

3 February 2022



Edward Orum
Project Leader
Australian Energy Market Commission

Submitted via website: www.aemc.gov.au/contact-us/lodge-submission

Dear Mr Orum

**Response to AEMC Consultation Paper
ERC0323: Improving Consultation Procedures in the Rules**

Stanwell Corporation Limited (Stanwell) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Rule Change Consultation Paper: Improving Consultation Procedures in the Rules, and the accompanying Supplementary Proposal as submitted by the Australian Energy Market Operator (AEMO).

Stanwell acknowledges the work of AEMO in preparing their submission and thanks the Australian Energy Market Commission (AEMC) for the opportunity to provide a response to its consultation paper.

The response provided by Stanwell contains the views of Stanwell in relation to the submission documents and should not be construed as being indicative or representative of Queensland Government Policy.

In principle, Stanwell supports a consistent and efficient approach to AEMO's consultation procedures for subordinate instruments under the National Energy Rules (NER), National Gas Rules (NGL), and the National Energy Retailers Rules (NERR). However, we recommend that the processes default to a two-stage consultation process, with a single round (expedited) consultation process to be applied only when changes are demonstrated to be non-controversial or administrative in nature when assessed against a set of established criteria.

Threshold test and decision review

As noted above, Stanwell suggests that a two-stage consultation process would be the default for changes to subordinate instruments under the Rules, unless the decision maker can demonstrate that none of the suggested criteria below apply, and the changes are in fact, 'non-controversial'.¹

Within the expedited consultation process itself, there should be a clear gateway test, similar to the AEMC expedited rule change process, that enables stakeholders to formally raise objections should they believe that the rule change is not in fact non-controversial or administrative in nature.

¹ Stanwell relies on the definition of non-controversial as defined in the *National Electricity (South Australia) Act 1996*, *National Energy Retail Law (South Australia) Act 2011*, and the *National Gas (South Australia) Act 2008*.

We strongly recommend that the set of criteria for deciding whether an expediated consultation process is appropriate should include, at a minimum:

1. Whether the consultation is for the establishment a new subordinate statutory instrument.
2. Whether the proposed changes are likely to:
 - a. broaden or narrow the scope of participation by industry;
 - b. alter the information, service, or operational requirements of industry;
 - c. increase or decrease cost or earnings for industry; or
 - d. increase compliance costs with flow on impact to consumers.

Where the answer to any or all the above criteria is in the affirmative, a two-stage consultation process would automatically be required.

Where the decision maker determines a change to be non-controversial or administrative, the expedited consultation process should include:

1. Notification of the Rule change or subordinate instrument change request and the justification for the selection of the expedited process. This should include the provision for stakeholders to raise an objection to the expedited process; and
2. Notification and publication of a consultation paper, including a reference table of proposed changes which stakeholders can use to quickly review and consider the administrative and non-controversial changes.

This proposed approach places the onus for justifying the application of an expedited consultation process on the decision maker (as initiators of the change), rather than on stakeholders.

Overarching Governance framework

Given that this proposal is attempting to streamline and make consistent a number of existing consultation processes, each with their pros and cons, Stanwell appreciates that more work remains to be undertaken to fine tune the details of the consultation processes (both default and expedited).

Therefore, to ensure that the resulting consistently applied consultation process is fit for purpose, we would like to see a governance framework established as a way to provide all parties (decision makers and stakeholders) with the opportunity to engage in and drive continuous improvement in the streamlined consultation process. This would allow for flexibility in the consultation process, including review of procedures, while still delivering beneficial changes to the market and stakeholders in a way that provides efficient and cost-effective improvements.

We suggest this approach would ensure a balance between streamlining the consultation processes, while still maintaining robust and meaningful stakeholder engagement, particularly for more significant changes to subordinate legislative instruments.

Stanwell looks forward to changes to improve efficiencies in the consultation processes for the development and amendment of subordinate instruments under the NER, NGL and NERR, and we welcome continued participation in this consultation process.

Stanwell welcomes the opportunity to further discuss the matters outlined in this submission.
Please contact Lya McTaggart on (07) 3228 4129 or email Lya.McTaggart@stanwell.com.

Your sincerely

A handwritten signature in blue ink, appearing to be 'I. Chapman', with a long horizontal flourish extending to the right.

Ian Chapman
Manager Market Policy and Regulatory Strategy