



Australian Energy Market Commission

RULE PROPOSAL

Proposed National Electricity Amendment (Minor Changes) Rule 2011

Rule Initiated by
AEMC

5 May 2010

**RULE
CHANGE**

Inquiries

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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. The AEMC has two principal functions. To make and amend the national electricity and gas rules - and to conduct independent reviews of the energy markets for the MCE.

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AEMC Initiated Amendment to the National Electricity Rules

1. Introduction

The Australian Energy Market Commission (AEMC or 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, numbering, and cross referencing anomalies in the Rules;
- amend some Chapter 10 defined terms;
- correct inconsistencies in the treatment of Chapter 10 glossary terms in the body of the Rules; and
- remove participant derogations which have expired under the Rules.

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 2011*.

4. Expedited Rule making process for Minor Changes Rule proposal

Under section 87 of the NEL a ‘non-controversial Rule’ is defined as ‘a Rule that is unlikely to have a significant effect on the national electricity market’.

As the proposed changes, in accordance with the AEMC's power under section 91(2) to make a Rule without a request, are minor or non-material in nature, the Commission considers that

the proposed rule is unlikely to have a significant effect on the NEM and therefore falls within the definition of a non-controversial rule under section 87 of the NEL.

On this basis, under section 96(1)(a) 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 proposed Rule, if made, will improve the quality of the Rules in terms of accuracy and consistency. The Commission considers that the proposed Rule is likely to contribute to the achievement of the NEO, albeit the efficiency benefits that will result from the proposed Rule are considered to be very small given the minor or non-material nature of the changes proposed.

As with previous similar AEMC initiated rule changes, these minor corrections and non-controversial changes will make the Rules clearer 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.

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 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". Given the proposed Rule seeks to make only minor and non-material changes to the Rules, 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 **19 May 2011**.

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 **2 June 2011**.

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

When 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:

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

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

The envelope must be clearly marked with the project reference: "ERC0124".

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 "ERC0124" in the title.