

15 November 2005

Dr John Tamblyn  
Chairman  
Australian Energy Market Commission  
PO Box H166  
Australia Square NSW 1215  
Australia

Dear Dr Tamblyn,

**National Electricity Rules – Request for Non-controversial Rule  
Statement of Opportunities Update**

In accordance with sections 91 and 96 of the *National Electricity Law* (NEL), NEMMCO requests the Australian Energy Market Commission to remove NEMMCO's obligation to publish an update to the Statement of Opportunities (SOO) as presently contained in clause 3.13.3(o1) of the Rules.

In late 2004, NEMMCO obtained a derogation to publish the update from the National Electricity Code Administrator (NECA), which was also authorised by the Australian Competition and Consumer Commission (ACCC). In the conversion from the National Electricity Code (Code) to the National Electricity Rules (Rules), the derogation was removed, reinstating the obligation to publish the update.

A description of the proposed rule, statement of the issues concerning the existing rule, and how the propose rule addresses those issues consistent with the NEM objective is contained in the Attachment.

NEMMCO would be pleased if you could have these matters considered by the AEMC. For further details, please do not hesitate to contact David Bones on (07) 3347 3041.

Yours sincerely



**Brian Nelson**  
Head of Regulatory Affairs and Compliance

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## **Attachment**

### **Rule change request on Statement of Opportunities Update**

#### **Role of SOO and SOO Update**

Publishing the annual SOO is a core element of NEMMCO's power system reliability and planning coordination responsibilities by providing market information on the ability of supply to meet expected demand over the next ten years. It is generally accepted that the SOO has become a reference tool across the electricity supply industry and a key input to investment crucial to the long-term reliability of the nation's electricity supply. The SOO publishes as key results:

- the supply-demand balance, which provides an analysis of the future state of supply and its ability to meet demand; and
- the Annual National Transmission Statement (ANTS), which is an integrated overview of the current state and potential future development of national transmission flow paths.

The SOO update takes into account significant new information which has become available since the publication of the primary document. Particular attention is paid to any further information and experience arising as a result of the most recent winter.

The SOO is published on 31 October each year and the SOO update is published on 31 January each year.

#### **Background**

At the start of the National Electricity Market (NEM) in December 1998, NEMMCO was obliged under clause 3.13.3(o) of the Code to publish the SOO by 31 March of each year. This was amended in March 2002 as part of NECA's network and distributed resources Code change package, which deferred publication to 31 July and introduced the requirement to publish the SOO update by 31 January.

In December 2003, the Ministerial Council on Energy (MCE) extended the transmission planning aspect of the SOO, requiring NEMMCO to publish the Annual National Transmission Statement (ANTS) as part of the SOO. The Annual Planning Reviews (APRs) prepared by each of the jurisdictional planning bodies are a critical input to the ANTS. Because APRs are published by 30 June of each year, the 2004 ANTS needed to use results of the 2003 APRs rather than the most recently available information.

In late 2004, NEMMCO obtained a derogation from the National Electricity Code Administrator (NECA) to defer publication of the 2005 SOO from 31 July to 31 October, and remove the need to publish the 2004 SOO update. The derogation was also authorised by the ACCC.

Subsequently, the National Electricity Rules incorporated the deferred publication date for the SOO but did not remove the obligation to publish the update.

In 2005, the APRs were published by 30 June and the SOO was published on 27 October. NEMMCO also published load forecasts, which are derived from forecasts in the APRs, in a separate document in July.

## **Statement of issue concerning the existing Rule**

The main issues with the obligation to publish the SOO update are in three areas:

- the SOO update cannot meet its objective with respect to demand forecasts and network updates, because its publication date is incompatible with the APR timetable;
- the process of collecting the data for the update is repeated within two months in preparation for the next SOO; and
- other information already published or proposed to be published, including the SOO itself, already meets some objectives of the SOO update, undermining the additional benefits of the SOO update.

The objective of the SOO update (see clause 3.13.3(o1)) is to inform the market of significant new information that has become available since the preparation of the primary document. Particular attention is paid to further information and experience arising as a result of the most recent winter.

Generally, TNSPs review demand forecasts to meet their obligations to publish the APRs. In practice, revised forecasts that take into account the previous winter are made available to NEMMCO in draft form in April of each year and are published in June. This means the SOO update, which is published in January, cannot meet its objective of including information from the most recent winter with respect to demand forecasts. Similarly, information on projected network augmentations is not available for publication in the SOO update.

The data collected for the SOO update includes new information concerning generation projects. This information is collected through December and January leading up to the 31 January deadline. However from February of each year, NEMMCO commences collecting data for market simulations that are used for the Annual National Transmission Statement (ANTS), which is published as part of the SOO. This information is then updated again in June in for use in other areas of the SOO.

Information already published by NEMMCO that overlaps the SOO update includes:

- the SOO itself, which includes historical information from the previous winter;
- medium term PASA, which provides a weekly update of information on existing and proposed projects already registered with NEMMCO looking out 2 years; and
- ad hoc notices of major project developments (such as with Basslink).

In addition, NEMMCO is developing a disclosure process for advising the market of any changes to the status of new generation, demand or network projects as they become available to NEMMCO (subject to confidentiality constraints) to continue to enhance the level of transparency in the NEM. The first stage of this project will routinely update status and

information regarding committed generation projects onto NEMMCO's web site, and is due to be commissioned before the end of the year.

In NEMMCO's experience, the changes to demand and generation forecasts have not been sufficient to revise the supply-demand balance assessment of the SOO.

This means the information usually contained in SOO updates will already be provided to the NEM.

### **How the proposed Rule change addresses the issue**

NEMMCO has considered two options for addressing the issues with publishing a SOO update:

- delaying publication of the SOO update; and
- removing the obligation to publish the SOO update.

Deferring the SOO update would overcome the issue of having to assemble data from participants twice in quick succession. However, the SOO update would still not be able to meet its objectives and would continue to be made redundant by other information already or proposed to be released by NEMMCO.

Removing the obligation to publish is consistent with previous determinations by NECA and the ACCC, and NEMMCO is proposing this option.

### **Description of the Proposed Rule Change**

NEMMCO is proposing that the obligation to prepare a SOO update (as required under clause 3.13.3(o1) of the Rules) be removed.

### **How the proposed Rule change is likely to contribute to the achievement of national electricity market objective.**

The Rule making test in the National Electricity Law requires the AEMC to be satisfied that the Rule will or is likely to contribute to the achievement of the national electricity market objective, which is to promote (among other things) efficient investment in electricity services for the long term interest of consumers of electricity.

The SOO provides a market information service to existing and potential Rule participants on the future state of supply ability to meet demand. In the context of electricity services as defined in the NEL, the SOO supports efficient investment in the generation of electricity and demand-side management.

NEMMCO believes the cost (that is, the foregone benefits) and the benefits (which are avoided compliance costs) of removing the SOO update are as follows.

## Foregone benefits

As mentioned earlier, the SOO update provides no additional information to the market than is provided by the primary SOO document, medium-term PASA and the proposed continuous disclosure process currently under development.

In its final determination, the ACCC accepted NECA's submission "that there is limited benefit in providing a half-yearly update to a long-term planning document relating to the following tend year. ... users of the SOO would not lose access to any significant information; they will merely experience a delay in accessing it"<sup>1</sup>.

## Avoided compliance costs

While this can be difficult to calculate, based on its previous experience, NEMMCO would expect that the approximate time taken to produce a SOO Update is at least:

- two people from NEMMCO to collect data and prepare, review and publish the update with a total cost of one and a half months equivalent full-time work; and
- a similar cost spread across the 31 participants that NEMMCO surveys to prepare the update.

In total, the annual cost to produce a SOO update is estimated to be the equivalent of at least 3 months full-time work for one person.

## Long-term net benefit

NEMMCO believes that the existing Rule detracts from the NEM objective by imposing a compliance cost on NEMMCO and Rule participants that delivers little or no benefit to the NEM.

This is consistent with the ACCC's conclusion "that the net change in public benefits and public detriments arising from relieving NEMMCO of its obligation to publish an updated SOO in January will be minimal, and that any such change will be in favour of public benefits".<sup>2</sup>

## **Power to make the Rule**

NEMMCO believes the AEMC has the power to make the requested rule under s.34(1)(c) of the NEL. It also falls within the head of power in clause 36 of Schedule 1 of the NEL relating to matters that are subject of a provision of the Code immediately before commencement of the new NEL, which is given effect by s.34(2) of the NEL.

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<sup>1</sup> ACCC "Authorisation for a Minor Variation of Authorisation, Publication date of the Statement of Opportunities", Final Determination, 12 January 2005, page 7,

<http://www.accc.gov.au/content/index.phtml/itemId/615860/fromItemId/54380>

<sup>2</sup> *ibid*, page 7

### **Non-controversial Rule**

Under s.96 of the NEL, if the AEMC considers a request for a Rule is a request for a non-controversial Rule, the AEMC may use a “fast-track” process for publishing the Rule.

In the 2004 derogation request, NEMMCO notes that:

- NECA received one submission supporting the derogation to remove the obligation to publish the 2004 SOO update; and
- the ACCC received no submissions.

Both NECA and the ACCC concluded that the derogation under the Code was minor and accordingly, the derogation was approved. NEMMCO believes that a continuing obligation to publish the SOO update is unlikely to be supported by the market and concludes that this request is non-controversial.