

RULE PROPOSAL

NATIONAL ELECTRICITY AMENDMENT (MINOR CHANGES 1) RULE 2023

NATIONAL GAS AMENDMENT (MINOR CHANGES 1) RULE 2023

PROPONENT

AEMC

13 JULY 2023

INQUIRIES

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ABOUT THE AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

ACKNOWLEDGEMENT OF COUNTRY

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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1 INTRODUCTION

As part of its rule making function, the Australian Energy Market Commission (Commission or AEMC) reviews, amends and maintains:

- the National Electricity Rules (NER) in accordance with the National Electricity Law (NEL); and
- the National Gas Rules (NGR) in accordance with the National Gas Law (NGL).

The purpose of this function, among other things, is to improve and enhance the quality of the NER and the NGR (together the “energy rules”).

1.1 Background

The Commission initiates rule changes to correct minor errors in the energy rules or make clarifications that are non-material in nature. This rule change proposal includes proposed amendments identified by the Commission since the last minor changes rules, which were completed in April 2022.

This consultation paper has been prepared to facilitate public consultation on the rule change proposal and to seek stakeholder submissions.

This paper:

- provides a summary of, and background to, the rule change proposal, and sets out the proposed assessment framework (chapter 1);
- outlines the rule-making process the Commission proposes to use for this rule change proposal (chapter 2); and
- outlines the process for making submissions (chapter 3).

1.2 Proposed Rules

The National Electricity Amendment (Minor changes 1) Rule 2023 (the “proposed electricity Rule”) and the National Gas Amendment (Minor changes 1) Rule 2023 (the “proposed gas Rule”), (together, the “Proposed Rules”), are proposed by the AEMC to correct minor errors and make non-material changes in the NER and NGR. In particular, the Proposed Rules seek to:

- correct minor formatting and typographical errors, including punctuation, numbering levels, indentation and italicisation;
- ensure consistency of references to provisions throughout the NER and the NGR;
- correct minor errors in definitions and cross-references; and
- remove duplication.

The proposed electricity Rule also addresses the following specific issues:

- The deletion of clause 7.8.2(f)(4) of the NER. Clause 7.8.2(f) sets out the requirements for metering installations for non-market generating units and clause 7.8.2(f)(4) includes requirements for new accumulation metering equipment for those types of generating

units. However, with the introduction of clause 7.8.2A under the *National Electricity Amendment (Five Minute Settlement) Rule 2017 No. 15* (which requires all new or replacement metering installations to be capable of recording and providing trading interval energy data), existing clause 7.8.2(f)(4) has become redundant and can be removed.

- The introduction of new naming conventions in Chapter 11 of the NER to assist with readability. The Commission proposes that Part ZZZZZH of Chapter 11 consolidate all current and future Savings and Transitional Rules made in 2023. Rather than creating a new Part for each amending Rule, the Commission proposes that only one new Part per year be created and that all Savings and Transitional Rules made within that year be grouped within that Part. This is the first step in the process of making Chapter 11 more navigable.
- Amendments to clause 11.159.4(b)(2) and the insertion of new clause 11.159.4(b1). These amendments are intended to clarify that an application to connect submitted before 27 April 2023 will be subject to the access standards outlined in Chapter 5 of the NER as they were before 15 March 2023, unless the applicant has made an election for new Chapter 5 to apply (as provided for by clause 11.143.9(b)-(c)), with the exception of the reactive current minimum access standard under clause S5.2.5.5 of the NER, which would be the new standard as outlined in clause 11.159.4(b). These amendments reflect the policy intention of the *National Electricity Amendment (Efficient reactive current access standards for inverter-based resources) Rule 2023 No. 1*.
- Section 1.3.2 below addresses the differential rule required for the NER as in force in the Northern Territory.

The Proposed Rules are published with this rule proposal.

1.3

1.3.1

Assessment framework

Achieving the NEO and the NGO

National Electricity Objective

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).¹ This is the decision making framework that the Commission must apply.

The NEO is:²

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 -

1. price, quality, safety, reliability and security of supply of electricity; and
2. the reliability, safety and security of the national electricity system.

¹ Section 88 of the NEL.

² Section 7 of the NEL.

Under the Northern Territory legislation adopting the NEL, 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:³

1. the national electricity system
2. one or more, or all, of the local electricity systems⁴
3. all of the electricity systems referred to above.

For the purposes of the proposed electricity Rule, the Commission proposes to regard the reference to the “national electricity system” in the NEO to be a reference to item 3 from the list above.

National Gas Objective

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 gas objective (NGO).⁵ This is the decision making framework that the Commission must apply.

The NGO is:⁶

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, quality, safety, reliability and security of supply of natural gas.

Contribution of Proposed Rules to the achievement of the NEO and NGO

The Commission considers that the Proposed Rules are likely to contribute to the achievement of the NEO and the NGO because the Proposed Rules, if made, will improve the quality of the NER and NGR in terms of accuracy, consistency and clarity.

As with previous minor rule changes initiated by the Commission, these minor corrections and non-material changes will make the NER and the NGR clearer to stakeholders. This is important as the NER and the NGR inform stakeholders of their rights and obligations in relation to participating in the NEM and the wholesale gas market, and stakeholders rely on these rules in their commercial transactions. Clearer and more consistent rules will reduce the regulatory burden on stakeholders and allow for more efficient provision of electricity and gas services.

1.3.2

Rule making in the Northern Territory

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

³ Clause 14A of Schedule 1 to the *National Electricity (Northern Territory) (National Uniform Legislation) Act 2015* (referred to here as the NT Act), inserting section 88(2a) into the NEL as it applies in the Northern Territory.

⁴ These are specified Northern Territory systems, listed in schedule 2 of the NT Act.

⁵ Section 291(1) of the NGL.

⁶ Section 23 of the NGL.

the NEL.⁷ Under those regulations, only certain parts of the NER have been adopted in the Northern Territory.⁸

As the proposed electricity Rule, in some aspects, 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 Northern Territory legislation.

Under the NT Act, the Commission may make a differential rule if it is satisfied that, having regard to any relevant 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.⁹

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.¹⁰

The Commission proposes to make a uniform rule. The Commission also proposes to make a differential Rule for the following two clauses:

- Clause 5.3.1A(c). A differential rule is required to preserve the numbering of the modification to clause 5.3.1A(c), as it applies in the Northern Territory, arising from Schedule 2, Part 2, item 21(4) of the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016*. Schedule 2 of the proposed electricity Rule contains the proposed differential rule.
- Clause 5.3A.1(c)(1). A differential rule is required to preserve the numbering of the modification to clause 5.3A.1(c)(1), as it applies in the Northern Territory, arising from Schedule 2, Part 2, item 25I(3) of the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016*. Schedule 2 of the proposed electricity Rule contains the proposed differential rule.

The Commission considers that making a differential Rule in these respects will better contribute to the achievement of the national electricity objective (as it applies in the Northern Territory) than a uniform rule.

⁷ The regulations under the NT Act are the *National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016*.

⁸ For the version of the NER that applies in the Northern Territory, refer to: www.aemc.gov.au/regulation/energy-rules/northern-territory-electricity-market-rules/current.

⁹ Clause 14B of Schedule 1 to the NT Act, inserting section 88AA into the NEL as it applies in the Northern Territory.

¹⁰ 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.

1.3.3 Rule making in Western Australia

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.¹¹

Accordingly, the proposed gas Rule (if made as a final rule) will not apply in Western Australia.

1.3.4 Additional assessment requirements

Under s. 91(8) of the NEL and s. 295(4) of the NGL, the Commission may only make a Rule that has effect with respect to an adoptive jurisdiction if satisfied that the Proposed Rules are compatible with the proper performance of the Australian Energy Market Operator's (AEMO's) declared electricity network and gas system functions.

Given the Proposed Rules only seek to make minor or non-material changes to the energy rules, the Commission is satisfied that the Proposed Rules are compatible with the proper performance of AEMO's declared electricity network and gas system functions.

¹¹ 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>

2

PROCESS FOR THIS RULE CHANGE

2.1

The Commission's power to initiate the making of a rule

Under section 91(2) of the NEL and section 295(2) of the NGL respectively:

The AEMC must not make a Rule without a request under subsection (1) unless-

1. it considers the Rule corrects a minor error in the Rules; or
2. it considers the Rule involves a non-material change to the Rules; or
3. the Rule is in respect of any matter that is prescribed by the Regulations as a matter on which it may make a Rule on its own initiative.

As the Proposed Rules outlined in chapter 1 make changes that are minor and non-material in nature, the Commission considers that the Proposed Rules satisfy the requirements of s. 91(2) of the NEL and s. 295(2) of the NGL.

2.2

Treatment as a non-controversial rule change

Under s. 87 of the NEL, a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on the national electricity market". As the proposed changes to the NEL are minor or non-material in nature, the Commission considers that the proposed electricity Rule is unlikely to have a significant effect on the NEM. The proposed electricity Rule therefore falls within the definition of a non-controversial rule under s. 87 of the NEL.

Under s. 290 of the NGL, a "non-controversial Rule" is defined as "a Rule that is unlikely to have a significant effect on a market for gas or the regulation of pipeline services". As the proposed changes to the NGL are minor or non-material in nature, the Commission considers that the proposed gas Rule is unlikely to have a significant effect on a market for gas or the regulation of pipeline services. The proposed gas Rule therefore falls within the definition of a non-controversial rule under s. 290 of the NGL.

Rule changes that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation and the Commission is required to publish its final rule determination within eight weeks of commencing the rule change process.

The Commission has decided to use an expedited process to consider this rule change proposal provided that it does not receive any written requests not to use the expedited process by 27 July 2023.¹² If the Commission receives a written request not to expedite the process, the Commission will consider whether the reasons set out in that request are misconceived or lacking in substance. An objection to the use of the expedited process must be in writing and must set out the reasons why the rule change proposal is not unlikely to have a significant effect on:

- for the proposed electricity Rule, the NEM; and/or

¹² The Commission has published a notice under ss. 95 and 96 of the National Electricity Law and ss. 303 and 304 of the National Gas Law to commence and assess this rule change proposal as a non-controversial rule.

- for the proposed gas Rule, a market for gas or the regulation of pipeline services.

2.3 Key dates

The key dates for stakeholders in this process are as follows:

- Commencement of this rule change process: 13 July 2023
- Objections to an expedited process to be received by: 27 July 2023
- Submissions to the rule change proposal to be received by: 10 August 2023
- Final decision to be published under an expedited process by: 7 September 2023
- Rule changes to be implemented (under an expedited process): 7 September 2023

3 LODGING A SUBMISSION

The Commission invites written requests not to make a rule under the expedited process and written submissions on this rule change proposal.

If you have questions on this project please contact Elisabeth Coroneo on (02) 8296 7800 or elisabeth.coroneo@aemc.gov.au.

3.1 Requests not to make a rule under an expedited process

Written requests not to make a rule under the expedited process in s. 96 of the NEL and s. 304 of the NGL, must include reasons for the request, and must be lodged with the Commission by 27 July 2023 in accordance with the process specified below.

3.2 Submissions to this rule change proposal

Written submissions on the rule change proposal must be lodged with the Commission by 10 August 2023 in accordance with the process specified below. Tips for making a submission are available on the Commission website.¹³

The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).¹⁴

3.3 How to lodge a request or submission

Please lodge submissions, or requests not to make a rule under the expedited process, online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function under the "Contact Us" tab, and selecting the project reference code ERC0350.

The request or submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. If you are not able to lodge submissions or requests online, please contact us and we will provide instructions for alternative methods to lodge the submission or request.

¹³ See: <https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/our-work-3>.

¹⁴ Further information is available here: <https://www.aemc.gov.au/contact-us/lodge-submission>.

ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
Commission	See AEMC
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
NGL	National Gas Law
NGO	National Gas Objective
NGR	National Gas Rules