



# RULE CHANGE

**Australian Energy Market Commission**

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## **CONSULTATION PAPER**

### **National Electricity Amendment (Payments under Feed-in Schemes and Climate Change Funds) Rule 2010**

**Rule Proponent**

ETSA Utilities

14 January 2010

This Consultation Paper has been prepared by the staff of the Australian Energy Market Commission (AEMC) to facilitate public consultation on the Rule change proposal and does not necessarily represent the views of the AEMC or any individual Commissioner of the AEMC.

Submissions due: 12 February 2010  
Reference: ERC0097

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## **Citation**

AEMC 2010, *Payments under Feed-in Schemes and Climate Change Funds*, Consultation Paper, 14 January 2010, Sydney

## **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 policy advice covering the National Electricity Market and elements of the natural gas markets. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council of Energy as requested, or on AEMC initiative.

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# 1 Introduction

On 7 October 2009 ETSA Utilities submitted a Rule change request to the Australian Energy Market Commission (Commission) in relation to payments made by distribution network service providers (DNSPs) under photovoltaic (PV) feed-in schemes and climate change funds established by jurisdictions. The Rule change proposes to introduce provisions to Chapter 6 of the National Electricity Rules (Rules) to provide an explicit mechanism for the recovery of payments under feed-in schemes and climate change funds.

This Consultation Paper has been prepared to facilitate public consultation on the Rule change request. This paper does not represent the views of the Commission or any individual Commissioner.

This paper:

- sets out a summary of, and background to, the Payments under Feed-in Schemes and Climate Change Funds Rule change proposed by ETSA Utilities;
- identifies a number of questions and issues to facilitate the consultation on this Rule change request; and
- outlines the process for making submissions.

# 2 Background

A number of jurisdictions have introduced, or are in the process of, introducing PV feed-in schemes where end-use customers with distributed renewable generation installations would be paid for electricity that the installations generate or is deemed to be “fed back” into the network. In addition, NSW has in place a Climate Change Fund which is a fund providing financial support for households, businesses and communities to assist with initiatives for saving energy and water and reducing greenhouse gas emissions.

Although there may be variations between the schemes and funds, the relevant legislation may require DNSPs to take action to implement the schemes and/or make payments under the schemes. ETSA Utilities’ Rule change request noted that “DNSPs are both the ultimate vehicle through which payments are made to customers for the gross or net energy they produce or to the fund for climate change abatement initiatives and, by levying incremental charges, the means by which these payments can be recovered from the general population of customers”.<sup>1</sup>

Currently, the recovery of the payments made under feed-in tariffs is through DNSPs forecasting the payments in their regulatory proposals as a component part of forecast operating expenditure. Subject to a materiality threshold set out in the distribution revenue determination, any over/under balance would then be resolved

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<sup>1</sup> ETSA Utilities Rule change request, p. 1.

through a cost pass-through event.<sup>2</sup> The proposed Rule change would introduce an explicit new process for the recovery of the payments under feed-in schemes and climate change funds.<sup>3</sup>

### 3 Details of the Rule Change Request

The Rule change request from ETSA Utilities proposes to:

- add provisions to Chapter 6 of the Rules to set out a new mechanism for the recovery of payments under feed-in schemes and climate change funds. This new mechanism would provide that a DNSP's pricing proposal would include the payments under such schemes to be made to customers; and
- make consequential amendments to a number of other Rules in Chapter 6 and Chapter 10.

In its Rule change request, ETSA Utilities provides its rationale for the Rule change. A number of key points raised in the Rule change request are summarised as follows:<sup>4</sup>

- the current method for dealing with payments under feed-in schemes is not efficient as the Chapter 6 revenue rules are designed to ensure DNSPs engage in efficient costing and pricing, while payments made by DNSPs under feed-in schemes and climate funds are set by regulation;
- the proposed change would decrease the administrative costs and regulatory burden on DNSPs and the AER;
- the proposed change would maximise the transparency of operation of the recovery of these payments;
- the proposed change would not change the quantum or incidence of the payments under the schemes (as the amounts would be set by regulation); and
- the proposed change would not impact any other NEM participants nor end-use customers.

ETSA Utilities Rule change request includes a proposed Rule.<sup>5</sup>

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<sup>2</sup> This reflects the cost recovery method for payments to be made by ActewAGL under the ACT feed-in scheme set out for ActewAGL in its revenue determination for the regulatory control period 2009-2010 to 2013-2014. The draft revenue determination for ETSA Utilities' published in November 2009 also has similar provisions.

<sup>3</sup> It is noted that currently a Climate Change Fund is in place in NSW and the recovery of contributions to this fund made by DNSPs in the 2009-2014 regulatory control period is set out in the "transitional Chapter 6 provisions" in Chapter 11 of the Rules.

<sup>4</sup> ETSA Utilities Rule change request, pp. 7-8.

<sup>5</sup> ETSA Utilities' Rule change request is published on the AEMC website [www.aemc.gov.au](http://www.aemc.gov.au).

## 4 Assessment Framework

The Commission's 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 (NEL). The assessment is proposed to include evaluating and comparing the current arrangements under the Rules for dealing with the recovery of payments made by DNSPs under feed-in schemes and climate change funds with the proposed Rule. The comparison of the current arrangements under the Rules with the proposed Rule will consider:

- Administrative efficiency and cost – the efficiency of the treatment of the recovery of payments under feed-in schemes and climate change funds;
- Allocation of risks between businesses and end-use customers – if DNSPs have no direct control over the payment amounts (as the amounts are set by regulation and determined by factors outside the control of DNSPs), how are risks of forecasting errors allocated between businesses and end-use customers;
- Impact on current and future customers – under the current provisions, if the forecast operating costs for payments under these schemes fall below actual payments, an adjustment would need to be made to recover the additional costs at a future time. In this case, would current consumers subsidise future customers (and vice versa). Does the proposed change materially alter this impact and provide a method that would more appropriately recover costs across current and future customers.

We will also assess whether the proposed Rule, compared with the current arrangements, would better meet the objectives and principles of the regulatory framework under Chapter 6 of the Rules including:

- Achieving a balance between the interests of DNSPs and end-use customers;
- Providing transparent and timely regulatory processes; and
- Increasing regulatory certainty and reducing the administrative burden on DNSPs and the AER.

## 5 Issues for Consultation

Taking into consideration to the assessment framework and potential requirements to implement the proposed Rule change, we have identified a number of issues for consultation that appear to be relevant to this Rule change request.

These issues outlined below are provided for guidance. Stakeholders are encouraged to comment on these issues as well as any other aspect of the Rule change request or this paper including the proposed assessment framework.

### 5.1 Administrative requirements

The administrative requirements of the AER and DNSPs are relevant to this Rule change request.

- How, and to what extent, does the current treatment for the recovery of payments under feed-in schemes and climate change funds under the Rules create an administrative burden for DNSPs and/or the AER?
- How, and to what extent, would the proposed Rule change amend the administrative processes for these types of costs, from the perspectives of DNSPs, the AER and other stakeholders?

## **5.2 Allocation of risks & customer impact**

As outlined above, under the current arrangements DNSPs would forecast the costs for payments under feed-in schemes as a component of operating expenditure. How this provision impacts DNSPs and customers, and how risks are allocated across each party are relevant to this Rule change request.

- What factors are taken into account by DNSPs in preparing forecasts of payments under feed-in schemes and climate change funds as a component of operating expenditure?
- What considerations or safeguards may be taken into account by DNSPs to minimise any errors in the forecast values? That is, what actions are taken by DNSPs to minimise any potential risks from forecasting errors?
- Where the actual operating expenditure differs from the forecast values, what actions would DNSPs take? That is, how would the nominated pass-through provisions function in practice and how are recovery of payments affected year-on-year?

## **5.3 Savings and transitional requirements**

Given the timetable for the Rule change process under the NEL, it is unlikely that the Rule change will be completed prior to the AER making its final revenue determination for ETSA Utilities for its next regulatory control period starting on 1 July 2010. To allow any new provisions to be capable of practical application for ETSA Utilities before its next regulatory reset, should the Commission make a Rule it is likely to consider and develop savings and transitional provisions.

- What factors should be taken into account in developing savings and transitional provisions to enable efficient potential application to all DNSPs recognising that each DNSP is at a different point in the regulatory cycle?

## **5.4 Jurisdictional requirements**

The proposed Rule would potentially apply to feed-in schemes and climate change funds that are yet to come into effect.

- Whether, and if so how, to constrain the potential scope of schemes that may use the proposed cost recovery mechanism?

- Should the Rules include a set of criteria that a scheme would need to meet in order to use the proposed cost recovery mechanism? If so, what should be included in the criteria?

## **6 Lodging a Submission**

The Commission has published a notice under section 95 of the NEL for this Rule change proposal inviting written submissions. Submissions are to be lodged online or by mail by **5pm, 12 February 2010** in accordance with the following requirements.

Where practicable, submissions should be prepared in accordance with the Commission's Guidelines for making written submissions on Rule change proposals.<sup>6</sup> The Commission publishes all submissions on its website subject to a claim of confidentiality.

All enquiries on this project should be addressed to Anita Lai on (02) 8296 7800.

### **6.1 Lodging a submission electronically**

Electronic submissions 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 "ERC0097". The submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

Upon receipt of the electronic 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 submission has been delivered successfully.

### **6.2 Lodging a submission by mail**

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

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

Or by Fax to (02) 8296 7899.

The envelope must be clearly marked with the project reference code: ERC0097.

Except in circumstances where the submission has been received electronically, upon receipt of the hardcopy submission the Commission will issue a confirmation letter.

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<sup>6</sup> This guideline is available on the Commission's website.

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.