



INFORMATION

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Improving consultation procedures in the Rules

The Australian Energy Market Commission (AEMC) invites stakeholder feedback on new draft rules that aim to make fit-for-purpose consultation processes under the National Electricity Rules (NER) and National Gas Rules (NGR). Submissions close on 26 May 2022.

Overview of the draft rule

Good consultation processes lead to good policy. The Commission has published a new draft determination and draft rules to make the consultation on subordinate instruments more flexible, transparent and predictable, so stakeholders and consulting parties can invest their limited resources productively.

Key elements of the draft electricity rule are:

- **Two new consultation processes in the NER - for non-material changes, and minor and administrative changes:** The Commission has introduced a new short, 10-week expedited consultation process for changes to existing instruments that are unlikely to significantly impact on the national electricity market (NEM). We've also introduced a quick and simple process for minor and administrative instrument changes that provides two weeks' of consultation.
- **Two rounds of consultation maintained for the standard process with updated timelines:** consultation on all material instrument changes and on new instruments will be according to the standard rules consultation procedures, which requires two rounds of consultation. The draft rule also simplifies time periods for the standard process with consultation on both rounds to be a minimum of four weeks and the publishing of draft and final instruments within 10 weeks of consultation closing.
- **Flexibility for when complex issues arise:** If the process is complex or stakeholders consider the proposed amendments may impact the NEM the consulting party can choose, and stakeholders can request, to switch from the expedited to the standard process. Consulting parties can also extend the standard process if the matter is unusually complex or difficult or there has been a change in circumstances.
- **Revised provisions for individual meetings and summaries from consultation events:** The draft rule seeks to make meetings more timely and useful. It allows meetings to be requested and held earlier in the consultation process, without delaying the preparation of the draft or final report. Also, stakeholders or consulting parties will not have to justify in advance whether the meeting would be necessary or desirable. If requested, a consulting party must hold the meeting within a reasonable time, where practicable, or explain why it is not reasonably practicable to hold the meeting. The draft rule extends meeting rights to the second round of consultation. It also allows consulting parties to use additional consultation methods, and to include summaries of the matters discussed in their reports.

In the National Gas Rules, the Standard consultative procedure will replace the Extended consultative procedure: The draft gas rule removes the Extended consultative procedure from the NGR. Where the NGR currently prescribes the use of the Extended consultative procedure, consulting parties will instead be directed to consult according to the Standard consultative procedure, which provides a flexible two-round process.

No changes were required to the Retail consultation procedures in the National Energy Retail Rules (NERR).

Benefits of the more preferable draft rule in electricity and the rule in gas

The AEMC is making the more preferable draft rule in electricity because:

- The expedited and minor and administrative processes provide more transparency, predictability and stability for stakeholders, whilst being at least as flexible as what AEMO proposed.
- The new timelines for the standard process provide transparent and predictable deadlines for stakeholders while allowing consulting parties greater flexibility to consider complex issues.
- The meeting provisions aid transparency, add flexibility, and reduce regulatory burden for both consulting parties and stakeholders.

The AEMC is making the draft rule in gas, because the standard consultative procedures provide a robust two round process that is predictable and transparent and which stakeholders are experienced with but which is less prescriptive than the Extended consultative procedures.

Background on the rule change request

AEMO submitted the rule change request (with a letter of support from the AER) on 7 January 2021 and then provided a rule change addendum on 22 November 2021, to change the Rules consultation procedures in the NER and the Extended consultative procedure in the NGR.

The Commission also asked stakeholders whether corresponding changes were also needed to the Retail consultation procedures to ensure consistency across the National electricity rules (NER), National gas rules (NGR) and National energy retail rules (NERR).

Implementation

The proposed rule change would commence on 14 July 2022, shortly after the final determination and final rules are published.

The changes to the consultation procedures in the NER and NGR will not affect any consultations that had already begun under the existing rules by the effective date of the changes.

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