



**Australian Energy Market Commission**

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## **RULE DETERMINATION**

**National Electricity Amendment (Improving demand side participation information provided to AEMO by registered participants) Rule 2014**

**Rule proponent**  
COAG Energy Council

18 December 2014

**RULE  
CHANGE**

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AEMC 2014, Improving demand side participation information provided to AEMO by registered participants, Rule Determination, 18 December 2014, 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.

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## Summary

The Australian Energy Market Commission (Commission or AEMC) has made a draft rule that provides a process by which the Australian Energy Market Operator (AEMO) may obtain information on demand side participation (DSP) from registered participants in the National Electricity Market (NEM).

This is in response to a rule change request from the COAG Energy Council to enable AEMO to receive better information on DSP in the NEM than it does currently.

DSP provides consumers with a suite of options to manage their electricity consumption and, in turn, their expenditure.

Currently, the National Electricity Rules (NER or Rules) do not provide for a process by which AEMO can obtain detailed information specifically on DSP from registered participants.<sup>1</sup> While AEMO has conducted voluntary surveys of registered participants on information on DSP in the past, it considers that the quality of the information received from survey respondents has been limited. This may impact on the quality of AEMO's load forecasts, from short term forecasts such as 5 minute pre-dispatch (looking out one hour ahead), to long term forecasts such as the ten year forecasts in the National Electricity Forecasting Report (NEFR).

The draft rule may assist with addressing this potential information deficiency by establishing a process in the NER for the provision of potentially better quality information on DSP to AEMO.

The draft rule, which is a more preferable rule, has the following features:

- registered participants would be required to provide to AEMO information on DSP, in accordance with DSP information guidelines (Guidelines);
- AEMO would be required to develop the Guidelines, in accordance with the Rules consultation procedures, having regard to registered participants' reasonable costs of efficient compliance with the Guidelines compared to the likely benefits of the use of that information by AEMO in forecasting load for the purposes of its functions under the NER;
- AEMO would be required to take into account the information it receives from registered participants under the draft rule when developing and using load forecasts for the purposes of its functions under the NER;
- AEMO would be required to publish details, no less than annually, on the extent to which, in general terms, the information provided to it under the draft rule has informed the development or use of its electricity load forecasts for the purposes of its functions under the NER; and

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<sup>1</sup> AEMO can require information to be provided to it by a person or persons of a specified class in accordance with AEMO's information gathering powers set out in Division 5, Part 5 of the National Electricity Law (NEL).

- it articulates the scope of information that AEMO may specify must be provided to it by registered participants under the Guidelines.

The Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the national electricity objective because:

- it would provide a process by which AEMO may obtain specific information on DSP from registered participants;
- by requiring AEMO to take into account the information on DSP that it receives under the draft rule when developing or using load forecasts, this could:
  - lead to potential improvements in the quality of AEMO’s load forecasts; and
  - in turn, inform a number of AEMO’s decisions and processes when exercising its functions under the Rules; and
- the publication of potentially better quality AEMO load forecasts could better inform electricity market stakeholders of possible future outcomes, and lead to potentially more efficient investment and operational decisions.

AEMO has advised that it would take up to 18 months to develop the Guidelines. The Commission anticipates that registered participants would also need some time to implement processes so they can comply with the Guidelines. Therefore, the draft rule includes a requirement that the Guidelines must include a minimum period of 3 months between publication and the date when the Guidelines commence, and a transitional provision requires the first Guidelines to be developed and published by AEMO within 18 months from the commencement date of the draft rule, if made.

This rule change is part of the package of rule changes arising from the Commission’s Power of Choice review.<sup>2</sup>

Stakeholders are invited to make submissions on the draft rule determination and the draft rule by no later than 12 February 2015.

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<sup>2</sup> AEMC 2012, Power of Choice review - giving consumers options in the way they use electricity, Final Report, 30 November 2012, Sydney, p.i. Available at the AEMC's website: <http://www.aemc.gov.au>

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# 1 COAG Energy Council's Rule change request

## 1.1 The Rule change request

On 29 November 2013, the COAG Energy Council<sup>3</sup> submitted a rule change request to the Australian Energy Market Commission (Commission or AEMC) regarding the provision to, and utilisation by, the Australian Energy Market Operator (AEMO) of information on demand side participation (DSP) in the National Electricity Market (NEM).

Under the proposed rule<sup>4</sup>, a registered participant<sup>5</sup> would be required to provide information on DSP to AEMO in accordance with DSP information guidelines prepared by AEMO. In turn, AEMO would be required to take into account such information when developing or using electricity load forecasts for the purposes of its functions under the National Electricity Rules (NER or Rules).<sup>6</sup>

## 1.2 Rationale for Rule Change Request

The COAG Energy Council is concerned that the quality of AEMO's load forecasts are being impacted by AEMO's limited visibility of the potential amount of DSP that may be utilised in the NEM. In turn, the quality of decisions made and processes undertaken by AEMO, as well as other energy market stakeholders who may be informed by AEMO's published load forecasts, may be adversely affected.<sup>7</sup>

This concern arises because:

- Forms of load and generation, which make up DSP, generally do not form part of the NEM central dispatch process that is administered by AEMO under the NER. Therefore, it may be difficult for AEMO to anticipate the potential amount of DSP that may be utilised in the NEM.

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<sup>3</sup> The COAG Energy Council was formerly called the Standing Council on Energy and Resources.

<sup>4</sup> The rule change request is available on the AEMC's website: [www.aemc.gov.au](http://www.aemc.gov.au).

<sup>5</sup> Under the NER, a registered participant is a person who is registered by AEMO in any one or more of the categories listed in rules 2.2 to 2.7 of the NER. That is, is registered as a generator (eg scheduled, semi-scheduled and non-scheduled generators), customer (eg retailers), network service provider, or a number of other types of registered participant. In addition, as set out in clause 8.2.1(a1) of the NER, for the purposes of some provisions of rule 8.2 only (dispute resolution), AEMO, connection applicants, metering providers and metering data providers who are not otherwise registered participants are also deemed to be registered participants.

<sup>6</sup> In its rule change request (p.2), the COAG Energy Council states: "For example, AEMO should take DSP levels into account as they are relevant to: Projected Assessment of System Adequacy (PASA) reporting requirements; Energy Adequacy Assessment Projection; central dispatch; pre-dispatch schedule; Electricity Statement of Opportunities (ESOO); load forecasting; and annual forecast information for planning purposes."

<sup>7</sup> Standing Council on Energy and Resources 2013, (now the COAG Energy Council), Improving DSP information provided to AEMO by registered participants, SCER Rule change request, November 2013, p4. Available at the AEMC's website: <http://www.aemc.gov.au>

- DSP serves to reduce the amount of scheduled load for electricity in the NEM, either:
  - directly by consumers actively reducing their consumption; or
  - through generation, that is not scheduled<sup>8</sup>, offsetting load.

### 1.3 Solution proposed in the Rule Change Request

The COAG Energy Council's proposed approach to addressing these issues is to amend the NER to establish a framework under which AEMO may obtain better information on DSP in the NEM than it does currently.

The COAG Energy Council proposed that this outcome would be achieved by requiring:

- registered participants to provide to AEMO information on DSP, in accordance with DSP information guidelines;
- AEMO to develop the DSP information guidelines, in accordance with the Rules consultation procedures<sup>9</sup>, having regard to registered participants' reasonable costs of compliance with the DSP information guidelines compared to the likely benefits of the use of that information by AEMO; and
- AEMO to take into account the DSP information it receives under the proposed rule, when developing or using load forecasts in relation to its functions under the NER.

Furthermore, as noted by the COAG Energy Council in its rule change request, under Part 5, Division 6 of the National Electricity Law (NEL), AEMO has certain obligations with regard to the use and disclosure of "protected information"<sup>10</sup>. In the context of this rule change request, this would include information provided to AEMO by registered participants under the DSP information guidelines to the extent that such information has been provided in confidence.

### 1.4 Relevant Background

This rule change request originates from the recommendations made to the COAG Energy Council by the Commission in its Power of Choice review (POC review) on DSP in the NEM.<sup>11</sup>

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<sup>8</sup> Generation that is not scheduled refers to generation other than generation by scheduled generating units and semi-scheduled generating units.

<sup>9</sup> The Rules consultation procedures are set out in Part F of Chapter 8 of the NER.

<sup>10</sup> See section 3.4.1 of this paper for further discussion on "protected information".

<sup>11</sup> AEMC 2012, Power of Choice review - giving consumers options in the way they use electricity, Final Report, 30 November 2012, Sydney. Available at the AEMC's website: <http://www.aemc.gov.au>

Specifically, these recommendations concerned the provision of information on DSP by registered participants to AEMO. If implemented, these recommendations were expected to better enable AEMO to perform its responsibilities with respect to electricity load forecasting and, therefore, potentially enhance the quality of decisions which are informed by those forecasts.

Background information on, and the rationale for, these recommendations is provided below.

#### **1.4.1 What is DSP?**

As discussed in the AEMC's Consultation Paper previously published on this rule change request<sup>12</sup>, DSP provides consumers with a suite of options to manage their electricity consumption and, in turn, their expenditure.

DSP may take a number of forms, including actions such as improved energy efficiency, peak demand shifting, changing consumption patterns and consumers generating their own electricity.

#### **1.4.2 What is DSP's role in promoting efficient markets?**

A key finding of the AEMC's POC review was that efficient markets are characterised by effective participation of both the supply and demand sides.<sup>13</sup>

From an economic perspective, electricity consumption is efficient when the value to the consumer<sup>14</sup> exceeds the cost of supplying the electricity. If electricity prices do not reflect the cost of supply - which may vary by time and location - there is a risk that consumers will consume electricity when the cost of supply exceeds the value to the consumer. This, in turn, has the potential to result in an inefficient level of dispatch of electricity generation and inefficient levels of investment in network and generation assets.

Efficient DSP occurs when the cost of undertaking DSP<sup>15</sup> is less than the cost of traditional supply side options to meet demand.<sup>16</sup> This will be the system-wide lowest cost combination of DSP and traditional supply side options to meet demand.

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<sup>12</sup> AEMC 2014, Improving Demand Side Participation Information provided to AEMO by Registered Participants, Consultation Paper, 11 September 2014, Sydney. Available at the AEMC's website: <http://www.aemc.gov.au>

<sup>13</sup> AEMC 2012, Power of Choice review - giving consumers options in the way they use electricity, Final Report, 30 November 2012, Sydney, p.i. Available at the AEMC's website: <http://www.aemc.gov.au>

<sup>14</sup> Value to the consumer from electricity consumption is derived through the amenities that electricity provides, such as heat and light.

<sup>15</sup> The cost of undertaking DSP is the change in value of the derived amenities that electricity provides, plus the costs associated with the DSP program.

The POC review found that while there was some evidence of DSP uptake in the NEM over recent years, the efficiency of the NEM can be improved by more active participation by the demand side, to the extent that the cost of undertaking DSP is less than the cost of supply side options.<sup>17</sup> In the context of a future NEM that may be characterised by rising levels of DSP<sup>18</sup>, this has the potential to lead to improvements in the efficiency of the NEM.

### 1.4.3 The importance of accurate forecasting of electricity load

Accurate forecasting of electricity load is an important feature of an efficiently operating NEM.<sup>19</sup> For example, NEM load forecasts may be used by:

- AEMO to inform its decisions that relate to the process by which the quantity of electricity generation to dispatch is determined, or its procurement of ancillary services<sup>20</sup> or the Reliability and Emergency Reserve Trader (RERT)<sup>21</sup>; and
- other energy market stakeholders to inform aspects of their decision-making that relates to, for example, generation levels (eg relevant to market participants), consumption levels (eg relevant to consumers) and network planning purposes (eg relevant to network service providers).

As such, AEMO creates and publishes a variety of short to longer term NEM load forecasts.<sup>22</sup>

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16 In this context, traditional supply side options refer to options that vary the supply of electricity to meet demand, as opposed to options that vary both the supply and the demand of electricity in order to balance supply and demand.

17 AEMC 2012, Power of Choice review - giving consumers options in the way they use electricity, Final Report, 30 November 2012, Sydney, p.i. Available at the AEMC's website: <http://www.aemc.gov.au>

18 For example, facilitated by technological and regulatory changes.

19 AEMC 2012, Power of Choice review - giving consumers options in the way they use electricity, Final Report, 30 November 2012, Sydney, p.139. Available at the AEMC's website: <http://www.aemc.gov.au>.

20 AEMO manages key technical characteristics of the power system, such as frequency and voltage, through ancillary services, which it purchases from market participants. A non-technical explanation of such functions is provided in: AEMO 2010, Guide to Ancillary Services in the National Electricity Market.

21 Under clause 3.20.2 of the NER, AEMO must take all reasonable actions to ensure reliability of supply and, where practicable, take all reasonable actions to maintain power system security by negotiating and entering into contracts to secure the availability of reserves under reserve contracts (known as the RERT).

22 For example, from the shortest term to the longest term: central dispatch; 5 minute pre-dispatch; pre-dispatch; short and medium term PASA; and the National Electricity Forecasting Report (NEFR).

#### **1.4.4 Availability of information on DSP in the NEM**

As noted in section 1.2, AEMO has limited visibility of the potential amount of DSP that may be utilised in the NEM, yet DSP can influence the scheduled load of electricity in the NEM.

Retailers and demand side aggregators may have information on the amount of DSP undertaken by, or on behalf of, parties with which they have contracts (for example, their customers). This information may have been obtained through a variety of commercial arrangements, such as contracts and tariffs. Similarly, network service providers may have information on the amount of DSP that could be sourced by way of contracts with consumers or generators, in order to manage the network.

This apparent deficiency in the amount of information available to AEMO has the potential to impact on the quality of AEMO's forecasts of electricity load in the NEM. To address this deficiency, AEMO currently undertakes an annual survey of some registered participants in respect of their access to, and potential supply of, DSP. Participation in this survey is voluntary, and there are a number of potential factors, such as the costs to respondents of responding to the survey, which may limit the quality of information on DSP that is obtained through this method.

#### **1.5 Commencement of Rule making process**

On 11 September 2014, the Commission published a notice under section 95 of the NEL advising of its intention to commence the rule making process and the first round of consultation in respect of the COAG Energy Council's rule change request. An AEMC Consultation Paper, identifying specific issues and questions for consultation, was also published.<sup>23</sup> Submissions closed on 9 October 2014.

The Commission received 10 submissions from stakeholders on the rule change request as part of the first round of consultation.<sup>24</sup> A summary of the issues raised in submissions, and the Commission's response to each issue, is contained in Appendix A.

#### **1.6 Consultation on draft rule determination**

The Commission invites submissions on this draft rule determination and draft rule by no later than 12 February 2015.

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<sup>23</sup> AEMC 2014, Improving Demand Side Participation Information provided to AEMO by Registered Participants, Consultation Paper, 11 September 2014, Sydney. Available at the AEMC's website: <http://www.aemc.gov.au>

<sup>24</sup> Submissions can be viewed at the AEMC's website: [www.aemc.gov.au](http://www.aemc.gov.au)

Any person or body may request that the Commission holds a hearing in relation to the draft rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than 29 December 2014.<sup>25</sup>

Submissions and requests for a hearing should quote project number “ERC0174” and may be lodged online at [www.aemc.gov.au](http://www.aemc.gov.au) or by mail to:

Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

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<sup>25</sup> Under section 101(1a) of the NEL, a request for a hearing in relation to a draft rule determination must be made within one week of publication of the draft determination. As the date one week after publication of this draft rule determination is the Christmas Day public holiday, section 28(3) of Schedule 2 of the NEL applies and the date by which a request for a hearing must be made is 29 December 2014, being the next business day after Christmas Day.

## 2 Draft rule determination

### 2.1 Commission's draft rule determination

The Commission has determined to not make the proposed rule and, instead, to make a more preferable draft rule.<sup>26</sup>

The draft rule is attached to, and published with, this draft rule determination. It has the following similarities with the proposed rule:

- registered participants would be required provide to AEMO information on DSP, in accordance DSP information guidelines (Guidelines);
- AEMO would be required to develop the Guidelines, in accordance with the Rules consultation procedures, having regard to registered participants' reasonable costs of efficient compliance with the Guidelines compared to the likely benefits of the use of that information by AEMO in forecasting load for the purposes of the exercise of its functions under the NER; and
- AEMO would be required to take into account the information it receives from registered participants under the draft rule, when developing and using load forecasts for the purposes of its functions under the NER.

Two key differences to the proposed rule are:

- in response to stakeholder submissions, the Commission has included a requirement in the draft rule that AEMO publish details, no less than annually, on the extent to which, in general terms, the information provided to it under the draft rule has informed the development or use of its load forecasts for the purposes of the exercise of its functions under the NER; and
- the draft rule would provide further clarity on the types of information that AEMO may specify must be provided to it by registered participants under the Guidelines.

AEMO has advised that it would take up to 18 months to develop the Guidelines. The Commission anticipates that registered participants would also need some time to implement processes so that they can comply with the Guidelines. Therefore, the draft rule includes a requirement that the Guidelines must include a minimum period of 3 months between publication and the date when the Guidelines commence, and a transitional provision requires the first Guidelines to be developed and published by AEMO within 18 months from the commencement date of the draft rule, if made. The

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<sup>26</sup> Under section 91A of the NEL, the AEMC may make a Rule that is different (including materially different) from a market initiated proposed Rule (a more preferable Rule) if the AEMC is satisfied that having regard to the issue or issues that were raised by the market initiated proposed Rule (to which the more preferable Rule relates), the more preferable Rule will or is likely to better contribute to the achievement of the national electricity objective.

Commission considers the timeframes set out in the draft rule and transitional provisions represent a reasonable opportunity for AEMO and registered participants to engage on the development of the Guidelines, and that the introduction of the rule should not be delayed.

The Commission's reasons for making this draft rule determination are set out in Chapter 3.

Appendix B sets out further detail regarding the legal requirements for the making of this draft rule determination.

## 2.2 Rule making test

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).<sup>27</sup>

The NEO states:<sup>28</sup>

“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 this rule change request, the Commission considers that the relevant aspects of the NEO are efficient investment in, and efficient operation and use of, electricity services, with respect to the reliability and security of supply of electricity.<sup>29</sup>

The Commission is satisfied that the draft rule will, or is likely to, contribute to the achievement of the NEO because:

- it would provide a process by which AEMO may obtain specific information on DSP from registered participants;
- by requiring AEMO to take into account the information on DSP that it receives under the draft rule when developing or using load forecasts, this could:
  - lead to potential improvements in the quality of AEMO's load forecasts;  
and

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<sup>27</sup> See s. 88 of the NEL.

<sup>28</sup> See s. 7 of the NEL.

<sup>29</sup> Under section 88(2) of the NEL, for the purposes of section 88(1) of the NEL, the AEMC may give such weight to any aspect of the NEO as it considers appropriate in all the circumstances, having regard to any relevant Ministerial Council on Energy Statement of Policy Principles.

- in turn, inform a number of AEMO’s decisions and processes when exercising its functions under the Rules; and
- the publication of potentially better quality AEMO load forecasts could better inform electricity market stakeholders of possible future outcomes and lead to potentially more efficient investment and operational decisions.

### 2.3 More preferable rule

Having regard to the rule change request and the issues raised by stakeholders in their submissions, the Commission is satisfied that the draft rule, which is a more preferable rule, will, or is likely to, better contribute to the NEO, compared to the proposed rule, because:

- It would include a requirement that AEMO publishes, no less than annually, on the extent to which, in general terms, the information it has received under the draft rule has informed its development and use of load forecasts. This provision may provide registered participants with a better understanding of how information on DSP provided under the Guidelines may improve load forecasts.
- It would provide greater certainty to registered participants regarding the types of information that may be obtained by AEMO under the Guidelines and, in turn, the processes required to be established by registered participants to ensure compliance with the Guidelines.<sup>30</sup>

### 2.4 Assessment approach

To support its assessment of the rule change, the Commission focussed on the following issues:

- *Potential to better inform decisions and processes* - the potential of a rule change to better inform AEMO's electricity load forecasting and, in turn, the potential for better informed AEMO load forecasts to inform aspects of other energy market stakeholders’ decisions-making;
- *Potential regulatory and administrative burden* - the potential regulatory and/or administrative burden on AEMO and registered participants that may arise if a rule change is implemented;
- *Degree of flexibility in the terms of the Guidelines* - the degree to which a rule change, having regard to AEMO's proposed role in preparing and maintaining the Guidelines, provides flexibility, such that the terms of the Guidelines can accommodate the changing levels and nature of DSP in the NEM;

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<sup>30</sup> For example, the definition of demand side participation information has been amended to provide greater clarity on the scope of information that may be obtained by AEMO.

- *Balancing the need for DSP information transparency and confidentiality* - the degree to which a rule change is likely to achieve an appropriate balance between the needs of:
  - registered participants - in respect of suitable information handling requirements for the protection of confidential information on DSP that they provide to AEMO;
  - AEMO - in respect of access to the type of information on DSP that would be useful for the purpose of developing or using load forecasts in relation to its functions under the NER; and
  - other energy market stakeholders, including consumers - in respect of having access to published NEM load forecasts, which have been informed by information on DSP provided to AEMO by registered participants, for the purpose of informing their decision-making processes; and
- *Accuracy of information to be provided to AEMO* - the appropriate level of accuracy in the information on DSP to be provided by registered participants, and how AEMO would assess, and take into account of, this level of accuracy in its load forecasts.

The rule change has been assessed against the relevant counterfactual of not making the change to the NER. That is, against the current situation whereby AEMO may request, and registered participants may provide, detailed information specifically on DSP on a voluntary basis.

## **2.5 Strategic priority**

The draft rule advances the Commission's "consumer" and "market" strategic priorities.<sup>31</sup> That is, the draft rule could provide consumers, and other energy market stakeholders, with potentially better quality published information (eg AEMO load forecasts) to help inform their consumption and investment decisions.

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<sup>31</sup> The AEMC's strategic priorities can be viewed on the AEMC's website, at: <http://www.aemc.gov.au/Major-Pages/Strategic-priorities>

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

For each of the five issues identified by the Commission as the focus of its assessment, this chapter sets out the Commission's conclusions, the context and stakeholder views, and the Commission's analysis.

#### **3.1 Potential to better inform decisions and processes**

##### **3.1.1 Commission's conclusion**

The Commission considers that the draft rule provides a process by which AEMO may obtain information on DSP from registered participants in the NEM. The draft rule also requires AEMO to take into account this information when developing or using load forecasts for the purposes of the exercise of its functions under the NER. Improved information on DSP has the potential to better inform the decisions and processes of AEMO and, in turn, other energy market stakeholders.

##### **3.1.2 Context and stakeholder views**

Potential benefits of improved information on DSP include the opportunity to better inform AEMO's load forecasting and, in turn via published AEMO load forecasts, potentially better inform aspects of other energy market stakeholders' decision-making.

A number of stakeholders, including AusNet, EnerNoc, AEMO, and Energex, agreed that this benefit is likely to, or has the potential to, arise under the proposed rule. AEMO also noted that the extent of this benefit is likely to grow over time as DSP's prevalence in the market increases.

While a number of other stakeholders were supportive of the intent of the proposed rule, they considered that:

- the magnitude of DSP in the market is currently insufficient to materially impact AEMO's load forecasts (United Energy and Multinet Gas (United Energy)); and
- the data that can be provided by registered participants may not be useful to AEMO in materially improving its load forecasts (Stanwell, EnergyAustralia).

EnergyAustralia noted that there was limited evidence of the materiality of the benefits of the proposed rule.

Stanwell, United Energy and GDF SUEZ Australian Energy (GDF) warned of the potential for the proposed rule to result in less accurate load forecasts or distortions to the market, as a result of undue reliance by AEMO on unavoidably inaccurate information on DSP provided by registered participants.

EnergyAustralia encouraged the Commission to explore non-regulatory options, as opposed to making the proposed rule, such as AEMO:

- analysing large customer usage directly to identify and predict price responsive demand; and
- improving its voluntary surveys, for example, by surveying large customers directly, or surveying unscheduled and exempt generators.

A number of stakeholders recommended delaying the introduction of the proposed rule. For example:

- The Energy Retailers Association of Australia (ERAA) argued that the Commission should defer making a final rule determination on this rule change request until after AEMO's Guidelines had been developed, so that the costs and benefits of the rule change request could be better understood before the making of the final rule determination;
- The Energy Networks Association (ENA) and Energex considered that a delay may appropriately prioritise and sequence related issues currently being considered by the Commission or policy-makers, such as the demand management and embedded generation connection incentive scheme (DMEGCIS) rule change request<sup>32</sup>;
- ENA also considered that a delay may allow the Commission to better understand the effectiveness of the Distribution Annual Planning Report (DAPR) in identifying and encouraging DSP; and
- United Energy considered that the current levels of DSP in the NEM may not warrant the rule change.

### 3.1.3 Commission's analysis

During the PoC review, the Australian Energy Regulator provided examples of potential DSP occurring in the NEM including changes in load in response to pricing events.<sup>33</sup> The Commission understands from discussions with AEMO that the apparent DSP that occurred during these pricing events was not forecast by AEMO to occur (due to a lack of information on DSP), and, as a result, this contributed to the inaccurate load forecast.

In terms of the potential for a rule to lead to better informed decisions and processes, the Commission considers that a rule should be made because of the following reasons:

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<sup>32</sup> This pending rule change request can be viewed on the AEMC's website, at: <http://www.aemc.gov.au/>

<sup>33</sup> See Attachment 1 to the Australian Energy Regulator's submission to the PoC review Directions Paper (8 May 2012, available at the AEMC's website at: [www.aemc.gov.au](http://www.aemc.gov.au)).

- registered participants currently have certain information on DSP that AEMO does not currently have access to;
- providing this information on DSP to AEMO on a routine basis may improve AEMO's visibility of DSP in the NEM and, in turn, lead to potential improvements in the quality of AEMO's load forecasts (noting that AEMO will be required to take into account the information it is provided under the Guidelines when developing or using load forecasts for the purpose of its functions under the Rules);
- better informed and published AEMO load forecasts have the potential to contribute to better decisions by AEMO and other energy market stakeholders; and
- better informed decisions have the potential to improve the efficiency of the NEM.

Non-regulatory approaches, such as those proposed by EnergyAustralia (eg voluntary surveys), essentially represent no change to the current arrangements. That is, AEMO's visibility of the potential amount of DSP that could be utilised in the NEM is not likely to be improved.

## **3.2 Potential regulatory and administrative burden**

### **3.2.1 Commission's conclusion**

The draft rule would require AEMO to:

- consult with registered participants on the development of the Guidelines in accordance with the Rules consultation procedures, which would provide registered participants with an opportunity to raise concerns and comments in relation the costs of efficient compliance with Guidelines; and
- when developing the Guidelines, have regard to registered participants' reasonable costs of efficient compliance, compared to the likely benefits from the use of information received by AEMO in forecasting load.

The Commission considers that:

- the consultation process above would enable registered participants to raise concerns, and provide input into the development of the Guidelines; and
- given its role and functions in the market, AEMO is well placed to assess those concerns, and consider such feedback, when developing the Guidelines.

### 3.2.2 Context and stakeholder views

The COAG Energy Council, in its rule change request, considered that both AEMO and registered participants may face some additional regulatory and/or administrative costs as a result of the proposed rule.<sup>34</sup> For example, such costs may include any administrative and/or compliance-related costs in relation to collating, submitting, receiving, analysing and assessing the quality of information on DSP that has been provided by registered participants to AEMO.

The COAG Energy Council contended that these costs should be small because:

- for AEMO, the activities required by the proposed rule could be undertaken as part of its existing administrative functions, such as NEM load forecasting; and
- many registered participants are likely to already possess the relevant information on DSP that they would be required to provide to AEMO, and use it for their own purposes, such as in risk management (eg hedging decisions).

AusNet and Energex noted that it is difficult to assess the extent of the costs (and benefits) of the proposed rule change at this stage, as such assessment is highly dependent on the content of the Guidelines. Similarly, ENA considered that, in order to assess the proposed rule, a more thorough understanding of its costs (and benefits) is required.

EnergyAustralia considered that the low response rates to AEMO's voluntary DSP survey was indicative of the onerous nature of the survey and, hence, the likely onerous nature of the Guidelines.

Several stakeholders<sup>35</sup> also noted a number of factors that they consider AEMO should take into account (or should be required to take into account by way of further prescription in the rule) when developing the Guidelines, in order to limit the regulatory costs. These factors include:

- initial costs and ongoing costs (eg labour and data warehousing);
- the timelines for the provision of information (eg shorter timelines are likely to be at higher costs, as are timelines which impinge on other regulatory reporting requirements);
- the frequency of data provision (eg more frequent data provision is likely to be at greater cost to registered participants and AEMO);
- how readily available the information on DSP is to registered participants (eg more readily available data is likely to be at lower cost);

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<sup>34</sup> Standing Council on Energy and Resources 2013, (now the COAG Energy Council), Improving DSP information provided to AEMO by registered participants, SCER Rule change request, November 2013, p7. Available at the AEMC's website: <http://www.aemc.gov.au>

<sup>35</sup> AusNet, ENA, Energex, EnergyAustralia, EnerNoc, ERAA and United Energy.

- the appropriate level of detail required (eg the total cost of providing information on multiple small scale DSP sites is likely to be relatively high compared to providing information for a single DSP site);
- whether the data is already provided or publicly available (eg to avoid unnecessary duplication of cost);
- the format in which data is to be provided to AEMO (eg some types of formats are likely to be at less cost than others; consistent formatting between registered participants, and over time, is likely to be at lower cost than otherwise);
- the required level of data analysis, validation or correction, on the part of registered participants and AEMO;
- the required level of accuracy in the information that is provided to AEMO;
- the provision of aggregated versus dis-aggregated data to AEMO (eg validation and provision of dis-aggregated data is likely to be at higher cost); and
- the type of registered participant that is required to provide the data to AEMO (eg the regulatory cost associated with certain data provision requirements may vary between types of registered participants).

### 3.2.3 Commission's analysis

In preparing the draft rule, the Commission has considered the potential for unnecessarily onerous regulatory obligations being imposed on registered participants through any Guidelines developed.

The process for developing the Guidelines could limit the potential for unnecessary obligations being placed on participants. The process would:

- provide registered participants an opportunity to engage with, and inform, AEMO of their views as to the likely impacts on them resulting from the terms of the Guidelines; and
- require AEMO, when developing the Guidelines, to have regard to factors which contribute to registered participants' reasonable costs of efficient compliance with the Guidelines, compared to the likely benefits from the use of information received by AEMO in forecasting load. For example, AEMO would be required to have regard to factors such as those identified by stakeholders and listed in section 3.2.2, to the extent that those factors contribute to the reasonable cost of efficient compliance.<sup>36</sup>

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<sup>36</sup> For this reason, the Commission does not consider it necessary for the draft rule to require AEMO to have regard to any specific individual factors which influence regulatory cost, such as those listed in section 3.2.2.

### **3.3 Degree of flexibility in the terms of the Guidelines**

#### **3.3.1 Commission's conclusion**

The Commission considers it is appropriate for the draft rule to provide AEMO with some flexibility in developing the Guidelines, in consultation with registered participants. It would also provide a framework under which the Guidelines can evolve over time as DSP evolves, and to take into account the bespoke nature of some DSP arrangements in the market.

At the same time, the draft rule would provide some guidance to AEMO for the development of the Guidelines, for example, with regard to the types of information that may be provided to AEMO.

Furthermore, the draft rule would require AEMO to publish details, no less than annually, on the extent to which, in general terms, DSP information it has received under the draft rule has informed its development or use of load forecasts for the purposes of the exercise of its functions under the NER. This represents an appropriate and reasonably low cost obligation on AEMO, while providing information to registered participants on the extent to which the information received under the Guidelines is informing AEMO's load forecasts.

#### **3.3.2 Context and stakeholder views**

Stakeholders were generally supportive of giving AEMO some flexibility to develop the Guidelines in consultation with registered participants, because:

- it will more easily accommodate the bespoke possible types of DSP in the NEM (GDF);
- it allows for the terms of the Guidelines to more easily evolve as DSP in the NEM evolves (AEMO, GDF); and
- AEMO should determine the terms of the Guidelines through consultation with registered participants (AusNet).

These stakeholders and others also suggested that some limitations and clarifications are necessary to the degree of flexibility in the terms of the Guidelines, such as:

- the definitions of “DSP” and “DSP information” in the proposed rule should be clarified, or alternatively, the proposed rule should require AEMO to provide such clarification in the Guidelines, so that information on all types of DSP can be received by AEMO (AusNet, EnerNoc, AEMO, Energex);
- the proposed rule should require AEMO to state, in the Guidelines, what the information it will receive will be used for (AusNet), or, to publish what the information it received was used for (ERAA).

Several stakeholders also made technical suggestions as to the specific data which AEMO should receive, who should provide that specific data to AEMO, and the appropriate forecasting methodology which AEMO should employ. The ERAA, EnerNoc, Energex, Stanwell and GDF also noted that parties which are not registered participants in the NEM, such as demand side aggregators, may also be useful or better sources of information on DSP.

### **3.3.3 Commission's analysis**

#### **Merit in flexibility**

There is merit in a rule providing some flexibility to AEMO with respect to the nature and form of information that may be required to be provided under the Guidelines. This is because:

- AEMO, in consultation with registered participants, would be well placed to develop the appropriate terms of the Guidelines. AEMO and registered participants' knowledge of relevant issues may include:
  - the likely costs and benefits of the provision of information on DSP;
  - the appropriate accuracy requirements in respect of the information required to be provided under the Guidelines, and the impact of such requirements on costs and benefits; and
  - information confidentiality considerations.
- The nature and extent of DSP may change in the future, driven by regulatory change and market led developments (such as technological change). Guidelines developed and potentially amended by AEMO, in consultation with stakeholders, allow for a greater degree of flexibility to account for these potential changes, in comparison to requiring a rule change to effect a change in the nature and form of information that may be obtained under the Guidelines.
- DSP arrangements between registered participants and third parties, such as customers or demand side aggregators, can be highly bespoke. Guidelines developed in consultation with registered participants may be able to more appropriately account for bespoke DSP arrangements, in comparison to requiring a rule change.

The draft rule should not include additional prescription in respect of technical matters, such as the specific data which AEMO should receive, the specific types of registered participants who would be required to provide that specific data, and the forecasting methods employed by AEMO when using information received under the draft rule. It would be more appropriate for such requirements to be included in the Guidelines, which would be determined by AEMO in accordance with the Rules consultation procedures.

#### **Principles and requirements to limit the scope of the Guidelines**

Despite the above, the Commission considers that there are a number of requirements within the draft rule which appropriately limit the scope of the information on DSP required to be provided under the Guidelines, and from whom.

First, in developing the Guidelines, AEMO must have regard to registered participants' reasonable costs of efficient compliance with the Guidelines compared to the likely benefits from the use of the information provided (as discussed in sections 3.1 and 3.2 above).

Second, registered participants would only be required to provide information on DSP under the Guidelines that falls within the scope of the definition of 'demand side participation information' in the draft rule. This definition captures information on 'contracted demand side participation'<sup>37</sup>, in addition to information relating to the curtailment of non-scheduled load<sup>38</sup> and provision of 'unscheduled generation'<sup>39</sup> in response to the demand for, or price of, electricity. The new term 'unscheduled generation' captures the provision of generation from non-scheduled generating systems<sup>40</sup>, as well as generation from generating systems which are exempt from registration under chapter 2 of the NER.<sup>41</sup> Information that falls within the scope of the definition of DSP information in the draft rule is likely to be useful for AEMO in developing or using its load forecasts. This may include information on, but not limited to:

- the circumstances under which non-scheduled load may be curtailed or unscheduled generation may be provided;
- the location at which non-scheduled load may be curtailed or unscheduled generation may be provided;
- the quantity of non-scheduled load that may be curtailed or unscheduled generation that may be provided; and
- historic or current information relating to DSP.

Third, compared to the proposed rule, the draft rule introduces a requirement that AEMO publishes details, no less than annually, on the extent to which, in general terms, the information it has received under the draft rule has informed its development and use of load forecasts for the purposes of the exercise of its functions under the NER.

Finally, the draft rule only requires registered participants, as opposed to a broader group of parties, to provide information on DSP to AEMO. There may be parties other

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<sup>37</sup> Defined under the draft rule.

<sup>38</sup> Defined under the NER as a "market load which is not a scheduled load".

<sup>39</sup> Defined under the draft rule.

<sup>40</sup> As defined in chapter 10 of the NER.

<sup>41</sup> The term 'unscheduled generation', as opposed to 'non-scheduled generation' (as used in the proposed rule), has been used to avoid the implication that DSP information only relates to *non-scheduled generating systems* (which are defined in the NER).

than registered participants, such as demand side aggregators, that may also be a useful source of information on DSP. Such parties are, however, generally party to a contract with a registered participant which contains the relevant terms of the DSP arrangement. Accordingly, a registered participant would be in a position to utilise processes, to the extent that it would have already developed such processes for the purposes of complying with the rule, in order to provide the relevant information on DSP to AEMO.

### **3.4 Balancing the need for DSP information transparency and confidentiality**

#### **3.4.1 Commission's conclusion**

The protected information provisions, as set out in Part 5, Division 6 of the NEL, require AEMO to take all reasonable measures to protect protected information<sup>42</sup> from unauthorised use or disclosure. In the context of this rule change request, this would include information provided to AEMO by registered participants under the Guidelines to the extent such information has been provided to AEMO in confidence.

The provisions in the NEL place clear obligations on AEMO in relation to the use and disclosure of protected information. Accordingly, the draft rule does not impose additional obligations on AEMO in respect of not disclosing information received under the Guidelines.

#### **3.4.2 Context and stakeholder views**

The potential benefits of this proposed rule change include AEMO and energy market stakeholders using better informed AEMO load forecasts to inform their decisions. As such, the potential benefits are predicated on:

- the quality of information that AEMO may receive from registered participants under the proposed rule. This has the potential to influence the extent of improvement in AEMO's load forecasts; and
- the level of detail of AEMO's published load forecasts. This may influence the extent to which other parties may be better informed by AEMO's forecasts, and may also provide an opportunity to stakeholders to actively engage with AEMO on possible ways to improve its forecasts, forecasting methodology, or methods of data provision.

The level of detail in respect of the information on DSP that is provided to AEMO, and in respect of the reporting of load forecasts by AEMO, also raises potential issues with respect to the use or disclosure of confidential information.

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<sup>42</sup> Protected information is defined under section 54 of the NEL as information that is: given to AEMO in confidence; or, given to AEMO in connection with the performance of its statutory functions and

As noted by the COAG Energy Council in its rule change request, under Part 5, Division 6 of the NEL, AEMO has certain obligations with regard to the use and disclosure of protected information. For the purposes of the NEL, 'protected information' is information given to AEMO in confidence or given to AEMO in connection with the performance of its statutory functions and classified under the NER or the regulations<sup>43</sup> as confidential information.

In their submissions, United Energy and AusNet recognised the benefits of transparency in information on DSP that AEMO can receive, and publically disclose (notwithstanding confidentiality concerns).

AusNet, ERAA and GDF considered that the NEL protected information provisions may be insufficient to adequately address concerns regarding AEMO's use of the information that it receives under the rule. In contrast, Energex considered that the NEL protected information provisions are sufficient.

ERAA and AusNet noted that confidentiality issues may be mitigated by information being published at a sufficiently aggregate level and de-identified, to ensure that confidential information could not be 'back-solved' from published information.

Similarly, EnergyAustralia noted that information provided to AEMO should be considered confidential and only used by AEMO in aggregate form and in a way that maintains third party anonymity. Further, it considered that as AEMO does not require specific contract information in order to undertake its forecasts, this type of information should be excluded from any information provision requirements.

GDF, EnergyAustralia and Stanwell noted that confidentiality provisions in existing contracts between registered participants and third parties (such as consumers) may prohibit the registered participant from supplying AEMO with such information. Stanwell noted further that if registered participants were required to provide such information to AEMO under this rule change, or if contracts were to be amended to reflect the rule change, this could diminish the value of the contract to the third party as confidentiality could not be assured.

### 3.4.3 Commission's analysis

The NEL sets out a comprehensive framework under which AEMO has certain obligations in respect of the use and disclosure of protected information.<sup>44</sup>

If information on DSP provided to AEMO under the draft rule is protected information (namely it is provided by a registered participant to AEMO in confidence in accordance with section 54 of the NEL), AEMO would be required to protect such

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classified under the NER or Regulations (being regulations made under Part 4 of the *National Electricity (South Australia) Act 1996* (South Australia)) as confidential information.

<sup>43</sup> Regulations made under Part 4 of the *National Electricity (South Australia) Act 1996* (South Australia)).

<sup>44</sup> Section 54 of the NEL. Further details on protected information are provided in section 3.4.1 of this draft determination.

information from unauthorised use or disclosure.<sup>45</sup> This would include information contained in contracts between registered participants and third parties that has been provided to AEMO under the Guidelines in confidence.<sup>46</sup>

Despite the operation of the NEL protected information provisions, under the draft rule, AEMO may still be able to publish load forecasts in a form that is useful to energy market stakeholders, and utilise the information it receives under the Guidelines itself to improve its own decisions.

### **3.5 Accuracy of information to be provided to AEMO**

#### **3.5.1 Commission's conclusion**

The draft rule would require AEMO to specify, in the Guidelines, its methodology for assessing the accuracy of information on DSP provided to it, and any information it requires to assess the accuracy of the information.

The Commission considers that the consultation process that AEMO would be required to undertake would provide an opportunity for registered participants to actively engage with AEMO on the methodology used by AEMO for assessing accuracy of information provided under the draft rule.

#### **3.5.2 Context and stakeholder views**

DSP can be, by its nature, unpredictable. This may impact on the potential benefits that may result from the proposed rule because:

- inaccurate information may limit the potential for improvement in, or even be detrimental to, the quality of AEMO's load forecasts; and
- it may be difficult to determine whether any variation between forecasted and actual DSP, after the fact, was the result of a failure by the registered participant

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<sup>45</sup> Unauthorised use and unauthorised disclosure of protected information by AEMO are defined in sections 54(2) and (3) of the NEL, respectively. Under sections 54A to 54H of the NEL, AEMO is authorised to disclose protected information in certain prescribed circumstances, which include (amongst other circumstance): with the prior written consent from the person from whom the information was obtained; as required or permitted by a law of the Commonwealth, a State or Territory and to certain specified bodies, including the Australian Energy Regulator (AER) and jurisdictional regulators.

<sup>46</sup> The Commission understands that it is common commercial practice for confidentiality provisions in commercial contracts to provide for an ability to disclose confidential information where such disclosure is required by law. The Commission also notes that in circumstances where such disclosures are not permitted in the relevant contract, registered participants would have 3 months between the publication of the Guidelines and the commencement of the Guidelines in which to change their commercial arrangements to allow for disclosure of confidential information in accordance with the rule. Further, the Commission notes that AEMO considers that 18 months from the commencement of the rule to develop the Guidelines to be reasonable.

to provide accurate data, or the result of normal and inevitable variations in DSP which may not always be predictable.

Information accuracy obligations on registered participants may impact on the costs of complying with the Guidelines and the benefits that result from the provision of information. In general, the inclusion of more stringent information accuracy requirements in Guidelines may be of greater benefit because more accurate data may be used to better inform decision-making processes; however, this may contribute to greater regulatory compliance costs (eg through data cleansing/validation before provision to AEMO).

In its submission, AusNet argued that it is incumbent on AEMO to be transparent about how it will overcome data quality issues.

United Energy argued that compliance with any accuracy requirements in the Guidelines should be based on whether the best available data *at the time* was provided to AEMO by the registered participant.

Stanwell raised concerns regarding increased compliance risk to registered participants, given the possible difficulties in assessing compliance with the proposed rule.

### **3.5.3 Commission's analysis**

As noted above, the draft rule would require AEMO to specify in the Guidelines its methodology for assessing the accuracy of information on DSP provided to it under the draft rule, and any information required to assess the accuracy of the information.

Part of this consultation may include consideration of any potential data quality issues. While a higher degree of information accuracy may be more beneficial (eg as it may result in more accurate load forecasts), this may come at the expense of greater compliance costs (eg as a result of data auditing or validation on the part of the registered participant). The Rules consultation procedures would assist with the development by AEMO, in consultation with registered participants, of an appropriate approach in the Guidelines for assessing information accuracy.

## Abbreviations

AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission or AEMC	Australian Energy Market Commission
DAPR	Distribution Annual Planning Report
DMEGCIS	demand management and embedded generation connection incentive scheme
DSP	demand side participation
ENA	Energy Networks Association
ERAA	Energy Retailers Association of Australia
ESOO	Electricity Statement of Opportunities
GDF	GDF SUEZ Australian Energy
MCE	Ministerial Council on Energy
NEFR	National Electricity Forecasting Report
NEL	National Electricity Law
NEM	National Electricity Market
NEO	national electricity objective
NER or Rules	National Electricity Rules
PASA	Projected Assessment of System Adequacy
POC review	Power of Choice review
RERT	Reliability and Emergency Reserve Trader
United Energy	United Energy and Multinet Gas

## A Summary of issues raised in submissions

Stakeholder	Issue	AEMC Response
<b>Overall position on rule change</b>		
Australian Energy Market Operator (AEMO), AusNet, Energex, EnerNoc, Energy Retailers Association of Australia (ERAA), GDF SUEZ Australian Energy (GDF)	Stakeholder either supports, or provides in principle or conditional support for, the rule change request, given the importance of demand forecasts to the efficiency of the market.	Noted.
Stanwell	Supports the intention of the rule change request, but considers that the specific rule proposed: <ul style="list-style-type: none"> <li>• is poorly targeted, as it makes registered participants responsible for the provision of data relating to the activities of non-registered participants;</li> <li>• exacerbates the existing discrepancy of regulatory requirements between registered and non-registered participants; and</li> <li>• imposes additional obligations with little apparent benefit.</li> </ul>	See sections 3.2 and 3.3.
Energy Networks Association (ENA)	Supports the <i>intention</i> of the rule change request, but considers that the assessment of costs versus benefits needs more attention.	See section 3.2.

Stakeholder	Issue	AEMC Response
EnergyAustralia	<p>In principle, the proposed benefits of the rule change could arise, but these are unlikely to be material, and not proportionate to the increase in cost.</p> <p>Non-regulatory options should be explored.</p>	<p>The Commission considers that, while the benefits from the provision of information on DSP to AEMO have the potential to increase in the future, they are likely to be present currently.</p> <p>See section 3.1.</p>
<b>Timing of rule change</b>		
ERAA	The Commission's rule change process and AEMO's Guideline development process should run concurrently, to allow a better understanding of the content of the Guidelines to feed into the Commission's assessment.	See section 2.1.
ENA, Energex, United Energy and Multinet Gas (United Energy)	Rule change timing should be reconsidered to better coordinate with related reform issues, and/or to allow for more DSP to enter market.	Noted. See section 2.1.
<b>Potential to better inform decisions and processes</b>		
AEMO, AusNet, Energex, EnerNoc, GDF	Proposed rule could, or is likely to, result in the benefits foreseen by the rule change proponent.	Noted.
AEMO, EnerNoc	The benefits of better information on DSP are likely to grow, as DSP in the market grows.	Noted.
AusNet	The benefits of annual data collection exercise may diminish over time.	See section 3.3.
EnerNoc, GDF	Despite the possible benefits of the proposed rule, it is important to recognise the limitations of modelling DSP in load forecasts. Such modelling is	See sections 3.2 and 3.3.

Stakeholder	Issue	AEMC Response
	challenging.	
GDF, Stanwell, United Energy	Potential for the rule to result in poorer forecasts or distortions in the market, due to unreliable or inaccurate information provided to AEMO	Noted. See sections 3.2 and 3.3.
United Energy	Potential for better informed decisions currently limited by low levels of DSP in the market.	Noted. The draft rule would give rise to a new process whereby AEMO may obtain information on DSP. As a consequence, AEMO may be better prepared should DSP become more substantial in the future.
EnergyAustralia, Stanwell	Data that can be provided by registered participants: <ul style="list-style-type: none"> <li>• may not be able to be provided in practice;</li> <li>• may not be useful to AEMO as it is unreliable or difficult to analyse; or</li> <li>• may require too great a degree of judgement by AEMO to result in more accurate forecasts.</li> </ul>	See section 3.2.
ERAA	Guidelines should only seek to obtain data that is essential to help AEMO's forecasting.	See sections 3.2 and 3.3.
<b>Potential regulatory and administrative burden</b>		
AusNet, ENA, Energex, EnergyAustralia, EnerNoc, ERAA, United Energy	AEMO should, or should be required to, take into account the following cost factors (in comparison with the benefits) when developing the information provision requirements contained in the Guidelines: ongoing and initial costs; the timelines for the information provision; the frequency of data collection; the availability of data to the registered participants; the appropriate level of detail required;	See section 3.2.

Stakeholder	Issue	AEMC Response
	whether the data is already collected or publicly available; the format of the data collected; the required level of data analysis, validation or correction; the collection of aggregated versus dis-aggregated data; competing regulatory burdens on registered participants; the types of registered participant from whom the data is to be collected from.	
EnergyAustralia	The low response rate to AEMO's current voluntary DSP survey reflect the onerous nature of the survey, the time and cost to access and manipulate the data, and the commercially sensitive nature of the data. These may be overcome by refining the information requested.	Noted. See section 3.1.
AusNet, Energex	<p>Difficult to assess the size of the costs (and benefits) of the proposed rule change at this stage, as they are highly dependent on the content of the Guidelines.</p> <p>A more thorough understanding of the costs (and benefits) of the rule is required prior to the rule being made.</p>	<p>Noted. The Commission considers that, while the benefits from the provision of information on DSP to AEMO have the potential to increase in the future, they are likely to be present currently.</p> <p>Also see section 3.2.</p>
Stanwell	AEMO's current systems may not be able to incorporate DSP data.	See section 3.3.
<b>Degree of flexibility in the terms of the Guidelines</b>		
AEMO, AusNet, GDF	Flexibility for AEMO in developing Guidelines supported.	See section 3.3.

Stakeholder	Issue	AEMC Response
AEMO, AusNet, Energex, EnerNoc	<p>Taxonomy or definition of DSP and DSP information should be clarified, either by the AEMC in the rule, or by AEMO in the Guidelines.</p> <p>Draft rule should cover all non-schedule generation, not just embedded generation.</p>	See section 3.3.
AEMO, AusNet, EnerNoc, EnergyAustralia, Stanwell	Stakeholders made technical suggestions as to the specific data which AEMO should collect (or should be required through the rules to collect), from whom, and the appropriate forecasting methodology which AEMO should employ (or should be required through the rules to employ).	See sections 3.2 and 3.3.
Energex, EnerNoc, ERAA, GDF, Stanwell	<p>Third party providers, such as demand side aggregators, may be a source of information on DSP.</p> <p>The rule may be unable to apply to third party providers because they are not registered participants.</p>	See section 3.3.
ERAA	AEMO should be required to disclose annually how it has utilised the DSP data.	See section 3.3.
AusNet	AEMO should be required to state, in the Guidelines, what the information it will collect will be used for.	See section 3.3.
<b>Balancing the need for DSP information transparency and confidentiality</b>		
AusNet, United Energy	Notwithstanding the confidentiality concerns, there are benefits of transparency in:	Noted.

Stakeholder	Issue	AEMC Response
	<ul style="list-style-type: none"> <li>• the information AEMO can collect; and</li> <li>• the disclosure of this information by AEMO.</li> </ul>	
Energex	The NEL confidentiality provisions should be sufficient.	Noted.
AusNet, ERAA, GDF	The NEL confidentiality provisions may not be sufficient to protect registered participants and third parties from confidential information disclosure.	See section 3.4.
AusNet, EnergyAustralia, ERAA	Confidentiality issues may be mitigated by AEMO only collecting, or only publishing, data at a sufficiently dis-aggregated level.	<p>Noted. See section 3.4.</p> <p>The level of detail of information on DSP that AEMO receives is a matter for AEMO to determine through the Guideline development process, in consultation with registered participants in accordance with the Rules consultation procedures.</p>
EnergyAustralia, GDF, Stanwell	<p>Bilateral contracts may prohibit the disclosure of confidential information to AEMO as required by the rule.</p> <p>Were information required to be provided that would otherwise be protected by these contracts, this may diminish the value of DSP to third parties (such as customers).</p>	See section 3.4.
AEMO	AEMO routinely manages confidential information.	Noted.
ERAA	Should AEMO wish to publish confidential information, there should be an appropriate consent mechanism.	See section 3.4.

Stakeholder	Issue	AEMC Response
<b>Accuracy of information to be provided to AEMO</b>		
AusNet	It is incumbent on AEMO to be transparent about how it will overcome data quality issues.	See section 3.5.
Stanwell	Possibility of increased compliance risk to registered participants, given the possible difficulties in assessing compliance with the proposed rule.	See section 3.5.
United Energy	Compliance with the information accuracy provisions in the Guidelines should be based on whether the best available data at the time was provided to AEMO by the registered participant.	Noted. See section 3.5.
EnergyAustralia	<p>The challenges of accuracy relate to the lack of conformity in DSP across the market.</p> <p>AEMO should not rely on the forecasts or internal views of market participants, but should instead create its own independent forecasts.</p>	See sections 3.2 and 3.3.
Energex	Accuracy of information should be taken into account by AEMO when developing forecasts.	See section 3.3.
<b>Guidelines development</b>		
AEMO, Energex, EnergyAustralia	AEMO should consult extensively on the Guidelines.	The draft rule would require AEMO to develop the Guidelines in accordance with the Rules consultation procedures.
AEMO	Consider an 18 month transitional period for Guideline development is appropriate.	See section 2.1.

Stakeholder	Issue	AEMC Response
AEMO	Periodic review of Guidelines envisaged due to evolving nature of the DSP market.	Noted.
AusNet, Energex, EnerNoc, United Energy	Care must be taken to avoid the double counting of the same information provided from multiple sources.	Noted. See sections 3.2 and 3.3.
<b>Other</b>		
Energex, GDF	The rule should establish principles to guide how AEMO should use information on DSP.	See section 3.3.
AusNet, Energex	Energex and AusNet currently provide information on DSP to other parties and publish information on DSP on their websites.	Noted.
Energex	Energex routinely collects a number of types of specified information on DSP.	Noted.
Energex	Registered participants should be obliged to provide information on DSP to AEMO.	Clause 3.7D(b) of the draft rule would require registered participants to provide DSP information in accordance with the Guidelines.
EnerNoc	In the long term, DSP should be fully integrated into the wholesale market.	Noted.

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

This appendix sets out the relevant legal requirements under the National Electricity Law (NEL) for the AEMC in making this draft rule determination.

### **B.1 Draft rule determination**

In accordance with section 99 of the NEL, the Commission has made this draft rule determination in relation to the rule proposed by the COAG Energy Council.

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

The Commission is satisfied that the draft rule falls within the subject matter about which the Commission may make Rules. The draft rule falls within section 34 of the NEL. Specifically, it relates to:

- the operation of the national electricity market (section 34(1)(a)(i)); and
- the activities of persons (including registered participants) participating in the national electricity market or involved in the operation of the national electricity system (section 34(1)(a)(iii)).

### **B.3 More preferable rule**

Under section 91A of the NEL, the AEMC may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if the AEMC is satisfied that, having regard to the issue or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will, or is likely to, better contribute to the achievement of the National Electricity Objective (NEO).

Having regard to the issues raised by stakeholders, the Commission is satisfied that the draft rule will, or is likely to, better contribute to the NEO, as compared to the proposed rule.

### **B.4 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 first round consultation; and
- the Commission's analysis as to the ways in which the proposed rule and draft rule will, or is likely to, contribute to the national electricity objective (NEO).

There is no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles that apply to this rule change request.<sup>47</sup>

## **B.5 AEMO's declared network functions**

Under s.91(8) of the NEL, the Commission may only make a rule that has effect with respect to an adoptive jurisdiction if it is satisfied that the rule is compatible with the proper performance of the AEMO's declared network functions. The draft rule is compatible with AEMO's declared network functions and may enhance the proper performance of the functions.

## **B.6 Civil penalties**

The draft 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 clause of the draft rule, if made, be classified as civil penalty provisions.

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<sup>47</sup> Under section 33 of the NEL, the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated Council is now called the COAG Energy Council.