



**Australian Energy Market Commission**

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## **RULE DETERMINATION**

National Electricity Amendment (Common definitions of distribution reliability measures)  
Rule 2015

**Rule Proponent**  
COAG Energy Council

29 October 2015

**RULE  
CHANGE**

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AEMC 2015, Common definitions of distribution reliability measures, Rule Determination, 29 October 2015.

## **About the AEMC**

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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## Summary

The Australian Energy Market Commission has made a rule that gives the Australian Energy Regulator (AER) responsibility for producing, maintaining and updating a guideline of common definitions of distribution network reliability measures. The rule also requires the AER to have regard to the guideline when developing and applying service target performance incentive schemes for distribution network service providers (DNSPs) and preparing DNSPs' performance reports, including annual benchmarking reports.

The Commission considers that the rule is likely to contribute to the achievement of the national electricity objective by promoting consistency and transparency in the specification and reporting of distribution reliability measures. This is likely to lead to more effective benchmarking and incentive schemes which will better enable the AER to determine revenue allowances for DNSPs that appropriately balance price and reliability outcomes for consumers.

The rule requires the AER to publish the initial guideline of common definitions of distribution network reliability measures by 30 June 2017. It is to have regard to the guideline in the course of developing and applying the service target performance incentive scheme and performance reports from that date.

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# 1 COAG Energy Council's rule change request

## 1.1 The rule change request

On 25 May 2015 the COAG Energy Council submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) seeking to give the AER the responsibility for producing, maintaining and updating a guideline of common definitions of distribution network reliability measures.

The COAG Energy Council did not include a proposed rule with the rule change request. Nor did it propose an implementation schedule for the rule, although it noted that transitional provisions may be required.<sup>1</sup>

## 1.2 Background

On 27 September 2013, the AEMC provided its final report, Review of the National Framework for Distribution Reliability to the COAG Energy Council. One of the review's recommendations was that a common set of definitions for distribution reliability measures be developed.<sup>2</sup>

The AEMC also recommended that this task be the responsibility of the AER. This was because producing a guideline setting out the common definitions would assist the AER in comparing the reliability performance of DNSPs in the National Electricity Market (NEM). This would allow for more accurate benchmarking to occur which could be considered in the development of its revenue determinations for DNSPs.<sup>3</sup>

The AEMC also proposed that the definitions guideline be used to:<sup>4</sup>

- assist in setting reliability standards;
- enhance consistency in reporting on performance against reliability targets; and
- assist stakeholders in comparing DNSP reliability performance.

On 21 January 2014, the COAG Energy Council responded to the final report by requesting the AEMC develop common definitions for expressing distribution network reliability targets across the NEM.

On 5 September 2014 the AEMC published its final report on its Review of Distribution Reliability Measures. The report presented common definitions for distribution

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<sup>1</sup> To allow stakeholders to comment on rule drafting and an implementation schedule the AEMC published indicative rule drafting and proposed implementation dates in the consultation paper.

<sup>2</sup> AEMC, Final report: Review of the national framework for distribution reliability, 27 September 2013, p.2.

<sup>3</sup> Ibid, p.3.

<sup>4</sup> Ibid.

network reliability targets and outcomes across the NEM with the aim of providing greater transparency and consistency. The AEMC developed harmonised definitions giving a menu of proposed distribution network reliability measures to be applied by the AER and participating jurisdictions for their reporting, benchmarking and incentive schemes. The AEMC considered that the use of these common definitions would increase transparency and consistency of distribution reliability measurements.<sup>5</sup>

### **1.3 Rationale for the rule change request**

Distribution network reliability measures and their definitions can vary significantly between the AER, jurisdictions and DNSPs. The COAG Energy Council considers that such variety has a negative impact on the collection, transparency and comparison of distribution reliability data. In particular, this impacts on the distribution reliability data used in incentive schemes as well as the extent to which reliability performance can be compared in performance reports, including annual benchmarking reports.<sup>6</sup>

### **1.4 Solution proposed in the rule change request**

To address the issue that a variety of definitions are used, and there is little transparency or reasoning for the differences, the COAG Energy Council proposed to give the AER the responsibility for producing, maintaining and updating a guideline of common definitions of distribution network reliability measures. Specifically, the COAG Energy Council proposed to require the AER to:

- develop, publish and maintain a guideline of common definitions of distribution network reliability measures in consultation with stakeholders under the distribution consultation procedures in the National Electricity Rules (NER);
- have regard to the guideline when developing the service target performance incentive scheme (STPIS) for DNSPs and preparing DNSP performance reports, including annual benchmarking reports; and
- review the guideline at least every five years after the guideline is first published.

The COAG Energy Council considers the new guideline will promote stakeholder confidence, transparency and consistency in distribution reliability reporting and relevant incentive schemes. The guideline may also facilitate wider use of common distribution reliability definitions by DNSPs and jurisdictional governments and regulators.

### **1.5 Commencement of rule making process**

On 17 September 2015 the Commission published a notice under s. 95 of the National Electricity Law (NEL) advising of its intention to commence the rule making process

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<sup>5</sup> AEMC, Final report: Review of Distribution Reliability Measures, 4 September 2014, p.i.

<sup>6</sup> COAG Energy Council, Rule change request, p.4.

and consultation in respect of the rule change request. A consultation paper was also published with the rule change request. Submissions closed on 15 October 2015.

The Commission considered that the rule change request could be assessed as a request for a non-controversial rule. Accordingly, it proposed to expedite the rule change request under s. 96 of the NEL, subject to any written requests not to do so. The closing date for receipt of written requests was 1 October 2015. None were received. Accordingly, the rule change request has been considered under the expedited process set out in s. 96 of the NEL.

Three submissions on the rule change request were received as part of the consultation. They are available on the AEMC website.<sup>7</sup>

## **1.6 Stakeholder's views**

Jemena, Energex and the Energy Networks Association (ENA) expressed support for COAG Energy Council's proposal. Jemena, Energex and the ENA considered that the proposed rule will deliver efficiency to electricity customers across the NEM by creating greater consistency in measuring reliability performance.<sup>8</sup> Specific issues raised in submissions relating to the transitional provisions and the non-binding nature of the guideline are set out in Appendix A.

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<sup>7</sup> [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>8</sup> Jemena submission, p.1; Energex submission, p. 1; ENA submission, p.1.

## 2 Final rule determination

### 2.1 The final rule

The Commission's final rule requires the AER to:

- develop, publish and maintain a guideline of common definitions of distribution network reliability measures in accordance with the distribution consultation procedures in the NER;
- have regard to the guideline in the course of developing and applying the STPIS for DNSPs;
- have regard to the guideline in the course of preparing DNSP performance reports, including annual benchmarking reports; and
- review the guideline at least every five years after the guideline is first published.

The final rule also specifies that the AER must publish the initial guideline by 30 June 2017. It must then have regard to the guideline in the course of developing performance reports and developing and implementing the STPIS from that date.

### 2.2 Rule making test

Under the NEL the Commission may only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective (NEO). The NEO is set out in s. 7 of the NEL as follows:

“The objective of this Law is 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.”

For the rule change request, the Commission considers that the relevant aspect of the NEO is the efficient investment in, and efficient operation of electricity services with respect to price and reliability.

Further information on the legal requirements for making this final rule determination are set out in Appendix B.

## **2.3 Assessment criteria**

To determine whether the rule, if made, is likely to promote the NEO, the Commission has assessed it under the following principles:

- *Transparency, consistency and predictability:* the guideline may provide transparency, consistency and predictability in the specification and reporting on distribution reliability measures. The benefits of this are likely to include more meaningful reporting and benchmarking exercises and increased effectiveness of the STPIS by improving the quality and accuracy of data reported to the AER.
- *Regulatory and administrative burden:* the increase in regulatory and administrative burden on DNSPs, the AER and interested parties from the requirement for creation, consultation on, and maintenance of the guideline. The reduction in administrative burden arises from the reduced need to consult on the definitions of reliability, and increased likelihood of consistency of the definitions used in the benchmarking and STPIS.

## **2.4 Commission's considerations**

### **2.4.1 Transparency, consistency and predictability**

The Commission is satisfied that the final rule will, or is likely to, contribute to the achievement of the NEO. The combination of the AER producing, maintaining and updating the guideline and having regard to it in developing performance reports and the STPIS is expected to promote consistency and transparency in the specification and reporting on distribution reliability measures. This is likely to:

- assist DNSPs, the AER and other stakeholders to compare the reliability performance of DNSPs across the NEM, allowing more meaningful reporting and benchmarking exercises to occur; and
- improve the effectiveness of the STPIS by improving the transparency, quality and accuracy of the data reported to, and used by, the AER.

More effective benchmarking and incentive schemes will better enable the AER to determine revenue allowances for DNSPs that allow the AER to better consider price and reliability outcomes for customers. The final rule will therefore promote the efficient investment in, and operation of, electricity services for the long term interests of consumers with respect to price and reliability.

### **2.4.2 Regulatory and administrative burden**

There is likely to be a small increase in administrative costs for the AER, DNSPs and jurisdictional regulators in the production, maintenance and revisions to the guideline. However, the Commission considers that the net cost is unlikely to be material because:

- the AER and DNSPs are likely to face reduced costs in establishing distribution reliability measures definitions in the STPIS and performance reports by drawing on the common definitions in the guideline;<sup>9</sup>
- the AER will be able to use the definitions from the current STPIS and the AEMC's Review of Distribution Reliability Measures when developing the initial guideline; and
- the requirement for the initial guideline to be published by 30 June 2017 will allow the AER to align the development of the initial guideline with its next revision of the STPIS which is likely to occur by 30 June 2017 to allow revisions to be incorporated into the New South Wales, Australian Capital Territory and Tasmania 2019-24 distribution determinations.

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<sup>9</sup> There is likely to be a further decrease in administrative costs for DNSPs if jurisdictional regulators also adopt the common definitions in jurisdictional reliability reports.

## Abbreviations

AER	Australian Energy Regulator
DNSP	distribution network service provider
ENA	Energy Networks Association
NEL	National Electricity Law
NEM	National Electricity Market
NEO	national electricity objective
NER	National Electricity Rules

## A Summary of issues raised in submissions

Stakeholder	Issue	AEMC response
Jemena (p.1)	Transitional arrangements are necessary as the guideline could result in changes which have a significant effect on revenue allowances if not properly transitioned.	The Commission does not consider that specific transitional provisions are necessary for the introduction of the guideline. The guideline in and of itself will not have any effect on revenue for DNSPs. If the AER does make changes to the STPIS or performance reports as a result of having regard to the guideline it will be able to make a transitional arrangement as it does with other changes to the definitions used in the STPIS or performance reports. The AER is required to consult on any such transitional measures through its framework and approach process.
Energex (p.2) and ENA (p.2)	The AEMC's consultation paper does not address whether the new guideline would be binding or non-binding. If the new guideline is binding and results in significant changes to existing systems and reporting processes the costs may be material and need to be appropriately evaluated. A non-binding guideline is recommended.	The COAG Energy Council's rule change request, the indicative rule drafting provided in the consultation paper and this final rule provide for the new guideline to be non-binding.  Specifically, the final rule requires the AER to have regard to the new guideline in the course of developing performance reports and developing and implementing the STPIS. This means that the AER does not have to use the definitions in the guideline in performance reports and the STPIS but they must take them into account.

## **B Legal requirements under the NEL**

This appendix sets out the relevant legal requirements under the NEL for the AEMC to make this final rule determination.

### **B.1 Final rule determination**

In accordance with s. 102 of the NEL the Commission has made this final rule determination in relation to the rule change request proposed by the COAG Energy Council. The Commission's reasons for making this final rule determination are set out in section 2.1.

The *National Electricity Amendment (Common definitions of distribution reliability measures) Rule 2010 No. 10* is published with this final rule determination. Schedules 1 and 3 of the rule commence on 5 November 2015 and Schedule 2 commences on 30 June 2017. Its key features are described in section 2.1.

### **B.2 Power to make the rule**

The Commission is satisfied that the rule as made falls within the subject matter about which the Commission may make rules. The rule as made falls within the matters set out in s. 34 of the NEL as it relates to regulating the operation of the national electricity system.

### **B.3 Commission's considerations**

In assessing the rule change request the Commission considered:

- the Commission's powers under the NEL to make the rule;
- the rule change request;
- submissions received during consultation;
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the achievement of the NEO.

The Commission may only make a rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed rule is compatible with the proper performance of the Australian Energy Market Operator's declared network functions.<sup>10</sup> The rule as made is compatible with the Australian Energy Market Operator's declared network functions because it does not affect the performance of those functions.

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<sup>10</sup> See s. 91(8) of the NEL.

## **B.4 Civil penalties**

The rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission is not recommending to the COAG Energy Council that any of the amendments made by the rule be classified as civil penalty provisions.