

**Australian Energy Market Commission**

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## **CONSULTATION PAPER**

# **National Gas Amendment (Unintended Scheduling Result - Decision Timing) Rule 2017**

**Rule Proponent**  
AEMO

19 September 2017

**RULE  
CHANGE**

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**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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# 1 Introduction

On 26 May 2017, the Australian Energy Market Operator (AEMO or the proponent) submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) seeking to amend the deadline by which it must publish a decision with regard to an alleged unintended scheduling result under rule 218 of the National Gas Rules (NGR).

This consultation paper has been prepared to facilitate public consultation on the rule change request and to seek stakeholder submissions.

This paper:

- provides a summary of, and background to, the rule change request
- identifies a number of questions and issues to facilitate consultation on this rule change request
- outlines the process for making submissions.

## 1.1 Background

AEMO operates the Victorian Declared Wholesale Gas Market (DWGM) according to the NGR and associated procedures. On occasions, AEMO may issue scheduling instructions for the market's operating schedule that are erroneous.<sup>1</sup> Such incorrect scheduling instructions may meet the requirements of an 'unintended scheduling result'. If the definition of an unintended scheduling result is satisfied then a market participant may be able to seek compensation in respect of the event.<sup>2</sup>

### 1.1.1 What is an unintended scheduling result?

In the DWGM, there are four components in the definition of an unintended scheduling result.

Firstly, scheduling instructions must produce one or more of the following results:<sup>3</sup>

- equally beneficial bids are not scheduled to the same extent
- gas under an injection bid above the market price, is scheduled for injection but the market participant does not receive the bid price for that gas
- a quantity of gas under a withdrawal bid below the market price is scheduled for withdrawal
- a quantity of gas under an injection bid below the market price is not scheduled for injection
- a quantity of gas under a withdrawal bid above the market price is not scheduled for withdrawal
- a scheduling instruction is not issued in accordance with the gas procedures.

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1 Rule 217(1) of the NGR

2 Rule 218(5) of the NGR

3 Rule 217(1) of the NGR

Secondly, the scheduling instruction must not relate to any of the following exceptions specified in the NGR:<sup>4</sup>

- intervention and market suspension under the NGR
- system security procedures or emergency protocol
- ancillary payment procedure
- service envelope agreement
- an agreement entered into between AEMO and a Distributor or the owner or operator of a facility at a relevant system point
- constraints applicable to controllable quantities accredited by AEMO at a relevant system point
- authorised Maximum Daily Quantity or Authorised Maximum Daily Quantity credit certificates associated with a relevant system point
- supply-demand point constraints or directional flow point constraints as defined in the gas scheduling procedures
- compensation already paid.

Thirdly, an error made in determining a market price or a pricing schedule, is not considered an unintended scheduling result.<sup>5</sup>

Fourthly, there is materiality threshold. This requires the error to have had an estimated financial impact that exceeds either \$20,000 for an individual market participant, or \$50,000 in aggregate, for all affected market participants.<sup>6</sup>

## **1.2 Issue raised in the rule change request**

The issue raised in the rule change request relates to the process that AEMO undertakes in order to determine if an unintended scheduling result has occurred.

A market participant can currently request that AEMO investigate if an unintended scheduling result has occurred.<sup>7</sup> The NGR require AEMO to investigate the matter and publish a decision by no later than 20 business days from the date of receipt of the request.<sup>8</sup> Depending on when the request is made, the 20 business day cut off may occur before AEMO obtains final settlement data.

The figure below outlines an example timeline for reviews of an unintended scheduling result.

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<sup>4</sup> Rule 217(2) of the NGR

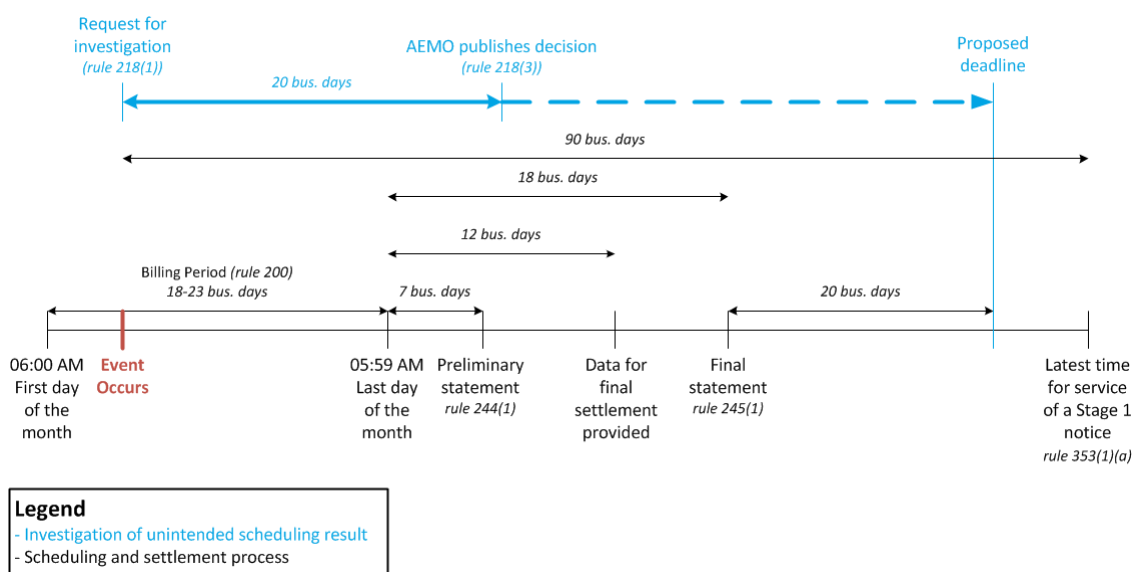
<sup>5</sup> Rule 217(3) of the NGR

<sup>6</sup> Rule 217(4) of the NGR. These values are defined in 2009 dollars and are indexed to CPI in accordance with rule 217(5) of the NGR.

<sup>7</sup> Rule 218(2)(a) of the NGR

<sup>8</sup> Rule 218(3) of the NGR

**Figure 1.1 Timeline for unintended scheduling results**



Note that the timeline relating to the investigation of an unintended scheduling result (in blue) is dependent on when the scheduling event in question occurs and when the request for an investigation is made. Whether the date by which AEMO must publish a decision occurs before or after the publication of final statements depends on when the request for investigation is made.

AEMO has stated that under the current provisions of the NGR, at times it may have to make a decision based on provisional settlement data. Such provisional data may not be complete. In particular, provisional data may not include critical information such as contractual title to gas injected at the Longford system injection point which is only available at final settlement.

### 1.3 Proposed solution

AEMO has proposed in its rule change request extend the deadline for when a decision on whether an unintended scheduling result has occurred must be published to the later of:<sup>9</sup>

- 20 business days after the request was made; or
- 20 business days after the publication of final statements.

We note that the extension of time proposed by AEMO does not directly affect the timeline by which market participants receive compensation for an unintended scheduling result. This is because when AEMO finds that an unintended scheduling result has occurred, market participants are still required to initiate a dispute resolution process to receive compensation.

Rule 353(1)(a) NGR, which AEMO has not proposed to amend, provides market participants with up to 90 days after an unintended scheduling result to serve a stage 1 notice to initiate proceedings to claim compensation. This would be at least 29 business days after the extended deadline proposed by AEMO (20 business days after the publication of final statements).

The rule change request includes a proposed rule, which would amend rule 218 NGR.<sup>10</sup>

<sup>9</sup> See AEMO, *Rule Change Request - Unintended Scheduling Results - Decision Timing*, 24 May 2017, p. 5

Copies of the rule change request may be found on the AEMC website, [www.aemc.gov.au](http://www.aemc.gov.au).

#### 1.4 Assessment framework

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 gas objective (NGO).<sup>11</sup> This is the decision making framework that the Commission must apply.

The NGO is:<sup>12</sup>

“to promote efficient investment in, and efficient operation and use of, natural gas services for the long term interests of consumers of natural gas with respect to price, safety, reliability and security of supply of natural gas.”

In assessing the rule change proposed against the NGO, the Commission proposes to consider the following:

- **Does the proposed rule improve the quality of regulatory decisions?** If made, the proposed rule will extend a deadline for AEMO so that it can use better information to inform its decisions. The Commission notes that if AEMO makes a decision based on preliminary data, it may be required to revisit the issue using final settlement data as part of the process by which market participants obtain compensation. The Commission will consider whether the proposed rule improves the quality of the decisions produced and therefore improves the predictability, reliability and conclusiveness of decisions made by AEMO.
- **Does the proposed rule unduly increase the burden of regulatory and administrative delay on market participants and AEMO?** To the extent that the proposed rule extends a deadline for AEMO, it may delay when market participants can receive a final decision from AEMO. The Commission will consider whether as a result, market participants will face a slightly higher regulatory burden associated with this delay. The Commission seeks to balance the burden associated with any delay against the potential benefits of the proposed rule.

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<sup>10</sup> AEMO, *Rule Change Request - Unintended Scheduling Results - Decision Timing*, 24 May 2017, p. 5

<sup>11</sup> Section 291(1) of the National Gas (South Australia) Act 2008 (National Gas Law or NGL).

<sup>12</sup> S. 23 of the NGL.



## 2 Process for this rule change

### 2.1 Treatment as a non-controversial rule change

AEMO proposed the rule change request be treated as non-controversial in accordance with s. 304(1)(b) of the NGL such that it could be processed on an expedited basis. This request has been made on the basis that the issue should not impact outcomes for market participants in relation to potential unintended scheduling results, as it avoids the need for AEMO to publish a decision based on provisional settlement numbers.

The Commission proposes to treat this rule change request as a request for a non-controversial rule. The Commission therefore proposes that the rule change be subject to the expedited rule making process under s. 304 of the NGL on the grounds that the rule change request is a request for a non-controversial rule. A non-controversial rule is defined by s. 290 of the NGL as:

“a Rule that is unlikely to have a significant effect on a market for gas or the regulation of pipeline services.”

The proposed rule is unlikely to have a significant impact on a market for gas or the regulation of pipeline services.<sup>13</sup> This is because of the relatively infrequent occurrence of an unintended scheduling result, and the fact that market participants will still have ample time to seek compensation for an unintended scheduling result, if the proposed rule is made.

Rule change requests that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation. The Commission must publish its final rule determination within six weeks of commencing the rule change process.<sup>14</sup>

The Commission has decided to commence consideration of AEMO's rule change request on an expedited basis provided that it does not receive any valid requests not to use the expedited process by 3 October 2017. To be valid, an objection should set out the reasons why the rule change request either will have a significant impact on a market for gas or the regulation of pipeline services.

### 2.2 Key dates

Given the tightly defined nature of the issue, and the background information provided in the rule change request, this consultation paper is brief. Nevertheless, submissions are invited in relation to the matters identified above, and any other relevant issue.

The **key dates** for stakeholders in this process are as follows:

- Commencement of this rule change process: 19 September 2017
- Objections to an expedited process to be received by: 3 October 2017
- Submissions to the rule change request to be received by: 17 October 2017

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<sup>13</sup> Section 290 of the NGL.

<sup>14</sup> The AEMC has published a notice under ss. 303 and 304 of the NGL to commence and assess this rule change request as a non-controversial rule.

- Final rule determination to be published under an expedited process by:  
31 October 2017

### **3 Lodging a submission**

The Commission invites requests not to make a rule under the expedited process and written submissions on this rule change request.

All enquiries on this project should be addressed to Shivana Thiru Moorthy on (02) 8296 7800 or [shivana.thirumoorthy@aemc.gov.au](mailto:shivana.thirumoorthy@aemc.gov.au).

#### **3.1 Lodging a request not to make a rule under an expedited process**

Written requests not to make a rule under the expedited process in s. 304 of the NGL must include reasons for the request, and must be lodged with the Commission by 3 October 2017.

#### **3.2 Lodging a submission to this rule change request**

Written submissions on the rule change request must be lodged with Commission by 17 October 2017.

Electronic submissions, or requests not to make a rule under the expedited process, must be lodged online via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), using the "lodge a submission" function and selecting the project reference code GRC0041.

The request or submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.<sup>15</sup> The Commission publishes all submissions on its website, subject to a claim of confidentiality.

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<sup>15</sup> This guideline is available on the Commission's website [www.aemc.gov.au](http://www.aemc.gov.au).

## Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
Commission	See AEMC
DWGM	Declared Wholesale Gas Market
NGL	National Gas Law
NGO	National gas objective
NGR	National Gas Rules