



South Australian jurisdictional derogation – Interim reliability reserve eligibility

We have made a jurisdictional derogation in South Australia to help manage a temporary reliability issue on the path to net zero

The Australian Energy Market Commission (AEMC or Commission) has made a final rule for a time-limited jurisdictional derogation in South Australia. It will provide the Australian Energy Market Operator (AEMO) with additional options to consider for interim reliability reserves (IRR) to manage reliability risks this summer.

The jurisdictional derogation provides an exemption allowing AEMO to consider contracting the ENGIE-owned Snuggery and Port Lincoln units (collectively “ENGIE units”) in South Australia as out-of-market reserves. The narrow exemption relates to the out-of-market contracting restrictions in clauses 3.20.3 (g) and (h) of the National Electricity Rules (NER or Rules) for IRR. The final rule commences on 23 January 2025 and will end on 31 March 2025.

A combination of specific factors in this case warrants an exemption from out-of-market reserve provisions

The final rule provides a one-off exemption that temporarily increases the scope of resource options available to AEMO to manage a short-term reliability issue in South Australia. While the Commission has, in this instance, approved a narrow exemption, it remains committed to preserving the wholesale market as the primary mechanism for delivering reliability, supported by the out of market reserve provisions.

The separation between in-market and out-of-market reserves is important for preserving the wholesale market as the primary mechanism for supplying reliable electricity to customers, supported by the out-of-market reserve provisions. Clauses 3.20.3 (g) and (h) were originally intended to uphold this separation by ensuring resources that had been dispatched in-market within the last 12 months were not able to be contracted for reserves.

At the time of writing, the ENGIE units have not been out-of-market for 12 months so are not eligible for reserve contracts under the existing Rules. However, there is a unique combination of factors in this case that warrant a one-off exemption:

- The ENGIE units were mothballed from 1 July 2024 with an extended, 90 day recall time, ahead of plans to permanently close the facilities by 2028.
- AEMO subsequently published updated forecasts in its Electricity Statement of Opportunities (ESOO) with worsening reliability gaps for South Australia.
- AEMO received an insufficient response to its tender process for out-of-market reserves in South Australia for summer 2024-25.

The combination of these factors, combined with the imperative to maintain reliability during this critical juncture of the transition, informed the Commission’s decision to approve the requested exemption.

It is critical that we safeguard reliability at this point in the transition to net zero

While the Commission maintains the principle that the wholesale market is the primary means through which reliability is delivered, we also recognise that, in the context of the significant transformation underway in the NEM, there will be short-term transitional issues that need to be managed - such as the reliability gap forecast for South Australia this summer.

The final rule contributes to meeting the National Energy Objective (NEO) by promoting system reliability while ensuring AEMO is required to justify the costs and minimise market distortions if they contract the generators. In relation to the emissions reduction goals, the Commission considered that avoiding reliability incidents that could erode trust in the transitioning grid, combined with the specific factors in this case, warranted the exemption. The final rule responded to stakeholder comments that called for the rule to be temporary and narrow in focus in order to minimise costs and market distortions. This has been achieved this by:

- maintaining the existing checks and balances in the out-of-market reserve framework that require AEMO to minimise costs for consumers and market distortions, and
- deciding that the derogation will be strictly time limited and narrow in scope (that is, specific to the ENGIE units in South Australia and contracting for IRR until 31 March 2025). This was the preferred approach of the majority of stakeholders that responded to the consultation paper.

This determination does not take a position on the suitability of contracting the capacity of the ENGIE units. This is for AEMO to decide in accordance with the Rules and associated guidelines and procedures. The final rule promotes good regulatory practice by maintaining the application of the current regulatory framework to ensure fast implementation and that AEMO is required to consider what is in the best interests of consumers when negotiating and entering into any IRR contracts.

How the final rule will operate

The jurisdictional derogation exempts the Snuggery and Port Lincoln units from clause 3.20.3 (g) and (h) for IRR by stating that these clauses do not apply to AEMO or another person in relation to the capacity of the ENGIE units. This allows AEMO to consider the capacity for emergency reserves, despite the units being out-of-market for less than 12 months. It is specific to IRR, meaning the units cannot be considered for other types of Reliability and Emergency Reserve Trader (RERT) contracts until they have been out-of-market for the full 12 months, which will occur on 1 July 2025. The final rule does not change the remainder of the RERT and IRR frameworks in the NER.

The jurisdictional derogation ends on 31 March 2025, the same date that the rules for interim reliability reserves contracting expire.

We made the final rule using the expedited process

The AEMC used the expedited rule change process because the rule change was deemed urgent on the basis of an imminent threat to the reliability of the national electricity system. No one objected to the use of the expedited process.

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23 January 2025