AUSTRALIAN ENERGY MARKET COMMISSION

RULE

Consultation paper

National Electricity Amendment (South Australian jurisdictional derogation - Interim reliability reserve eligibility) Rule

Proponent

The Hon Tom Koutsantonis MP, Minister for Energy and Mining in South Australia

28 November 2024

Inquiries

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Reference: ERC0407

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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Summary

1 The Australian Energy Market Commission (AEMC or Commission) has received a request for a jurisdictional derogation from the Hon Tom Koutsantonis MP, Minister for Energy and Mining in South Australia (the Minister). The Minister's rule change proposal seeks a jurisdictional derogation in South Australia from certain restrictions on contracting for reliability reserves. The rule change would allow the Australian Energy Market Operator (AEMO) to enter into reserve contracts in relation to the capacity of two recently mothballed generating units to help safeguard reliability in the upcoming summer. The Minister submitted the rule change request on 15 November 2024.

2 The AEMC has commenced its consideration of the request, and this consultation paper is the first stage.

We are proposing to use the expedited process for this rule change

3 We are proposing to use the expedited rule making process under section 96 of the National Electricity Law (NEL) because we consider the rule change request is a request for an urgent rule.

4 We consider that if the rule change is not made as a matter of urgency, there will be an imminent threat to the reliability of the national electricity system. This is because AEMO has forecast a significant reliability risk in South Australia for the upcoming summer, which may be exacerbated by other factors. There is a risk that there may not be adequate reserves available to avoid load shedding, which would have a series of unfortunate and costly consequences for South Australian consumers, businesses and industry. The rule change seeks to ensure that additional reserve capacity can be made available to address this threat to reliability.

5 We consider that using the expedited process is appropriate to assess the rule change request. The expedited process would be eight weeks in total, with one round of consultation (this consultation paper) prior to a final determination.

6 Stakeholders can object to this expedited process by lodging a written objection with us by **12 December 2024**. Any objection should detail reasons why the rule change is not urgent. We will switch to the standard rule change process if we receive a valid objection. See below for more information on how to object to the expedited process.

We are seeking your views on the impact of eligibility restrictions under the interim reliability reserve framework remaining in place during the summer reliability gap

7 Earlier this year, Engie (the owner of the relevant generators) announced the mothballing of the Snuggery (63-megawatt (MW)) and Port Lincoln (75MW) peaking generators (collectively "Engie generators") from 1 July 2024, ahead of permanently closing the facilities in 2028.

8 Currently, the National Electricity Rules (NER or the Rules) prohibits AEMO from contracting with a generator to provide emergency reserves if it has been "available for dispatch at any time during the 12 month period immediately preceding" the date of the reserve contract (referred to in this consultation paper as the 12-month backward restriction). The relevant generating units were both available and able to be dispatched into the market before the decision to mothball them was made earlier this year – that is, they have been available for dispatch in the past 12 months. The capacity of the relevant generators is therefore ineligible to be considered by AEMO for contracting as reserves under the current Rules.

9 The Minister considers that this restriction limits the potential pool of suppliers for reserve contracts ahead of the upcoming summer.

We are also seeking your views on whether a jurisdictional derogation for interim reliability reserves would assist AEMO to manage summer reliability

10 Utilising the capacity of the Engie generators may assist AEMO to manage reliability risks in the upcoming summer period, particularly if severe weather events occur while regions are facing reliability issues. The Minister has proposed a time-limited (two-year) jurisdictional derogation from clause 3.20.3 (g) and (h) of the NER to allow AEMO to consider the two peaking generators (Snuggery and Port Lincoln) as out-of-market emergency reserves and contract their capacity under a reserve contract. The Commission will need to consider the appropriate term for any derogation to be in place.

11 A time-limited jurisdictional derogation from clauses 3.20.3 (g) and (h) of the NER would give AEMO the ability to negotiate with Engie to procure the services of the Snuggery and Port Lincoln generators as an out-of-market reserve. This does not guarantee that AEMO would use the services of these two generators, rather it would enable AEMO to consider the inclusion of these generators in the interim reliability reserves (IRR) for South Australia. In making this decision, AEMO would still need to have regard to the Reliability and Emergency Reserve Trader (RERT) principles and RERT guidelines (set out in clauses 3.20.3(b) and 3.20.8) and additional tests for multi-year reserve contracts (under rule 11.128) when deciding whether to procure and dispatch IRR. There would also be transparency of this decision as per the reporting requirements specified in the NER for the IRR.

We note there are implementation risks to manage

12 There are timing challenges associated with the proposal to have the Engie generators considered for inclusion in the IRR for this summer. In particular the challenge of finalising the rule change process, contractual negotiations and operational works in time for the plants to be available to help manage summer reliability issues.

13 Under the proposed expedited rule making timeframe, the earliest a rule could be made is late January.

14 We understand that Engie and AEMO are considering submitting a request for a letter of no action in relation to these clauses to the Australian Energy Regulator (AER).

We consider that there are three assessment criteria that are most relevant to this rule change request

15 Considering the National Electricity Objective (NEO)[1] and the issues raised in the rule change request, the Commission proposes to assess the rule change request against three assessment criteria.

16 We are seeking feedback on our proposed assessment criteria:

- **Safety, security and reliability:** Managing reliability risks is central to this rule change request. We propose to use this assessment criteria to consider whether enabling AEMO to consider including the identified Engie plants in the IRR would help mitigate the reliability gaps forecast in South Australia during the upcoming summer period.

1 Section 7 of the NEL.

- **Implementation considerations:** It will be important for the Commission to consider the implementation issues of this rule change request.
- **Principles of good regulatory practice:** It will be important for the Commission to consider impacts on the predictability and stability of the regulatory framework for stakeholders.

Submissions are due by 2 January 2025

17 Written submissions responding to this consultation paper must be lodged with Commission by 2 January 2025 via the Commission's website, www.aemc.gov.au.

18 There are other opportunities for you to engage with us, such as one-on-one discussions. See the section of this paper about "How to engage with us" for further instructions and contact details for the project sponsor.

Full list of consultation questions

Question 1: Do you agree that removing the restrictions in clause 3.20.3(g) and (h) in relation to the capacity of the Snuggery and Port Lincoln generators would assist AEMO to manage reliability risks in the upcoming summer period in South Australia?

Question 2: Do you agree with the benefits of the proposed rule change?

Are there any further benefits not considered by the Commission?

Question 3: Do you consider the costs of the proposed rule change can be managed?

Are there any costs - either direct or indirect - that have not been considered by the Commission? What are stakeholder views on these costs relative to the benefits?

Question 4: Are there further implementation considerations that need to be made? Are the implementation risks adequately managed?

Question 5: Assessment framework

Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant? What are your views on the costs and benefits of the proposed solution or alternative options against these criteria?

How to make a submission and object to the expedited process

We encourage you to make a submission

Stakeholders can help shape the solutions by participating in the rule change process. Engaging with stakeholders helps us understand the potential impacts of our decisions and, in so doing, contributes to well-informed, high quality rule changes.

We have included questions in each chapter to guide feedback, and the full list of questions is above. However, you are welcome to provide feedback on any additional matters that may assist the Commission in making its decision.

How to make a written submission

Due date: Written submissions responding to this consultation paper must be lodged with Commission by **2 January 2025**.

How to make a submission: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code ERC0407.[2]

Tips for making submissions are available on our website.[3]

Publication: 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).[4]

How to object to an expedited process

The Commission proposes to use an expedited process (eight weeks, one round of consultation) for this rule change for the reasons set out in section 1.3. You can object to this process. We will switch to the standard rule change process if we receive a valid objection.[5]

Due date: Written objections to the expedited process must be lodged with the Commission by 12 December 2024.

How to lodge an objection to the expedited process: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code ERC0407.[6]

Contents: Objections must set out the reasons why you consider the Rule is not related to any matter or thing that, if not made as a matter of urgency, will result in that matter or thing imminently prejudicing or threatening (a) the effective operation or administration of the wholesale exchange operated and administered by AEMO; or (b) the safety, security or reliability of the national electricity system.

Publication: The Commission publishes objections on its website. However, we will not publish materials 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).[7]

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2 If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission.
3 See: https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/submission-tips
4 Further information is available here: https://www.aemc.gov.au/contact-us/lodge-submission
5 See section 96 of the NEL. The Commission will consider if the reasons set out in the objection are misconceived or lacking in substance.
6 If you are not able to lodge an objection online, please contact us and we will provide instructions for alternative methods to lodge the objection.
7 Further information is available here: https://www.aemc.gov.au/contact-us/lodge-submission

For more information, you can contact us

Please contact the project sponsor with questions or feedback at any stage.

Project sponsor:	Kate Degen
Email:	kate.degen@aemc.gov.au

Contents

1 The context for this rule change request

This consultation paper seeks stakeholder feedback on the rule change request submitted by the South Australian Minister for Energy and Mining (the proponent, referred to as the Minister) for a jurisdictional derogation in South Australia to manage summer reliability. The derogation would allow the Australian Energy Market Operator (AEMO) to consider contracting for interim reliability reserves (IRR) with two generators in South Australia that were mothballed in July 2024.

The South Australian Minister has consulted with the Ministers of other participating jurisdictions on the rule change request in accordance with the requirements for requesting a jurisdictional derogation under Section 91(3) of the National Electricity Law (NEL).

We are proposing to process this rule change request through an expedited process, as we consider that the rule change, if not made as a matter of urgency, will imminently result in prejudicing or threatening the safety, security or reliability of the national electricity system.[8]

1.1 The South Australian Minister for Energy and Mining has proposed a jurisdictional derogation to allow emergency reserve procurement in South Australia

1.1.1 The problem as stated in the rule change request

In early 2024, Engie announced the mothballing of two of its peaking generators - Snuggery (63-megawatt (MW)) and Port Lincoln (75MW) - ahead of closing the facilities in 2028.

Subsequently, AEMO's 2024 Electricity Statement of Opportunities (ESOO) projected a reliability shortfall of 200MW in South Australia against the interim reliability measure (IRM) for the 2024-25 period.[9] The proponent notes that this does not consider delays to additional capacity coming online through Project EnergyConnect (PEC),[10] exacerbating the risks identified by AEMO (and in the proponent's own modelling mentioned in the rule change request).

The proponent suggests that utilising the capacity of the Snuggery and Port Lincoln generators may assist AEMO to manage reliability risks in the upcoming summer period in South Australia, particularly if reliability issues coincide with severe weather events. However, the two generators are currently unable to be considered for out-of-market reserve contracts due to provisions set out in the National Electricity Rules (NER or the Rules).

Clauses 3.20.3 (g) and (h) of the NER prohibit AEMO and a person entering into scheduled reserve contracts under the Reliability and Emergency Reserve Trader (RERT) framework if the relevant generators have been available for dispatch in market within the last 12-months ("the 12-month backward restriction").[11] [12] Both Snuggery and Port Lincoln were available and last dispatched in the market on 1 July 2024, so the capacity of the generators cannot be considered by AEMO for out-of-market reserve contracts until 1 July 2025.

8 Section 87 of the NEL.

9 AEMO, 2024 ESOO, p. 69.

10 PEC is a new 330kV electricity interconnector between South Australia and New South Wales that will add approximately 800MW of further transfer capacity between these two states. It is a partnership between ElectraNet and Transgrid. Refer to the PEC webpage for further information on the project: projectenergyconnect.com.au

11 Under clause 11.128.3 of the NER, for the purpose of procuring IRR, rule 3.20 (the RERT rule) applies as amended and supplemented by rule 11.128 (the IRM rule). This means that the 12-month backward restriction set out in clause 3.20.3 (g) and (h) applies to contracts for IRR.

12 The rationale for the 12-month backward restriction is to ensure that the market remains the primary mechanism for meeting reliability in the national electricity market (NEM). Refer to appendix A for further information on these clauses.

While AEMO is currently considering offers from approximately 120 MW of reserves in SA, an additional 138MW of large flexible generation may significantly increase AEMO's ability to prevent load shedding during periods of unserved energy (USE) in the upcoming summer.

1.1.2 The solution proposed in the rule change request

The Minister proposes a time-limited jurisdictional derogation from clauses 3.20.3 (g) and (h) of the NER. This would give AEMO the ability to negotiate with Engie to procure the services of the Port Lincoln and Snuggery generators as an "out-of-market reserve". The Minister proposes that the derogation would last for a period of no longer than two years.

The Minister proposes that the rule change request is progressed as urgent.

The rule change request can be found on our website here.

1.2 We have started the rule change process

This paper is the first stage of our consultation process. As explained in section 1.3, we are proposing to use an expedited process for this rule change because we consider the request is for an urgent rule. This expedited process includes the following formal stages:

- a proponent submits a rule change request
- the Australian Energy Market Commission (AEMC or the Commission) commences the rule change process by publishing a consultation paper and seeking stakeholder feedback
- stakeholders may lodge objections to the expedited process and engage through other channels to make their views known to the AEMC project team
- stakeholders may lodge submissions on the consultation paper and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a final determination and final rule (if relevant).

If we receive a valid objection to the expedited process, we will revert to the standard rule change process. The standard rule change process would include, prior to a final determination being made, the publication of a draft determination and draft rule with an opportunity for stakeholders to provide feedback on the draft determination.

1.3 We are proposing to use the expedited process for this rule change

We are proposing to use the expedited rule making process under section 96 of the NEL because we consider the rule change request is a request for an urgent rule, and using the expedited process (eight weeks in total, with one round of consultation) is appropriate in the circumstances.

The process for objecting to the expedited rule making process is set out in section 1.3. Objections to the expedited process can be made by **12 December 2024**.

1.3.1 We consider that the rule change request is urgent

We consider the rule change request is urgent as, if the rule change is not made as a matter of urgency, there will be an imminent threat to the safety, security or reliability of the national electricity system.[13] This is because AEMO has forecast significant reliability risks in South Australia for the upcoming summer and there is a risk that there may not be adequate reserves

13 Section 87 of the NEL.

available to avoid load shedding, which would have a series of consequences for South Australian consumers, businesses and industry.

There are two key elements informing our consideration that this is an urgent rule:

- **Forecast reliability risks:** AEMO's latest ESOO forecasts a reliability gap in summer 2024/25 for South Australia against the IRM of 0.0006% USE.[14]
- **Forecast high temperatures:** The Bureau of Meteorology's long-range forecasts for the upcoming summer (November to January and December to February periods) show above-average rainfall is likely and warmer than average days and nights are likely to very likely across Australia.[15] AEMO also reported mean temperatures above historical averages across most regions in the first quarter of 2024, with Australia's third-warmest January and four-warmest February on record.[16] These trends may indicate that summer reliability risks will be exacerbated due to weather events such as storms, flooding and bushfires.

Additional contracted reserve capacity could allow AEMO to better manage these risks. If contracted, the two generators discussed in the rule change request could unlock 138 MW of additional capacity from large-scale generation that would otherwise not be available to South Australia.

AEMO is currently in negotiations for IRR in South Australia for the period from 1 January to 28 February 2025, as the ESOO determined the IRM would not be met.[17] AEMO notes in its 2024 ESOO that operational procedures such as using IRR and RERT resources may be able to minimise the risks to consumers in some circumstances.[18] There are limited other options beyond those discussed above available to AEMO to manage reliability risks in South Australia aside from load shedding.

The expedited rule making process (with a final determination made within eight weeks)[19]would allow risks to be managed as quickly as possible, with a final determination in late January 2025.

1.3.2 Stakeholders can object to the expedited process by 12 December 2024

If any stakeholder opposes the use of the expedited process for this rule change, they can object. The process for objecting to the expedited rule making process is set out in the summary of this consultation paper (see section 1.3). Any objections must be provided in writing to the AEMC by **12 December 2024**, and set out reasons why:[20]

- the Rule is not related to any matter or thing that, if not made as a matter of urgency, will result in that matter or thing imminently prejudicing or threatening:
  - the effective operation or administration of the wholesale exchange operated and administered by AEMO; or
  - the safety, security or reliability of the national electricity system.

We will publish any received objections on our website and our decisions regarding them. If we receive any valid objections, unless we are of the opinion that any objections are misconceived or

14 AEMO, 2024 ESOO, p. 4.

15 Refer to bom.gov.au/climate/outlooks/#/overview/summary

16 AEMO, Quarterly Energy Dynamics Q1 2024, April 2024, p. 7.

17 Refer to AEMO's website: aemo.com.au/en/energy-systems/electricity/emergency-management/reliability-and-emergency-reserve-trader-rert/rert-tendering

18 AEMO, 2024 ESOO, p. 6.

19 Assuming no objections are received to the expedited process and no extension is granted under Section 107 of the NEL. Rule making timeframes can be found on the AEMC's website: aemc.gov.au/our-work/changing-energy-rules

20 Section 87 of the NEL.

lacking in substance, we will revert to a standard rules consultation process and publish a corresponding notice.

2 The problem raised in the rule change request

This chapter seeks stakeholder feedback on the problem identified in the rule change request – whether it is or will soon become a problem and if so, the scale and impact of the problem.

2.1 The ESOO projects reliability shortfalls for South Australia in Summer 2024-25

The proponent considers there are significant reliability risks emerging in the upcoming summer (2024-25). Reliability events, such as a lack of electricity supply to meet demand on a hot day, threaten South Australian electricity consumers (and potentially consumers in adjacent regions of the national electricity market (NEM)), businesses, and industry.

The rule change request outlines analysis from AEMO that supports these concerns:[21]

> In recent Electricity Statement of Opportunities (ESOO) releases by AEMO, the reliability outlooks for South Australia in the 2024/2025 year were:
>
> - In the February update to the 2022 ESOO, there was no forecast reliability gap in South Australia.
> - In the 2023 ESOO, a 118MW gap was forecast against the interim reliability measure (IRM).
> - In the May update to the 2023 ESOO, there was no forecast reliability gap in South Australia.
> - In the 2024 ESOO, there is a forecast 200MW reliability gap against the IRM.
>
> In 2022, the South Australia Minister for Energy and Mining triggered the Retail Reliability Obligation (RRO) in South Australia for the first quarter of 2025 (under NEL Part 7A 19B (1)). Following the update to 2023 ESOO, the RRO was revoked since the reliability gap for the period was no longer forecast.
>
> The forecast reliability gap for South Australia in AEMO's 2024 ESOO (particularly for the summer of 2024/2025) enabled AEMO to commence a process to procure IRR in South Australia to cover this reliability gap. Accordingly, on 29 August 2024, AEMO issued an open tender seeking IRR in South Australia.
>
> South Australia typically has very limited demand side reserves that are available for AEMO to contract under the Reliability and Emergency Reserve Trader (RERT) mechanisms in the NER. In 2023, AEMO procured approximately 120MW of RERT in South Australia (both short-notice and IRR) and a similar requirement is expected for 2024/2025.

With current capacity constraints, the proponent expects reliability risks to arise during peak demand periods from December 2024.

2.2 Reliability risks may be exacerbated by other factors

The proponent notes that there are further factors that may exacerbate the reliability risks identified in the ESOO. These include:

- **Uncertain timelines for PEC:** PEC was originally intended to unlock 150MW of interconnector capacity between New South Wales and South Australia by June 2024. Delays have pushed

21 South Australian Minister of Energy and Mining, Rule change request, pp. 1-2.

this back beyond the third quarter of 2024, and timing continues to be uncertain and dependent on the availability of suitable testing conditions.[22] This delay was not considered in AEMO's ESOO modelling.

- **The absence of larger, flexible loads to meet reserve needs:** In recent years in the state, reserves have been largely provided by load reductions delivered by aggregations of small loads. However, the proponent considers that the availability of larger flexible loads or generation increases, like that available as reserves in other states, would significantly increase AEMO's ability to prevent load shedding during periods of USE.
- **Potential for extreme weather events:** The proponent is concerned about a potential failure to meet demand on a hot day. The ESOO notes that reliability outcomes in South Australia vary significantly depending on weather conditions.[23] The Bureau of Meteorology's long-range forecasts for the upcoming summer (November to January and December to February periods) show above-average rainfall is likely and warmer than average days and nights are likely to very likely across Australia.[24]

2.3 Considering two mothballed generators for reserve contracts may help to mitigate risks however this is not currently permitted under the NER

Port Lincoln and Snuggery would unlock 138MW of large-scale reserve capacity if they were contracted for reserves.

In early 2024, Engie announced the removal of its 63MW Snuggery and 75MW Port Lincoln power stations from service, ahead of permanently closing the facilities in 2028. The generators were mothballed on 1 July 2024.

Under clause 3.20.3 (g) and (h), AEMO and another person are not permitted to enter into scheduled reserve contracts (which applies to the IRR as per the transitional rules for the IRM - see appendix A) if it is within 12 months of the person being available for dispatch in the spot market (in this rule change request, we refer to this as the 12-month backward restriction). The relevant clauses are as follows:

> Offering scheduled reserves into the market
>
> (g) When contracting for the provision of scheduled reserves under scheduled reserve contracts, AEMO must not enter contracts in relation to capacity of scheduled generating units, scheduled bidirectional units, wholesale demand response units, scheduled network services or scheduled loads for which dispatch bids have been submitted or are considered by AEMO to be likely to be submitted or be otherwise available for dispatch at any time during:
>
> (1) the period from the date of execution of the scheduled reserve contract until the end of its term; and
>
> (2) the 12 month period immediately preceding the date of execution of the scheduled reserve contract, except where that capacity was dispatched under a reserve contract.
>
> (h) A person must not enter into a scheduled reserve contract in relation to capacity for which dispatch bids were submitted, or that was otherwise available for dispatch at

22 Refer to the PEC website for the latest information on timing: projectenergyconnect.com.au/moreInformation
23 AEMO, ESOO, p. 146-147.
24 Refer to bom.gov.au/climate/outlooks/#/overview/summary

> any time during the 12 month period immediately preceding the date of execution of the scheduled reserve contract, except where that capacity was dispatched under a scheduled reserve contract.

Due to these clauses, Snuggery and Port Lincoln cannot be considered for IRR this upcoming summer, a period with projected supply shortfalls and extreme weather (see section 2.1 and section 2.2 above).

Appendix A outlines further details on the rationale for this clause, and further reasoning to support an exemption from this clause through the proposed jurisdictional derogation is discussed in section 3.2.1.

3 The proposed solution and implementation

To address the issues described in the rule change request (and outlined in chapter 2), the Minister has proposed a time-limited (two-year) jurisdictional derogation from clause 3.20.3 (g) and (h) of the NER to allow AEMO to consider procuring the Snuggery and Port Lincoln generators as out-of-market emergency reserves.

This chapter seeks feedback on:

- the solution proposed and any potential alternative solutions; and
- other implementation matters the Commission may need to consider in making its determination.

3.1 Will a jurisdictional derogation for reserve contracts in South Australia resolve the problem?

The proposed derogation would allow AEMO to consider contracting with the owners of the Snuggery and Port Lincoln generators for out-of-market emergency reserves. The proponent proposes that the derogation would be in place for two years. The Commission would need to consider the appropriate term for any derogation to be in place.

If made as proposed, the proponent states the rule would:

- significantly increase AEMO's ability to prevent load shedding during periods of USE
- contribute to achieving a reliable, safe and secure national electricity system by temporarily increasing the scope of the tools available to AEMO to manage the forecast reliability gap in South Australia
- safeguard South Australian electricity consumers, businesses, industry and the state's reputation from adverse impacts
- benefit adjacent NEM regions, particularly if co-incident severe weather occurs and more than one NEM region faces reliability issues.

We note that the derogation does not guarantee that AEMO will use the services of these two generators. AEMO is required under NER clause 3.20.8 to have regard to the RERT guidelines, RERT principles and, under rule 11.128, additional considerations for multi-year IRR contracts when deciding whether to procure and dispatch reserve contracts.[25]

The expedited timeframe would allow the derogation to be in place in time to assist AEMO in managing summer reliability risks from late-January.

Further timing implications are set out in section 3.3.

Question 1: Do you agree that removing the restrictions in clause 3.20.3(g) and (h) in relation to the capacity of the Snuggery and Port Lincoln generators would assist AEMO to manage reliability risks in the upcoming summer period in South Australia?

25 Refer to appendix A for further details on the RERT framework, including the RERT guidelines and RERT principles, and how this relates to the IRR.

3.2 We are interested in stakeholder views on the potential benefits and costs of the South Australian Minister for Energy and Mining's proposal

Under the proposal, AEMO would have additional options to manage summer reliability risks in South Australia. We are interested in stakeholder views on the potential benefits and costs of the proposal.

3.2.1 Benefits

Based on our preliminary assessment, we consider the improved reliability outcomes to be the primary benefit of the proposal.

Electricity supply shortfalls and extreme, unpredictable weather conditions are projected in South Australia over the upcoming summer period which may compromise electricity supply to customers. Allowing AEMO to consider contracting with additional resources over the coming months could unlock 138MW of large-scale, emergency generating capacity. This may enable the reliable provision of energy to consumers at an efficient cost, particularly as AEMO must have regard to the RERT principles and additional tests for multi-year IRR contracts when selecting emergency resources (including considering options that present the least cost to end use consumers of electricity).[26]

Other benefits include:

- Promoting the efficient operation and use of generation facilities. Under the RERT principles set out in clause 3.20.2(b) of the NER, actions taken are to be those which AEMO reasonably expects, acting reasonably, to have the least distortionary effect on the operation of the market. In addition, if dispatched, existing assets would be used for emergency purposes, rather than being kept out-of-service when still physically able to generate electricity. These assets would be available to contract from 1 July 2025 regardless of the derogation being made.
- Proactively addressing reliability issues that may otherwise undermine progress towards Australia's greenhouse gas emission targets. Positive public sentiment is an important element in achieving Australia's greenhouse gas emissions targets, and reliability events, such as blackouts, can diminish trust in the transitioning grid and set-back key transitional projects.

Question 2: Do you agree with the benefits of the proposed rule change?

Are there any further benefits not considered by the Commission?

3.2.2 Costs

Direct costs

We consider the direct costs of the proposal arise primarily from any payments to Engie if contracted for reserves. These could include any availability, pre-activation, and activation charges and would be passed on to consumers in South Australia.

These costs would be managed by AEMO under the RERT principles (NER clause 3.20.2 (b)):

26 Refer to appendix A for further details on the RERT guidelines and RERT principles.

> (1) actions taken should be those which AEMO reasonably expects, acting reasonably, to have the least distortionary effect on the operation of the market;
>
> (2) actions taken should aim to maximise the effectiveness of reserve contracts at the least cost to end use consumers of electricity;
>
> and
>
> (3) the average amount payable by AEMO under reserve contracts for each MWh of reserves for a region should not exceed the estimated average value of customer reliability (VCR) for that region.

There will also be costs associated with the reporting requirements when entering into and dispatching reserve contracts (refer to appendix A.2 for further details on the reporting requirements for reserve contracts).

Indirect costs

The out-of-market provisions from which the proponent is seeking to derogate were implemented in the NER to make sure that the wholesale market is the primary means by which reliability is delivered and only reserves that are not in the market should be participating in the RERT (and IRR). This is so that reliability is delivered at the lowest cost to consumers. The rationale for the 12-month backward restriction is elaborated on in appendix A.3 of the appendix.

The rules were put in place to provide clear signals to the market that reserve contracts are an out-of-market service, only to be used after market responses have been exhausted. They were put in place to minimise the costs of meeting reliability for consumers, while reducing the incentives for gaming behaviour by potential emergency reserve providers, by restricting their ability to double dip.

We are interested in stakeholder views on these indirect costs in relation to this rule change.

We note that there are also no prohibitions from reserve providers entering the wholesale market once their reserve contract has ended.

Question 3: Do you consider the costs of the proposed rule change can be managed?

Are there any costs - either direct or indirect - that have not been considered by the Commission? What are stakeholder views on these costs relative to the benefits?

3.3 What implementation issues might there be?

We consider that the key implementation risk associated with the proposed derogation is the risk of not finalising the rule change, contractual arrangements and preparatory steps required to dispatch the plants as reserves (if selected) before summer reliability issues arise.

The proponent states the following in the rule change request:

> AEMO has informed the Government of South Australia that even if prioritised, the procurement process to secure the capacity of the relevant generators as IRR could be challenging to finalise ahead of this summer 2024/2025.
>
> Further, Engie has informed the Government of South Australia that if the units were to be required for this summer, there are works that would need to be undertaken to ensure

operational readiness.

We understand that Engie and AEMO are considering submitting a request for a letter of no action in relation to these clauses to the Australian Energy Regulator (AER).

Question 4: Are there further implementation considerations that need to be made? Are the implementation risks adequately managed?

4 Making our decision

When considering a rule change proposal, the Commission considers a range of factors.

This chapter outlines:

- issues the Commission must take into account
- the proposed assessment framework
- decisions the Commission can make.

We would like your feedback on the proposed assessment framework.

4.1 The Commission must act in the long-term interests of consumers

The Commission is bound by the NEL to only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national energy objective.[27]

The National Electricity Objective (NEO) is:[28]

> 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; and
>
> (c) the achievement of targets set by a participating jurisdiction—
>
> (i) for reducing Australia's greenhouse gas emissions; or
>
> (ii) that are likely to contribute to reducing Australia's greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NEO.[29]

4.2 We must also take these factors into account

Section 89 of the NEL requires the AEMC in making a jurisdictional derogation to have regard to whether:

> (a) the derogation provides for the orderly transfer of the regulation of the electricity industry in a participating jurisdiction under jurisdictional electricity legislation to the regulation of that industry under the national electricity legislation; or
>
> (b) the derogation continues existing regulatory arrangements applying to the electricity industry in a participating jurisdiction and the Minister of the participating jurisdiction requesting the derogation has notified, in writing, the AEMC that he or she considers it necessary and appropriate that the existing regulatory arrangements continue; or
>
> (c) the derogation is necessary to exempt, on an ongoing basis, generating, transmission or distribution systems or other facilities owned, controlled or operated in

27 Section 88 of the NEL.
28 Section 7 of the NEL.
29 Section 32A(5) of the NEL.

> the participating jurisdiction to which the derogation relates from complying with technical standards relating to connection to the national electricity system set out in the Rules because those systems or facilities, by reason of their design or construction, are unable to comply with those standards.

The proponent notes it considers the derogation is necessary to allow AEMO to procure the capacity of the Snuggery and Port Lincoln generators as IRR.

The proponent confirms in the rule change request that they have consulted with the Ministers of other participating jurisdictions under section 91(3) of the NEL.

4.3 We propose to assess the rule change using these three criteria

4.3.1 Our regulatory impact analysis methodology

Considering the NEO and the issues raised in the rule change request, the Commission proposes to assess this rule change request against the set of criteria outlined below. These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request. We consider these impacts within the framework of the NEO.

The Commission's regulatory impact analysis may use qualitative and/or quantitative methodologies. The depth of analysis will be commensurate with the potential impacts of the proposed rule change. We may refine the regulatory impact analysis methodology as this rule change progresses, including in response to stakeholder submissions.

Consistent with good regulatory practice, we also assess other viable policy options - including not making the proposed rule (a business-as-usual scenario) and making a more preferable rule - using the same set of assessment criteria and impact analysis methodology where feasible.

4.3.2 Assessment criteria and rationale

The proposed assessment criteria and rationale for each is as follows:

- **Safety, security and reliability:** Do the proposed changes enable the reliable, secure and safe provision of energy at an efficient cost to consumers over the long term? Do the proposed changes promote the efficient operation and use of and investment in generation facilities, load, storage, networks and other system service capabilities?
- **Implementation considerations:** Would this manage the timing of benefits versus costs, direction of reform and interaction with other reforms and processes? Would this balance the cost and complexity of implementation and ongoing regulatory and administrative costs to all market participants, consumers and market bodies, across all potential solutions?
- **Principles of good regulatory practice:** Would this promote predictability and stability in the regulatory framework for stakeholders? Would this promote simplicity and transparency for all stakeholders? Would this promote a principles-based approach over prescription, except where prescription is necessary?

We have not chosen emissions as an assessment criteria, although we will still be considering emissions in making our determination on the rule change request. This is because the impact on emissions are uncertain, and likely to be minor. Even if the units in question are contracted for reserves, they are designed to be used as a back up mechanism and so any additional emissions compared to the status quo are likely to be low.

Question 5: Assessment framework

Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant? What are your views on the costs and benefits of the proposed solution or alternative options against these criteria?

4.4 We have three options when making our decision

After using the assessment framework to consider the rule change request, the Commission may decide:

- to make the rule as proposed by the proponent
- to make a rule that is different to the proposed rule (a more preferable rule), as discussed below, or
- not to make a rule.

The Commission may make a more preferable rule (which may be materially different to the proposed rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NEO.[30]

4.5 The proposed rule would not apply in the Northern Territory

Parts of 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 the NEL.[31]

The proposed rule would not apply in the Northern Territory, as it amends provisions in Chapter 3 of the NER that do not apply in the Northern Territory.[32] Consequently, the Commission will not assess the proposed rule against additional elements required by the Northern Territory legislation.

30 Section 91A of the NEL.

31 National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (**NT Act**). The regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

32 Under the NT Act and its regulations, only certain parts of the NER have been adopted in the Northern Territory. The version of the NER that applies in the Northern Territory is available on the AEMC website at: https://energy-rules.aemc.gov.au/ntner.

A The RERT, IRR and the 12-month backward restriction

A.1 What is the RERT framework?

Under the Reliability and Emergency Reserve Trader (RERT) framework, the Australian Energy Market Operator (AEMO) can secure contracts for emergency out-of-market reserves, which can be dispatched or activated upon request to address 'low reserve' or 'lack of reserve' conditions.

In order to ensure that the reliability of supply in a region meets the relevant reliability standard, AEMO may enter into one or more contracts with any person in relation to the capacity of:

- scheduled generating units, scheduled bidirectional units, wholesale demand response units, scheduled network services or scheduled loads (being scheduled reserve contracts); and
- unscheduled reserves (being unscheduled reserve contracts).

Under the RERT framework in rule 3.20, AEMO can only enter into a reserve contract for a region where it has made a 'low reserve' or 'lack of reserve' declaration under clause 4.8.4 of the National Electricity Rules (NER or the Rules). As discussed below (see appendix A.2), this restriction does not apply to IRR contracts entered into under rule 11.128.

Under clause 3.20.3 (g) and (h) of the Rules, a scheduled reserve contract cannot be entered into in relation to the capacity of scheduled plant that was available for dispatch at any time during the 12 months leading up to contract execution (the 12-month backward restriction, discussed below).

RERT providers cannot offer capacity to the power system within the trading intervals to which the contract relates and appear to the market as a decrease in scheduled demand. AEMO assumes that all facilities will deliver in accordance with generator performance standards and reserve contracts as anticipated.[33]

A.1.1 The RERT principles and RERT guidelines

Under clause 3.20.2 of the Rules, AEMO must take all reasonable actions to ensure the reliability of supply by negotiating and entering into reserve contracts in accordance with the RERT principles and the RERT guidelines (among other items set out in clause 3.20.2(a)).

The RERT principles are:

> (1) actions taken should be those which AEMO reasonably expects, acting reasonably, to have the least distortionary effect on the operation of the market;
>
> (2) actions taken should aim to maximise the effectiveness of reserve contracts at the least cost to end use consumers of electricity; and
>
> (3) the average amount payable by AEMO under reserve contracts for each MWh of reserves for a region should not exceed the estimated average VCR for that region.

The Reliability Panel is responsible for developing and publishing the RERT guidelines.[34]

33 AEMO, Short term reserve management, June 2024, p. 11.

34 The guidelines are available on the AEMC's website here: www.aemc.gov.au/regulation/electricity-guidelines-and-standards#reliability

A.2 Interim reliability reserves

In 2020, Energy Ministers established an interim reliability measure (IRM) as a temporary measure to protect customers from increasing reliability risks, particularly low-probability events that could have a high impact on reliability outcomes, while a longer-term market design is developed.[35] The IRM is set at 0.0006% unserved energy (USE). At this point in time, it will be in place until 30 June 2028.

The interim reliability reserve (IRR) is a mechanism under the IRM (alongside the retailer reliability obligation (RRO)). It is an out-of-market capacity reserve that allows AEMO to enter multi-year reserve contracts where it forecasts that the IRM will not be met. AEMO is currently in negotiations for IRR in South Australia for the period from 1 January to 28 February 2025, as the Electricity Statement of Opportunities (ESOO) determined the IRM would not be met.[36]

Reserve contracts for IRR differ from short notice RERT contracts because they require a full and fixed commitment of reserves and include strict performance requirements and testing conditions. The reserves contracted as IRR may not be varied and will be required to be 100% available on a firm basis for the duration of the agreement.[37]

Under clause 11.128.3 of the NER, for the purpose of procuring IRR, rule 3.20 (the RERT rule) applies as amended and supplemented by rule 11.128 (the IRM rule). This means that the 12-month backward restriction set out in clause 3.20.3 (g) and (h) applies to contracts for IRR.

Under the IRM, it is not necessary for there to be a declaration of 'low reserve' or 'lack of reserve' (as is the case under rule 3.20). Instead, the trigger for the IRM is a forecast that the IRM will not be met in a particular region (referred to as 'interim reliability exceedance').

Clause 11.128.4 also sets out additional requirements for IRR contracts, including multi-year IRR contracts. When entering into multi-year IRR contracts, AEMO must ensure that, at the time of entering into the contract, the amount of reserve procured under the reserve contract is no more than what AEMO considers is reasonably necessary to ensure reliability of supply in the relevant region (clause 11.128.4(i)(2)), among other items. These requirements apply in addition to the RERT principles and guidelines when procuring IRR.

A.2.1 Reporting requirements for IRR

In addition to the requirements for RERT reporting under clause 3.20.6 (as amended for IRR under clause 11.128.5), for contracts procured under the IRM, the RERT report must:

- identify the contracts entered for the interim reliability reserve including if they are multiyear contracts
- include an explanation of why AEMO considered the amount procured under each contract was reasonably necessary to ensure the reliability of supply in the region
- include an explanation of how AEMO had regard to any potential impact on, and interaction with the RRO when procuring IRR
- include the basis on which AEMO had regard to the RERT principles when entering into reserve contracts for multi-year reserves
- for each multi-year reserve contract entered into in the relevant calendar quarter, include an explanation of whether the total payments made by AEMO under the contract are likely to be

35 AEMC, Extending the application of the IRM to the RRO, Rule determination, 21 September 2023.

36 Refer to AEMO's website: aemo.com.au/en/energy-systems/electricity/emergency-management/reliability-and-emergency-reserve-trader-rert/rert-tendering

37 Refer to: aemo.com.au/en/energy-systems/electricity/emergency-management/reliability-and-emergency-reserve-trader-rert/rert-tendering

lower than the aggregate payments AEMO would have made under reserve contracts that are not multi-year reserve contracts for the same period.

This information will be published in AEMO's RERT quarterly reports.

A.3 Rationale for the 12-month backward restriction

Clause 3.20.3 (g) and (h) set out the 12-month backward restriction on scheduled reserve contracts:

> Offering scheduled reserves into the market
>
> (g) When contracting for the provision of scheduled reserves under scheduled reserve contracts, AEMO must not enter contracts in relation to capacity of scheduled generating units, scheduled bidirectional units, wholesale demand response units, scheduled network services or scheduled loads for which dispatch bids have been submitted or are considered by AEMO to be likely to be submitted or be otherwise available for dispatch at any time during:
>
> (1) the period from the date of execution of the scheduled reserve contract until the end of its term; and
>
> (2) the 12 month period immediately preceding the date of execution of the scheduled reserve contract, except where that capacity was dispatched under a reserve contract.
>
> (h) A person must not enter into a scheduled reserve contract in relation to capacity for which dispatch bids were submitted, or that was otherwise available for dispatch at any time during the 12 month period immediately preceding the date of execution of the scheduled reserve contract, except where that capacity was dispatched under a scheduled reserve contract.

These clauses were introduced through the Enhancements to the RERT rule change in 2019.[38] The rationale was to minimise the potential for market distortions by making sure that only reserves that are not in the market are participating in the RERT.[39] The Commission determined that the market should be the primary mechanism by which reliability is achieved, and the 12-month rule aims to uphold that for scheduled emergency reserves.[40] Without the rule in place, there is a risk that providers would exit the market in order to be contracted (and potentially paid at a higher and/or more certain rate) for reserves, driving up prices, rather than using their own financial justification to exit the market.

At the time of the rule change, consideration was given to an exemption from the restriction for generators that had provided three years' notice of closure and mothballed generators. This reasoning is set out in the final determination on pages 163 to 165.[41] It was determined that the RRO and other options available to jurisdictions would be fit for purpose to allow such generators to contribute to meeting reliability.[42]

38 Refer to the project page here.

39 AEMC, Enhancement to the RERT, Draft rule determination, 7 February 2019, p. 119.

40 AEMC, Enhancement to the RERT, Rule determination, 2 May 2019, p. 163.

41 AEMC, Enhancement to the RERT, Rule determination, 2 May 2019, pp. 163-165.

42 Consideration was also given to the application of the 12-month backward restriction to unscheduled reserve contracts (see clause 3.20.3 (i)). These are not subject to the 12-month backward restriction as it is difficult to determine if they are in or out of market under current arrangements (refer to AEMC, Enhancement to the RERT, Rule determination, 2 May 2019, p. 165).

Abbreviations and defined terms

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
ESOO	Electricity Statement of Opportunities
IRR	Interim Reliability Reserves
IRM	Interim Reliability Measure
MW	Megawatt
MWh	Megawatt-hour
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
PEC	Project EnergyConnect
Proponent	The proponent of the rule change request
RERT	Reliability and Emergency Reserve Trader
RRO	Retailer Reliability Obligation
USE	Unserved Energy