



Australian Energy Market Commission

## FINAL RULE DETERMINATION

National Electricity Amendment (Review frequency for the Template for Generator Compliance Programs) Rule 2015

**Rule Proponent(s)**

Reliability Panel

3 December 2015

RULE  
CHANGE

## **Inquiries**

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

E: [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)

T: (02) 8296 7800

F: (02) 8296 7899

Reference: ERC0194

## **Citation**

AEMC 2015, Review frequency for the Template for Generator Compliance Programs, Final Rule Determination, 3 December 2015 , Sydney

## **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.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

## Summary

The Australian Energy Market Commission (AEMC or Commission) has determined to make a rule in response to a rule change request submitted by the Reliability Panel. The rule changes the frequency with which the template for generator compliance programs (generator compliance templates) is required to be reviewed by the Reliability Panel from at least every 3 years to at least every 5 years. This means that the next review of the generator compliance template will take place in 2020.<sup>1</sup>

The generator compliance template is designed to assist registered participants who own or operate plant to which performance standards apply, generally generators, with developing and designing their compliance programs to meet the relevant performance standard. It is also intended to assist the Australian Energy Regulator with the enforcement and monitoring of the generators' compliance with the technical requirements under the Rules.

Performance standards specify an enforceable expected level of performance for generators. Effective compliance with performance standards contributes to the delivery of reliable and secure electricity to customers in the National Electricity Market. The Reliability Panel conducts periodic reviews of the template to keep it fit-for-purpose in a changing environment.

The generator compliance template is one element of a broader compliance framework. While it provides guidance as to how to meet performance standards, it is not determinative of whether those standards have been met. For this reason, changing the frequency of reviews of the template should not negatively impact reliability or security of supply.

In addition, the rule change does not affect the power of the AEMC to request an earlier review of the template if necessary.

The Commission has determined that it should make the rule as proposed as it considers it will, or is likely to, contribute to the achievement of the National Electricity Objective (NEO). This is because it will reduce administrative costs without compromising the reliability, safety and security of the national electricity system. In this way it will also promote market efficiency through a more efficient allocation of resources.

---

<sup>1</sup> Unless the AEMC requests the Reliability Panel to undertake a review before that time, for example, due to material changes in technology or performance standards.

# Contents

<b>1</b>	<b>Reliability Panel's Rule Change Request.....</b>	<b>1</b>
1.1	The Rule Change Request.....	1
1.2	Current arrangements .....	1
1.3	Relevant background.....	1
1.4	Reasons for Rule Change Request .....	1
1.5	Solution proposed in the Rule Change Request .....	1
1.6	Commencement of Rule making process .....	2
<b>2</b>	<b>Final Rule Determination.....</b>	<b>3</b>
2.1	Rule making test.....	3
2.2	Assessment framework .....	3
2.3	Summary of reasons .....	4
<b>3</b>	<b>Commission's assessment and decision .....</b>	<b>5</b>
3.1	Reliability Panel's view .....	5
3.2	Stakeholder views .....	5
3.3	Analysis and conclusion .....	5
	<b>Abbreviations.....</b>	<b>7</b>
<b>A</b>	<b>Legal requirements under the NEL .....</b>	<b>8</b>
A.1	Final rule determination.....	8
A.2	Power to make the rule .....	8
A.3	Commission's considerations .....	8
A.4	Civil penalties .....	8

# **1 Reliability Panel's Rule Change Request**

## **1.1 The Rule Change Request**

On 15 September 2015, the Reliability Panel submitted a rule change request to the Commission seeking to amend the frequency with which generator compliance templates are required to be reviewed from at least every three years, to at least every five years. The AEMC would retain the ability to require an earlier review of the template if necessary.

## **1.2 Current arrangements**

The generator compliance template is designed to assist registered participants who own or operate plant to which performance standards apply, generally generators, with developing and designing their compliance programs to meet the relevant performance standard. It is also intended to assist the Australian Energy Regulator with the enforcement and monitoring of the generators' compliance with the technical requirements under the Rules. Performance standards specify an enforceable expected level of performance for generators.

Effective compliance with performance standards contributes to the delivery of reliable and secure electricity to customers in the National Electricity Market. The Reliability Panel conducts periodic reviews of the template to keep it fit-for-purpose in a changing environment. Under the existing rules, these reviews must be conducted at least every three years.

## **1.3 Relevant background**

The rule change request arose from the Reliability Panel's Review of the Template for Generator Compliance Programs 2015, which among other issues raised the question of whether the current frequency of template reviews is optimal. The three submissions provided as part of the review which mentioned the issue supported the proposal to amend the frequency of generator compliance template reviews.

The final report recommended a rule change request be submitted to the AEMC in respect of the frequency for reviews of the generator compliance template.

## **1.4 Reasons for Rule Change Request**

The generator compliance template needs to be updated periodically in order to stay fit-for-purpose in a changing environment. However, there may be a trade-off between keeping the template current, and the administrative burden on stakeholders involved with the reviews. The rule change proponent considers that it is possible to reduce administrative costs without compromising the reliability, safety and security of the national electricity system.

## **1.5 Solution proposed in the Rule Change Request**

The rule proponent proposes to resolve the issues referred to above by making a rule that amends the wording in clause 8.8.3(ba) of the NER so that the Reliability Panel is

required to review the generator compliance template “at least every 5 years”, rather than “at least every 3 years”. The Reliability Panel would continue to have a requirement to review the template “ at such other times as the AEMC may request”. This would allow for an earlier review of the template if necessary, for example, as a result of a material change to the NER, technology or performance standards.

## **1.6 Commencement of Rule making process**

On 29 October 2015, the Commission published a notice under section 95 of the National Electricity Law (NEL) advising of its intention to commence the rule making process and consultation in respect of the rule change request. A consultation paper identifying specific issues or questions for consultation was also published with the rule change request. Submissions closed on 26 November 2015.

The Commission received one submission on the Rule Change Request as part of the first round of consultation, from the AER. It is available on the AEMC website<sup>2</sup>.

The Commission determined that the rule change request is a request for a non-controversial rule because it is unlikely to have a significant impact on the NEM. Accordingly, the Commission expedited the rule change request under section 96 of the NEL, subject to any written requests not to do so. The closing date for receipt of written requests was 12 November 2015. None were received. Accordingly, the Rule Change Request was considered under an expedited process under section 96 of the NEL.

---

2 [www.aemc.gov.au](http://www.aemc.gov.au)

## 2 Final Rule Determination

The Commission's final rule determination is to make the rule as proposed by the Reliability Panel. The rule amends the frequency of reviews of the generator compliance template from at least every three, to at least every five, years. The rule is published with this final rule determination.

This Chapter outlines:

- the Commission's rule making test for changes to the NER;
- the Commission's assessment framework for considering the rule change request; and
- the Commission's consideration of the proposed rule against the national energy objective (NEO).

### 2.1 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 NEO. This is the decision making framework that the Commission must apply.

The NEO is set out in section 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.”

### 2.2 Assessment framework

For the rule change request the Commission considers that the relevant aspect of the NEO is:

- the efficient operation of electricity services with respect to price, reliability, and security of supply.

In assessing the rule change request against the NEO the Commission has considered the following principles:

- **Reliability and security of supply.** Keeping the generator compliance template current and fit-for-purpose goes to the reliability, safety and security of the national electricity system as generators use the template to assist in meeting their compliance obligations.
- **Reduction of administrative burden.** Altering the minimum frequency of reviews from at least every three, to at least every five years, would reduce the costs of conducting reviews which are incurred by members of the Reliability Panel and other stakeholders.

## 2.3 Summary of reasons

Having regard to the issues raised in the rule change request, the Commission is satisfied that the rule as made will, or is likely to, contribute to the achievement of the NEO because less frequent template reviews:

- are likely to reduce the administrative burden on stakeholders (such as registered participants, AEMO, AER and the Panel). They will also provide more flexibility in timing, meaning reviews can be conducted at more appropriate intervals (for example, following a material change to the NER, technology or performance standards);
- would not change registered participants' obligations under the NER to comply with performance standards; and
- would have the potential to provide flow-on benefits to consumers in the long term, as resources previously allocated towards reviewing the template could be more efficiently allocated towards serving their needs.

There would still be a guaranteed periodic review of the compliance template by the reliability panel.

## **3 Commission's assessment and decision**

### **3.1 Reliability Panel's view**

The Reliability Panel considers that making the proposed rule will, or is likely to, contribute to the achievement of the national electricity objective by promoting the efficient operation and use of electricity services for the long term interests of consumers of electricity with respect to the reliability, safety and security of the national electricity system. The Reliability Panel believes it is likely to reduce the administrative burden on stakeholders due to them having to participate in template reviews on a less frequent basis. At the same time there would be no reduction in registered participants' regulatory obligations in respect of performance standards compliance. It would also support greater flexibility in terms of the timing of reviews, as well as providing certainty to stakeholders as to the maximum timeframe between reviews.

### **3.2 Stakeholder views**

The AER agrees that every five years is an appropriate minimum frequency for reviews of the generator compliance template, while noting and supporting the safety net provided by the AEMC being able to trigger an earlier review where necessary.<sup>3</sup>

### **3.3 Analysis and conclusion**

#### **3.3.1 Reduction in administrative burden**

The Commission is of the view that the generator compliance template is a key instrument in assisting generators to develop compliance programs that are consistent with good electricity industry practice. In addition, it is important that it remain up to date and aligned with current industry practice and developments. Periodic reviews help to maintain the currency of the template and reflect changes in matters such as generation technologies, performance standards, and compliance methods.

However, there are costs involved in the review of the template by the Reliability Panel. The process for the review of the template takes approximately 6 months. It involves two rounds of consultation and potentially a public meeting or forum. The analysis and consideration of the issues draws on the time and resources of Reliability Panel members and staff of the Reliability Panel secretariat. In addition, stakeholder time and resources is applied to responding to the various rounds of consultation and to the forum.

Reducing the frequency of the reviews of the template would therefore allow this time and resources to be allocated elsewhere.

The Commission is mindful of the possibility that from time to time reviews may be required more frequently than every five years, but considers this is adequately provided for through retaining the ability of the AEMC to require an earlier review of the template if necessary.

---

<sup>3</sup> AER, submission on the consultation paper, p. 1.

Overall, changing the frequency of reviews of the template in this way reduces the administrative costs on stakeholders and the Reliability Panel.

### **3.3.2 Impact on reliability and security of supply**

The Commission has considered whether a reduction in the frequency of reviews of the generator compliance template will impact on reliability and security of supply in the NEM. It considers that there will be little or no adverse impact on the operation of the NEM due to the rule change. This is because the final rule will not affect registered participants' obligations under the NER to ensure that their plant:

- meets or exceeds applicable performance standards; and
- does not materially adversely affect power system security.

The generator compliance template is part of a broader compliance framework under the National Electricity Rules. Importantly, compliance with the template does not determine whether a registered participant has complied with its obligations under the Rules in respect of performance standards. The template is a guide for generator compliance and not a prescriptive document. This means that a registered participant will still retain a primary obligation to comply with the relevant performance standards.

In addition, there is the issue of the extent to which the generator compliance template would remain fit for purpose in the face of changes to technology, performance standards or compliance methods. Some recent changes have been considered in the Reliability Panel's Final Report on the Template for Generator Compliance Programs Review. They include greater use of continuous monitoring equipment, and the proliferation of large scale solar farms.

In general, the template is designed to retain sufficient flexibility to accommodate changes in the electricity industry. However, there will be times when the template needs to be updated to adapt to an evolving environment. In this case, the AEMC will retain the ability to require an earlier review.

In assessing the current rule change request the Commission has considered the counterfactual, or the impact of not making the rule change as requested. The Commission anticipates that in comparison to the counterfactual, for the reasons given above, there will be little or no adverse impact on the operation of the NEM due to the rule change. There is unlikely to be any reduction in registered participants' compliance with performance standards, or any material impact on power system security.

### **3.3.3 Conclusion**

Overall, the rule proposed would reduce the administrative burden on the Reliability Panel and stakeholders. It is also unlikely to have a negative impact on reliability and security of supply.

Therefore, the Commission considers that amending the frequency with which generator compliance templates are required to be reviewed from at least every three years, to at least every five years, is likely to contribute to the achievement of the NEO. For these reasons, the Commission has determined that the rule be made as proposed.

## **Abbreviations**

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
NEL	National Electricity Law
NEO	National Electricity Objective

## **A 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.

### **A.1 Final rule determination**

In accordance with ss. 102 and 103 of the NEL the Commission has made this final rule and associated final rule determination in relation to the rule proposed by the COAG Energy Council.

The Commission's reasons for making this final rule determination are set out in section 2.5.

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

The Commission is satisfied that the rule falls within the subject matter about which the Commission may make rules. The rule falls within s. 34 of the NEL as it relates to the operation of the NEM for the purposes of the safety, security and reliability of that system.

### **A.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 the first round of consultation; and
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NEO.

### **A.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 does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the more preferable rule be classified as civil penalty provisions.