



Australian Energy Market Commission

RULE CHANGE

RULE DETERMINATION

National Electricity Amendment (Timing for spot price reporting) Rule 2010

Rule Proponent(s)

Australian Energy Regulator

Commissioners

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Spalding

22 July 2010

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For and on behalf of the Australian Energy Market Commission

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005 to be the rule maker for national energy markets. The AEMC is currently responsible for rules and providing advice to the MCE on matters relevant to the national energy markets. We are an independent, national body. Our key responsibilities are to consider rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on the AEMC's own initiative.

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Summary

The Commission's determination

The Australian Energy Market Commission (AEMC or Commission) makes this final Rule determination and attached Rule on the Australian Energy Regulator's (AER's) Rule change request relating to the timing for spot price reporting. The Commission's determination in relation to the Rule change request is to extend the timeframe for the AER to publish reports on trading intervals in which the spot price exceeds \$5,000/MWh. The timeframe for the publication of these reports will now be within 40 business days from the end of the week of the trading interval where the spot price exceeded \$5,000/MWh. The final Rule determination and Rule are made in accordance with sections 102 and 103 of the National Electricity Law (NEL).

Summary of the Rule change request

On 30 April 2010, the AER submitted a Rule change request to the Commission. The Rule change request seeks to extend the period of time for the AER to publish a report on the trading intervals in which the electricity spot price exceeds \$5,000/MWh (the Report). Currently the Report is to be published within 20 business days¹ of the end of the week in which the spot price exceeded \$5,000/MWh.

The Rule change request seeks to extend the time for the AER to publish the Report to within 40 business days of the end of the week in which the spot price exceeded \$5,000/MWh.

The Commission's reasoning for its determination

The Commission's reasons for extending the timeframe for publishing the Report are:

- additional time will allow the AER to gather the necessary information and adequately consider high price events to publish a Report that is useful to market stakeholders. This should result in better information being provided to the market. Improved information to the market, at the margin², should improve decision making by market participants and policymakers, and better inform policy and regulatory responses to high price events. Consequently, the Rule change will or is likely to promote efficient investment in, and operation of the market with potential price based benefits; and
- it will or is likely to marginally contribute to productive efficiencies in the National Electricity Market (NEM) by providing increased certainty to market participants and policymakers on the publication timetable of the Report. The

¹ A business day is defined in the Rules as "A day other than a Saturday, Sunday or a day which is lawfully observed as a national public holiday on the same day in each of the participating jurisdictions" as per chapter 10 of the Rules.

² At the margin refers to the valuation of incremental benefits and costs of additional information.

additional time should assist market participants to better plan or manage their own actions in response to the information contained in the Report.

The Commission considers that an additional 20 business days as proposed by the AER achieves the required balance of providing adequate time for the AER to publish the Report while still providing the information in a timely manner for relevant market participants, policymakers and interest groups. The Commission considers that this will or is likely to contribute to the achievement of the National Electricity Objective (NEO).

Consultation on the Rule change request

On 17 June 2010 the Commission gave notice under sections 95 and 96 of the NEL to initiate the Rule change request under the expedited Rule change process as a request for a non-controversial Rule. No objections to this process were received, so the Commission has assessed the Rule change request under the expedited process provided in section 96 of the NEL.

The consultation period for submissions on the content of the Rule change request closed on 15 July 2010. Two submissions were received. A summary of the issues outlined in submissions is provided in Appendix A.

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1 AER's Rule change request

1.1 The Rule change request

On 30 April 2010, the Australian Energy Regulator (AER) made a Rule change request to the Commission seeking to extend the timing for spot price reporting (Rule change request). The Rule change request seeks to extend the period of time for the AER to publish a report on the trading intervals in which the spot price exceeds \$5,000/MWh (the Report).

1.2 Rule change request rationale

Currently the National Electricity Rules (Rules) requires the AER to publish the Report within 20 business days of the end of the week in which the spot price exceeded \$5,000/MWh.³ The AER contends that this time period should be extended for two reasons.

First, since the provision was introduced in January 2001, a number of developments have meant that analysis of spot prices above \$5,000/MWh has become more complex (and therefore more time consuming). These developments, according to the AER, include:⁴

- the introduction of the frequency control ancillary services markets;
- increased network congestion, in part due to the use of fully co-optimised constraints;
- increased volatility in spot market outcomes, in part due to recent climate change policies and the resultant increase in the penetration of wind generation;
- the introduction of good faith rebidding provisions;
- increasing sophistication in participant bidding strategies; and
- the continuing convergence between activities in the electricity and gas markets.

As a result of these added complexities, the AER states that it is often required to seek further information from the Australian Energy Market Operator (AEMO) and registered participants of the NEM before any conclusions can be reached and the Report published. According to the AER this can take some time and lead to delays in publishing the Reports.

Second the AER states that the number of \$5,000/MWh events has steadily increased since the introduction of the Rule. Furthermore the AER states that the \$5,000/MWh

³ Clause 3.13.7(d) of the Rules.

⁴ AER Rule change proposal, p2.

events occur more frequently in the summer period placing heavy demands on its resources.⁵

The AER states that an extended timeframe to publish the Report would facilitate more considered analysis of the causes of extreme prices.⁶ In particular, the AER states that the enhanced analysis would more clearly delineate between price outcomes that reflect competitive forces and the proper functioning of the market (which may warrant an investment response) and those resulting from inefficiencies in market design or potential non-compliance with the Rules by market participants (which may warrant a policy or regulatory response).⁷ The AER further states that in encouraging efficient investment and energy policy, the Rule change would promote efficient market outcomes, including a more reliable, safe and secure power system.⁸

1.3 Solution proposed by the Rule change request

The AER's proposed solution is to extend the timeframe for publishing the Report from within 20 business days of the end of the week in which the spot price exceeded \$5,000/MWh, to within 40 business days of the end of the week in which the spot price exceeded \$5,000/MWh.

1.4 Relevant background

Currently the AER is required to publish the Report pursuant to clause 3.13.7(d) of the Rules. The Report is required to:⁹

- describe the significant factors that contributed to the spot price exceeding \$5,000/MWh, including the withdrawal of generation capacity and network availability;
- assess whether rebidding pursuant to clause 3.8.22 of the Rules contributed to the spot price exceeding \$5,000/MWh; and
- identify the marginal scheduled generating units and semi-scheduled generating units for which any dispatch offer for the trading interval was equal to or greater than \$5,000/MWh, and compare these dispatch offers to relevant dispatch offers in previous trading intervals.

The AER is required to publish the Report within 20 business days of the end of the week in which the spot price exceeded \$5,000/MWh in a trading interval or trading intervals.¹⁰

5 AER Rule change proposal, p2.

6 AER Rule change proposal, p5.

7 *ibid.*

8 *ibid.*

9 Clause 3.13.7(d) of the Rules.

10 *Ibid.*

History of the relevant provision

The requirement to report on trading intervals where the spot price exceeds \$5,000/MWh was introduced into the Rules in January 2001 as part of a suite of National Electricity Code (Code) amendments to increase the market price limit (then known as the Value of Lost Load (VoLL)) from \$5,000/MWh to \$10,000/MWh.¹¹

The reporting requirement was introduced (amongst other Code amendments) in response to concerns by the Australian Competition and Consumer Commission (ACCC) of potential market power issues arising from increasing the market price limit.¹² Originally the reporting requirement was undertaken by the National Electricity Code Administrator (NECA), but this function was transferred to the AER under the new electricity market arrangements introduced in 2005.

1.5 Commencement of Rule making process

On 17 June 2010, the Commission published a notice under sections 95 and 96 of the NEL advising of its intention to commence the Rule change process and the first round of consultation in respect of the Rule change request. A consultation paper prepared by AEMC staff identifying specific issues or questions for consultation was also published with the Rule change request. Submissions closed on 15 July 2010.

The Commission received two submissions on the Rule change request. The submissions were from AGL Energy Limited (AGL), and the National Generators Forum (NGF). These submissions are available on the AEMC website.¹³ A summary of the issues raised in the submissions and the Commission's response to each issue is contained in Appendix A.

The Commission accepted that the Rule Change request was a request for a non-controversial Rule. Accordingly, the Commission intended to expedite 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 1 July 2010.

No objections were received. Accordingly, the Rule change request was considered through an expedited process under section 96 of the NEL.

¹¹ VoLL, Capacity Mechanisms and Removal of the Price Floor (25 January 2001), Notice under section 6(2) of the National Electricity Law and National Electricity Code, www.neca.com.au. Subsequently the term "VoLL" has been replaced by the term "market price cap" on 28 May 2009 under the Commission's final Rule on the Reliability Panel's NEM Reliability Settings: VoLL, CPT and Future Reliability Review Rule change request.

¹² ACCC Determination, Applications for Authorisation VoLL, Capacity Mechanisms and Price Floor, 20 December 2000, p51.

¹³ www.aemc.gov.au

2 Final Rule determination

2.1 Commission's determination

In accordance with section 102 of the NEL the Commission has made this final Rule determination in relation to the Rule. In accordance with section 103 of the NEL the Commission has determined to make the Rule as proposed by the Rule proponent.

The Commission's reasons for making this final Rule determination are set out in section 3.1.

The *National Electricity Amendment (Timing for spot price reporting) Rule 2010 No [9]* (Rule as Made) is published with this final Rule determination. The Rule as Made commences on 22 July 2010. The Rule as Made is the same as the Rule proposed by the Rule Proponent.¹⁴ Its key features are described in section 3.2.

2.2 Commission's considerations

In assessing the Rule change request the following was material and relevant:

- the Commission's powers under the National Electricity Law (NEL) to make the Rule;
- the Rule change request;
- the submission to the Rule change request;
- previous decisions of the ACCC and NECA relating to the introduction of the relevant Rules clauses; and
- the Commission's analysis as to the ways in which the proposed Rule will or is likely to, contribute to the achievement of the National Electricity Objective (NEO).

2.3 Commission's power to make the Rule

The Commission is satisfied that the Rule as Made falls within the subject matter about which the Commission may make Rules. The Rule as Made falls within the matters set out in section 34(1)(a)(i)¹⁵ and 34(1)(a)(iii)¹⁶ of the NEL as it relates to:

¹⁴ Under section 103 (3) of the NEL the Rule that is made in accordance with section 103(1) need not be the same as the draft of the proposed Rule to which a notice under section 95 relates or the draft of a Rule contained in a draft Rule determination.

¹⁵ Section 34(1)(a)(i) of the NEL refers to the AEMC being able to make Rules with respect to regulating the operation of the NEM.

- the timeframes for publishing reports that analyse whether high prices are a result of the efficient operation of the market, or due to other factors; and
- the activities of the AER in publishing the Report within a timeframe.

Further, the Rule as Made falls within the matters set out in Schedule 1 to the NEL as it relates to a clause that was in place prior to the establishment of the Rules. The item of Schedule 1 to the NEL that is relevant is item 36 which states " a matter or thing that is the subject of, or is of a kind dealt with by, a provision of the National Electricity Code as in operation and effect immediately before the commencement of section 12 of the *National Electricity (South Australia) (New National Electricity Law) Amendment Act 2005* of South Australia".

2.4 Rule making test

Under section 88(1) of 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.”

For the Rule change request, having regard to any relevant MCE Statement of Policy Principles, the Commission considers that the relevant aspect of the NEO is: "*the efficient operation and use of electricity services for the long term interests of consumers of electricity with respect to the price... of supply of electricity.*"¹⁷

The Commission is satisfied that the Rule as Made will, or is likely to, contribute to the achievement of the NEO for the reasons set out in sections 3.1, 3.2 and chapter 5 of this Rule determination.

Under section 91A, the Commission may make a Rule that is different (including materially different) from a market initiated proposed Rule (a more preferable Rule) if the Commission is satisfied that, having a regard to the issue or issues that were raised

¹⁶ Section 34(1)(a)(iii) of the NEL refers to the AEMC being able to make Rules with respect to regulating the activities of persons (including Registered Participants) participating in the NEM or involved in the operation of the national electricity system.

¹⁷ Under section 88(2) of the NEL, for the purposes of section 88(1) 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 MCE statement of policy principles.

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 NEO.

The Commission has not made a more preferable Rule in relation to this Rule change request for reasons set out in chapter 5 of this Rule determination.

2.5 Other requirements under the NEL

In applying the Rule making test in section 88 of the NEL, the Commission notes that, with regard to this Rule change request, there are no relevant MCE statements of Policy Principles.¹⁸

Under section 91(8) of the NEL the Commission may only make a Rule that has effect with respect to an adoptive jurisdiction if satisfied that the proposed Rule is compatible with the proper performance of AEMO's declared network functions. The Commission may make this Rule as it is not related to the Australian Energy Market Operator's (AEMO's) declared network functions.

¹⁸ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule.

3 Commission's reasons

The Commission has analysed the Rule change request and assessed the issues/propositions arising out of this Rule change request. For the reasons set out below, the Commission has determined that a Rule be made. Its analysis of the Rule proposed by the AER is also set out below.

3.1 Assessment

As noted in chapter 1, the AER sought to extend the timeframes to publish the Report. The current timeframe for publishing the Report is within 20 business days from the end of the week that the spot price exceeded \$5,000/MWh. The Commission has determined to extend this timeframe to within 40 business days from the end of the week the spot price exceeded \$5,000/MWh.

The Commission's reasons for extending the timeframe for publishing the Report are:

- additional time will allow the AER to gather the necessary information and adequately consider high price events to publish a Report that is useful to market stakeholders. This should result in better information being provided to the market. Improved information to the market, at the margin, should improve decision making by market stakeholders and better inform policy and regulatory responses to high price events. Consequently, the Rule change will or is likely to promote efficient investment in, and operation of the market with potential price based benefits; and
- it will or is likely to marginally contribute to productive efficiencies in the NEM by providing increased certainty to market participants and stakeholders on the publication timetable of the Report. The additional time should assist market participants to better plan or manage their own actions in response to the information contained in the Report.

The Commission considers that an additional 20 business days as proposed by the AER achieves the required balance of providing adequate time for the AER to publish the Report while still providing the information in a timely manner for relevant market participants, policymakers and interest groups. The Commission considers that this will or is likely to contribute to the achievement of the NEO.

3.2 Rule as made

The Rule As Made is the same as that proposed by the AER. It amends the timeframe for the AER to publish the Report to within 40 business days from the end of the week that the spot price exceeded \$5,000/MWh.

3.3 Civil penalties

Clause 3.13.7(d) of the Rules that is the subject of this final Rule determination is currently not a civil penalty provision. The Commission does not consider that the amendments to the Rules by the Rule as Made warrant a recommendation to the Ministerial Council on Energy (MCE) for classification as a civil penalty provision. This is because the obligation on the AER that is the subject of this Rule determination is not, in the view of the Commission, so integral to the operation of the power system, or the functioning of the NEM, that it warrants a civil penalty provision to be attached to it.

4 Commission's analytical framework

This chapter describes the analytical framework that the Commission has applied to assess the Rule change request in accordance with the requirements set out in the NEL (and explained in Chapter 2).

4.1 General analytical framework

As noted in section 2.4, the Commission may give such weight to any aspect of the NEO as it considers appropriate in all circumstances. For this Rule change request, the Commission considers it appropriate to give weight to the following aspect of the NEO: *"the efficient operation and use of electricity services for the long term interests of consumers with respect to the price... of supply of electricity."*

Economic efficiency is a concept central to the NEO. As the Commission has discussed in relation to its analysis in previous Rule change requests, economic efficiency is commonly considered to have three elements:

- productive efficiency - e.g. the electricity market should be operated on a least cost basis given the existing and likely network and other infrastructure;
- allocative efficiency - e.g. electricity generation and consumption decisions should be based on prices that reflect the opportunity cost of the available resources; and
- dynamic efficiency- e.g. ongoing productive and allocative efficiency should be maximised over time. Dynamic efficiency is commonly linked to the promotion of efficient long-term investment decisions.

In the context of regulated energy markets, a relevant consideration is the extent and form of market intervention. Interventions in the operation of the market should be minimised. This enables resources to be allocated primarily on the basis of processes established through market mechanisms, hence supporting productive, allocative and dynamic efficiency.

The Commission also seeks to apply principles of good regulatory design and practice as it considers that the NEO has implications for the means by which the regulatory arrangements operate (in addition to their ends). In applying these principles, the Commission seeks to have regard to the need, where practicable to:

- promote stability and predictability - market Rules should be stable, or changes to them predictable, so that participants and investors can plan and make informed short and long-term decisions; and
- promote transparency - to the extent that intervention in the market is required, it should be based on and applied according to, transparent criteria.

4.2 Application of analytical framework for the Rule change request

In the present circumstances the application of this analytical framework has involved focussing on the following issues:

- the current Rules relating to publishing the Report;
- the effects of extending the timeframes for publishing the Report in comparison with the status quo; and
- the impacts of the proposal on market stakeholders' requirements of the information contained in the Report.

The Commission has focussed on this set of issues because they represent the main factors in assessing whether a timeframe extension for publishing the Report should be implemented, and in particular, whether the proposal will or is likely to promote the efficient use of electricity services.

The application of the Commission's analytical framework in this instance has involved the following tasks and methods:

- detailed analysis of the Rules; and
- discussions with the Rule Proponent.

5 Extending the timeframes for spot price reporting

5.1 Rule change proponent's view

The AER has sought an extension of 20 business days to the existing timeframe for the Report. It contends that reporting on spot prices above \$5,000/MWh can enhance transparency by highlighting market disturbances and identifying underlying causes.¹⁹

The AER contends that analysis of spot prices above \$5,000/MWh has become more complex and time consuming due to:²⁰

- the introduction of the frequency control ancillary services markets;
- increased network congestion, in part due to the use of fully co-optimised constraints;
- increased volatility in spot market outcomes, in part due to recent climate change policies and the resultant increase in the penetration of wind generation;
- the introduction of the good faith rebidding provision;
- increasing sophistication in participant bidding strategies; and
- the continuing convergence between activities in the electricity and gas markets.

These added complexities, according to the AER have increasingly required the AER to seek further information from the AEMO and market participants of the NEM.²¹

Furthermore the AER contends that the number of \$5,000/MWh events has steadily increased from the time the reporting requirement was introduced into the Rules, and that the events tend to be concentrated in the summer months, placing heavy demands on the AER's resources.²²

Due to these factors the AER states that it has found it increasingly difficult to meet the current timeframe, and has therefore submitted the Rule change request as it is concerned that the current timeframe risks compromising the quality of future reporting. According to the AER the value of the Reports depend on the quality of analysis they contain, and its recent experience suggests that the current timeframe constrains its capacity to deliver high quality analysis.²³

19 AER Rule change proposal, p1.

20 AER Rule change proposal, p2.

21 *ibid.*

22 *ibid.*

23 *ibid.*

The AER states that the proposed Rule submitted with the Rule change request would contribute to meeting the NEO by facilitating more considered analysis of the causes of extreme prices. The AER states that:²⁴

“... the enhanced analysis would more clearly delineate between price outcomes that reflect competitive forces and the proper functioning of the market (which may warrant an investment response) and those resulting from inefficiencies in market design or potential non-compliance with the Rules by market participants (which may warrant a policy or regulatory response). In encouraging efficient investment and energy policy, the rule change would promote efficient market outcomes, including a more reliable, safe and secure power system.”

The AER also states that the cost of introducing the Rule change is that the publication of the information will, in some instances, be delayed by up to 20 business days.²⁵ The AER considers however, in the context of a market with long investment and policy making lead times, that this delay is unlikely to be material, and would be more than offset by the benefits of better quality reporting.²⁶

5.2 Stakeholder views

AGL stated that alternative solutions to the problem should be considered such as:

- assessing whether the Reports are still relevant given the maturity of the market and stakeholders; and
- application of a filtering process to select only those high price events that appear to not be just the normal operation of the market (such as a random check of some of the high price events).

AGL also stated that should the Reports continue to be published, an increase in the publication timeframe of the Report would diminish its relevance to the market, and the significant effort and resources devoted by the AER to this purpose would be wasted.

The NGF stated that it understood the reasons for the AER requesting an extension to the timeframes to publish the Report.²⁷ The NGF however, was concerned that extending the timeframe for publishing the Report would delay any consequential action by the AER resulting from its findings on high priced events.²⁸ The NGF stated that such delays can create uncertainty and therefore operating risk for market participants.²⁹ The NGF therefore sought assurances that by having additional time to

24 AER Rule change proposal, p5.

25 *ibid.*

26 *ibid.*

27 NGF submission, p1.

28 *ibid.*

29 *ibid.*

publish the Reports, the AER will commit itself to progress any further investigation or action in a timely manner.³⁰ The NGF also proposed a review into the underlying purpose of the Reports, including identifying appropriate triggers for reviewing spot price outcomes.³¹

5.3 Conclusion

In assessing this Rule change request the Commission considers that:

- the information contained in Reports made under clause 3.13.7(d) of the Rules on high spot prices are beneficial to the market. The Commission considers that the Reports enhance transparency as to why spot prices are high;
- the value of the information contained in these Reports is dependent on its quality;
- a timeframe for publishing the Reports is required as it provides regulatory certainty for the market as to when such Reports are published and imposes a discipline on the AER to publish the Reports within a certain time;
- that a timeframe for publishing Reports needs to balance competing considerations. These include providing sufficient time for the AER to gather information and consider high price events, and publishing such Reports in a timeframe where the information is useful to market participants.

The AER is finding difficulty in meeting the current timeframe. This is due to additional complexities in the analysis of high spot prices leading to the AER requiring further information from AEMO and market participants, and the increasing number of reports required to be published. The current timeframe therefore may not achieve the desired regulatory certainty mentioned above. Furthermore if there is insufficient time for the AER to gather information and adequately consider high priced events there is a risk of a diminution of the quality of useful information that is available to the market.

Under these circumstances the Commission considers that it would be beneficial that an extension be provided to the timeframe for publishing the Report. There are two reasons for this.

Firstly additional time will allow the AER to gather necessary information and adequately consider high price events allowing it to publish a Report that is useful to market stakeholders. The Commission agrees with the AER that the Report is useful for the purposes of informing market participants and policymakers as to whether high prices are a result of the efficient functioning of the market or whether there are other factors which may require a policy or regulatory enforcement response. The extension of time should result in better information being provided to the market. Improved

³⁰ NGF submission, p1.

³¹ *ibid.*

information to the market should improve decision making by market participants, policymakers and interest groups and better inform policy and regulatory responses to high price events. These decisions could include future investment and operational decisions by market participants. Consequently, the Rule change will or is likely to promote efficient investment in, and operation of the market with potential price based benefits.

In addition, the Commission considers that the Rule will or is likely to marginally contribute to productive efficiencies in the NEM by providing increased certainty to market participants and stakeholders on the publication timetable of the Report. In particular, by providing increased certainty to market participants, this should enable them to better plan and manage their own responses to the information contained in the Report.

The AER has proposed a 20 business day extension to the reporting timeframe as a suitable time extension. This timeframe is based on the AER's experience in publishing the Report taking into account the amount of time required to gather information and adequately consider the reasons behind high price events. The Commission agrees with the AER that given the long lead times for infrastructure development in the NEM, investigations into market power issues and changes in policy, a 20 business day extension in the publication of the Report would not significantly impact the timeliness of the information to market participants, and policymakers. The Commission also considers that while a 20 business day extension to the timetable may increase the administrative costs of providing the Report, these additional costs are unlikely to be significant and do not outweigh the benefits provided by the timeframe extension.

AGL contend that a timeframe extension should not be provided. According to AGL, the relevance of the information contained in the Report would be diminished if its publication was delayed, however AGL has not provided any reasoning to support this assertion.³² AGL have also proposed an alternative solution to that proposed by the AER which involves excluding some or all high price events from being reported on.³³

The Commission disagrees with AGL that a timeframe extension would diminish the relevance of the information to the market. For the reasons outlined above the Commission considers that a 20 business day timeframe extension achieves the required balance of providing sufficient time for the AER to gather information and consider high price events, whilst also ensuring that the publication of the Report is timely for relevant market participants and policymakers. Indeed the Commission considers that the 20 business day timetable extension should help to enable the AER to publish better and more informative Reports as more time is provided for information gathering and analysis.

The Commission further considers that excluding some or all high price events from being reported on is beyond the scope of the issues raised by the AER's Rule change

³² AGL submission, p1.

³³ Ibid.

request. The Commission has therefore determined not to consider this alternative solution.

The NGF, while understanding the reasons for a timeframe extension for publishing the Report, have expressed concern that the timeframe extension may delay the AER's progression of further actions once the Report is published.³⁴ The NGF have therefore sought assurances that the AER will commit itself to progress any further investigations or actions in a timely manner.³⁵ The NGF have also suggested that a review be undertaken into the underlying purpose of the Report, including appropriate triggers for reviewing spot price outcomes.³⁶

The Commission has consulted with the AER and is of the view that the analysis and publication of the Report are separate from any further actions the AER may take as a consequence of the findings of the Report. The Commission is therefore of the view that, in the absence of an explicit linkage between the time to publish the Report and the timing for the AER's actions following the publication of the Report, it would not be appropriate to amend the Rules in this regard.

The Commission notes the NGF's comments regarding a review into the purpose of the Reports, but considers that this issue falls outside the scope of issues raised in the Rule change request.

34 NGF submission, p1.

35 *ibid.*

36 *ibid.*

Abbreviations

ACCC	Australian Competition and Consumer Commission
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AGL	AGL Energy Limited
Commission	Australian Energy Market Commission
MCE	Ministerial Council on Energy
NECA	National Electricity Code Administrator
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NGF	National Generators Forum
Report	Report published by the AER pursuant to clause 3.13.7(d) of the Rules
Rules	National Electricity Rules
VoLL	Value of Lost Load

A Summary of issues raised in submission

Stakeholder	Issue	AEMC response
AGL	Some or all high price events be excluded from being reported on pursuant to clause 3.13.7(d) of the Rules.	This solution is outside the scope of the issues of this Rule change request. The Commission has therefore determined not to consider this alternative solution.
AGL	A timeframe extension should not be provided as delays in the publication of the Report would reduce its relevance to the market.	The Report informs the market on the reasons for high prices. In some instances the Report may signal the need for investment or policy responses. Given the long lead times for these responses, which may include investigations into the behaviour of market participants, amendment of the market frameworks or infrastructure development, the Commission considers that a 20 business day timeframe extension does not overly affect the relevance of the information to the market. Indeed, the timetable extension should help enhance the analysis and quality of the AER's Reports.
NGF	A timeframe extension for publishing the report may delay any consequential action by the AER resulting from its findings on high priced events. The NGF have therefore sought assurances that the AER will commit itself to progress any further investigations or actions in a timely manner.	The Commission is of the view that in the absence of an explicit linkage between the time to publish the Report, and the timing for the AER's actions following the publication of the Report, it would not be appropriate to amend the Rules in this regard.
NGF	A review should be conducted into the underlying purpose of the Report including appropriate triggers for reviewing spot price outcomes.	The Commission notes the NGF's comments for a review into the purpose of the Report, but considers that this issue falls outside the scope of issues raised in the Rule change request.