes** - many of the changes on this rule change were only minor, but AEMO was still required to undertake two rounds of consultation for other parts
- **Market settlement and transfer solution (MSATS) procedures** - this process ultimately involved three rounds of consultation. AEMO found the RCP to be too restrictive in these circumstances and made two determinations. AEMO notes that a more flexible procedure would have allowed this process to run more efficiently
- **Causer pays procedure review** - AEMO states that it would have been more sensible to begin this process with a draft decision to set expectations and allow issues to be appropriately identified and explored<sup>8</sup>

Additional details about these processes can be found in sub-section 3.2.3 (see pp. 8 - 9) of the rule change request.<sup>9</sup>

## 1.2 AEMO's rule change request (January 2021)

In relation to the NER, AEMO's rule change proposes:

1. **A single procedure** - Consolidating the three existing procedures into one, with the distribution and transmission procedures as precedent and then replacing references to them with the RCP.
2. **One round of consultation is required** - the proposal is to only require a decision-maker to commence consultation on the draft instrument, however it can choose to undertake other prior consultation on a proposal. It would be at the discretion of

<sup>7</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, pp. 6 - 8.

<sup>8</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, pp. 8-9.

<sup>9</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, pp. 6 - 8.

decision-maker as to whether it chooses to hold a second round of consultation, in accordance with principles in the Rules.<sup>10</sup>

3. **Timeframes** - there must be a consultation period on the draft instrument of at least 30 business days. A final decision must be made within 80 business days of publishing the draft instrument, with an extension available for a material change in circumstances or complexity or difficult issues.
4. **Meetings** - the proposal removes specific provisions for individually requested meetings to allow for more flexibility in the consultation approach (for example using forums instead).
5. **Initiation of Chapter 7 processes** - clarifying that AEMO may initiate proposals to amend retail markets and metering procedures.
6. **Other matters** - a consistent exemption for minor and administrative amendments; removing some notice requirements; and four other consequential amendments.<sup>11</sup>

#### 1.2.1 **AEMO's rule change request - Gas**

AEMO proposes to remove references to the extended consultative procedure and replace these references with the standard consultative procedure, or replace both the standard and extended procedures with an equivalent to the proposed amended NER RCP.<sup>12</sup>

#### 1.2.2 **Consultation under the National Electricity Retail Rules**

The Commission will also examine the Retail consultation procedure, which applies to specific AER instruments under the NERR as part of this rule change. This is set out under Rule 173 of the NERR. Further information on the Retail consultation procedure is provided in Chapter 3.

### 1.3 **AEMO's rule change request addendum (November 2021)**

On 22 November 2021 AEMO submitted a supplementary rule change that clarifies some key issues in the rule change request. The supplementary rule change request proposes:

- a set of consultation criteria to be used by a decision-maker to determine whether additional consultation steps are appropriate and the timing and form of those steps
- a requirement for the decision-maker to determine, publish and review (if necessary) a consultation plan using the consultation criteria at the outset
- the decision-maker publish summaries of the issues and outcomes from additional consultation steps

---

<sup>10</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clauses 8.9.2 and 8.9.3.

<sup>11</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, pp. 11-13.

<sup>12</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, pp. 10.

- extending the scope of the process to the consultation processes used by the Reliability Panel.<sup>13</sup>

---

<sup>13</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021 p. 5.

## 2 VIEWS ON THE PROPOSED CHANGES - ELECTRICITY

This chapter outlines the proposal made by AEMO for the NER, and includes detailed questions for stakeholders on the proposal and any alternatives. In answering the questions and providing examples, please bear in mind the Commission is seeking evidence in relation to the proposed assessment framework in Chapter 4.

### **QUESTION 1: WHAT SHOULD STREAMLINED CONSULTATION INVOLVE?**

At a high level, the Commission is interested in your views on the following issues:

- do the changes promote flexibility that is appropriate in the circumstances?
- what would assist with improving consultation transparency and understanding?
- what are the benefits and risks of streamlining the consultation arrangements and how could risks be effectively managed?
- what are the cost and complexity implications of implementing the changes?

When considering these questions, the Commission considers it important to take into account that the pace of change in the electricity industry is driving the need for streamlined consultation in the NER that is robust, flexible and has the potential to facilitate better regulatory practice.

An appropriately dynamic consultation process should encourage stakeholder participation and feedback and in turn deliver effective reform, without being unduly burdensome on the decision-maker. It should also create incentives for a decision-maker to regularly update instruments to respond to the need for change.

If the process fails to achieve this it risks handicapping reform and reducing stakeholders' confidence in the market arrangements and market bodies. By contrast, a good process has the potential to improve current arrangements as well as critical industry initiatives that are still developing, such as the Connections reform initiative, which is discussed in Box 1.

### **BOX 1: CONNECTIONS REFORM INITIATIVE - AN EXAMPLE OF COLLABORATIVE EFFORTS FOR MORE EFFECTIVE AND FLEXIBLE CONSULTATION**

An example of how improvements to consultation process could be achieved with industry support is the Connections Reform Initiative (CRI) being undertaken jointly by AEMO and the Clean Energy Council, which the Commission has been monitoring. This process commenced in early 2021 and has brought together a diverse group of key industry stakeholders to address concerns with the delays and the increasing complexity in connections to the national

electricity system. Around 110 people across 45 organisations have supported this work and are collaborating to draft a roadmap to reform three key areas:

- a consistent and predictable connections process that delivers repeatable outcomes
- reduced re-work and improved efficiency and quality of information to address information asymmetry
- a collaborative working model between industry, AEMO and network service providers.

While the overall focus of the CRI is on improving and providing more predictability in the connection of new generators, establishing new modes of collaboration and consultation tailored to each reform area has also been a key focus. The roadmap may also propose more effective and flexible approaches for consultation on key documents, as well as improved transparency about how input has been used in decisions on changes, what changes are actually made and the timing for the applicability of changes. The lessons from these reform areas may be used to inform broader industry collaboration.

Note: For more information see <https://aemo.com.au/consultations/industry-forums-and-working-groups/list-of-industry-forums-and-working-groups/connections-reform-initiative>.

## 2.1 Detailed matters on which the Commission would like stakeholders' views

The Commission seeks stakeholders' views on the changes that AEMO proposes to the NER (the proposed rule is set out in Appendix A of AEMO's supplementary rule change request dated 22 November 2021). We invite comment on each aspect of the proposed changes, including on amendments that would enhance the proposed changes.

This chapter explains the key aspects of AEMO's proposal and related issues. These are:

- one required round of consultation for all subordinate instruments
- the principles guiding the need for an additional round of consultation, and when a decision maker would apply the principles
- the form that the one required round of consultation takes
- the form of the additional consultation round
- the application of the rule change to the Reliability Panel's consultations and other ad hoc processes
- the right of stakeholders to request a process change.

## 2.2 One required round of consultation

### **Existing consultation procedures in the NER**

Currently, there are four main consultation processes existing in the NER. Two of these require two rounds of consultation while the other two involve only one round of consultation. These are set out in Box 2.

### **BOX 2: EXISTING CONSULTATION PROCESSES FOR SUBORDINATE INSTRUMENTS IN THE NER.**

The four main processes under the NER are the RCP, the Distribution consultation procedures, Transmission consultation procedures and the modified RCP under Chapter 7.

1. The **RCP** are set out under rule 8.9 of the NER. The RCP require two rounds of consultation, and involve the consulting party:
  - publishing a notice of particulars on the consulting party's website inviting submissions for a minimum period of 25 days
  - considering all valid submissions within a further 20 business days
  - conducting meetings where stakeholders request them, and where the consulting party thinks it is desirable or necessary, for which the consulting party is allowed an additional 25 business days
  - publishing the instrument on its website, as well as a notice inviting submissions, which must allow for a consultation period of at least 10 business days
  - publishing a final instrument within 30 business days.
2. The **Transmission consultation procedures**, and
3. The **Distribution consultation procedures**, which are procedurally identical to each other, and are set out under Rules 6A.20 (Transmission) and 6.16 (Distribution). These involve one round of consultation and require:
  - publication of draft instrument, a statement of regulatory context and reasons for the proposal in the draft
  - at least 30 business days for written submissions
  - a final decision within 80 business days of the draft being published. The 80 business day period can be extended because of unusual complexity/difficulty or if there are circumstances beyond the consulting organisation's control.
4. Finally, there is a **modified version of the RCP** that applies under Chapter 7 of the NER (ie. two rounds of consultation). Under this process a change proposal is submitted to the decision-maker and the decision-maker decides whether to take it forward.

Additional detail about these processes is included in Appendix B.

The RCP are the most commonly required consultation procedures for subordinate instruments in the NER. The RCP apply to more than 70 instruments, the majority of which are made by AEMO, and these mandate two rounds of consultation. See Box 3.

### **BOX 3: USE OF THE RULES CONSULTATION PROCEDURES**

The RCP apply to over 70 instruments. Of these:

- More than two-thirds are AEMO instruments;
- Approximately one-sixth are AER instruments;
- The remainder are the responsibility of the Reliability Panel, the IEC and Transmission Network Service Providers.

Instruments governed by the RCP are spread throughout the NER. Many of these documents are designed to provide registered participants with relevant information about the energy system. The list of procedures and other instruments that must be made or amended using the RCP is set out in Appendix A.

### **AEMO's proposed changes**

AEMO's proposal is to amend the NER so that most electricity subordinate instruments come under a single consultation framework that mandates one round of consultation as a minimum. This would be achieved by creating a new consultation framework for subordinate instruments in the NER.

AEMO considers that, as the default, mandating two rounds of consultation is unnecessary, particularly when a draft instrument can be provided at the start of the consultation.<sup>14</sup>

AEMO proposes that, while under the new process the default would be one round of consultation, the decision maker (AER, AEMO, the Reliability Panel etc) should have the discretion to hold an additional round of consultation. Decision-makers would determine the consultation process having regard to certain principles (discussed in section 2.3).

AEMO considers that a framework with a minimum requirement of one consultation round and principles to guide additional consultation would deliver fit-for-purpose consultation. This would allow stakeholders and decision makers to prioritise where resources are best allocated.<sup>15</sup> It also notes that traditional 'propose-respond' consultation is not likely to reach all stakeholders and can be too resource intensive for some.<sup>16</sup>

## **2.3 Principles for an additional round of consultation**

The Commission welcomes comments on:

- **the principles** that AEMO proposes decision-makers would have to consider regarding whether, when and how additional consultation steps to the one required round would be undertaken.
- **when** a decision-maker would apply those principles

<sup>14</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p. 6.

<sup>15</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p. 6.

<sup>16</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, p. 4.

- **how, what and when** the decision-maker communicates with the public about the additional consultation.

### 2.3.1 The principles that AEMO proposes

AEMO proposes that the Rules include a set of consultation criteria. Decision-makers would be required to have regard to these principles when determining whether additional consultation steps on a proposal are appropriate, and the timing and form of any additional consultation steps.

The proposed consultation criteria are the:

1. nature of the proposal and its impact on persons likely to be affected by it
2. regulatory requirements and interdependencies applicable to the proposal
3. urgency of resolving the issues to be addressed by the proposal
4. extent of any prior consultation undertaken with affected persons by the consulting party or in another regulatory process (such as a *Rule* change)
5. complexity of the associated issues and the potential for alternative options to address them.<sup>17</sup>

The Commission invites comments on this set of consultation criteria. This could include suggesting amendments to the criteria proposed by AEMO, identifying gaps or comments on the overall approach. The Commission also welcomes comments on best practice approaches and lessons learnt from other sectors and countries.

### 2.3.2 When a decision maker would apply the principles

Under the proposed rule, a decision maker would be required to apply these principles at the start of, and during, each project. At the outset of a project, a decision maker would publish the consultation process in a consultation plan. Specifically, the rules would require a decision maker to:

1. develop a consultation plan for the proposal using the consultation criteria
2. publish the consultation plan on its website, either before or at the time of initiating the first consultation step identified in the plan
3. after receiving submissions, review the consultation plan having regard to the consultation criteria, and may publish a revised consultation plan.<sup>18</sup>

A party could also review the need for, and timing of, additional consultation, when it becomes aware of material new information relevant to its decision or to its consideration of the consultation criteria.<sup>19</sup>

<sup>17</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clause 8.9.2.

<sup>18</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clause 8.9.3.

<sup>19</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clause 8.9.2(d).

### 2.3.3 Public communication and transparency about additional rounds

AEMO proposes that the decision-maker develop and revise a consultation plan as outlined above. The Commission notes that there is no proposed requirement on the content of a consultation plan. The Commission is interested in views on whether requirements are needed in the rules, for instance, that a consultation plan include a decision maker's considerations and outcomes of the application of the consultation criteria.

#### QUESTION 2: MOVING TO ONE ROUND OF CONSULTATION

Do stakeholders consider the default being one round of consultation (rather than two) is a more efficient, effective and appropriate approach for the instruments that currently fall under the RCP (subject to the principles for additional consultation discussed below)? Please provide reasons and examples.

Do you agree with AEMO's proposed principles for determining if an additional round of consultation is required? If so, why? If not, what changes are needed to the:

- overall approach of using consultation criteria (is a different safeguard more appropriate)?
- consultation criteria that AEMO propose?
- proposals about when a decision maker would apply the criteria?
- proposed public communication on decisions relating to the consultation approach to be used?

Please explain the reasons for your views.

## 2.4 Form of the required round of consultation

The Commission is also seeking stakeholder feedback on the form this required consultation round would take. AEMO proposes the Rules would establish the following key features for this round of consultation:

- consultation would be on a draft instrument
- the consultation period would be for at least 30 business days
- consulted parties would no longer be given an explicit ability to request an individual meeting; the decision-maker would decide the type/s of consultation approaches used beyond written submissions (this could include issues, consultation and discussion papers, input from working groups or advisory panels, and holding conferences, meetings or information sessions in relation to the draft determination or document)
- the decision-maker would have to publish the final instrument no more than 80 business days after it published the draft instrument
- the decision-maker could extend the consultation period where issues are unusually complex or difficult, or because the process is delayed due to circumstances beyond the

decision-maker's control. An extension would be possible at any time during the process, if this is satisfied.<sup>20</sup>

### QUESTION 3: FORM OF THE REQUIRED ROUND OF CONSULTATION

Do you consider the form of the required consultation in the proposed rule is likely to result in fit for purpose consultation? If not, what changes are needed, and why? For example, are the proposed time periods appropriate, and is it appropriate to remove the current provisions on requesting meetings?

## 2.5 Form of additional consultation

The proposed rule does not prescribe the form additional consultation should take. It lists various approaches that a decision maker may use. These steps may include the publication of issues, consultation and discussion papers, establishing or seeking input from working groups or advisory panels, and holding conferences, meetings or information sessions in relation to the draft determination or document.<sup>21</sup>

AEMO's proposal would require the decision maker to provide transparency of such consultation to affected persons by publishing on its website summaries of the material issues raised in, and any outcomes of, each additional consultation step.<sup>22</sup>

### QUESTION 4: FORM OF ADDITIONAL CONSULTATION

Do you agree with AEMO's proposal regarding the form and transparency of additional consultation? If not, what changes are needed and why?

For example, does the proposed rule provide an appropriate balance between flexibility for the decision-maker and certainty for stakeholders, or would stakeholders benefit from having greater clarity in the rules regarding the form and timing of any additional consultation? Should the requirement to publish and take into account written submissions be extended to any written submissions received in the additional consultation phase?

20 AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clause 8.9.3.

21 AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clause 8.9.2(b).

22 AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, Appendix A, updated proposed rule, clause 8.9.2(c).

## 2.6 Application to Reliability Panel consultations and other processes

In its supplementary rule change request AEMO suggested that the consultation process that the Reliability Panel typically follows under clause 8.8.3 could be replaced with the proposed updated RCP.<sup>23</sup> Changes would not apply to Reliability Panel processes that have already commenced.

In addition, there are other clause-specific consultation requirements within the NER that have different requirements to the RCP, Transmission and Distribution consultation procedures and the procedure under Chapter 7 of the NER. These processes may also benefit from being brought under a single consultation process.

### QUESTION 5: HOW BROADLY SHOULD THE NEW PROCEDURES APPLY?

Should proposed changes to the RCP also be applied to the Reliability Panel's consultation process under clause 8.8.3, and if so, are any modifications required to reflect the nature of the Reliability Panel and its involvement with the Commission?

Are there any other clauses in the NER with bespoke consultation requirements that stakeholders believe would benefit from requiring consultation consistent with an updated RCP, or are there reasons to maintain separate processes?

## 2.7 Right of stakeholders to request a change

The Commission is also interested in views on whether stakeholders should be allowed to request a change to instruments or procedures. As noted above, there are modified consultation processes that operate in Chapter 7 of the NER. These allow a person to:

- submit a proposal to AEMO to amend a Chapter 7 procedure (with certain limited exceptions). AEMO must then give notice of receipt of the proposal and advise of the action that it proposes to take. If AEMO accepts the proposal, then it must conduct the RCP in relation to that proposal; alternatively, it may request further information in relation to the proposal or reject the proposal.
- propose a change to the B2B procedures by providing a change proposal to the IEC. If the IEC concludes that the change proposal does not warrant further consideration, then it must issue its reasons to the person who made the change proposal. Alternatively, if the IEC determines that the change proposal should be further considered, it must develop the change proposal into a B2B proposal, and it must comply with the RCP in relation to the B2B proposal.

The right to request a review of an instrument could ensure that relevant instruments could be updated as required to address stakeholder needs. However, if this is not appropriately prescribed, it could potentially risk creating unnecessary burden for a decision-maker and regulatory uncertainty for market participants, if changes are sought too frequently.

<sup>23</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, supplementary rule change request, 22 November 2021, p. 5.

#### **QUESTION 6: RIGHT TO REQUEST A CHANGE TO AN INSTRUMENT**

Would it be beneficial if stakeholders were able to request a change to a particular instrument or procedure? If stakeholders were allowed to request changes to subordinate instruments:

- should this apply to all subordinate instruments and procedures, or only some?
- if only some, which instruments/procedures (or categories of instruments/ procedures) should it apply to?
- what additional safeguards would be necessary to ensure that decision-makers were not unduly burdened?

## 3 VIEWS ON THE PROPOSED CHANGES - GAS AND RETAIL

The Commission seeks stakeholders' views on AEMO's proposed changes to the NGR and whether any changes are required to the NERR consultation process for consistency. We invite comments on the proposed changes, including on amendments that would enhance the proposed changes. Stakeholders are encouraged to consider the proposed changes in this chapter against the assessment framework outlined in Chapter 4. This chapter explains:

- AEMO's proposed changes to the NGR consultation processes
- the different processes under the NGR and
- the Retail consultation procedure.

### 3.1 Proposed changes to the NGR consultation processes

AEMO is proposing to remove the NGR's extended consultation procedures.<sup>24</sup>

It proposes that instruments which previously required consultation according to the extended consultation procedures would instead be consulted on according to:

- the standard consultative procedure (this is AEMO's preferred solution)<sup>25</sup>, or
- a procedure that is consistent with the updated Rules Consultation Procedure it proposes for the NER.<sup>26</sup>

### 3.2 Background on the consultation processes under the NGR

The NGR have five main consultation procedures:

- the standard consultative procedure, the expedited consultative procedure and the extended consultative procedure, which are set out in Rules 8, 9 and 9A; and
- the ordinary and expedited processes, which are set out in Rules 135EE and 135EF.

#### 3.2.1 The standard, expedited and extended consultative procedures

**The standard consultative procedure** is set out under Rule 8 of the NGR and it involves a two-stage consultation. The decision-maker is required to invite submissions on the proposal and the draft determination.<sup>27</sup> Fourteen processes under the NGR are subject to the standard consultative process, the decision-makers for these instruments are AEMO, the AER and the National Competition Council (NCC).

<sup>24</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p. 10

<sup>25</sup> See AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, Supplementary rule change request, 22 November 2021, p. 6.

<sup>26</sup> AEMO, *Rules consultation procedures - ESB National electricity rules simplification project*, rule change request, 7 January 2021, p. 10.

<sup>27</sup> Rule 8 of the NGR.

**The expedited consultative procedure** is set out under Rule 9 of the NGR and involves one round of consultation, commencing with the draft decision.<sup>28</sup> Seven processes under the NGR are subject to the expedited consultative process. AEMO is the only decision-maker that is required to consult according to this procedure.

**The extended consultative procedure** is set out under Rule 9A of the NGR and it involves a two stage process that is similar to the RCP in the NER. Compared with the standard procedure, it has extended consultation periods and provides for meetings to be held, if the consulting party concludes it is necessary or desirable, during the first stage of consultation.<sup>29</sup> Five processes under the NGR are subject to the extended consultative procedure, the decision-makers for these instruments are AEMO, the AER and the NCC.

Additional detail about these processes is provided in Appendix C.

### 3.2.2

#### **The ordinary consultation process and expedited consultation process**

Part 15B is relied upon to make or amend AEMO procedures authorised under the NGR. It involves two processes, the ordinary process and the expedited process. Both processes involve one round of consultation. Rule 135EA of the NGR explains the matters in relation to which AEMO may make procedures.<sup>30</sup>

In most circumstances the ordinary process applies unless AEMO considers the procedures are urgently necessary, or will have a non-material impact, in which case the expedited process applies.<sup>31</sup> The key difference between the two processes revolves around time frames for consultation.

- Under the ordinary process, at least 20 business days must be allowed for submissions. AEMO must then publish its final decision and any reasons if the proposal is rejected within a further 20 business days.<sup>32</sup>
- Under the expedited process, AEMO must nominate a proposed effective date for the proposed procedures and allow at least 15 business days for submissions. AEMO may then either confirm, amend, withdraw or defer the proposed effective date to a later date, and may conduct a further stage of consultation.<sup>33</sup>

Additional detail about these processes is provided in Appendix C.

#### **QUESTION 7: CHANGES TO CONSULTATION PROCESSES UNDER THE NGR**

Are changes to the consultation procedures under the NGR necessary or desirable? If so,

<sup>28</sup> Rule 9 of the NGR.

<sup>29</sup> Rule 9A of the NGR.

<sup>30</sup> This lists around 32 matters and sub-matters for which AEMO may make procedures in relation to retail market procedures, 19 different matters that wholesale market procedures may deal with, 12 different matters and sub-matters that bulletin board matters may deal with, 14 different matters that short term trading market procedures may deal with, and 26 different matters and sub-matters that Capacity Transfer and Auction Procedures may deal with.

<sup>31</sup> Rules 135EE and 135EF of the NGR.

<sup>32</sup> Rule 135EE of the NGR.

<sup>33</sup> Rule 135EF of the NGR.

what should these changes involve?

We welcome your views on whether:

- instruments that currently require consultation according to the extended consultation procedures should instead be subject to the standard consultation procedures?
- instruments that currently require consultation according to the extended consultation procedures or the standard consultation procedures should be required to comply with a new procedure that has the same requirements as the updated Rules Consultation Procedure proposed for the NER in this rule change?
- it would be helpful to have the same consultation processes under the NER and NGR, or whether there are reasons for having different consultation procedures under the NGR?

Please explain the reasons for your views.

### 3.3 The retail consultation procedure

The rule change request notes that the retail consultation procedure in the NERR is similar to the transmission and distribution consultation procedures in the NER (which would be replaced by the proposed rule).<sup>34</sup> The rule change request does not specifically request changes to the retail consultation procedure. However, the Commission is interested in views on whether changes should be made to that procedure for consistency, and to ensure the consultation process under the NERR is as robust and efficient as the new process proposed for consultation under the other rule sets.

The retail consultation procedure is set out in Rule 173 of the NERR and applies to six AER instruments under the NERR, relevant for retailers and exempt sellers.

The procedure involves a single round of consultation. The AER must publish a copy of the draft instrument and notice on its website. It must explain why the instrument is required, provide reasonable details of the context in which the draft instrument was prepared, the issues involved and possible effects of the instrument. At least 20 business days must be allowed for submissions.

As soon as reasonably practicable after the end of the consultation period, the AER must consider all submissions and comments made regarding the draft instrument, and make the final instrument. The AER must then publish the final instrument and a written notice stating the reasons for making the final instrument.<sup>35</sup>

<sup>34</sup> AEMO, *Rules consultation procedures - ESB National Electricity rules simplification project*, rule change request, 7 January 2021, p. 10.

<sup>35</sup> Rule 173 of the NERR.

**QUESTION 8: CONSISTENCY BETWEEN THE RETAIL CONSULTATION PROCEDURE AND THE NEW RULES CONSULTATION PROCEDURES**

Would it be beneficial for the consultation process used by the AER under the NERR to be consistent with the consultation processes in the NER (and NGR)? If so, would the process set out in the proposed rule likely result in robust and efficient consultations under the NERR? Please explain the reasons for your views.

Are there any additional considerations relating to compatibility of the changes with the development and application of consumer protections for small customers? (The Commission is required to satisfy itself on this point when making retail rule changes, under section 236(2) of the National Energy Retail Law).

## 4 OUR RULE-MAKING REQUIREMENTS AND PROPOSED ASSESSMENT FRAMEWORK FOR THIS RULE CHANGE

The Commission must follow the rule-making requirements set out in the National Electricity Law (NEL), for changes to the NER, and the National Gas Law (NGL), for changes to the NGR. The key requirements and our proposed assessment framework are set out below. The Commission is interested in your views on the proposed assessment framework for this rule change.

This chapter explains the:

- National Electricity Objective (NEO) and the National Gas Objective (NGO)
- assessment framework that the Commission proposes to use
- Commission's ability to make a more preferable rule
- Commission's rule-making power in the Northern Territory, in respect of the NER
- Commission's rule-making power in Western Australia, in respect of the NGR.

### 4.1 Achieving the NEO and NGO

The Commission may only make a rule if it is satisfied the rule will, or is likely to, contribute to the achievement of:

- the NEO, with respect to the proposed changes to the NER, and
- the NGO, with respect to the proposed changes to the NGR.<sup>36</sup>

These are the decision-making frameworks that the Commission must apply.

The NEO is:<sup>37</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.

The NGO is:<sup>38</sup>

to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, safety, reliability and security of supply of natural gas.

<sup>36</sup> See Section 88 of the NEL and Section 291(1) of the NGL.

<sup>37</sup> Section 7 of the NEL.

<sup>38</sup> Section 23 of the NGL.

## 4.2 Proposed assessment framework

The Commission proposes to use the following criteria to assess whether the proposed rule or a more preferable rule (see section 4.3 below) is likely to contribute to the achievement of the NEO and NGO. We welcome comments on these criteria, including whether the criteria should be modified or additional criteria should be included.

There are three proposed criteria:

- **Innovation - flexible consultation:** Would the rule change facilitate better quality subordinate instruments, by promoting flexible engagement processes that can be adapted to the circumstances, not discouraging decision-makers from regularly updating instruments and also encouraging innovative and varied forms of input from all market participants?
- **Principles of good regulatory practice - predictability and stability, simplicity, efficacy and transparency:** Does the consultation procedure promote confidence in the transparency of process undertaken by the decision-maker and ensure appropriate decision-maker accountability and predictability, whilst avoiding unnecessary delay and overly burdensome processes? Does simplifying the consultation processes facilitate appropriate consultation relative to a project's complexity and by doing so, achieve better regulatory outcomes?
- **Implementation considerations - cost and complexity:** What are the regulatory and administrative benefits and costs associated with the rule change proposal? Is the cost of implementing the proposed solution for market participants and market bodies proportional to the costs of managing the issues to be resolved?

### QUESTION 9: ASSESSMENT FRAMEWORK

Is the proposed assessment framework appropriate for considering the proposed rule? If not, what amendments or additions would you suggest, and why?

## 4.3 Making a more preferable rule

Under s. 91A of the NEL and s. 296 of the NGL, 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 issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO and NGO.

## 4.4 Rule making in the Northern Territory - NER

The NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting

the NEL.<sup>39</sup> Certain additional considerations apply in relation to the NER in the Northern Territory, including in relation to the scope of the NEO and whether to make a uniform or differential rule.

#### 4.4.1 **Scope of “national electricity system” in the NEO**

Under the NT Act, 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>40</sup>

- (a) the national electricity system
- (b) one or more, or all, of the local electricity systems<sup>41</sup>
- (c) all of the electricity systems referred to above.

For the purposes of the proposed electricity rule, the Commission proposes to regard the reference to “national electricity system” in the NEO to be a reference to item (c), the national electricity system and the local electricity systems in the Northern Territory.

#### 4.4.2 **Uniform or differential rule**

As the proposed 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 the NT Act.

The Commission may make a differential rule if it is satisfied that, having regard to any relevant Ministerial Council on Energy (MCE) statement of policy principles, a differential rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule.<sup>42</sup>

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 one or more, or all, of the local electricity systems, and has effect with respect to all of those systems.<sup>43</sup>

39 *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (NT Act)*. The regulations under the NT Act are the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016*.

40 Clause 14A of Schedule 1 to the NT Act, inserting section 88(2a) into the NEL as it applies in the Northern Territory.

41 These are specified Northern Territory systems, listed in Schedule 2 of the NT Act.

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

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

For the purposes of the proposed electricity rule, the Commission proposes to make a uniform rule as does not consider that a differential rule is likely to better contribute to the NEO than a uniform rule.

## 4.5 Rule making in Western Australia - NGR

The versions of the NGL and NGR that apply in Western Australia differ from the NGL and NGR as they apply in other participating jurisdictions.<sup>44</sup>

As a result, the Commission's power to make rules for Western Australia differs from its rule-making power under the NGL. For example, there is no express power for the Commission to make a Rule in WA that confers a function on AEMO. The Commission will take these differences into account in the process of considering the proposed rule or a more preferable rule.

---

<sup>44</sup> Under the *National Gas Access (WA) Act 2009* (WA Gas Act), a modified version of the NGL, known as the National Gas Access (Western Australia) Law (WA Gas Law), was adopted. Under the WA Gas Law, the National Gas Rules applying in Western Australia are version 1 of the uniform NGR as amended by the SA Minister under an adoption of amendments order made by the WA Minister for Energy and by the AEMC in accordance with its rule making power under section 74 of the WA Gas Law. See the AEMC website for further information, <https://www.aemc.gov.au/regulation/energy-rules/national-gas-rules/western-australia>

# A LIST OF INSTRUMENTS REQUIRING CONSULTATION UNDER RELEVANT PROCEDURES

**Table A.1: Rules consultation procedures - NER**

<b>DECISION MAKER</b>	<b>GUIDELINES/PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
<p>AEMO (15 guidelines, 40 other instruments)</p>	<ul style="list-style-type: none"> <li>• Congestion Information Resource guideline</li> <li>• Energy Adequacy Assessment Projection guideline</li> <li>• Demand Side Participation Information guideline</li> <li>• DER Register Information guideline</li> <li>• Generation Information guideline</li> <li>• Network Constraint Formulation guideline</li> <li>• Reliability Standard Implementation guideline</li> <li>• Network Support and Control Ancillary Service (NSCAS) Tender guideline</li> <li>• System Restart Ancillary Service (SRAS) guideline</li> <li>• Power System Stability guideline</li> <li>• Power System Model guideline</li> <li>• System Strength Impact Assessment guideline</li> <li>• Reserve Level Declaration guideline</li> <li>• Reliability Forecast guideline</li> <li>• Inter-Network Test guideline</li> <li>• The structure (including the introduction and determination) of Participant fees for such periods as AEMO considers appropriate.</li> <li>• Determines a project to be a declared NEM project and the period over which recover will occur for retail competition.</li> <li>• Determine what constitutes an acceptable credit rating.</li> <li>• Make and amend the credit limit procedures.</li> <li>• Operate the spot market according to the timetable approved by the AEMC and published by AEMO and any amendments to the timetable.</li> <li>• Determine and maintain a methodology for the determination of inter-regional and intra-regional loss factor equations for a financial year.</li> <li>• Determine and maintain the methodology which is to apply to the calculation of average intra-regional loss factors.</li> <li>• Determine and maintain a methodology for forecasting the load and generation data to be used in determination of inter-regional loss factor equations and intra-regional loss factors.</li> <li>•</li> </ul>

<b>DECISION MAKER</b>	<b>GUIDELINES/PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
	<ul style="list-style-type: none"> <li>• Investigate the scope of further development of the dispatch algorithm beyond its minimum requirements and the sufficiency of the algorithm in meeting the minimum requirements and publish a report setting out its recommendations.</li> <li>• Develop and publish procedures to determine the circumstances when AEMO may use a prior dispatch offer or dispatch bid lodged by a Scheduled Generator, Semi-Scheduled Generator or Market Participant as a substitute for a default dispatch offer or default dispatch bid.</li> <li>• Procedures that set out AEMO’s approach to determining its choice of supply scarcity mechanism to be reviewed at least once every four years.</li> <li>• Develop and publish details of the methodology it uses and any assumptions it may be required to make to determine dispatch prices and ancillary service prices.</li> <li>• Make or amend the market ancillary service specification.</li> <li>• Determine the boundaries of the electrical sub-networks.</li> <li>• Prepare and publish a confidentiality deed for the purposes of this clause 3.12.3.</li> <li>• Develop, review and amend carbon dioxide equivalent intensity index procedures.</li> <li>• Develop a methodology to prepare and update schedules containing reasonable estimates of typical market prices during the periods to which the schedules relate.</li> <li>• Develop, publish and amend the regional benefit ancillary services procedures.</li> <li>• Making or amending the procedure for determining contribution factors in clause 3.15.6A.</li> <li>• Determine the relative benefit each region receives from the issuance of a direction (the regional benefit directions procedure).</li> <li>• Develop, publish and maintain Procurer of Last Resort cost procedures.</li> <li>• Develop, publish and amend procedures to enable Market Participants to create and record reallocation requests and transfers.</li> <li>• Develop and amend a policy for routine and special revised statements.</li> <li>• Cease conducting auctions to determine which eligible persons will be issued with SRD units under SRD agreements with AEMO.</li> <li>• Develop and publish Market Management Systems Access Procedures.</li> </ul>

DECISION MAKER	GUIDELINES/PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE
	<ul style="list-style-type: none"> <li>• Develop and publish details of the methodology it will use to request that generating units or loads under unscheduled reserve contracts be activated.</li> <li>• Develop, publish and amend procedures for the exercise of the RERT that take into account the RERT principles and RERT guidelines.</li> <li>• Develop and amend standards which must be met by Network Service Providers in arranging and maintaining the controls, monitoring and secure systems.</li> <li>• Develop and amend procedures for the issuance of directions under clause 4.8.9.</li> <li>• Develop and amend standards which must be met by Network Service Providers in providing and maintaining the primary and back up communications facilities.</li> <li>• Publish and maintain the AEMO Opt-In procedures.</li> <li>• Develop, publish and maintain the Book Build Procedures.</li> <li>• Publish the NSCAS description and NSCAS quantity procedure.</li> <li>• Develop and publish the inertia requirements methodology.</li> <li>• Develop and publish the system strength requirements methodology.</li> <li>• Determine and adjust the boundaries of inertia sub-networks.</li> <li>• Develop, publish and vary an objective set of criteria for assessing whether a proposed transmission network augmentation is reasonably likely to have a material inter-network impact.</li> <li>• Publish characteristics for a generating system other than one comprised of a synchronous generating units.</li> <li>• In relation to receiving jurisdictional metrology material from the Ministers of the MCE.</li> <li>• In relation to receiving and accepting the proposal by any person to amend any procedure in this Chapter 7 including the metrology procedure.</li> </ul>
<p>AER (9 guidelines, 3 other instruments)</p>	<ul style="list-style-type: none"> <li>• Forecasting Best Practice guideline</li> <li>• Reliability Instrument guideline</li> <li>• Reliability Compliance Procedures guideline</li> <li>• AER Opt-In guideline</li> <li>• Contracts and Firmness guideline</li> <li>• MLO guideline</li> <li>• Cost Benefit Analysis guideline</li> <li>• Dispute resolution and confidential information guideline</li> </ul>

<b>DECISION MAKER</b>	<b>GUIDELINES/PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
	<ul style="list-style-type: none"> <li>Guideline governing the exercise of the powers conferred on the AER by clause 8.7.2(g)</li> <li>Request to the Scheduled Generator, Semi-Scheduled Generator or Market Participant to provide additional information to substantiate and verify the reason why the ramp rate is below 3MW/minute.</li> <li>Establish the requirements and standards and procedures applicable to Registered Participants, AEMO and AER relating to reporting, information and data received in relation to matters relevant to the Rules.</li> <li>Develop a methodology to calculate values of customer reliability (VCR methodology) and review and update the VCR methodology.</li> </ul>
Reliability Panel (1 guideline, 3 other processes)	<ul style="list-style-type: none"> <li>Reliability Standard and Settings guidelines</li> <li>Reliability standard and settings review</li> <li>Request for declaration of a non-credible contingency event as a protected event or for the revocation of such a declaration.</li> <li>Determine whether, in respect of one or more technical requirements for access, an existing Australian or international standard, or a part thereof, may be adopted as a plant standard for a particular class of plant.</li> </ul>
Information Exchange Committee	<ul style="list-style-type: none"> <li>Proposal for B2B procedures or a change to B2B procedures.</li> </ul>
Transmission Network Service Provider	<ul style="list-style-type: none"> <li>Proposal to construct a funded augmentation and availability of a notice.</li> </ul>

**Table A.2: Standard consultative procedures - NGR**

<b>DECISION MAKER</b>	<b>PART AND RULE NUMBER</b>	<b>GUIDELINES/PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
AEMO	Part 18 Rule 197	Consult with Bulletin Board participants with respect to the formulation of the schedule of information retrieval fees.
	Part 20 Rule 403	Investigate and report on the circumstances of the MOS shortfall which may include a proposal of how AEMO may procure or facilitate the provision of MOS.
	Part 24 Rule 599	Make or amend the election procedures or the operating manual for the Operational Transportation Service Code Panel.

<b>DECISION MAKER</b>	<b>PART AND RULE NUMBER</b>	<b>GUIDELINES/PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
AER	Part 7 Rule 36F	Financial reporting guidelines.
	Part 8 Rule 63	A proposal that is or relates to a full access arrangement or revisions to the full access arrangement for the relevant pipeline.
	Part 17 Rule 139	Make a general regulator information order.
	Part 23 Rule 557	Financial reporting guidelines.
	Part 25 Rule 665	Guidelines setting out the matters to be included in nomination and scheduling records (in relation to auction facilities) and the manner in which the records are to be made and kept.
	Part 25 Rule 666	Guidelines setting out the amount of detail to be included in the information provided by a transportation facility user in substantiating and verifying the reason for a material renomination.
National Competition Council (NCC)	Part 4 Rule 16	An application for a coverage determination (section 93 and 95 of the NGL).
	Part 4 Rule 19	An application for a coverage revocation determination (section 103 and 104 of the NGL).
	Part 7 Rule 35	An application for a light regulation determination (section 113 and 114 of the NGL).
	Part 7 Rule 39	An application for revocation of a light regulation determination (sections 119 and 120 of the NGL).
	Part 13 Rule 123	Recommendation made on an application for a 15 year no-coverage determination (section 152 and 153 of the NGL).

**Table A.3: Extended consultative procedures - NGR**

<b>DECISION MAKER</b>	<b>PART AND RULE NUMBER</b>	<b>PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
AEMO	Part 15A Rule 135CA	Develop, review and publish the structure (including introduction and determination) of participant fees.
	Part 15A Rule 135CB	Determination of a major gas project.
	Part 15B Rule 135EC	Proposed approved process for examining and assessing a proposal for the making of Procedures and, preparing an impact and implementation report.
	Part 20 Rule 479	Determination of an acceptable credit rating by an entity.
	Part 20 Rule 494	For each review in Division 11. This includes:

<b>DECISION MAKER</b>	<b>PART AND RULE NUMBER</b>	<b>PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
		<ol style="list-style-type: none"> <li>1. Review examining the potential for a STTM to operate at additional hubs</li> <li>2. Review of available options for additional or alternative STTM processes</li> <li>3. The MPC, administered price cap, CPT horizon, cumulative price threshold and MMP</li> <li>4. Review of the operation of Division 8 after the last gas day in respect of which contingency gas was scheduled in respect of the first contingency gas trigger event</li> </ol>

**Table A.4: Expedited consultative procedures - NGR**

<b>DECISION MAKER</b>	<b>PART AND RULE NUMBER</b>	<b>PROCESSES/REPORTS/REVIEWS REQUIRING COMPLIANCE</b>
AEMO	Part 18 Rule 197	Consult with Bulletin Board participants with respect to the formulation of the schedule of information retrieval fees.
AER	Part 6 Rule 30	Proposal to impose an additional ring fencing requirement under section 143 of the NGL.
	Part 6 Rule 31	Deal with an application for an exemption under section 146 of the NGL from one or more of the minimum ring fencing requirements may be made by a service provider.
	Part 8 Rule 55	Deal with a limited access arrangement proposal for a light regulation pipeline.
	Part 8 Rule 63	A proposal that is or relates to a limited access arrangement or revisions to the limited access arrangement for the relevant pipeline.
	Part 13 Rule 130	Decision to approve, or not approve an access arrangement proposal for a limited access arrangement for an international pipeline to which a price regulation exemption applies, or for variation of such an access arrangement.
NCC	Part 14 Rule 132	Deal with a reclassification application.

## B OUTLINE OF CONSULTATION PROCESSES UNDER THE NER

The NER require many matters to be specified in other instruments including guidelines, determinations, methodologies, procedures and reports. These “subordinate instruments” are variously issued by AEMO, the AER, the Reliability Panel and the Information Exchange Committee, amongst others.

In developing or amending these instruments, the organisation responsible may have to consult following one of three NER consultation procedures: the RCP, the transmission consultation procedures, or the distribution consultation procedures.

### B.1 The Rules Consultation Procedures

Rule 8.9 describes the process for the RCP, this process involves two rounds of consultation, and requires that:

- A notice containing particulars of the matter under consideration must be published either on AEMO’s website, the AEMC’s website or the AER’s website, depending on which is the relevant consulting party.
- The notice must invite interested consulted persons to make written submissions concerning the matter. The period for making submissions must be no less than 25 business days. In those submissions, a consulted person may request a meeting and, if so, must provide reasons why such a meeting is necessary or desirable.
- The consulting party must consider all valid submissions within 20 business days. In the following 25 business days, the consulting party must use its best endeavours to hold any meetings that the consulting party concludes are desirable or necessary.
- The consulting party must then publish a draft report<sup>45</sup> and a notice calling for submissions on the draft report on either AEMO’s, the AEMC’s, or the AER’s website (depending on which is the consulting party).
- Submissions received in response to the draft report must be received not less than 10 business days after the publication of the draft report (or such longer period as reasonably determined by the consulting party).
- The consulting party must consider submissions within 30 business days. Then, the consulting party must publish a final report, which must address the same matters as the draft report and be published on the relevant consulting party’s website.<sup>46</sup>

<sup>45</sup> The report should contain the consulting party’s conclusions and determinations; its reasons for those conclusions; the procedure it followed in considering the matter; and summaries of material issues contained in valid written submissions per rule 8.9(g) of the NER.

<sup>46</sup> Rule 8.9 of the NER.

## B.2 The Transmission Consultation Procedures and The Distribution Consultation Procedures

The distribution consultation procedures are set out in Rule 6.16, and apply to certain AER determinations under Chapters 5, 5A and 6. The transmission consultation procedures are set out in Rule 6A.20 and apply to certain AER and AEMC determinations under Chapters 3, 5, and 6A. These involve one round of consultation.

These procedures are substantively the same, and involve:

- Publication of the relevant proposed guideline, methodology, model, scheme, test, value or amendment (as applicable), an explanatory statement and an invitation for written submissions on the proposed instrument, providing at least 30 business days for written submissions; and
- Within 80 business days of the proposed instrument being published, publication by the AER or AEMC of its final decision in relation to the proposed instrument, including its reasons for the decision and the provision of the NER under which the instrument was made, and notice of the making of the final decision.

The 80 business day period can be extended if: there are issues of unusual complexity or difficulty; or an extension is necessary due to circumstances beyond the AER or AEMC's control.<sup>47</sup>

## B.3 Modified process for consultation under Chapter 7 of the NER

Certain retail market and metering procedures under Chapter 7 of the NER are subject to a modified version of the RCP.

Any person may submit a proposal to AEMO to amend a Chapter 7 procedure (with certain limited exceptions). AEMO must then give notice of receipt of the proposal and advise of the action that it proposes to take. If AEMO accepts the proposal, then it must conduct the RCP in relation to that proposal; alternatively, it may request further information in relation to the proposal or reject the proposal.

A separate process applies in relation to B2B procedure change processes. Any person may propose a change to the B2B procedures by providing a change proposal to the IEC. The IEC must meet within 25 business days of receipt of the change proposal to determine whether the change is prima facie warranted.

If the IEC concludes that the change proposal does not warrant further consideration, then it must issue its reasons within five business days to the person who made the change proposal.

If the IEC determines that the change proposal should be further considered, it must develop the change proposal into a B2B proposal, and it must comply with the RCP in relation to the B2B proposal.

---

<sup>47</sup> See Rules 6.16 and 6A.20 of the NER.

The draft and final reports (required as part of the RCP procedure, as outlined above) must contain details of how the IEC has had regard to the NEO and the B2B factors and has sought to give effect to the B2B Principles.

The IEC may decide to, or not to, recommend the proposed change to the B2B Procedures to AEMO. If AEMO does not approve the IEC's recommendation, then it must publish reasons which must include why the recommendation would give rise to certain conflicts and the IEC may then reconsider the proposal and make a new recommendation.

AEMO must publish B2B Decisions (i.e., the decision in relation to the change of the relevant Procedure) on its website within 10 business days of receiving the recommendation from the IEC.

## B.4 The Reliability Panel consultation process

The Reliability Panel has its own consultation process for determinations and reviews under Clause 8.8.3(d) to (l).<sup>48</sup> Under this process the Reliability Panel is required to:

- give notice to all Registered Participants of the commencement of a determination or review by requesting the AEMC publish a notice on its website. The notice must include particulars of the terms of reference for the determination or review and the deadline for the receipt of submissions to the Reliability Panel.
- The deadline for submissions must not be earlier than four weeks after the publication of the notice on AEMO's website (or such other time as specified by the AEMO in any request for a review).
- The Reliability Panel may hold a public meeting for the determination or review and must do so if one is requested in writing by an interested party. This meeting can be held by phone, video conference or other method, or in person. If it is held in person, it must be held in a capital city of a participating jurisdiction.
- In undertaking a review and preparing any reports or recommendations, the Reliability Panel must take into account existing AEMC policy statements, directions or guidelines. It may also obtain technical advice or assistance as it considers appropriate, including from AEMO and any Registered Participant.
- Following the meeting (if any), the Reliability Panel must submit a written report to the AEMC setting out its recommendations, its reasons and the procedure it followed in undertaking the review or determination. This must be submitted to the AEMC by the deadline for reporting specified by the AEMC in a request for the review.
- The AEMC must publish the review or determination on its website within 10 days of receiving it from the Reliability Panel.

<sup>48</sup> The Reliability Panel is not required to follow this process for the purposes of its functions under clauses 8.8.1(a)(1b), 8.8.1(a)(2c), 8.8.1(a)(2e), 8.8.1(a)(8) or 8.8.3(b).

## C OUTLINE OF CONSULTATION PROCESSES UNDER THE NGR

The NGR contain two separate sets of consultation processes:

- two consultation processes under Part 15B of the NGR, applicable to making Procedures: an ordinary process and an expedited process; and
- three consultative processes contained in Part 3 of the NGR: the standard consultative procedure, the expedited consultative procedure and the extended consultative procedure.

### C.1 AEMO's ordinary process

The ordinary process for making Procedures is set out under rule 135EE of the NGR.

Under this process, AEMO must publish on its website a notice:

- setting out the proposed procedures together with a report into their impact and implementation; and
- inviting Registered participants and other interested persons to submit written comments on the proposed procedures to AEMO, on or before a date which must be at least 20 business days after the notice date.

AEMO must publish this notice no more than 10 business days after completion of the impact and implementation report.

AEMO must publish a decision on its website within 20 business days after the closing date for submissions, that:

- summarises the comments received on the proposed Procedures;
- sets out the proposed Procedures, including if they have been revised in light of the comments received (and describing how and why they have been revised);
- if the decision is to make the proposed Procedures, specifies the date the procedures are to take effect; and
- if the decision is against making the procedures, states that the proposal has been rejected, and provides reasons for its rejection.

In determining whether or not to make Procedures, AEMO must take into account all relevant and material comments that it receives by the closing date for comments and may take into account any comments that it receives after that closing date.

At least 15 business days before the Procedures come into effect, AEMO must give notice of the new Procedures to the relevant people, publish the new Procedures on its website and make copies of the New Procedures available at its public offices.

### C.2 AEMO's expedited process

The expedited process is set out in rule 153EF of the NGR, and is applicable if the relevant Procedures are urgently necessary to ensure operation of a regulated gas market, an

adequate supply of natural gas or an appropriate response to an emergency, or if the Procedures are non-material.

If the expedited process is applicable, AEMO must, within 10 business days after completing an impact and implementation report, publish on its website, a notice:

- setting out the proposed Procedures together with the impact and implementation report;
- stating that AEMO considers the expedited process is applicable; and
- inviting Registered participants and other interested persons to submit written comments on the proposed procedures on or before a date which must be at least 15 business days after the date of the notice.

After the closing date for submissions, AEMO must publish a notice on its website, that either confirms the proposal, amends the proposal, defers a decision on the proposal and provides for further consultation before a final decision is made or withdraws or rejects the proposal.

At least 15 business days before the Procedures come into effect, AEMO must give notice of the new Procedures to the relevant people, publish the Procedures on their website and make copies of the Procedures available at its public offices.

### C.3 Standard consultative procedure

The standard consultative procedure is set out under rule 8 of the NGR and applies to approximately 14 instruments under the NGR.

If the standard consultative procedure applies, a decision maker must publish a notice on its website and in a nationally circulating newspaper describing the proposal and inviting written submissions within 15 business days of the date of the notice.

After considering relevant submissions made within that time, the decision maker must make a draft decision. If the draft decision identifies changes that the decision maker considers should be made, then:

- if the decision maker is the proponent, the decision maker must modify the proposal accordingly; or
- if the decision maker is not the proponent, notify the proponent of the decision and the reasons for the decision, and give the proponent a reasonable opportunity to modify its proposal.

The decision maker must then publish the draft decision on its website, along with any modification to the original proposal in the draft decision, as well as a notice inviting written submissions and comments on the draft decision and, if applicable, modified proposal. This consultation process must be open for at least 15 business days.

Within 20 business days after the end of the period allowed for making submissions on the draft decision, the decision maker must make its final decision, which must be in writing and state the terms of the decision and reasons.

Following the making of the decision maker's final decision, the decision maker must, without delay:

- if the decision is in the nature of a recommendation, deliver the final decision to the authority or person to whom the recommendation is addressed; and
- give copies of the final decision to the parties to the administrative process in which the decision is made; and
- publish the final decision on the decision maker's website; and
- make the final decision available for inspection during business hours at the decision maker's public offices.

## C.4 Expedited consultative procedure

The expedited consultative procedure is set out under rule 9 of the NGR and applies to seven instruments under the NGR.

If the expedited consultative procedure applies, following such consultation as the decision maker considers appropriate, the decision maker must make and publish (and provide copies to relevant parties of) a draft decision, together with a notice:

- stating why the decision is required;
- providing reasonable details of the context in which the draft decision has been made, the issues involved and the possible effects of the decision; and
- inviting written submissions and comments on the draft decision within 15 business days from the date of the notice.

Within 20 business days after the end of the consultation period on the draft decision, the decision maker must consider all submissions and comments received and make a final decision. The final decision must state the terms of the decision and provide reasons for it and it must be in writing.

As under the standard consultative procedure, following the making of the decision maker's final decision, the decision maker must, without delay:

- if the decision is in the nature of a recommendation, deliver the final decision to the authority or person to whom the recommendation is addressed; and
- give copies of the final decision to the parties to the administrative process in which the decision is made; and
- publish the final decision on the decision maker's website; and
- make the final decision available for inspection during business hours at the decision maker's public offices.

## C.5 Extended consultative procedure

The extended consultative procedure is set out under rule 9A of the NGR and applies to five instruments under the NGR.

If the extended consultative procedure applies the consulting party must give a notice to all persons with whom consultation is required<sup>49</sup> and publish that notice, providing particulars of the matters under consultation and inviting submissions on the matter under consultation, with a minimum consultation period of 25 business days.

The consulting party must consider all valid submissions within 20 business days from the closing date for submissions and, if they are required, the consulting party may hold meetings during the further 25 business days that follow.

When the consulting party has completed its consideration of the matter under consultation, it must then publish a draft report setting out:

- the conclusions and any determinations proposed, the reasons for those conclusions and the procedure followed in reaching those conclusions;
- a summary of each issue raised in written submissions or meetings and the consulting party's response to the issue; and
- a notice and an invitation to the persons from whom submissions were sought to make written submissions on the draft report before a closing date which must be no less than 10 business days after the publication of the draft report.

The consulting party must make the draft report available to persons from whom submissions were sought and, subject to confidentiality obligations and on request from a person from whom a submission was sought, make available material submitted to the consulting party.

Within 30 business days after the closing date for submissions, the consulting party must publish a final report which sets out:

- the conclusions and determinations of the consulting party, the reasons for the consulting party's conclusions and the procedure followed in reaching those conclusions; and
- a summary of each issue raised in valid submissions that are material and the consulting party's response to the issue.

The consulting party must make the final report available to the persons from whom submissions were sought.

Any notice, draft report or final report required to be published under the extended consultative procedure must, if the consulting party is the AEMC, the AER or AEMO, be published on the relevant consulting party's website or, in any other case (i.e., if the consulting party is not the AEMC, the AER or AEMO), the consulting party must give a copy of the notice or report to AEMO who must, within 3 business days of receipt, publish the notice or report on its website.

---

<sup>49</sup> Unless otherwise specified, consultation is required with all Registered participants, all persons registered as Intending participants, any other persons who appear to the consulting party to have a proper interest in the matter and, if the consulting party is not AEMO, AEMO.

## ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CEC	Clean Energy Council
COAG	Council of Australian Governments
CRI	Connections reform initiative
Commission	See AEMC
IEC	Information Exchange Committee
MCE	Ministerial Council on Energy
MSATS	Market settlement and transfer solution
NCC	National Competition Council
NEL	National Electricity Law
NEO	National electricity objective
NERR	National Energy Retail Rules
NERO	National Energy Retail Objective
NGL	National Gas Law
NGO	National gas objective