

Reliability Panel AEMC

Australian Energy Market Commission
Reliability Panel

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15 September 2015

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

By email: john.pierce@aemc.gov.au

Dear John

National Electricity Rules: Rule change request – Review frequency for the Template for Generator Compliance Programs

The Reliability Panel (Panel) recently completed its review of the Template for Generator Compliance Programs (template), in accordance with standing terms of reference issued by the Australian Energy Market Commission (AEMC).

In its final report, published on 18 June 2015, the Panel determined that it would prepare and submit a rule change request to the AEMC proposing an amendment to the National Electricity Rules (NER) to extend the frequency of template reviews from at least three, to at least five years.

Accordingly, the Panel submits this rule change request, including a proposed rule, to the AEMC for consideration under section 91 of the National Electricity Law (NEL).

Obligations under the NER

Clause 8.8.1(a)(2b) of the NER requires the Panel to determine, modify as necessary, and publish the template. Clauses 4.15(b) and (c) of the NER require registered participants to institute and maintain generator compliance programs for performance standards, which must be consistent with the template.

The template is designed to assist registered participants who own or operate plant to which performance standards apply, generally generators, with developing and designing their compliance programs to meet the relevant performance standards. It is also intended to assist the Australian Energy Regulator with the enforcement and monitoring of the generators' compliance with the technical requirements under the NER.

It is the responsibility of each registered participant to develop its own suitable compliance program that is tailored to its business and plant to meet its specific compliance requirements, as required under the NER. While the template may assist in this respect, the Panel considers that the

proposed rule, if made, would not reduce a registered participant's regulatory obligations in respect of performance standards compliance under the NER.

Proposal to amend clause 8.8.3(ba) of the NER

Clause 8.8.3(ba) of the NER requires the Panel to conduct a review of the template "at least every 3 years" from the date the template is determined, and at such other times as the AEMC may request.

This rule change request proposes to amend the wording in this provision from, "at least every 3 years", to, "at least every 5 years". The Panel also supports retention of the current wording, "and at such other times as the AEMC may request", as this allows for an earlier review of the template if necessary, for example, as a result of a material change to the NER, technology or performance standards.

The Panel considers that making the proposed rule will, or is likely to, contribute to the achievement of the national electricity objective by promoting the efficient operation and use of electricity services for the long term interests of consumers of electricity with respect to the reliability, safety and security of the national electricity system. It is likely to reduce the administrative burden of stakeholders due to them having to participate in less frequent template reviews. At the same time there would be no reduction in registered participants' regulatory obligations in respect of performance standards compliance. It would also support greater flexibility in terms of the timing of reviews, as well as providing certainty to stakeholders as to the maximum timeframe between reviews.

The Panel also notes that this rule change request has been informed by stakeholder comment on this subject matter as part of the Panel's public consultation process on the draft report for the recent review of the template.

The enclosed rule change request sets out a statement of the issues being addressed by the proposed rule, a description of the proposed rule, and our consideration of how the proposed rule promotes the national electricity objective. We have also included an explanation of the costs and benefits of the proposed rule.

Request for treatment as a non-controversial rule

The Panel considers the rule change request as a request for the making of a non-controversial rule and, therefore, requests the AEMC to consider the merits of expediting the request under section 96(1)(b) of the NEL.

Yours sincerely



Neville Henderson
Chairman, Reliability Panel

Reliability Panel

AEMC

RULE CHANGE PROPOSAL

Review frequency for the template for generator compliance programs

15 September 2015

AEMC Reliability Panel Members

Neville Henderson, Chairman and AEMC Commissioner

Trevor Armstrong, Chief Operating Officer, Ausgrid

Murray Chapman, Group Manager Market Policy Development, Australian Energy Market Operator

Stephen Davy, Chief Executive Officer, Hydro Tasmania

Royce DeSousa, General Manager Energy and Sustainability, Visy

Gavin Dufty, Manager Policy and Research, St Vincent de Paul Society, Victoria

Chris Murphy, Manager Regulatory and Commercial, Meridian Energy

Nick Sankey, Head of Utilities Energy and Renewables, Commonwealth Bank

Richard Wrightson, General Manager Energy Portfolio Management, AGL Energy

Merryn York, Chief Executive Officer, Powerlink

1. Introduction

This rule change request has been prepared by the Reliability Panel (Panel) regarding clause 8.8.3(ba) of the National Electricity Rules (NER), which requires the Panel to conduct a review of the template for generator compliance programs (template) at least every three years from the date the template is determined, and at such other times as the Australian Energy Market Commission (AEMC) may request.

2. The Reliability Panel

The Panel is a specialist panel established by the AEMC in accordance with section 38 of the National Electricity Law (NEL) and the NER. The Panel comprises industry and consumer representatives, as well as a representative of the Australian Energy Market Operator (AEMO). The Panel has specific responsibilities under the NER to set standards and guidelines and also in relation to monitoring, reviewing and reporting on the safety, security and reliability of the national electricity system. The Panel also undertakes reviews and advises the AEMC at its request.

3. Rule change request

3.1. Name and address of rule change proponent

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c/o Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235
panel@aemc.gov.au

3.2. Description of the proposed rule

Clause 8.8.1(a)(2b) of the NER requires the Panel to determine, and modify as necessary, and publish the template. Clauses 4.15(b) and (c) of the NER require registered participants to institute and maintain generator compliance programs for performance standards, which must be consistent with the template. Clause 8.8.3(ba) of the NER requires the Panel to conduct a review of the template at least every three years from the date the template is determined, and at such other times as the AEMC may request. Following such a review, the Panel may amend the template with any recommendations that it makes in a report that is submitted to the AEMC under clause 8.8.3(j) of the NER.

The proposed rule seeks to amend clause 8.8.3(ba) of the NER. That is, to amend the frequency for template reviews from, “at least every 3 years”, to, “at least every 5 years”, and at such other times as the AEMC may request.

3.3. Nature and scope of the issue concerning the existing Rules

The template is designed to assist registered participants who own or operate plant to which performance standards apply, generally generators, with developing and designing their compliance programs to meet the relevant performance standards. It is also intended to assist the Australian Energy Regulator with the enforcement and monitoring of the generators’ compliance with the technical requirements under the NER.

While the template may inform a registered participant’s overall compliance management framework, the Panel considers that it is the responsibility of each registered participant to develop its own suitable compliance program that is tailored to its business and plant to meet its specific compliance obligations, as required under the NER.

The Panel has conducted two reviews of the template since the template was first developed by the Panel in 2009, with only minor amendments being made to the template:

- In 2012, the Panel determined that the template should remain largely unchanged, with the exception of some minor amendments to improve its clarity and application.¹
- In 2015, the Panel determined to amend the template to improve its clarity and to reflect changes in generation technology, new monitoring technologies and changes in plant operational modes.²

As part of the Panel's public consultation process on the draft report for the 2015 template review, the Panel sought stakeholder comment on the frequency that the Panel undertakes reviews of the template. Specifically:

- "Should the template continue to be reviewed on the scheduled frequency of at least every three years, as per the NER requirement, or on an alternative frequency or after a specific trigger event?"³

In response, submitting stakeholders were of the view that scheduled three-yearly reviews of the template may not be required, and that the Panel should apply its judgement as to when a review is required.⁴

- The AER supported regular mandated reviews of the template to ensure that it is both relevant and up to date. However, it considered that the (three-yearly) timeframe could be extended, on condition that adequate provision is made for reviews to be undertaken on an 'as needs' basis (for example, upon major rule changes or new technology advancements) and/or through an application process for stakeholders.
- The Energy Supply Association of Australia (ESAA) and GDF Suez Australian Energy submitted that they have no objection to removing the NER requirement that the Panel must review the template every three years, and considered that the Panel could apply its judgement, supported by industry and AER feedback, as to when the template required review and update.

In its 2015 final report, the Panel noted that periodic reviews of the template help to maintain its consistency with the NER and reflect any changes to generation technologies, performance standards or compliance methods. The Panel added that periodic reviews, for example, may imply a frequency that is greater than "at least every 3 years", such as "at least every 5 years".⁵ Accordingly, the Panel concluded that it is appropriate for the Panel to develop and submit a rule change request to the AEMC, proposing to amend clause 8.8.3(ba) of the NER in order to extend the review frequency from, "at least every 3 years", to, "at least every 5 years", and at such other times as the AEMC may request.

3.4. How the proposed rule will address the issue

The Panel considers that amending clause 8.8.3(ba) of the NER such that the review frequency for the template is increased from, "at least every 3 years", to, "at least every 5 years", while retaining the existing provision allowing for the AEMC to request a review at such other times as it may

¹ Reliability Panel, Final Report, *Template for Generator Compliance Programs*, 27 June 2012.

² Reliability Panel, Final Report, *Template for Generator Compliance Programs Review 2015*, 18 June 2015, p.i.

³ Reliability Panel, Draft Report, *Template for Generator Compliance Programs Review 2015*, 26 March 2015, p.26.

⁴ Reliability Panel, Final Report, *Template for Generator Compliance Programs Review 2015*, 18 June 2015, p.32.

⁵ Reliability Panel, Final Report, *Template for Generator Compliance Programs Review 2015*, 18 June 2015, p.32.

request, would support greater flexibility in terms of the timing of reviews, as well as providing certainty to stakeholders as to the maximum timeframe between reviews.⁶

3.5. How the proposed rule will, or is likely to, contribute to the achievement of the national electricity objective

The national electricity objective (NEO) is set out in section 7 of the NEL and states:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interest 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 Panel considers the proposed rule will, or is likely to, contribute to the achievement of the NEO by promoting the efficient operation and use of electricity services for the long term interest of consumers of electricity, with respect to the reliability, safety and security of the national electricity system.

This is because potentially less frequent template reviews:

- are likely to reduce the administrative burden to stakeholders (such as registered participants, AEMO, AER and the Panel) with no reduction in registered participants’ regulatory obligations in respect of performance standards compliance under the NER; and
- facilitates greater flexibility in terms of the timing of reviews, as well as providing certainty to stakeholders as to the maximum timeframe between reviews, such that reviews can be conducted at more appropriate intervals (for example, following a material change to the NER, technology or performance standards).

Effective compliance with performance standards contributes to the delivery of reliable and secure electricity to customers in the National Electricity Market, which is in their long term interest.

3.6. Expected costs, benefits and potential impacts of the proposed rule

The proposed rule benefits stakeholders by allowing the Panel to adopt a more flexible approach in terms of the timing of template reviews, as well as providing certainty as to the maximum timeframe between reviews.

Stakeholders (such as registered participants, AEMO, AER and the Panel) are likely to experience reduced administrative costs related to participating in and conducting less frequency template reviews. For example, over a 10 year period, two reviews of the template are likely to be conducted instead of three, eliminating the administrative costs for one full (approximately) eight-month review process (for example, public consultation on, and preparation of, a Panel issues paper, draft report and final report, as well as conducting a public forum and stakeholder workshop).

The benefit of less frequent template reviews includes no reduction in registered participants’ regulatory obligations in respect of performance standards compliance under the NER, as well as providing certainty as to the maximum timeframe between reviews such that reviews can be conducted at more appropriate intervals.

In addition, under the proposed rule, which supports retention of the current wording, “and at such other times as the AEMC may request”, this allows for an earlier review of the template if

⁶ Reliability Panel, Final Report, *Template for Generator Compliance Programs Review 2015*, 18 June 2015, p.33.

necessary, for example, as a result of a material change to the NER, technology or performance standards. This enables the AEMC to request the Panel to conduct of review of the template on an 'as needs basis' and outside the scheduled timeframe.

The Panel does not consider the proposed rule imposes any costs on stakeholders or the market.

3.7. Request for consideration as non-controversial rule

The Panel considers the rule change request as a request for the making of a non-controversial rule and, therefore, requests the AEMC to consider the merits of expediting the rule change request under section 96(1)(b) of the NEL.

The proposed rule has the potential to reduce administrative costs, provides a flexible approach to conducting template reviews while maintaining certainty as to the maximum timeframe between reviews, and does not otherwise impact stakeholders or the market. The Panel also received supportive stakeholder feedback on this issue as part of the public consultation process undertaken on the draft report for the recently completed template review.

4. Proposed rule

The Panel proposes that clause 8.8.3(ba) of the NER be amended as follows:

“(ba) At least every ~~5~~³ years from the date the *template for generator compliance programs* is determined pursuant to clause 8.8.3(a) and at such other times as the *AEMC* may request, the *Reliability Panel* must conduct a review of the *template for generator compliance programs* in accordance with this clause 8.8.3. Following such a review, the *Reliability Panel* may amend the *template for generator compliance programs* in accordance with its report to the *AEMC* submitted under clause 8.8.3(j).”