



Draft National Electricity Amendment (Improving consultation procedures in the Rules) Rule 2022

under the National Electricity Law to the extent applied by:

- (a) the National Electricity (South Australia) Act 1996 of South Australia;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (d) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (e) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (f) the National Electricity (Victoria) Act 2005 of Victoria;
- (g) the National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 of the Northern Territory; and
- (h) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

Anna Collyer
Chairperson
Australian Energy Market Commission

Draft National Electricity Amendment (Improving consultation procedures in the Rules) Rule 2022

1 Title of Rule

This Rule is the *Draft National Electricity Amendment (Improving consultation procedures in the Rules) Rule 2022*.

2 Commencement

This Rule commences operation on [14 July 2022].

3 Amendment to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

4 Amendment to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 2.

Schedule 1 Amendment to the National Electricity Rules

(Clause 3)

[1] Clause 4.8.4A Reserve level declaration guidelines

Omit clause 4.8.4A(e) and substitute:

- (e) When amending the *reserve level declaration guidelines* under paragraph (d), *AEMO* must comply with the *Rules consultation procedures*, using the *expedited rules consultation procedure* unless clause 8.9.1(e) applies, in which case *AEMO* may use the *minor rules consultation procedure*.

[2] Clause 7.16.3 Requirements of the metrology procedure

Omit clause 7.16.3(b) and substitute:

- (b) If *AEMO* amends the *metrology procedure*, there must be a minimum period of 3 months between the date *AEMO publishes* the amended *metrology procedure* and the date it commences, unless the change is made using the *minor rules consultation procedure* in which case the effective date may be the date of *publication*.

[3] Clause 7.16.4 Jurisdictional metrology material in metrology procedure

In clause 7.16.4(f), in the opening paragraph, omit "in accordance with rule 8.9(k)".

[4] Clause 7.16.7 Amendment of procedures in the Metering Chapter

Omit clause 7.16.7(a) and substitute:

- (a) *AEMO* or any other person may make a proposal (the **proposal**) to amend any procedure in this Chapter 7 including the *metrology procedure* except:
 - (1) in relation to the *jurisdictional metrology material* which is contained within the *metrology procedure*; and
 - (2) procedures specified in rule 7.17,

and a proposal by a person other than *AEMO* (that person being the **proponent**) must be submitted to *AEMO* and include reasons for the proposed change.

[5] Clause 7.16.7 Amendment of procedures in the Metering Chapter

In clause 7.16.7(b), omit the opening paragraph and substitute "For proposals that proponents submit to it under paragraph (a), *AEMO* must:".

[6] Clause 7.16.7 Amendment of procedures in the Metering Chapter

In clause 7.16.7(b)(2), omit "paragraphs (c) or (e)" and substitute "paragraph (c)".

[7] Clause 7.16.7 Amendment of procedures in the Metering Chapter

In clause 7.16.7(c)(1), before "accepts the proposal", insert "makes or".

[8] Clause 7.16.7 Amendment of procedures in the Metering Chapter

Omit clauses 7.16.7(d) and (e).

[9] Clause 7.17.4 Changing B2B Procedures

Omit clause 7.17.4(j) and substitute:

- (j) The *Information Exchange Committee* must comply with the *Rules consultation procedures* in relation to the *B2B Proposal*, and in doing so must consult with *B2B Parties*, relevant *B2B Change Parties*, *AEMO* and such other persons who identify themselves to the *Information Exchange Committee* as interested in the *B2B Procedures*. The *Information Exchange Committee* must include, with the first document it publishes under the *Rules consultation procedures*, a copy of the *B2B Procedures Change Pack*.

[10] Clause 7.17.4 Changing B2B Procedures

Omit clause 7.17.4(k) and substitute "[Deleted]".

[11] Clause 7.17.4 Changing B2B Procedures

Omit clause 7.17.4(l) and substitute:

- (l) If the *Information Exchange Committee* is engaging in the *standard rules consultation procedure* or the *expedited rules consultation procedure* the reports it publishes under clauses 8.9.2(b) and (c), or clauses 8.9.3(a) and (g) (as applicable), must contain details of how the *Information Exchange Committee* has:
 - (1) had regard to the *national electricity objective* and the *B2B factors*; and

(2) sought to give effect to the *B2B Principles*,
when considering the *B2B Proposal* and the material issues raised in
the relevant consultation.

[12] Clause 7.17.4 Changing B2B Procedures

Omit clause 7.17.4(m) and substitute "[Deleted]".

[13] Clause 7.17.4 Changing B2B Procedures

Omit clause 7.17.4(p) and substitute "[Deleted]".

Schedule 2 Amendment to the National Electricity Rules

(Clause 4)

[1] New Rule 8.9 Rules Consultation Procedures

Omit rule 8.9 and substitute:

8.9 Rules Consultation Procedures

8.9.1 Application of Rules consultation procedures and publication requirements

Definitions

(a) In this rule 8.9:

Non-material Proposal means a Proposal that:

- (1) if implemented, will be unlikely to have a significant effect on the *NEM*; and
- (2) relates to a determination, recommendation or document on which the *consulting party* has previously consulted under this rule 8.9.

Proposal means a proposed new or amended determination, recommendation or document to which this rule 8.9 applies.

When the standard, expedited and minor rules consultation procedures apply

- (b) This rule 8.9 applies wherever in the *Rules* any person (the *consulting party*) is required to comply with the *Rules consultation procedures*. For the avoidance of doubt, the *Rules consultation procedures* are separate from, and do not apply to, the process for changing the *Rules* under Part 7 of the *National Electricity Law*.
- (c) The *consulting party* must comply with the *standard rules consultation procedure* in relation to a Proposal unless paragraph (d) or paragraph (e) applies.
- (d) If the *consulting party* considers the Proposal is a Non-material Proposal but is not an amendment of the kind described in paragraph (e), the *consulting party* must comply with:
 - (1) the *expedited rules consultation procedure*; or
 - (2) the *standard rules consultation procedure*,at its discretion, subject to clause 8.9.3(f).

- (e) If the *consulting party* considers the Proposal is an amendment of a minor or administrative nature, the *consulting party* must comply with the *minor rules consultation procedure*.

Consulting party to publish submissions and other materials

- (f) For each stage of consultation under the *expedited rules consultation procedure* or the *standard rules consultation procedure*, the *consulting party* must publish (subject to its confidentiality obligations):
 - (1) submissions received by the relevant due date; and
 - (2) as part of the reports required under this rule 8.9, summaries of the material issues raised in:
 - (i) the submissions referred to in sub-paragraph (1); and
 - (ii) any additional consultation the *consulting party* conducted under paragraphs (k) and (l),and the *consulting party's* responses to those material issues.

Where documents are to be published

- (g) In this rule 8.9, a requirement for a *consulting party* to publish a document requires the *consulting party* to publish the document on its website, subject to paragraphs (h) to (j).
- (h) If the *consulting party* is a *Transmission Network Service Provider* consulting under rule 5.18, a requirement under this rule 8.9 to publish a document is met when the *Transmission Network Service Provider* has published the document on its website and given a copy of the document to *AEMO*. *AEMO* must publish the document within 3 *business days* of receiving it.
- (i) If the *consulting party* is the *Reliability Panel*, a requirement under this rule 8.9 to publish a document is met by publication of that document on the *AEMC's* website.
- (j) If the *consulting party* is the *Information Exchange Committee*, a requirement under this rule 8.9 to publish a document is met by publication of that document on *AEMO's* website.

Individual meetings and additional consultation

- (k) At any time in a period in which an interested party may make written submissions in a consultation process under this rule 8.9, an interested party may request a meeting with the *consulting party* to discuss the Proposal. The *consulting party* must hold the meeting within a reasonable period of time after the request or respond to the interested party giving reasons why it is not reasonably practicable to hold the meeting.

- (l) For the avoidance of doubt, in addition to the required consultation procedures below and any meetings requested under paragraph (k), at any stage the *consulting party* may conduct other forms of consultation including publishing issues or discussion papers, establishing and seeking input from working groups or advisory panels, and holding conferences, meetings or information sessions.

8.9.2 Standard rules consultation procedure

Initial consultation

- (a) Where this rule 8.9.2 applies, the *consulting party* must publish a consultation paper with:
 - (1) an explanatory statement that sets out particulars of the Proposal, the issues involved and options to address them;
 - (2) the provision of the *Rules* under which the consultation is being conducted;
 - (3) an invitation to make written submissions to the *consulting party* on the consultation paper; and
 - (4) a due date for written submissions, which must be no earlier than 20 *business days* from the date of the consultation paper.

Consultation on draft document

- (b) No later than 50 *business days* after the due date for submissions under paragraph (a)(4), the *consulting party* must publish a draft report with:
 - (1) a draft of the relevant determination or document for consultation, which is (where the consultation is on changes to an existing document) marked up with the proposed amendments;
 - (2) reasons for its approach to the draft determination or document;
 - (3) the material required under clause 8.9.1(f)(2);
 - (4) the proposed date on which the final version of the determination or document would take effect; and
 - (5) an invitation to make written submissions to the *consulting party* on the draft report, and a due date for submissions, which must be no earlier than 20 *business days* after the date of the draft report.

Publication of final document

- (c) No later than 50 *business days* after the due date for submissions under paragraph (b)(5), the *consulting party* must publish a final report with:

- (1) the final determination or document, including (where the consultation was on changes to an existing document) a version marked up with the final amendments;
- (2) the material required under clause 8.9.1(f)(2);
- (3) the reasons for its decision to make the final determination or document; and
- (4) the date on which the final determination or document takes effect.

Extension of time

- (d) The *consulting party* may extend the time limit for publishing a draft or final report under paragraphs (b) or (c), by publishing a notice before the expiry of the relevant time limit, if the *consulting party* considers an extension is necessary because:
 - (1) the Proposal involves issues of sufficient complexity or difficulty; or
 - (2) there is a material change in circumstances.
- (e) The notice under paragraph (d) must specify the new date for publication of the draft or final report (as applicable), the reasons for the extension of time, and any further consultation the *consulting party* proposes to undertake in accordance with clause 8.9.1(l).

8.9.3 Expedited rules consultation procedure

Consultation on draft document

- (a) If this clause 8.9.3 applies, the *consulting party* must publish a draft report with:
 - (1) a draft of the relevant determination or document for consultation, which is marked up with the proposed amendments;
 - (2) an explanatory statement that sets out the provision of the *Rules* under which the determination or document is proposed to be amended, the *consulting party's* reasons for considering the Proposal is a Non-material Proposal, and the *consulting party's* reasons for the draft amendments;
 - (3) information on the process in paragraphs (b) to (d) to request the *consulting party* to use the *standard rules consultation procedure*, and the due date for submitting a request;
 - (4) the proposed date on which the final version of the determination or document would take effect; and

- (5) an invitation to make written submissions to the *consulting party* on the draft report, and a due date for submissions, which must be no earlier than 20 *business days* after the date of the draft report.

Switching to standard rules consultation procedure

- (b) If any person considers the Proposal is not a Non-material Proposal, the person may request the *consulting party* to use the *standard rules consultation procedure* instead of the *expedited rules consultation procedure*. A request under this paragraph (**procedure change request**) must:
 - (1) be in writing;
 - (2) contain reasons why the person considers the Proposal is not a Non-material Proposal; and
 - (3) be sent to the *consulting party* within 10 *business days* of the date the *consulting party* publishes the draft report under paragraph (a).
- (c) If the *consulting party* considers the reasons given in a procedure change request are misconceived or lacking in substance, the *consulting party* must:
 - (1) as soon as practicable, publish the procedure change request and the *consulting party's* reasons for considering it misconceived or lacking in substance; and
 - (2) subject to paragraph (e), continue to consult using the *expedited rules consultation procedure*.
- (d) If the *consulting party* considers the reasons given in a procedure change request are not misconceived or lacking in substance, the *consulting party* must, as soon as practicable, publish a notice to the effect that it will apply the *standard rules consultation procedure*.
- (e) Whether or not it has received a procedure change request, the *consulting party* may, by publishing a notice at any time within the period specified in paragraph (g), choose to apply the *standard rules consultation procedure* instead of the *expedited rules consultation procedure*.
- (f) If the *consulting party* publishes a notice under paragraph (d) or (e), the *consulting party* is taken to have complied with the requirements of clause 8.9.2(a) by publishing the draft report under paragraph (a) of this clause 8.9.3 and, thereafter, must comply with the *standard rules consultation procedure* and relevant timeframes.

Publication of final document under expedited rules consultation procedure

- (g) Subject to paragraph (f), no later than 50 *business days* after the date of publication of the draft report under paragraph (a), the *consulting party* must publish a final report with:
- (1) the final determination or document, including a version marked up with the final amendments;
 - (2) the material required under clause 8.9.1(f)(2);
 - (3) the reasons for its decision to make the final determination or document; and
 - (4) the date on which the final determination or document takes effect.

8.9.4 Minor rules consultation procedure

- (a) If this clause 8.9.4 applies, the *consulting party* must publish:
- (1) a draft of the relevant document, marked up with the proposed amendments;
 - (2) the reasons for making the proposed amendments and why the *consulting party* considers the amendments to be minor or administrative in nature; and
 - (3) an invitation for comments on the draft amendments within 10 *business days* of publication of the draft document.
- (b) As soon as reasonably practicable after the due date for comments under paragraph (a)(3), the *consulting party* must publish:
- (1) the final document, including a version marked up with the final amendments;
 - (2) any comments given to the *consulting party* under paragraph (a)(3); and
 - (3) a notice, stating the reasons for making the final amendments and the date on which the final document takes effect.

[2] Chapter 10 Glossary

In chapter 10, insert the following definitions in alphabetical order:

expedited rules consultation procedure

The form of *Rules consultation procedures* set out in clause 8.9.3.

minor rules consultation procedure

The form of *Rules consultation procedures* set out in clause 8.9.4.

standard rules consultation procedure

The form of *Rules consultation procedures* set out in clause 8.9.2.