

21 March 2024

Report on rule not made within 12 months under NEL section 108A and NERL section 269

Purpose

The Australian Energy Market Commission (AEMC or Commission) is required under s. 108A of the National Electricity Law (NEL) and section 269 of the National Energy Retail Law (NERL) to publicly report on rules not made within 12 months of the publication of the notice of the commencement of the rule change process.

Background

In May 2022, the AEMC received a rule change request submitted by the Australian Energy Market Operator (AEMO) for flexible trading of consumer energy resources (CER).

The AEMO rule change proposal was developed as part of the Energy Security Board's post 2025 NEM recommendations and CER implementation plan. AEMO considered that the current National Electricity Rules (NER) framework does not support end users to easily access products and services that maximise the value of CER uptake and considers the separate metering of CER (separate from inflexible load) a means to unlock more CER value for consumers and the market.

To address these issues, AEMO proposed a specific model with a high-level design set out in the rule change request. This is to enable consumers and the market to separate flexible CER and have them managed and recognised in wholesale market settlements if they choose. AEMO's model included a new sub-metering arrangement and associated new meter type for flexible CER. AEMO also identified other cases where the new meter type could be used for currently unmetered loads, such as street lights and street furniture (e.g. park BBQs).

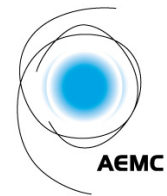
The relevant project milestones, including the number of submissions from stakeholders, are listed below:

- Consultation paper: published on 8 December 2022, commencing the rule change process. We received 60 submissions to the consultation paper.
- Statutory notice of project extension: published on 27 April 2023, extending the date for making the draft determination to 12 October 2023.
- Directions Paper: published on 3 August 2023. We received 54 submissions to the directions Paper.
- Statutory notice of project extension: published on 12 October 2023, extending the date for making the draft determination to 29 February 2024.
- Draft determination: published on 29 February 2024. The submission deadline is 11 April 2024.

Reason for the final rule determination not being made within 12 months

This report provides two main reasons why the rule change was not finalised within 12 months.

- A number of complex and interrelated issues, including metrology arrangements and specifications, price signals and data visibility (as the Commission noted at the policy meeting on 19 September 2023). The issues for rule change required extensive consultation to consider how to resolve, and attracted high numbers of submissions – as stated above.
- The major sources of complexity resided in:



- The rule change request itself, in which AEMO (the proponent) bundled several regulatory changes to support the flexible trading of CER, including street lighting. This all-encompassing approach made consultation and policy development quite complex and attracted significant stakeholder comment and, in some cases, opposition.
- The suite of market and technical arrangements and nature of roles and responsibilities for participants that required careful consideration, in particular the arrangements under Chapter 7 of NER (ie metering) and then interrelated requirements under other aspects of the NER and NERR. Solving those required in depth analysis of issues and extensive consultation with parties such as AEMO and stakeholders such as retailers, networks and those in the metering ecosystem (including the National Measurement Institute) and owners/operators of public infrastructure (DNSPs, councils).

Under section 108A of the NEL and section 269 of the NERL, this report was to be prepared as soon as practicable after the 12-month period expires. In this case, the report was prepared late because of a change of project leader in late 2023, staff in the project team leaving the organisation and priority for finalising the draft determination. The rule change covered 10 chapters of the NER and supporting changes to the NERR; hence it was very extensive in terms of the content it covered.

Expected time for making a final rule determination

The final rule determination is expected to be made by 11 July 2024.