



Australian Energy Market Commission

CONSULTATION PAPER

National Electricity Amendment (Registration of proponents of new types of generation) Rule 2016

Rule Proponent(s)
AEMO

14 April 2016

**RULE
CHANGE**

Inquiries

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AEMC 2016, Registration of proponents of new types of generation, Consultation Paper, 14 April 2016 , 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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1 Introduction

On 11 February 2016, AEMO submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) seeking to amend the definition of the term 'generating unit' in Chapter 10 of the National Electricity Rules (NER).

1.1 Background

In order to participate in the NEM, a person must become registered in relation to the activity they wish to undertake in the market. Chapter 2 of the NER governs the eligibility for participation and the process by which parties can apply to AEMO to participate in the NEM, eg, generation.

Clause 2.2.1(e) of the NER sets out what a person must do to be eligible as a Generator, specifically:

'obtain the approval of AEMO to classify each of the *generating units* that form part of the *generating system* that the person owns, operates or controls, or from which it otherwise sources electricity...'

Currently the phrase 'generating unit' is defined in Chapter 10 of the NER as:

'The actual generator of electricity and all the related equipment essential to its functioning as a single entity'.

AEMO has received a number of inquiries from parties interested in participating in the National Electricity Market (NEM) as 'Generators' who AEMO believes are ineligible for registration because the type of generation they are proposing does not meet the NER definition for eligibility as a generating unit.¹

As a result, AEMO has proposed a rule change to address this issue in a timely manner since applications for registration from such applicants are expected in the near future.

1.2 Issues raised in the rule change request

The purpose of the proposed rule is to clarify that the rules for eligibility for registration as a Generator are technology-neutral.²

Specifically, AEMO is concerned the current definition of a 'generating unit' (set out above) excludes forms of generation which do not convert mechanical energy into electrical energy, such as solar PV and battery storage.

The word 'generator' as used in the context of the definition of generating unit is not defined in the NER (although the term Generator is defined).

¹ A number of submissions to the AEMC's Discussion Paper on the Integration of Energy Storage also commented on this lack of clarity regarding the definition of 'Generator'. The Commission noted that to the extent that there is any perceived ambiguity regarding the definition of 'Generator', the AEMC recommends that any interested party could submit a rule change request to the AEMC for consideration. See: AEMC, Integration of Storage, Final Report, p. 22.

² Registration as a generator is currently only required for plant over 5MW, although AEMO has discretion about registration thresholds.

The word 'generator' is commonly used by industry participants when referring either to the plant used to generate electricity or the owner/operator of that plant. For this reason, AEMO considers that a Court may find it difficult to arrive at a 'common' meaning of the term 'generator' and therefore may resort to a dictionary to determine the meaning of the term.

The Macquarie Dictionary, commonly used for statutory interpretation in Australia, defines a generator as:

'a machine which converts mechanical energy into electrical energy'.

Given this, AEMO is of the view that currently, plant that does not convert mechanical energy to electrical energy are not "generating units" within the meaning of the NER and therefore the owners and operators of this plant are ineligible for registration as Generators. This creates an unintended barrier to entry for operators of non-conventional electricity generation eg, a solar PV or battery storage system that converts chemical energy to electrical energy.

1.3 Proposed solution

The proposed rule change aims to clarify that the rules for eligibility for registration as a Generator are technology-neutral. If made, the rule would have the effect of amending the definition of 'generating unit' in Chapter 10 of the NER as follows:

'The ~~actual generator of~~ plant used in the production of electricity and all ~~the~~ related equipment essential to its functioning as a single entity'.

In addition, AEMO's rule change proposal would delete clause 2.2.1(b) which states the following:

'A person who otherwise supplies electricity to a transmission or distribution system may, on application for registration by that person in accordance with rule 2.9, be registered by AEMO as a Generator'.

AEMO considers clause 2.2.1(b) does not assist participants since, to be eligible for registration as a Generator, the applicant will still have to classify its generating units under clause 2.2.1(e). This means that the supply of electricity under clause 2.2.1(b) can only be carried out using a generating unit, which needs to conform to the definition in Chapter 10.

AEMO considers that these proposed amendments to the rules would remove the unintended barrier to entry for non-conventional producers of electricity, supporting technological and process neutrality. The merits of each application for registration as a Generator would then be assessed on the basis of operational and market considerations, as required by the NER.

Copies of the rule change request may be found on the AEMC website, www.aemc.gov.au.

1.4 Assessment framework

Our assessment of this rule change request must consider whether the proposed rule promotes the National Electricity Objective (NEO) as set out under section 7 of the National Electricity Law.

We consider the relevant aspect of the NEO to be promoting efficient investment in electricity services with respect to the price, reliability and security of supply of electricity and the national electricity system.

Accordingly, to give effect to the NEO, the following principles will be used to guide the assessment of this rule change request:

- Regulatory certainty and clarity: regulatory certainty supports confidence in markets and supporting regulatory arrangements. For market participants, confidence in regulatory arrangements may encourage them to actively participate and invest in the market, which promotes efficiency.
- Technological neutrality: regulation should be technologically neutral. There should be no bias or barrier towards any particular technology in the registration process.
- Unintended consequences: the assessment of this rule change request will consider whether changes to the rules may generate unintended consequences.

2 Process for this rule change

2.1 Treatment as a non-controversial rule change

We consider that the rule change request is a request for a non-controversial rule because the making of the proposed rule is unlikely to have a significant impact on the National Electricity Market.³ The most likely outcome of making the rule as proposed is 'business as usual'. AEMO is of the view that unless this rule is made, it will not be able to register some parties (eg, battery storage) as a Generator, since it is concerned that this is technically in contravention of the NER. Making the proposed rule would enable AEMO to register a broader range of parties as Generators.

Rule changes that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation and the AEMC must publish its final rule determination within six weeks of commencing the rule change process⁴. We propose to use this expedited process to consider the rule change request provided that we do not receive any valid requests not to use the expedited process by **28 April 2016**. To be valid, an objection should set out the reasons why the rule change request will have a significant impact on the national electricity market.

2.2 Key dates

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: 14 April 2016
- Objections to an expedited process to be received by: 28 April 2016
- Submissions to the proposal to be received by: 12 May 2016
- Final decision to be published under an expedited process by: 26 May 2016

³ Section 87 of the National Electricity Law.

⁴ The AEMC has published a notice under sections 95 and 96 of the National Electricity Law to commence and assess this rule change request as a non-controversial rule.

3 How to lodge a submission

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

All enquiries on this project should be addressed to Su-Min Lim on (02) 8296 7868.

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 section 96 of the National Electricity Law must include reasons for the request, and must be lodged with the Commission by 28 April 2016, either online or by mail, in accordance with the requirements specified below.

3.2 Lodging a submission to this rule change request

Written submissions on the rule change request must be lodged with Commission by 12 May 2016, either online or by mail, in accordance with the requirements specified below.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests⁵. Please note that the Commission publishes all submissions on its website, subject to a claim of confidentiality.

3.3 Lodging a submission electronically

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, using the "lodge a submission" function and selecting the project reference code: ERC0204.

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

Upon receipt of the electronic request or submission, the Commission will issue a confirmation email. If this confirmation email is not received within three business days, it is the submitter's responsibility to ensure the request or submission has been delivered successfully.

3.4 Lodging a submission by mail or fax

The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated. The request or 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 code: ERC0204.

Alternatively, the submission may be sent by fax to (02) 8296 7899.

⁵ This guideline is available on the Commission's website.

Except in circumstances where the submission has been received electronically, 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 submitter's responsibility to ensure successful delivery of the submission has occurred.

Abbreviations

AEMC	Australian Energy Market Commission
Commission	See AEMC
NEO	National Electricity Objective