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Australian Energy Market Commission

## **DIRECTIONS PAPER**

# RECOVERING THE COST OF AEMO'S PARTICIPANT FEES

21 JULY 2022

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# REVIEW

## INQUIRIES

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## ABOUT THE AEMC

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

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## SUMMARY

- 1 This directions paper seeks further stakeholder feedback on the rule change request from Energy Networks Australia (ENA) relating to the recovery of the Australian Energy Market Operator's (AEMO's) participant fees by Transmission Network Service Providers (TNSPs).
- The Commission has not yet made a decision on this rule change request and is seeking further feedback**
- 2 The Commission has not made a decision on this rule change request and is seeking further stakeholder feedback on the issues raised in this Directions paper to assist in its decision-making process.
- 3 The purpose of this Directions paper is to test with stakeholders the option of not making the core element of the rule change proposal, being the proposed mechanism to allow TNSPs to directly pass on the cost of AEMO's new core NEM participant fees, and also to seek additional stakeholder feedback on other elements of the rule change proposal.
- 4 The Commission notes that, while the rule change remains non-controversial (as defined by the NEL), the level and diversity of stakeholder feedback suggests that further consultation would be beneficial.
- Some submissions supported the rule change proposal to allow TNSPs to directly recover the cost of AEMO's core NEM fees**
- 5 AEMO, AusNet Services and ENA supported allowing TNSPs to directly pass through the cost of AEMO's core NEM fees.
- 6 Stakeholder arguments in submissions to the consultation paper supporting making the core element of the rule could be summarised as:
- **Efficiency of costs:** AEMO's costs and cost allocations are outside a TNSP's control.
  - **Principles of good regulatory practice - Simplicity and transparency:** passing through actual AEMO participant fees is more efficient than a revenue determination process, and aligns with the existing treatment of AEMO's National Transmission Planner (NTP) fees.
  - **Appropriate risk allocation:** TNSPs are unable to accurately forecast AEMO's fees for a five-year revenue determination period, which increases TNSPs' risk profiles and may result in TNSPs being left out of pocket.
  - **Implementation considerations - Cost and complexity:** passing through AEMO participant fees allows TNSPs to exactly and transparently recover their efficient costs, and also ensures that consumers pay no more (and no less) than the actual fees levied by AEMO.
- Other submissions suggested that the current arrangements should be retained**
- 7 The Australian Energy Regulator (AER), Australian Energy Council (AEC), EnergyAustralia and four consumer groups suggested that there is not a substantive issue with the current arrangements to warrant the rule change proposed by ENA. The AER considered that "the

NEO would be better achieved by TNSPs recovering participant fees...through the existing mechanisms.”

8 Stakeholder arguments in submissions to the consultation paper opposing making the core element of the rule could be summarised as:

- **Efficiency of costs:**
  - the AER specifically felt that network businesses incur a number of diverse costs which have similar characteristics to AEMO's fees, such as government levies and taxes, and these are all classified as operating expenditure. In the AER's view “allowing these types of costs to be recovered directly through an annual pricing adjustment on the basis that they are largely uncontrollable erodes incentive based-regulation, reducing the incentives for network businesses to manage their total operating costs and does not best promote the achievement of the NEO.” “We...consider it an undesirable precedent to move toward the recovery of opex based on actual cost of service.”<sup>1</sup>
  - there is benefit in exposing TNSPs to cost minimisation incentives for AEMO core participant fees, because:
    - AEMO's fee structure must, to the extent practicable, be consistent with NER clause 2.11.1(b)(3): ‘...fees charged to each Registered Participant should be reflective of the extent to which the budgeted revenue requirements for AEMO involve that Registered Participant.’
    - TNSPs do have a level of influence over AEMO's costs but, with a direct pass-through, TNSPs may have no incentive to act in a manner that minimises AEMO's costs or total costs.
    - guaranteeing full cost recovery may create a perverse incentive for TNSPs to encourage more functions and associated costs to be moved on to AEMO in order for TNSPs to reduce their own costs, even where doing so would be inefficient.
- **Appropriate risk allocation:** allowing TNSPs to directly pass through the cost of AEMO's core NEM fees to customers would not appropriately allocate the risk to the party that is best placed to manage that risk. TNSPs have at least some level of influence over these costs, which customers lack.
- **Principles of good regulatory practice - Simplicity and transparency:** while ENA considered its proposed process for recovering AEMO's participant fees would be more efficient, the AER did not consider that there is a substantive issue with current arrangements, noting how AEMO fees could be readily incorporated within existing revenue determination processes.
- **Implementation considerations - Cost and complexity:** the existing revenue arrangements already provide TNSPs with a reasonable opportunity to recover at least their efficient costs, in accordance with the NEL revenue and pricing principles, notwithstanding variability in sub-components from year to year and determination to determination. There is no need to introduce another mechanism.

1 AER, submission to consultation paper, p. 2.

- 9 This directions paper seeks additional feedback on the above arguments.
- 10 This paper also explores whether, if the core element of the proposed rule is not made, other minor amendments proposed by ENA should be made - in particular:
- amendments to exclude National Transmission Planner (NTP) fees from the definitions of over-recovery amount and under-recovery amount in Chapter 10 of the NER, so TNSPs are not left out of pocket, and
  - amendments to clarify transfer payment arrangements for AEMO's participant fees between Co-ordinating Network Service Providers (CNSPs) and TNSPs.
- Timeframe for consultation**
- 11 This paper has been published to facilitate further consultation on the rule change request. Please provide your submissions in response to this directions paper by **18 August 2022**. The Commission intends to publish a final determination by **22 September 2022**.

# 1 RULE CHANGE REQUEST AND THE RULE MAKING PROCESS

This chapter outlines:

- the rule change request and
- the rule making process.

## 1.1 The rule change request

Under the National Electricity Rules (NER), AEMO must publish:

- an annual budget of its revenue requirements by the start of each financial year,<sup>2</sup> and
- a structure setting out how its budgeted revenue is to be recovered through participant fees.<sup>3</sup>

AEMO has allocated a portion of core NEM fees to relevant TNSPs<sup>4</sup> between 1 July 2023 and 30 June 2026.<sup>5</sup>

ENA's rule change request proposed a mechanism that would allow TNSPs to directly pass on the cost of AEMO's new participant fees that AEMO recently decided to allocate to TNSPs.

Key features of the proposed rule are:

- amendments to revenue and pricing methodologies to allow for direct cost recovery, rather than recovery through an AER revenue determination,
- alignment of AEMO's budgeting process and TNSPs' publication of transmission charges, and
- clarifying transfer payment arrangements between a Co-ordinating Network Service Provider (CNSP) and a TNSP.

Further information on the issues and proposed solution are set out in ENA's rule change request<sup>6</sup> and the consultation paper.<sup>7</sup>

### 1.1.1 Network of Illawarra Consumers' (NICE's) rule change request

NICE considered that if TNSPs are unable to influence AEMO's costs then charging participant fees to TNSPs is administratively inefficient, and can increase costs to consumers through unnecessary billing of charges.<sup>8</sup>

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2 NER clause 2.11.3(a).

3 NER clause 2.11.1(a).

4 Excluding Murraylink and Directlink which have no direct involvement with AEMO's revenue requirements. AEMO, *Electricity fee structures - Final report and determination*, March 2021, p. 16.

5 For more information, refer to the consultation paper for this rule change.

6 ENA, rule change proposal, 24 June 2021.

7 AEMC, *Recovering the cost of AEMO's participant fees*, Consultation paper, 28 April 2022.

8 NICE, rule change proposal, p. 1.

NICE's proposed rule sought to prevent AEMO from being able to charge participant fees to market network service providers,<sup>9</sup> such that the need for direct cost recovery by TNSPs is unnecessary.

The Commission has decided to treat NICE's rule change request as a submission to the ENA rule change request.<sup>10</sup>

## 1.2 The rule making process

On 28 April 2022, the Commission published a notice advising of its commencement of the rule making process and consultation in respect of the rule change request.<sup>11</sup> A consultation paper identifying specific issues for consultation was also published. Submissions closed on 26 May 2022.

The Commission considered that the rule change request was a request for a non-controversial rule as defined in s. 87 of the NEL. Accordingly, the Commission commenced an expedited rule change process, subject to any written requests not to do so. The closing date for receipt of written requests was 12 May 2022.

The Commission received one written request not to expedite the rule change request.<sup>12</sup> However, the Commission determined that, in its opinion,<sup>13</sup> the reasons contained in the written requests were misconceived or lacking in substance.<sup>14</sup> Accordingly, the rule change request continued to be assessed under the expedited rule making process.<sup>15</sup>

The Commission received 10 submissions to the consultation paper containing highly divergent views. The Commission notes that while the rule change remains non-controversial (as defined by the NEL), in that it is unlikely to have a significant effect on the national electricity market, the level of stakeholder feedback suggests that benefit is to be gained from further consultation.

On 21 July 2022 this Directions paper was published. The purpose of this Directions paper is to test the option of not making the core element of the rule change proposal, and to seek additional stakeholder feedback on making other elements of the rule change proposal.

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9 NICE proposed to amend NER clause 2.11.1A by adding "and Market Network Service Providers are deemed not to be Market Participants.". NICE, rule change proposal, p. 1.

10 NEL, s.93(1)(b). The rule change request is attached to NICE's submission as published on the Commission's project page for the ENA's rule change.

11 This notice was published under s. 95 of the National Electricity Law (NEL).

12 NICE, Objection to use of expedited process, May 2022.

13 Section 96(3) of the NEL

14 For more information, refer to: AEMC, *Letter to NICE - Response to objection to the use of an expedited process for the rule change request on Recovering the cost of AEMO's participant fees*, 25 May 2022, available on the project page for this rule change.

15 Section 96 of the NEL.

## 2 ASSESSMENT FRAMEWORK

This chapter sets out:

- why we must consider the NEO and the revenue and pricing principles, and
- the amended assessment framework we propose to use to consider this rule change request

### 2.1 We must consider the NEO and the revenue and pricing principles

#### 2.1.1 **The Commission may only make a rule if it is in the long-term interests of consumers**

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO).<sup>16</sup>

The NEO is:<sup>17</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.

#### 2.1.2 **The Commission must also take into account the revenue and pricing principles**

The Commission must take into account the revenue and pricing principles set out in section 7A of the NEL in making certain rules.<sup>18</sup> Relevantly for this rule change request, we must take those principles into account in making rules with respect to the regulation of revenues earned, or prices charged, by owners, controllers or operators of transmission systems, for the provision by them of services that are the subject of a transmission determination.<sup>19</sup>

The revenue and pricing principles provide that a regulated network service providers should be provided with a reasonable opportunity to recover at least the efficient costs the operator incurs in complying with a regulatory obligation or requirement, or making a regulatory payment.<sup>20</sup>

#### 2.1.3 **Other aspects of the rule making process**

The Commission may make:

- a more preferable rule on an expedited rule change process,
- a differential or uniform rule in the Northern Territory.

For more information, refer to the consultation paper for this rule change.<sup>21</sup>

<sup>16</sup> Section 88 of the NEL.

<sup>17</sup> Section 7 of the NEL.

<sup>18</sup> Section 88 of the NEL.

<sup>19</sup> NEL schedule 1 items 15 and 16.

<sup>20</sup> NEL section 7A(2).

<sup>21</sup> AEMC, Recovering the cost of AEMO's participant fees, Consultation paper, 28 April 2022.



## 2.2 We have incorporated stakeholder feedback to amend the assessment framework

In the consultation paper, the Commission proposed and sought feedback from stakeholders on the following criteria to assess whether the rule change request is likely to contribute to achieving the NEO, and to take into account the relevant revenue and pricing principles and the issues raised in the rule change request:

- **Implementation considerations - Cost and complexity** - Whether the proposal provides efficient administrative processes that, in accordance with the NEL revenue and pricing principles, provides TNSPs with a reasonable opportunity to recover the efficient costs of complying with a regulatory obligation to pay the participant fees that AEMO allocates to them (excluding NTP fees).
- **Principles of good regulatory practice - Simplicity and transparency:** Whether the proposal provides a simple, transparent and timely mechanism for AEMO to notify TNSPs of, and TNSPs to recover, the relevant participant fees.

In response to the consultation paper, stakeholders suggested adding additional criteria relating to:

- **efficiency of costs** - applying incentive based regulation where practicable, including the extent to which TNSPs' involvement with AEMO may lower costs associated with participant fees.<sup>22</sup>
- **appropriate risk allocation** - whether risk has been allocated to parties that are best placed to manage the cost risk associated with AEMO's participant fees.<sup>23</sup>
- **accuracy and ability to address and align with the pricing principles** - it is important that the rule change is directly assessed against its ability to address and align with the pricing principles.<sup>24</sup>

The Commission intends to amend the assessment framework by:

- Adding the criteria of efficiency of costs and appropriate risk allocation, as they were relevant to the assessment of the issues raised in submission to the Consultation paper.
- Not adding accuracy and ability to address and align with the pricing principles because, as set out in the Consultation Paper,<sup>25</sup> the Commission must already take the revenue and pricing principles into account.

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22 AEC submission, p.2

23 AEC submission, p. 3.

24 ENA submission, p. 3.

25 AEMC, Consultation paper, Recovering the cost of AEMO's participant fees, 28 April 2022, section 2.1.2.

## 3 KEY ISSUES FOR CONSULTATION

This section provides a summary of the Commission's analysis, and initial stakeholder views, on the following key issues considered in this rule change:

- Whether there are substantive issues with the current arrangements that warrant the proposed solutions. That is, analysis of the option of not making the core element of the rule change proposal.
- If there are not substantive issues with the current arrangements, should any elements of the consolidated rule change request be implemented? That is, analysis of the option of not making the core element of the rule change proposal, but making other elements of the rule change proposal.

We seek your views on these issues in light of the analysis set out below.

### 3.1 Do existing cost recovery pathways provide more appropriate incentives?

#### 3.1.1 Stakeholders highlighted concerns with the proposal for direct cost recovery

Stakeholders had mixed views on ENA's rule change proposal, with most opposed.

#### **The ability of TNSPs to influence AEMO's costs has a bearing on the appropriate cost recovery method**

- The AER, EUAA and EnergyAustralia considered that while TNSPs do not have direct control over participant fees levied by AEMO, they can identify inefficiencies to minimise cost burdens on AEMO, or influence the structure and magnitude of these fees through engagement with AEMO.<sup>26</sup> The AER stated that "We acknowledge that while TNSPs do not have direct control over the participant fees levied by AEMO, they can influence the structure and magnitude of participant fees through engagement with AEMO."<sup>27</sup>
- These stakeholders, as well as the AEC and Energy Consumers Australia, noted that it was preferable that TNSPs manage the cost of AEMO's core NEM fees through the incentive-based regulatory framework (including the 'reflective of involvement' principle for participants relating to AEMO's fees in clause 2.11.1(c)), rather than as a direct cost pass through.<sup>28</sup>
- AusNet Services and ENA considered that TNSPs do not have an ability to influence AEMO's costs. They suggested that TNSPs are unable to control or forecast AEMO's fees, which may result in TNSPs being left out of pocket and increasing TNSPs' risk profile. Therefore, they suggested that a direct cost pass through mechanism was appropriate.<sup>29</sup> AusNet noted that in August 2021 it included an operating expenditure (opex) forecast of \$6.5 million in its 2022-27 revenue determination, that was approved by the AER.<sup>30</sup>

26 Submissions from AER pp. 1-2; EnergyAustralia, p.1.; EUAA, p. 2.

27 Submission from AER pp. 1-2.

28 Submissions from AEC, pp.1-2; AER, p. 2.; EnergyAustralia, p.1, EUAA, p.1; Energy Consumers Australia, pp.1-2

29 Submissions from AusNet Services, pp. 1-2; ENA, p. 2.

30 Ibid, p. 1.

Subsequently, AEMO's draft budget for 2022-23 predicted that AEMO's core NEM fees would almost double between 2021-22 and 2022-23, which AusNet Services considered would leave it out of pocket.<sup>31</sup>

### **There are existing mechanisms for TNSPs to apply to recover the costs of AEMO's core NEM fees**

- **Revenue determination (opex)** - The AER noted that network businesses incur a number of diverse costs which have similar characteristics to AEMO's fees, such as government levies and taxes, and these are all classified as operating expenditure. For example, Powerlink is required to pay an annual levy for the AEMC's costs.<sup>32</sup>
- **Cost pass through application** - EnergyAustralia noted that current arrangements appropriately provide for the AER to consider when costs incurred by TNSPs are deemed to be uncontrollable, including eligibility for cost pass through events.<sup>33</sup> EUAA considered that the cost pass through threshold of one per cent cost of maximum allowed revenue (MAR) was designed to require the TNSP to accept some of the risk of cost changes below this threshold.<sup>34</sup> ENA considered that the magnitude of AEMO's core NEM fees is unlikely to meet the cost pass through trigger threshold of one per cent of MAR.<sup>35</sup>

### **Proposed direct pass through of AEMO's core NEM fees**

- The AEC, EUAA, and Energy Consumers Australia considered that ENA's proposal may create a perverse incentive for TNSPs to hand over more functions to AEMO as it would reduce the level of scrutiny a TNSP faces on such costs.<sup>36</sup> A number of functions that were previously performed by TNSPs have moved to being performed by AEMO, which has lowered operating costs for TNSPs and increased them for AEMO.
- According to the AER, "Allowing these types of costs to be recovered directly through an annual pricing adjustment on the basis that they are largely uncontrollable erodes incentive based-regulation, reducing the incentives for network business to manage their total operating costs".<sup>37</sup>
- ENA, AEMO and AusNet Services considered that TNSPs did not have control over AEMO's core NEM fees, so it was appropriate for TNSPs to directly pass through the cost to consumers.<sup>38</sup> AEMO and ENA considered that it would be more administratively efficient for TNSPs to recover the cost of AEMO's participant fees, compared to the use of existing mechanisms in the NER.<sup>39</sup>

### **Comparison between TNSP cost recovery arrangements for AEMO's NTP fees and AEMO's core NEM fees**

31 We note that 2023-24 is the first year that TNSPs will be allocated AEMO's core NEM fees, so TNSPs will not be allocated any of AEMO's core NEM fees in 2022-23.

32 Submission from AER, p.2.

33 EnergyAustralia, p. 1.

34 EUAA, p. 3.

35 ENA submission, p. 2.

36 AEC, submission, p. 2; EUAA, p. 2.; EUAA, p. 3.; Energy Consumers Australia, p. 2.

37 Submission from AER, p. 2.

38 AusNet Services, p. 2; ENA, p. 2.

39 Submissions from AEMO, p. 1; ENA, p. 2.

- ENA and AEMO noted that the proposed rule is consistent and closely aligned with the recently implemented arrangements for the direct cost pass-through of NTP fees.<sup>40</sup>
- EUAA, PIAC and EnergyAustralia noted that the fact that TNSPs can directly pass through AEMO's NTP fees to customers should not be precedent, or is a poor precedent, for this rule change. They noted that the NTP fee rule was made quickly to address a transitional period in the middle of a regulatory period and was for a specific new function (the Integrated System Plan (ISP)) conferred on AEMO, which did not directly substitute for historical TNSP activities.<sup>41</sup>

#### **Oversight and regulation of AEMO's costs**

- NICE suggested that the NER should be amended to subject AEMO's revenue allowance and fee structures to regulation by the AER.<sup>42</sup>
- EUAA and PIAC did not support the process whereby AEMO determines its fees without independent review of whether its costs are prudent and efficient.<sup>43</sup>

### **3.1.2**

#### **AEMC analysis relating to the ENA's proposed rule**

##### **Implementation considerations - Cost and complexity**

ENA's proposal could provide a more administratively efficient process for TNSPs to recover the full amount of AEMO's participant fees allocated to them, compared to the use of existing mechanisms. However, this administrative efficiency benefit may be minimal for the AER and TNSPs, and needs to be balanced against the impact on incentives, as explained below. The AER did not support ENA's proposed rule, because it considered that, on balance, the NEO would be better achieved by TNSPs recovering AEMO's fees through existing mechanisms.<sup>44</sup>

##### **Incentives and efficiency of costs**

In recovering the cost of AEMO's core NEM fees, it may be preferable for TNSPs to be subject to incentive-based regulation, rather than directly passing through these costs. Reasons why this may be the case include:

- AEMO's fee structure must, to the extent practicable, be consistent with cl. 2.11.1(b)(3): '...fees charged to each Registered Participant should be reflective of the extent to which the budgeted revenue requirements for AEMO involve that Registered Participant.'
- Parties exposed to AEMO's fees are incentivised to work with AEMO to reduce combined costs. TNSPs may be able to influence AEMO's costs and total costs, including through the quality of their engagement, analysis and information provision.
- ENA's proposal guarantees full cost recovery for AEMO's core NEM fees, and may create a perverse incentive for TNSPs to move more functions and associated costs onto AEMO if this allowed TNSPs to reduce their own opex.

40 Submissions from ENA, p. 1; AEMO, p. 1.

41 Submissions from EUAA, p. 3; PIAC, p.1; EnergyAustralia, p.2; AEC, p.4.

42 NICE submission, p. 4.

43 EUAA submission, p. 2; PIAC submission p. 1.

44 AER submission, p. 1.

- There are a number of other costs that TNSPs incur that have similar characteristics to AEMO's fees, such as government levies and taxes. Such costs have previously been classified as operating expenditure and recovered as part of TNSPs' revenue determinations. Regulated network businesses will manage the variability in such costs as part of their total operating costs, just as a non-regulated businesses do. The AER's revenue determination process should provide TNSPs with a reasonable opportunity to recover at least their efficient costs, notwithstanding variability in sub-components from year to year and determination to determination.

### **NEL revenue and pricing principles could be satisfied under the existing recovery mechanisms**

Existing mechanisms in the NER may provide TNSPs with a reasonable opportunity to recover their efficient costs, inclusive of costs of complying with regulatory obligations, in accordance with the NEL revenue and pricing principles. The existing mechanisms are:

- **Five year revenue determination** - Under current arrangements a TNSP's costs, including the costs of complying with a regulatory obligation, are funded through its revenue determination. For example, under the AER's current Base-Step-Trend operating expenditure approach, a TNSP could initially apply to recover the cost of AEMO's core NEM fees as an opex step change due a regulatory change event. Regardless, the AER must generally accept the forecast of required operating expenditure of a TNSP that reflects efficient operating costs, or substitute its own estimate.<sup>45</sup>
- **Cost pass through application** - The existing framework recognises that, during a revenue determination period, regulatory changes may result in additional costs or savings. The framework allows for minor variations to be absorbed or dealt with, for example through re-prioritisation, but provides a safeguard beyond a materiality threshold. Overall the framework provides a reasonable opportunity to recover at least the TNSP's efficient costs. After the AER has made a revenue determination, a TNSP may apply for a positive cost pass through amount under NER clause 6A.7.3 if the TNSPs is subject to a regulatory change event. The AER would then assess the application. To satisfy the definition of "regulatory change event", the allocation of fees to the TNSP would (among other things) need to:
  - substantially affect the manner in which the TNSP provides prescribed transmission services; and
  - exceeds one per cent of the MAR for the TNSP in a regulatory year.

### **Risks should be allocated to those best placed to manage them**

Allowing TNSPs to directly pass through the cost of AEMO's core NEM fees to customers might not appropriately allocate the risk to the party that is best placed to manage the risk. TNSPs have a level of influence over these costs, which customers lack.

### **Different treatment of AEMO's NTP function fees and core NEM fees may be appropriate**

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<sup>45</sup> NER clauses 6A.6.6 and 6A.13.2(b)(3).

Our 2020 NTP rule allowed TNSPs to directly pass through the cost of AEMO's NTP function fees. However, the AEC noted that NTP function fees relate to a specific new function conferred on AEMO, which was to develop the ISP, and does not directly substitute for historical TNSP activities.

**QUESTION 1: ARE THE CURRENT RECOVERY ARRANGEMENTS MORE APPROPRIATE THAN DIRECT COST RECOVERY?**

1. To what extent can TNSPs influence AEMO's costs, and the overall efficiency, of delivering functions for which AEMO charges them participant fees?
2. Reflecting on submissions and the analysis above, do you think that there is a substantial issue with the current arrangements that warrants making ENA's proposed rule?

Note: For 1 above it may be helpful to refer to AEMO's Final report and determination, Electricity Fee Structures, March 2021, as well as at AEMO's membership page <https://www.aemo.com.au/about/our-people/our-members> and AEMO's stakeholder engagement page <https://www.aemo.com.au/about/working-with-us>

### 3.1.3

#### **AEMC analysis relating to NICE's proposed rule**

##### **Implementation considerations - Cost and complexity**

NICE considered that charging participant fees to TNSPs is administratively inefficient, as it only has the effect of increasing costs to consumers through unnecessary billing of charges. However, for the reasons set out above, it may be the case that TNSPs have a degree of influence over the costs AEMO charges them. If so, it would not be appropriate to make the rule proposed by NICE, as overall costs may be expected to reduce if the appropriate parties have the incentives to reduce them.

##### **Risk allocation**

NICE's proposal to prevent AEMO allocating fees to TNSPs may not appropriately allocate the risk to a set of parties that have a level of control over AEMO's core NEM fees. This rule would result in all of AEMO's core NEM fees being allocated to other participants, such as wholesale market participants and market customers, that have no greater control over AEMO's core NEM fees than TNSPs do.

**QUESTION 2: IS THERE BENEFIT IN MAKING NICE'S PROPOSED RULE?**

Do you agree with the position put in NICE's submission that charging participant fees to TNSPs is administratively inefficient?

## 3.2 If there is not a substantive issue with the current arrangements, should any elements of ENA's proposal be made?

### 3.2.1 Stakeholder views

In discussion with AEMC officials, AER officials supported ENA's proposal to exclude AEMO participant fees (only relating to NTP function fees and not core NEM fees) from the definitions of under-recovery amount and over-recovery amount in order for the rule to operate as intended, with TNSPs not left out of pocket.

ENA and AEMO supported clarifying payment arrangements between CNSPs and TNSPs.<sup>46</sup> ENA note that, where the CNSP and TNSP are not the same party (i.e. AusNet Services in Victoria), AusNet Services is charged AEMO's fees and seeks revenue from AEMO, who is the CNSP. AEMO recovers revenue through published transmission charges.<sup>47</sup>

### 3.2.2 Analysis

#### **Amending the definitions of over-recovery amount and under-recovery amount**

If the Commission decides to not to make ENA's proposed rule relating to AEMO's core NEM fees (as explained in section 3.1 above), the definitions of under-recovery amount and over-recovery amount would not be amended in relation to AEMO's core NEM fees. However, it may be useful to make narrower clarifying changes to those definitions.

Under the existing cost recovery arrangements for NTP function fees, NTP function fees are not included in a TNSP's revenue allowance for the regulatory period.

Revenue that a TNSP receives, that is not included in a TNSP's revenue allowance, may be calculated as an over-recovery amount and be given back to customers through reduced transmission prices in the following year.<sup>48</sup>

Therefore, revenue recovered for NTP function fees may be given back to customers if the definitions of under-recovery amount and over-recovery amount are not amended to exclude NTP function fees from these calculations.

Amending the definitions of under-recovery amount and over-recovery amount may help to ensure the rule works as intended. Without the clarification, revenue intended to cover NTP function fees may be inadvertently returned to customers in the following year.

#### **Clarifying transfer payment arrangements between CNSPs and TNSPs**

If the core element of the ENA's proposed rule is not made, these proposed clarifications (which would be based on ENA's proposed changes to provisions in NER chapter 6A) may not be strictly necessary. However, there may be benefit in clarifying these arrangements in the NER. Currently this transfer payment arrangement only exists in Victoria between AEMO (as the CNSP) and AusNet Services (the TNSP), however in future potential exists for such transfer payment arrangements to exist between other CNSPs and TNSPs across the NEM.

<sup>46</sup> Submissions from ENA, p. 2; AEMO, p.1.

<sup>47</sup> ENA submission, p. 3.

<sup>48</sup> NER clause 6A 23.3(e)(5).

**QUESTION 3: AMENDING DEFINITIONS AND CLARIFYING ARRANGEMENTS  
BETWEEN CNSPS AND TNSPS**

Do you think it would be useful to amend the definitions of over-recovery amount and under-recovery amount, and clarify transfer payment arrangements between CNSPs and TNSPs, as proposed by ENA, even if the core element of ENA's proposed rule is not made?



## ABBREVIATIONS

AEC	Australian Energy Council
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CNSP Commission	Co-ordinating Network Service Provider See AEMC
ECA	Energy Consumers Australia
ENA	Energy Networks Australia
EUAA	Energy Users Association of Australia
MAR	Maximum allowed revenue
NEL	National Electricity Law
NEO	National electricity objective
NER	National electricity rules
NEM	National electricity market
NICE	Network of Illawarra Consumers of Energy
NTP	National transmission planner
TNSP	Transmission network service provider