



Australian Energy Market Commission

RULE PROPOSAL

Proposed National Electricity Amendment (Minor Changes) Rule 2010

Rule Initiated by

AEMC

Commissioners

Tamblyn
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22 April 2010

RULE
CHANGE

Inquiries

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy, 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 advice covering the National Electricity Market and elements of the natural gas markets. We are an independent, national body. Our key responsibilities are to consider rule change proposals, conduct energy market reviews and provide advice to the Ministerial Council as requested, or on AEMC initiative.

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AEMC Initiated Amendment to the National Electricity Rules

1. Introduction

The Australian Energy Market Commission (Commission) is responsible for the rule-making functions conferred on it under legislation.

As part of its rule-making function, the Commission reviews, amends and maintains the National Electricity Rules (Rules) in accordance with the National Electricity Law (NEL).

The purpose of this function, among other things, is to improve and enhance the quality of the Rules.

2. AEMC's power to initiate the making of a Rule

Under section 91(2) of the NEL,

“The AEMC must not make a Rule without a request under subsection (1) unless-

- (a) it considers the Rule corrects a minor error in the Rules; or
- (b) it considers the Rule involves a non-material change to the Rules; or
- (c) the Rule is in respect of any matter that is prescribed by the Regulations as a matter on which it may make a Rule on its own initiative.”

3. Rule proposal

This Rule proposal, initiated by the Commission, seeks to:

- correct several minor errors, including formatting and numbering anomalies in the Rules;
- make some non-material changes to the National Electricity Amendment (Bid and Offer Validation Data) Rule 2009 No. 21, while ensuring the corrections commence operation when that Amending Rule commences operation;
- remove jurisdictional derogations which have expired under the Rules;
- insert notes indicating which Rules are prescribed as civil penalty provisions and the rebidding civil penalty provision under the National Electricity (South Australia) Regulations; and
- correct errors and ensure consistency in approach throughout Chapter 10, by removing and inserting some Chapter 10 glossary definitions.

Given that the first category of changes is minor in nature and the others are non-material changes, the Commission considers that the proposed rule satisfies the requirements of section 91(2).

The proposed amendments are specified in the attached *Proposed National Electricity Amendment (Minor Changes) Rule 2010*.

4. Expedited Rule making process for Minor Changes Rule proposal

The Commission considers this Commission initiated Rule is a non-controversial Rule as it is unlikely to have a significant effect on the national electricity market (NEM). On this basis, under section 96 of the NEL the Commission proposes that this Rule proposal be consulted on and determined under an expedited process with a four week consultation period.

5. Contribution to the National Electricity Objective

Under section 88 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 national electricity objective (NEO).

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.”

The Commission considers that the Rule proposal is warranted and does not anticipate any undue compliance costs resulting from the Rule proposal. For the following reasons, the Commission considers the Rule proposal has the potential to contribute to the achievement of the NEO.

The Rule proposal supports effective and transparent regulation and operation of the NEM, by clarifying the operation of the Rules in the following ways:

- it correct several minor errors, including formatting and numbering anomalies in the Rules;
- it makes some non-material changes to the National Electricity Amendment (Bid and Offer Validation Data) Rule 2009 No. 21, while ensuring the corrections commence operation when that Amending Rule commences operation;
- it removes jurisdictional derogations which have expired under the Rules;

- it inserts notes indicating which Rules are prescribed as civil penalty provisions and the rebidding civil penalty provision under the National Electricity (South Australia) Regulations; and
- it removes and inserts Chapter 10 glossary definitions to correct errors and ensure consistency in approach throughout Chapter 10.

These proposed minor and non-material changes will improve the clarity and accessibility of the Rules to stakeholders. This is important as the Rules inform stakeholders of their rights and obligations for participating in the NEM and stakeholders rely on these Rules in their commercial transactions and documentation. The Rule proposal will improve the regulatory certainty of the Rules' operation, thereby contributing to the effective regulation and efficient operation of the NEM, for the long term interests of consumers of electricity.

6. Any relevant MCE statements of policy principles

Under section 33 of the NEL, the Commission must have regard to any relevant MCE statement of policy principles in making a Rule. There is no relevant MCE statement of policy principles relevant to this Rule proposal.

7. Compatibility with AEMO's declared network functions

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 the Australian Energy Market Operator's (AEMO) declared network functions. At present Victoria is the only relevant "adoptive jurisdiction". The proposed Rule seeks to make minor and non-material changes to the Rules, therefore the Commission is satisfied this Commission initiated Rule is compatible with the proper performance of AEMO's declared network functions.

8. Consultation under the expedited process

In relation to this Rule change proposal, the Commission has published a notice under sections 95 and 96 of the NEL stating that this Rule change proposal will be assessed following an expedited process (subject to written objections), as it is considered a non-controversial Rule.

Under the expedited process, stakeholders have two weeks after the publication of the notice under section 95 of the NEL to object to the Rule change proposal being expedited. Objections need to contain reasoning as to why the stakeholder considers that the Rule change proposal should not be expedited and will be assessed by the Commission in accordance with section 96 of the NEL. Stakeholders are required to lodge objections with the Commission by **6 May 2010**.

The expedited process also provides a four week consultation process on the content of the Rule change proposal. Submissions on the content of the Rule change proposal are to be lodged with the Commission by **20 May 2010**.

Where practicable, submissions should be prepared in accordance with the Commission's *Guidelines for making written submissions on Rule change proposals*¹. The Commission publishes all submissions on its website subject to a claim of confidentiality.

All enquiries on this Rule change proposal should be addressed to Michaela Senigalliesi on (02) 8296 7800.

A submission may be lodged with the AEMC electronically or in hardcopy (via ordinary mail).

Lodging a submission electronically

Submissions must be lodged online via the AEMC's website at www.aemc.gov.au. The submission must be on a letterhead (if submitted on behalf of an organisation), signed and dated by the proponent.

Upon receipt of the electronic version of the submission, the AEMC will issue a confirmation email. If this confirmation email is not received within 3 business days, it is the proponent's responsibility to ensure successful delivery of the submission has occurred.

Lodging a submission by mail

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

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

The envelope must be clearly marked with the project reference: "ERC0105".

Upon receipt of the hardcopy submission the Commission will issue a confirmation letter. If this confirmation letter is not received within 3 business days, it is the proponent's responsibility to ensure successful delivery of the submission has occurred.

All submissions and written objections should cite the project reference "ERC0105" in the title.

¹ This guideline is available on the Commission's website.