



Australian Energy Market Commission

CONSULTATION PAPER

National Electricity Amendment (Common Definitions of Distribution Reliability Measures) Rule 2015

Rule Proponent
COAG Energy Council

17 September 2015

**RULE
CHANGE**

Inquiries

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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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1 Introduction

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

1.1 Issues raised in the rule change request

Distribution network reliability measures and their definitions can vary significantly between the AER, jurisdictions, regulators and network businesses. The COAG Energy Council considers that this has implications for how data is collected and compared for use in the service target performance incentive scheme (STPIS) as well as the extent to which reliability performance can be compared in performance reports, including annual benchmarking reports.

1.2 Proposed solution

To improve the transparency, predictability and comparability of distribution network reliability measures, the COAG Energy Council proposes to give the AER the responsibility for producing and updating a guideline of common distribution network reliability measures definitions.

If given effect in the National Electricity Rules (NER), the rule change request would require the AER to:

- develop, publish and maintain a guideline of common distribution network reliability measures definitions in consultation with stakeholders under the distribution consultation procedures in the NER;
- have regard to the guideline when developing the STPIS for distribution network service providers (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.

Copies of the rule change request may be found on the AEMC website, www.aemc.gov.au.

1.3 Proposed rule

The COAG Energy Council did not submit a proposed rule with the rule change request. To provide assistance to stakeholders making submissions, the Commission has developed and published indicative rule drafting in Appendix A of this consultation paper which reflects the changes proposed in the rule change request.

The Commission notes that should a rule be made, it will need to include transitional provisions to provide for the date that the AER will be required to make the first guideline. A Final rule will also need to specify when the AER will first need to take into account the new guideline in the STPIS and DNSP performance reports.

The Commission has consulted with the AER regarding the timing of the first guideline. The AER is likely to revise the current STPIS guideline by 30 June 2017 to allow for revisions to be incorporated into the STPIS applied to DNSPs in New South Wales and Australian Capital Territory in the 2019-24 distribution determinations. Requiring the AER to make the first guideline by the same date would allow the AER to run the consultation processes for these guidelines in tandem, which is likely to reduce administration costs for DNSPs, the AER and interested parties.

In the absence of further stakeholder views on the date for the first AER guideline, if a rule is made, the Commission proposes to require the AER to make the guideline by 30 June 2017.

2 Assessment framework

The Commission's assessment of this rule change request must consider whether the proposed rule contributes to the achievement of the national electricity objective (NEO) as set out under s. 7 of the National Electricity Law (NEL). The NEO states:

“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.”

Based on a preliminary assessment of this rule change request, the most relevant aspects of the NEO, for the purpose of this rule change request, are the efficient investment in and efficient operation of electricity services.

To determine whether the proposed rule, if made, is likely to promote the NEO, the following principles may be taken into account:

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 new guideline should be considered. The reduction in administrative burden 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 should also be considered.

Transparency and predictability: the guideline may provide consistency and transparency in the specification and reporting on distribution reliability measures, the benefits of which are likely to include more meaningful reporting and benchmarking exercises and increased effectiveness of the STPIS by improving the transparency, quality and accuracy of data to the AER.

3 Process for this rule change

3.1 Treatment as a non-controversial rule change

The Commission considers that this rule change request is a request for a non-controversial Rule. A "non-controversial Rule" is defined by the NEL (s. 87) as:

“a Rule that is unlikely to have a significant effect on the national electricity market”

Rule changes that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation and the AEMC must publish its final rule determination within six weeks of commencing the rule change process.¹ The Commission proposes to use this expedited process to consider the rule change request provided that it does not receive any valid requests not to use the expedited process by 1 October 2015. To be valid, an objection should set out the reasons why the rule change request is a request for a rule that will have a significant impact on the national electricity market.

3.2 Key dates

Submissions are invited in relation to the rule change request and the matters identified above.

The **key dates** for stakeholders in this process are as follows:

- Commencement of this rule change process: 17 September 2015
- Objections to an expedited process to be received by: 1 October 2015
- Submissions to the proposal to be received by: 15 October 2015
- Final decision to be published under an expedited process by: 29 October 2015

¹ The AEMC has published a notice under sections 95 and 96 of the NEL to commence and assess this rule change request as a non-controversial rule.

4 How to lodge a submission

The Commission invites requests not to make a rule under the expedited process and written submissions on this rule change proposal.

All enquiries on this project should be addressed to Ben Davis on (02) 8296 7851.

4.1 Lodging a request not to make a rule under an expedited process

Written requests not to make a rule under the expedited process in section 96 of the NEL must include reasons for the request, and must be lodged with the Commission by 1 October 2015, either online or by mail, in accordance with the requirements specified below.

4.2 Lodging a submission to this rule change request

Written submissions on the rule change request must be lodged with Commission by 15 October 2015, either online or by mail, in accordance with the requirements specified below.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.² Please note that the Commission publishes all submissions on its website, subject to a claim of confidentiality.

4.3 Lodging a submission electronically

Electronic submissions, or requests not to make a rule under the expedited process, must be lodged online via the Commission's website, www.aemc.gov.au, using the "lodge a submission" function and selecting the project reference code: ERC0190.

The request or submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Upon receipt of the electronic request or submission, the Commission will issue a confirmation email. If this confirmation email is not received within three business days, it is the submitter's responsibility to ensure the request or submission has been delivered successfully.

² This guideline is available on the Commission's website.

4.4 Lodging a submission by mail

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. The request or submission should be sent by mail to:

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

The envelope must be clearly marked with the project reference code: ERC0190.

Abbreviations

AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
COAG	Council of Australian Governments
Commission	See AEMC
DNSP	distribution network service provider
NEL	National Electricity Law
NEO	national electricity objective
NER	National Electricity Rules
STPIS	service target performance incentive scheme

Appendix A Indicative rule drafting

1. Amend clause 6.2.8 as shown in mark-up:

6.2.8 Guidelines

- (a) The *AER*:
 - (1) must make and *publish* the *Shared Asset Guidelines*, the *Capital Expenditure Incentive Guidelines*, the *Rate of Return Guidelines*, the *Expenditure Forecast Assessment Guidelines*, the *Distribution Confidentiality Guidelines* and the *Cost Allocation Guidelines* in accordance with these *Rules*; and
 - (2) may, in accordance with the *distribution consultation procedures*, make and *publish* guidelines as to any other matters relevant to this Chapter.
- (b) A guideline may relate to a specified *Distribution Network Service Provider* or *Distribution Network Service Providers* of a specified class.
- (c) Except as otherwise provided in this Chapter, a guideline is not mandatory (and so does not bind the *AER* or anyone else) but, if the *AER* makes a distribution determination that is not in accordance with the guideline, the *AER* must state, in its reasons for the distribution determination, the reasons for departing from the guideline.
- (d) If a guideline indicates that there may be a change of regulatory approach in future distribution determinations, the guideline should also (if practicable) indicate how transitional issues are to be dealt with.
- (e) Subject to paragraph (f), the *AER* may, from time to time and in accordance with the *distribution consultation procedures*, amend or replace a guideline.
- (f) The *AER* may make administrative or minor amendments to any guideline without complying with the *distribution consultation procedures*.
- (g) This clause 6.2.8 does not apply to the *Distribution Ring-Fencing Guidelines* or the *Distribution Reliability Measures Guidelines*.

2. Amend clause 6.6.2 as shown in mark-up:

6.6.2 Service target performance incentive scheme

- (a) The *AER* must, in accordance with the *distribution consultation procedures*, develop and *publish* an incentive scheme or schemes (*service target performance incentive scheme*) to provide incentives

(which may include targets) for *Distribution Network Service Providers* to maintain and improve performance.

(b) In developing and implementing a *service target performance incentive scheme*, the AER:

(1) must consult with the authorities responsible for the administration of relevant *jurisdictional electricity legislation*; and

(2) must ensure that service standards and service targets (including guaranteed service levels) set by the scheme do not put at risk the *Distribution Network Service Provider's* ability to comply with relevant service standards and service targets (including guaranteed service levels) as specified in *jurisdictional electricity legislation*; and

Note:

A *service target performance incentive scheme* operates concurrently with any average or minimum service standards and guaranteed service level schemes that apply to the *Distribution Network Service Provider* under *jurisdictional electricity legislation*.

(3) must take into account:

(i) the need to ensure that benefits to electricity consumers likely to result from the scheme are sufficient to warrant any reward or penalty under the scheme for *Distribution Network Service Providers*; and

(ii) any *regulatory obligation or requirement* to which the *Distribution Network Service Provider* is subject; and

(iii) the past performance of the *distribution network*; and

(iv) any other incentives available to the *Distribution Network Service Provider* under the *Rules* or a relevant distribution determination; and

(v) the need to ensure that the incentives are sufficient to offset any financial incentives the *Distribution Network Service Provider* may have to reduce costs at the expense of service levels; and

(vi) the willingness of the customer or end user to pay for improved performance in the delivery of services; and

(vii) the possible effects of the scheme on incentives for the implementation of non-network alternatives; and

(4) must have regard to the *Distribution Reliability Measures Guidelines*.

- (c) The *AER* may, from time to time and in accordance with the *distribution consultation procedures*, amend or replace any scheme that is developed and *published* under this clause.

Note:

A *Distribution Network Service Provider* is not precluded from entering into a contract with a third party (such as a network support service provider) under which the benefits of a *service target performance incentive scheme* are passed on to the third party, or the third party is required to indemnify the provider for penalties to which the provider becomes liable under the scheme.

3. After Part O, insert a new Part P as follows:

Part P Distribution Reliability Measures Guidelines

6.28 Distribution Reliability Measures Guidelines

- (a) The *AER* must in accordance with the *distribution consultation procedures* make and *publish* guidelines (the *Distribution Reliability Measures Guidelines*) that describe a set of common definitions of reliability measures that can be used to assess and compare the reliability performance of *Distribution Network Service Providers*.
- (b) There must be *Distribution Reliability Measures Guidelines* in force at all times after the date on which the *AER* first *publishes* *Distribution Reliability Measures Guidelines* under these *Rules*.
- (c) The *AER* must review the *Distribution Reliability Measures Guidelines* at least every 5 years.

4. Amend clause 8.7.4 as shown in mark-up:

8.7.4 Preparation of network service provider performance report (Section 28V of the NEL)

- (a) Before the *AER* embarks on the preparation of *network service provider performance reports*, the *AER* must consult with:
- (1) *network service providers*; and
 - (2) bodies representative of the *network service providers* and *network service users*; and
 - (3) the public generally;
- in order to determine appropriate priorities and objectives to be addressed through the preparation of *network service provider performance reports*.
- (b) In the course of preparing a *network service provider performance report*, the *AER*:

- (1) must consult with the *network service provider* or *network service providers* to which the report is to relate; and
- (2) must consult with the authority responsible for the administration of relevant *jurisdictional electricity legislation* about relevant safety and technical obligations; and
- (3) may consult with any other persons who have, in the *AER's* opinion, a proper interest in the subject matter of the report; and
- (4) may consult with the public.

(b1) In preparing a *network service provider performance report*, the *AER* must have regard to the *Distribution Reliability Measures Guideline*.

- (c) A *network service provider* to which the report is to relate:
 - (1) must be allowed an opportunity, at least 30 business days before publication of the report, to submit information and to make submissions relevant to the subject matter of the proposed report; and
 - (2) must be allowed an opportunity to comment on material of a factual nature to be included in the report.

5. In Chapter 10, insert the following new definition:

Distribution Reliability Measures Guidelines

Guidelines made by the *AER* under clause 6.28.