

Submission on the Proposed Rule Change: Removing the Requirement to Publish Transmission Information Guidelines

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1. Introduction

The Australian Energy Market Commission (AEMC) is currently considering a rule change proposed by the Australian Energy Regulator (AER) to remove the mandatory requirement for publishing Transmission Information Guidelines, shifting to an 'on-request' model (AEMC, 2025a). This submission aims to highlight the severe shortcomings of this proposal, including its potential breaches of transparency and governance principles, and its long-term impact on accountability and market fairness.

The publication of transmission information guidelines has been a fundamental part of ensuring that stakeholders, ranging from energy consumers to market participants have access to crucial data necessary for informed decision-making. By making this publication optional and available only upon request, the proposal threatens to reduce the flow of information necessary for competitive and well-regulated market operations. Without guaranteed access to this information, smaller stakeholders and independent analysts may find it significantly more difficult to engage with, critique, and respond to energy market developments.

Furthermore, the expedited nature of the AEMC's decision-making on this matter raises concerns about the integrity of the consultation process. With limited timeframes for objections and stakeholder input, there is a real risk that fundamental perspectives on transparency and fair market access will not be adequately considered. It is imperative that the AEMC reconsider this approach and ensure that the rule change, if deemed necessary at all, undergoes a more rigorous and transparent review process.

2. Overview of the Proposed Rule Change

The rule change request, submitted by the AER on 15 October 2024, seeks to amend the National Electricity Rules (NER) by revoking the obligation to publish Transmission Information Guidelines. Instead, the AER would only provide such guidelines upon request (AEMC, 2025b).

This shift from a publicly accessible repository to an 'on-request' model introduces several fundamental challenges. Firstly, it raises questions about who determines the eligibility of requesters and whether certain stakeholders could be unfairly disadvantaged in accessing information. A public publication model ensures that all stakeholders, including consumer advocates, independent researchers, and small-scale market participants, have equal footing when analysing transmission data. Moving to a request-based model opens the door for

selective transparency, potentially benefiting larger, more influential market players who may have direct channels of access that are unavailable to smaller or less established stakeholders.

Secondly, an on-request model places the burden of information retrieval on stakeholders rather than the regulator, shifting the dynamic from a proactive information-sharing approach to a reactive and potentially inefficient process. This could result in delays, as entities seeking information may face bureaucratic roadblocks or prolonged response times. Given that electricity markets operate in real-time with constantly shifting variables, access to timely and consistent information is critical. Any delays in accessing such data can have ripple effects on decision-making, market forecasting, and regulatory oversight.

By bypassing thorough consultation, this proposal significantly reduces stakeholder access to vital information, potentially eroding trust in the regulatory framework governing Australia's energy sector (AEMC, 2025c). The removal of mandatory reporting requirements without a robust alternative information access framework is a step backward in terms of regulatory transparency and accountability.

The expedited rule change process has set two critical deadlines:

- **13 February 2025** – Deadline for objections to the expedited process.
- **27 February 2025** – Deadline for stakeholder submissions.

Given the profound implications of this change, stakeholders should be given a longer and more inclusive consultation period to ensure that the impact on market transparency is fully assessed. Rushed decision-making in this context could have long-lasting negative consequences, including a loss of confidence in the AEMC's commitment to open governance.

3. Key Concerns and Breaches

3.1 Transparency and Public Access to Information

One of the fundamental principles of good governance is transparency. The removal of mandatory publication requirements risks creating an opaque regulatory environment where critical market information is selectively accessible (AER, 2024). This contravenes:

- The National Electricity Objective (NEO), which mandates efficient investment and operation of electricity services for the long-term interest of consumers (COAG Energy Council, 2019).
- The Australian Government's commitments to open data and public accountability (Australian Government, 2023).

Transparency in regulatory frameworks ensures that all stakeholders, from policymakers to independent energy analysts, have equal access to essential market data. By removing mandatory reporting, the proposed change undermines public trust and diminishes the ability of consumers, businesses, and industry watchdogs to scrutinize regulatory decisions effectively. This risks creating an environment where information is controlled and distributed based on discretionary choices, potentially leading to an uneven playing field.

Additionally, a lack of guaranteed access to transmission information reduces the ability of researchers and analysts to independently verify claims made by energy regulators and market participants. Independent scrutiny serves as a critical check against misinformation and regulatory bias. A model that limits access to information on an ad-hoc basis significantly diminishes the effectiveness of market oversight and can lead to a regulatory framework that lacks accountability and responsiveness to emerging energy challenges.

3.2 Impact on Stakeholder Engagement

The expedited process itself raises concerns about the AEMC's commitment to meaningful stakeholder engagement. The transition to an 'on-request' model increases administrative burdens for stakeholders, particularly small businesses, consumer advocacy groups, and regional stakeholders who rely on accessible regulatory information (ACCC, 2024).

The complexity of Australia's electricity market means that fair access to information is critical for all market participants. A change that requires stakeholders to request information rather than access it publicly risks disproportionately harming smaller entities that lack the resources or bureaucratic knowledge to navigate complex regulatory channels. Larger corporations with dedicated legal and regulatory teams may have an advantage in requesting and interpreting information, leading to an unbalanced market where transparency is a function of financial and political influence rather than regulatory fairness.

Moreover, limiting access to transmission data could reduce public participation in energy policy discussions. Transparency fosters broader engagement from academics, independent experts, and advocacy organizations that work to inform public discourse. By creating barriers to information access, the AEMC risks reducing the diversity of voices contributing to the debate on Australia's energy future, ultimately weakening the democratic nature of regulatory oversight.

Given the significant role transmission information plays in shaping investment decisions, infrastructure planning, and energy pricing structures, any attempt to limit public access to such data should be met with caution. Regulatory institutions must ensure that all market participants, regardless of size or influence, can engage in the consultation and decision-making process without facing additional hurdles. The move toward an 'on-request' model runs counter to these principles and should be reconsidered in favor of more inclusive and transparent regulatory practices.

3.3 Regulatory Precedents and Policy Consistency

Mandatory publication of transmission guidelines has been a longstanding practice to ensure equal access to information. Removing this requirement could set a dangerous precedent, weakening transparency across other regulatory areas (OECD, 2022). Furthermore, selective information dissemination could lead to:

- Market distortions favouring large-scale renewable developers.
- Delays in decision-making due to increased bureaucratic inefficiencies (Productivity Commission, 2023).

- The erosion of regulatory confidence and reduced stakeholder trust in government bodies.

If this rule change proceeds, it may establish a precedent where critical market data is increasingly withheld under the guise of administrative streamlining, potentially impacting other regulatory areas. This shift contradicts previous commitments by the AEMC and broader government bodies toward enhancing transparency and inclusivity in decision-making processes. The selective withholding of information fundamentally alters the regulatory balance, making it harder to hold market participants accountable and weakening the credibility of the regulatory framework.

3.4 Potential for Regulatory Capture

Reducing public access to information increases the risk of regulatory capture, where key market players exert disproportionate influence over information dissemination. If only selected entities can access transmission data, it could lead to a system where major industry players manipulate regulatory frameworks to serve their financial interests rather than ensuring fair competition and consumer protection (Stigler, 1971).

Regulatory capture often results in policy decisions that favour dominant market participants, leading to a concentration of power that limits competition and innovation. The ability to control the flow of information allows entrenched energy firms to influence government policy while smaller or independent players struggle to compete on an equal footing. This could also discourage investment in new technologies and sustainable solutions by restricting access to critical infrastructure and transmission data.

Furthermore, a lack of transparency weakens public trust in regulatory bodies. If the AEMC and AER prioritize select stakeholders over broad industry engagement, confidence in the fairness and accountability of the energy market will decline. History has demonstrated that secrecy and restricted access to market information create conditions ripe for inefficiencies, corruption, and anti-competitive behaviour (Baldwin et al., 2012).

To maintain market integrity, it is crucial to ensure that regulatory frameworks remain transparent and accessible to all stakeholders. The removal of mandatory transmission guideline publications risks undermining these fundamental principles and should therefore be reconsidered to prevent an imbalance of power that disproportionately benefits a few at the expense of broader industry development and consumer welfare.

3.5 Case Studies on Global Public Trust Erosion Due to Underhanded Regulatory Practices

Historical and contemporary case studies illustrate how regulatory opacity can erode public trust and facilitate corruption. Examples include:

- **Enron Scandal (USA):** Lack of transparency in financial reporting led to the collapse of one of the largest energy firms, exposing regulatory gaps and the dangers of selective information disclosure.
- **UK Energy Market Manipulations:** Companies exploited loopholes in deregulated energy markets, driving up consumer costs while concealing crucial transmission data.
- **EU Green Energy Market Distortions:** Selective subsidies and opaque reporting structures led to inefficiencies, financial losses, and public backlash against renewable energy projects.
- **Australia's Past Energy Policy Failures:** Previous regulatory decisions have resulted in mismanagement of energy resources, exacerbating market instability and consumer distrust.

These cases highlight the necessity of ensuring public access to critical regulatory data to prevent market manipulation, promote accountability, and sustain consumer confidence. The AEMC should take heed of these lessons and maintain mandatory publication requirements to uphold integrity in the Australian energy sector.

4. Recommendations

1. **Reject the Rule Change Request** – The AEMC should uphold the mandatory publication requirement to maintain market integrity and consumer trust. This change, if implemented, could set a damaging precedent for future deregulation that weakens oversight and erodes transparency.
2. **Ensure Robust Consultation** – The current expedited process lacks the necessary stakeholder engagement. A broader and more comprehensive consultation should be conducted to allow industry experts, consumer advocates, and independent analysts to contribute meaningful input.
3. **Legislate for Greater Transparency** – Transmission information should remain publicly accessible by default, and any request-based system must include strict accountability measures. Failure to publish critical data should have regulatory consequences.
4. **Independent Oversight** – Establish an independent body responsible for monitoring AER's information dissemination practices. This would help prevent selective reporting and ensure that transparency standards are consistently met.
5. **Regular Audits and Compliance Measures** – Implement periodic reviews of the energy transmission data dissemination process to ensure adherence to best regulatory practices. These audits should be publicly available to reinforce market confidence.
6. **International Best Practices Benchmarking** – Compare Australia's approach to international regulatory frameworks that prioritize transparency, such as those implemented in the European Union and North America, and integrate best practices into national policies.

The above recommendations seek to ensure a fair, transparent, and accountable regulatory framework that serves the interests of all market participants, rather than disproportionately favouring select industry players.

5. Conclusion

The proposed rule change to remove the mandatory publication of Transmission Information Guidelines represents a significant threat to transparency, market integrity, and consumer trust. The transition to an 'on-request' model not only undermines regulatory accountability but also creates opportunities for market distortions, regulatory capture, and an uneven playing field favoring large-scale energy developers at the expense of smaller stakeholders and consumers.

A transparent regulatory framework is essential for ensuring fair competition and fostering stakeholder confidence in the energy sector. The proposed changes run counter to global best practices in energy governance and could result in increased market inefficiencies, higher consumer costs, and reduced trust in regulatory institutions.

To uphold the principles of transparency and good governance, it is imperative that the AEMC rejects this rule change and instead strengthens existing requirements for information dissemination. Regulatory bodies must be held to the highest standards of accountability, ensuring that critical market data remains publicly accessible and that all market participants have an equal opportunity to engage in informed decision-making.

In light of the evidence presented in this submission, it is strongly recommended that the AEMC reaffirms its commitment to transparency, strengthens consultation processes, and ensures robust oversight mechanisms to protect the integrity of Australia's energy market.

6. References

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