



Draft National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008

under the National Electricity Law as applied by:

- (a) the National Electricity (South Australia) Act 1996;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (d) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (e) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (f) the National Electricity (Victoria) Act 2005 of Victoria; and
- (g) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.

A handwritten signature in black ink, appearing to read "John Tamblyn". The signature is fluid and cursive, with a large initial "J" and "T".

John Tamblyn
Chairman
Australian Energy Market Commission

Draft National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008

1. Title of Rule

This Rule is the *Draft National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008*.

2. Commencement

This Rule commences operation on [insert date].

3. Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

Schedule 1 Amendment of National Electricity Rules

(Clause 3)

[1] Clause 3.14.6 Compensation due to the application of an administered price, VoLL or market floor price

Omit clauses 3.14.6(b), (c), (d) and (e), and substitute:

- (b) Notification of an intent to make a claim under paragraphs (a), (a1), (a2) or (a3) must be submitted to both *NEMMCO* and the *AEMC* within 5 *business days* of the *trading interval* in which *dispatch prices* were adjusted in accordance with clause 3.9.5 or notification by *NEMMCO* that an *administered price period* or period of *market suspension* has ended.
- (c) The *AEMC* must, in accordance with the *transmission consultation procedures*, develop and *publish* guidelines ('compensation guidelines') that:
 - (1) identify the objectives of the payment of compensation under this clause as being to maintain the incentive for:
 - (i) *Scheduled Generators, Scheduled Network Service Providers* and other *Market Participants* to invest in *plant* that provides services during peak periods; and
 - (ii) *Market Participants* to supply energy and other services during an *administered price period*;
 - (2) require the amount of compensation payable in respect of a claim under this clause to be based on:
 - (i) the costs directly incurred by the claimant due to the application of the *administered price cap, VoLL, the market floor price* or the *administered floor price* (as the case may be); and
 - (ii) the value of any opportunities foregone by the claimant due to the application of the *administered price cap, VoLL, the market floor price* or the *administered floor price* (as the case may be);
 - (3) outline the methodology to be used to calculate the amount of any compensation payable in respect of a claim under this clause, including the methodology for calculating the costs referred to in

clause 3.14.6(c)(2)(i) and the value of opportunities foregone referred to in clause 3.14.6(c)(2)(ii); and

- (4) set out the information *NEMMCO* and a claimant must provide to enable a panel established under paragraph (g) to make a recommendation as to compensation under this clause and to enable the *AEMC* to make a determination as to compensation under this clause.
- (d) The *AEMC* must request the *Adviser* to establish a three member panel from the group of persons referred to in clause 8.2.2(e) and such other persons as the *Adviser* may choose to appoint under clause 8.2.6A(i) to assist the *AEMC* to develop the compensation guidelines.
- (e) The *AEMC* must *publish* the first compensation guidelines by 30 June 2009 and there must be such guidelines in place at all times after that date.
- (f) The *AEMC* may from time to time, in accordance with the *transmission consultation procedures*, amend or replace the compensation guidelines.
- (g) Following its receipt of a notification under paragraph (b), the *AEMC* must request the *Adviser* to establish a three member panel from the group of persons referred to in clause 8.2.2(e) and such other persons as the *Adviser* may choose to appoint under clause 8.2.6A(i) to make recommendations to the *AEMC* as to whether:
 - (1) compensation should be payable by *NEMMCO* in relation to the claim; and
 - (2) if so, the amount of compensation that should be paid.
- (h) The panel must, as soon as practicable but not later than:
 - (1) 30 *business days* after receiving the information required to be provided to it under the compensation guidelines, give to the *AEMC* a report that sets out its draft recommendations as to the matters referred to in paragraph (g); and
 - (2) 20 *business days* after the closing date for submissions on that report, give to the *AEMC* a report that sets out its final recommendations as to the matters referred to in paragraph (g).
- (i) Not later than 20 *business days* after receiving a report referred to in subparagraph (h)(1), the *AEMC* must *publish*:
 - (1) that report;

- (2) its draft decision as to the matters referred to in paragraph (g); and
 - (3) an invitation for written submissions to be made to the *AEMC* on that report and the *AEMC's* draft decision.
- (j) Any person may make a written submission to the *AEMC* on the report referred to in subparagraph (h)(1) and the *AEMC's* draft decision within the time specified in the invitation referred to in subparagraph (i)(3), which must not be earlier than 20 *business days* after the invitation is *published*.
 - (k) In preparing a report that sets out its final recommendations, the panel must take into account the submissions made in response to the invitation referred to in subparagraph (i)(3).
 - (l) In preparing a report under paragraph (h), the panel must apply the compensation guidelines.
 - (m) In making its draft decision as to the matters referred to in paragraph (g), the *AEMC* must take into account the draft recommendations of the panel.
 - (n) Not later than 15 *business days* after receiving a report referred to in subparagraph (h)(2), the *AEMC* must *publish*:
 - (1) that report; and
 - (2) its final decision as to the matters referred to in paragraph (g).
 - (o) In making its final decision as to the matters referred to in paragraph (g), the *AEMC* must take into account:
 - (1) the final recommendations of the panel; and
 - (2) the submissions made in response to the invitation referred to in subparagraph (i)(3).
 - (p) In making a draft or final decision under this clause, the *AEMC* must apply the compensation guidelines unless it is satisfied that there are compelling reasons not to do so.
 - (q) The *AEMC* may recover from a claimant for compensation under this clause any costs that are incurred by the *AEMC* and the panel in carrying out their functions under this clause in respect of that claim. For this purpose the *AEMC* may require the claimant to pay all or a proportion of those costs to the *AEMC* prior to the claim being considered or determined.

[2] Chapter 11 Savings and Transitional Rules

After draft rule 11.22, insert the heading “Part R Compensation Arrangements under Administered Pricing” and the following:

11.23 Rules consequential on the making of National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008

11.23.1 Definitions

In this rule 11.23:

Amending Rule means the National Electricity Amendment (Compensation Arrangements under Administered Pricing) Rule 2008.

commencement date means the date the Amending Rule commences operation.

11.23.2 Compensation Guidelines

All actions taken by the *AEMC* prior to the commencement date in anticipation of the commencement date for the purposes of developing and *publishing* the first compensation guidelines as required by clause 3.14.6(e) are taken to satisfy the equivalent actions required for compensation guidelines under clause 3.14.6(f).
