



**Australian Energy Market Commission**

---

## **RULE DETERMINATION**

**National Electricity Amendment (AEMO access to demand forecasting information) Rule 2015**

**Rule proponent**  
COAG Energy Council

22 October 2015

**RULE  
CHANGE**

## **Inquiries**

Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

E: [aemc@aemc.gov.au](mailto:aemc@aemc.gov.au)

T: (02) 8296 7800

F: (02) 8296 7899

Reference: ERC0184

## **Citation**

AEMC 2015, AEMO access to demand forecasting information, Rule determination, 22 October 2015, 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.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

## Summary

The Australian Energy Market Commission has made a rule that explicitly allows the Australian Energy Market Operator (AEMO) to prepare demand forecasts at the connection point and regional level<sup>1</sup> as part of its National Transmission Planner functions.

The rule, which is a more preferable rule, is the result of a rule change request from the COAG Energy Council.

There is currently some doubt that AEMO can compel persons to provide connection point data and information to enable it to improve its demand forecasts.

As proposed by the COAG Energy Council, the rule explicitly recognises demand forecasting at the connection point and regional level as a National Transmission Planner function in the National Electricity Rules (NER). As a result, there is no doubt that AEMO can compel persons to provide the relevant information using its information gathering powers in the National Electricity Law, namely market information orders and market information notices.

By putting it beyond doubt that AEMO has access to connection point data, the rule has the potential to improve AEMO's long term electricity demand forecasts as it will enable it to develop a better understanding of the increased diversity of activities occurring within distribution networks.

These potential improvements to AEMO's long term demand forecasts may lead to a more informed view of future transmission network planning needs in the national electricity market by AEMO and potentially more efficient investment and operation of electricity services by network service providers and other energy market stakeholders such as generators and customers, to the extent that they use the forecasts. Improved demand forecasts may also lead to more informed revenue determinations by the Australian Energy Regulator (AER) which may make use of the forecasts. Ultimately, these potential outcomes may result in prices for electricity consumers being lower than what they would have been.

Given that connection point information will also inform AEMO's regional level forecasts, the rule also recognises demand forecasting at the regional level as a National Transmission Planner function for AEMO. This is consistent with the proposed rule.

In addition to expressly allowing AEMO to develop connection point and regional demand forecasts, the rule also requires AEMO to publish any forecasts it prepares and a sufficient amount of information used to develop the forecasts to enable an

---

<sup>1</sup> Regional level forecasting refers to forecasting which is effectively undertaken at a state level, there being five regions currently in the National Electricity Market: Queensland, New South Wales including the ACT, Victoria, Tasmania and South Australia. Forecasting at the connection point level is undertaken at a greater level of granularity within a region's transmission network.

understanding of how the forecasts were prepared, subject to any confidentiality of the information. This information must be included in the National Transmission Network Development Plan database.

Publication of the information on which the forecasts are based will provide greater transparency as to how the forecasts were calculated which may provide greater confidence in the demand forecasts. This, in turn, may make it more likely that the more preferable rule will lead to better investment in and operation of electricity services by network service providers and other energy market stakeholders. It may also give these stakeholders access to new information and enable them to develop their own forecasts should they wish to do so.

This aspect of the rule was not included in the proposed rule but has been included in response to stakeholder comments on the rule change request. To give AEMO time to develop the capacity to fulfil this obligation, this aspect of the final rule does not take effect until 1 July 2017.

The rule is also different to the proposed rule in that it does not include specific provisions regarding the exchange of information and consultation between the AER and AEMO in relation to the forecasts as the National Electricity Law sufficiently addresses such issues. Nor did the Commission consider it necessary to supplement AEMO's information gathering powers in the National Electricity Law with an obligation in the NER for network service providers to provide assistance to AEMO.

Stakeholders were generally supportive of the rule change request during consultation.

The rule will commence immediately, on 22 October 2015.

# Contents

<b>1</b>	<b>The COAG Energy Council's rule change request .....</b>	<b>1</b>
1.1	The rule change request .....	1
1.2	Current arrangements .....	1
1.3	Reasons for the rule change request .....	2
1.4	Solution proposed in the rule change request.....	3
1.5	The rule making process .....	4
<b>2</b>	<b>Final rule determination.....</b>	<b>5</b>
2.1	Rule making test.....	5
2.2	Assessment framework .....	6
2.3	Summary of reasons .....	6
2.4	Strategic priority.....	8
<b>3</b>	<b>Is there a problem?.....</b>	<b>9</b>
3.1	Will connection point forecasts prepared by AEMO be useful? .....	9
3.2	Is AEMO the appropriate body to collect the information and prepare the forecasts? .....	11
3.3	Can AEMO already collect connection point information and data under the NER?13	
<b>4</b>	<b>What level of forecasting should AEMO be able to undertake? .....</b>	<b>15</b>
4.1	The COAG Energy Council's view .....	15
4.2	Stakeholder views.....	15
4.3	Analysis and conclusions.....	16
<b>5</b>	<b>Should the demand forecasts and the information used to develop the forecasts be published?.....</b>	<b>18</b>
5.1	The COAG Energy Council's view .....	18
5.2	Stakeholder views.....	18
5.3	Analysis and conclusions.....	19
<b>6</b>	<b>AEMO coordination with the AER.....</b>	<b>22</b>
6.1	The COAG Energy Council's view .....	22
6.2	Stakeholder views.....	22

6.3	Analysis and conclusions.....	23
<b>7</b>	<b>Providing assistance to AEMO.....</b>	<b>24</b>
7.1	The COAG Energy Council's view .....	24
7.2	Stakeholder views.....	24
7.3	Analysis and conclusions.....	25
	<b>Abbreviations.....</b>	<b>27</b>
<b>A</b>	<b>AEMO's information gathering powers in the NEL.....</b>	<b>28</b>
<b>B</b>	<b>Summary of other issues raised in submissions.....</b>	<b>29</b>
<b>C</b>	<b>Legal requirements under the NEL .....</b>	<b>30</b>
C.1	Final rule determination .....	30
C.2	Power to make the rule .....	30
C.3	Commission's considerations .....	30
C.4	Civil penalties.....	31

# 1 The COAG Energy Council's rule change request

## 1.1 The rule change request

On 2 February 2015, the COAG Energy Council made a request to the Australian Energy Market Commission (AEMC or Commission) to make a rule regarding the Australian Energy Market Operator's (AEMO's) access to demand forecasting information (rule change request).

## 1.2 Current arrangements

For some time, AEMO has developed long term forecasts of demand at the regional level.<sup>2</sup> AEMO currently forecasts demand for each National Electricity Market (NEM) region over a 20 year period. It publishes these forecasts annually in its national electricity forecasting report.<sup>3</sup>

These regional level forecasts inform the National Transmission Network Development Plan (NTNDP) which provides AEMO's view of the efficient development of the transmission network in the NEM for the next 20 years. The development of the NTNDP is a National Transmission Planner (NTP) function for AEMO under the National Electricity Law (NEL).<sup>4</sup>

The forecasts also inform AEMO's electricity statement of opportunities which provides AEMO's assessment of supply adequacy in the NEM for the next 10 years. AEMO is required to prepare this report under the National Electricity Rules (NER).<sup>5</sup>

The regional level demand forecasts are developed using a "top down" econometric process. This involves taking historical levels of regional demand and projecting them forward using assumptions including on gross state product, specific expansions or contractions to major industrial loads, energy efficiency improvements and the uptake of emerging technologies such as solar panels. AEMO currently has access to a reasonably detailed level of information for developing regional demand forecasts through its market operator role.

More recently AEMO has begun to publish transmission connection point demand forecasts for each region in the NEM. These "bottom up" forecasts make use of historical and forecast demand information at transmission connection points and on the distribution network. AEMO is currently receiving much of the information required to prepare these forecasts from network service providers (NSPs).

---

<sup>2</sup> Regional level forecasting refers to forecasting which is effectively undertaken at a state level, there being five regions currently in the National Electricity Market: Queensland, New South Wales including the ACT, Victoria, Tasmania and South Australia.

<sup>3</sup> AEMO website, [www.aemo.com.au](http://www.aemo.com.au), viewed 29 September 2015.

<sup>4</sup> s. 49(2)(a) of the NEL.

<sup>5</sup> NER clause 3.13.3(q).

AEMO has now published transmission connection point forecasts for all NEM regions.<sup>6</sup> AEMO states that it will update these transmission connection point demand forecasts annually.<sup>7</sup>

The transmission connection point forecasts have been prepared by AEMO as a result of the 2012 COAG endorsed energy reform package. As part of this package, the then Standing Council on Energy and Resources (SCER) requested AEMO to provide demand forecasts to the Australian Energy Regulator (AER) to enhance the AER's ability to assess demand forecasts submitted by NSPs as part of their regulatory proposals.<sup>8</sup> For similar reasons, the AEMC also recommended that AEMO produce transmission connection point demand forecasts for each region in the NEM in its transmission frameworks review final report in April 2013.<sup>9</sup>

As part of the 2012 reform package, the then SCER was also tasked with preparing a rule change request should AEMO not have access to the information required to prepare the connection point forecasts.<sup>10</sup> The result of this work is the current rule change request.

Related to this rule change request, the AEMC has recently completed an assessment of a rule change request aimed at improving demand side participation information provided to AEMO by registered participants.<sup>11</sup> The resulting final rule provides a process by which AEMO may obtain information on demand side participation from registered participants in the NEM.<sup>12</sup> The rule commenced on 26 March 2015. AEMO must develop and publish the guidelines by no later than 26 September 2016.<sup>13</sup>

### 1.3 Reasons for the rule change request

The COAG Energy Council submitted that AEMO may not be able to compel persons to provide connection point data and information such that it can improve its demand forecasts.

It suggested that increased access to connection point information will enable AEMO to improve its long term demand forecasts which:

- will be used as an input into the NTNDP and inform other planning reports prepared by AEMO such as the electricity statement of opportunities;

---

<sup>6</sup> In June 2015 AEMO published transmission connection point forecasts for Queensland. This completed the first set of transmission connection point forecasts for each region in the NEM.

<sup>7</sup> AEMO website, [www.aemo.com.au](http://www.aemo.com.au), viewed 29 September 2015.

<sup>8</sup> SCER, *COAG Energy Market Reform - Implementation Plan*, 7 December 2012, pp10-11.

<sup>9</sup> AEMC, *Transmission Frameworks Review Final Report*, 11 April 2013, pp145-146.

<sup>10</sup> SCER, *COAG Energy Market Reform - Implementation Plan*, 7 December 2012, pp10-11.

<sup>11</sup> AEMC, *Improving demand side participation information provided to AEMO by registered participants*, Final rule determination, 26 March 2015.

<sup>12</sup> *ibid.* pi.

<sup>13</sup> *ibid.*

- will help inform transmission network service providers' (TNSPs') investment decisions and enhance the ability of market participants more generally to identify and respond to investment issues; and
- may assist the AER to assess NSPs' regulatory proposals as part of their revenue determination processes.<sup>14</sup>

In addition, it considered that AEMO's increased access to data will raise market participant confidence in the accuracy of AEMO's forecasts and planning reports.<sup>15</sup>

#### 1.4 Solution proposed in the rule change request

The COAG Energy Council sought to resolve the issue discussed above by proposing a rule to expressly recognise demand forecasting at the connection point and regional level as a NTP function for AEMO.<sup>16</sup>

As a consequence of this proposed change, the COAG Energy Council submitted that it would be clear that AEMO would be able to use its existing information gathering powers in the NEL to compel persons to provide the information it requires to develop these demand forecasts.<sup>1718</sup>

These information gathering powers are in the form of market information orders and market information notices which are similar to regulatory information orders and regulatory information notices that the AER can use to collect information for the purpose of its functions.<sup>19</sup> More information on AEMO's information gathering powers under the NEL is provided in Appendix A.

The COAG Energy Council's rule change request included a proposed rule.<sup>20</sup>

In addition to expressly recognising demand forecasting at the connection point and regional level as an NTP function for AEMO, the proposed rule:

- clarified that AEMO may consult with the AER in developing the forecasts;
- required the demand forecasts to be included in the NTNDP database<sup>21</sup>; and

---

<sup>14</sup> COAG Energy Council's rule change request, 30 January 2015, p5.

<sup>15</sup> *ibid.* p8.

<sup>16</sup> COAG Energy Council's rule change request, 30 January 2015, p3.

<sup>17</sup> The NEL provides that AEMO can issue a market information instrument requesting information from a person or a class of persons if it considers it reasonably necessary to do so for the exercise of a relevant function, which includes the NTP functions set out in s. 49(2) of the NEL.

<sup>18</sup> COAG Energy Council's rule change request, 30 January 2015.

<sup>19</sup> The AER's general information gathering powers in the NEL are set out in Part 3 Division 3.

<sup>20</sup> COAG Energy Council's rule change request, 30 January 2015, p6.

<sup>21</sup> Clause 5.20.4 of the NER requires AEMO to establish and maintain this database and make it available to the public.

- required AEMO to provide the demand forecasts to the AER upon the AER's request.<sup>22</sup>

The proposed rule also amended clause 5.20.5 of the NER to require NSPs to provide assistance that AEMO reasonably requests in connection with the performance of its NTP functions.<sup>23</sup> Currently this clause only places an obligation on jurisdictional planning bodies to provide assistance to AEMO.<sup>24</sup>

Finally, the proposed rule included a minor drafting amendment in the heading to clause 5.20.1 of the NER.<sup>25</sup>

## 1.5 The rule making process

On 7 May 2015, the Commission published a notice advising of its commencement of the rule making process and the first round of consultation in respect of the rule change request.<sup>26</sup> A consultation paper identifying specific issues and questions for consultation was published with the notice. Submissions closed on 4 June 2015. Seven submissions were received.

On 30 July 2015, the Commission published a draft rule determination in relation to the rule change request. The draft rule determination included a more preferable draft rule. Submissions on the draft rule determination and draft rule closed on 10 September 2015. A total of five submissions were received.

Submissions are available on the AEMC website.<sup>27</sup> Issues raised in submissions and the Commission's response to these are generally set out in Chapters 3 to 7 of this final rule determination. The remaining issues raised in submissions are dealt with in Appendix B.

---

22 *ibid.* pp6-8.

23 *ibid.* pp6-7.

24 A jurisdictional planning body is defined in the NEL as "the entity nominated by the relevant Minister of a participating jurisdiction as having *transmission system* planning responsibility in that participating jurisdiction." According to AEMO's website the jurisdictional planning bodies are the TNSPs in each state except in Victoria where it is AEMO.

25 COAG Energy Council's rule change request, 30 January 2015, p6.

26 This notice was published under s. 95 of the National Electricity Law (NEL).

27 [www.aemc.gov.au](http://www.aemc.gov.au)

## 2 Final rule determination

The Commission's final rule determination is to make a more preferable rule.

The more preferable rule explicitly provides that AEMO may develop demand forecasts at the connection point and regional level as a NTP function.

It also requires AEMO to publish in the NTNDP database any such forecasts it prepares and a sufficient amount of information used to prepare the forecasts to enable an understanding of how the forecasts were developed.<sup>28</sup>

As a consequence, it will be clear that AEMO can use its information gathering powers in the NEL, market information orders and market information notices, to compel persons to provide the information it needs to develop these forecasts.

AEMO must publish the information on which any forecasts are based at the same time, or as soon as practical after, it publishes the forecasts. This aspect of the final rule does not take effect until 1 July 2017.

The more preferable rule made by the Commission is attached to and published with this final rule determination. It will commence immediately, on 22 October 2015.

This chapter outlines:

- the Commission's rule making test for changes to the NER;
- the Commission's assessment framework for considering the rule change request; and
- the Commission's consideration of the more preferable rule against the national electricity objective (NEO).

Further information on the legal requirements for making this final rule determination is set out in Appendix C.

### 2.1 Rule making test

Under 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). This is the decision making framework that the Commission must apply.

The NEO 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:

---

<sup>28</sup> AEMO must treat any confidential information it receives in accordance with the NEL.

- (a) price, quality, safety, reliability and security of supply of electricity;  
and
- (b) the reliability, safety and security of the national electricity system.”

## 2.2 Assessment framework

The most relevant aspect of the NEO for the purpose of this rule change request is the efficient investment in, and operation of, electricity services, in particular the transmission networks in the NEM.

To determine whether the proposed rule, if made, is likely to promote the NEO the following issues were considered:

- **Potential for better informed investment and operational decisions.** Whether improving AEMO's demand forecasts may lead to improved planning forecasts by AEMO. To the extent they make use of the forecasts, whether energy market stakeholders can make more efficient investment and operational decisions.<sup>29</sup>

Whether giving the AER access to an improved set of forecasts of demand that are independent of the NSPs will lead to more informed revenue determinations by the AER.

- **Potential regulatory and administrative burden.** The potential regulatory and/or administrative burden on NSPs and AEMO that may arise if the proposed rule is implemented.

The proposed rule was assessed against the relevant counterfactual of not making the proposed change to the NER. That is, against the current situation where there is no explicit provision in the NER allowing AEMO to develop forecasts of demand at the connection point or (regional) state level as part of its NTP functions.

## 2.3 Summary of reasons

Having regard to the issues raised in the rule change request, the Commission is satisfied that the more preferable rule will, or is likely to, contribute to the achievement of the NEO for the following reasons:

- There is some doubt that AEMO can collect data and information at the connection point level to inform the development of its demand forecasts.
- Giving AEMO access to connection point data and information will allow AEMO to better understand the increased diversity of activities occurring within distribution networks which may allow AEMO to develop improved demand forecasts.

---

<sup>29</sup> In this context, other energy market stakeholders may include market participants, consumers and network service providers.

- Improvements to AEMO's long term demand forecasts may lead to improved transmission network planning forecasts by AEMO and potentially more efficient investment and operation of electricity services by network service providers and other energy market stakeholders such as generators and customers, to the extent that they use the forecasts. Improved demand forecasts may also lead to more informed revenue determinations by the Australian Energy Regulator (AER) which may make use of the forecasts. Ultimately, these potential outcomes may result in prices for electricity consumers being lower than what they would have been.
- It is appropriate that AEMO develops the demand forecasts given that they inform its NTNDP. NSPs and the AER can continue to develop their own forecasts.
- As NSPs are currently providing AEMO with connection point information there is not expected to be a significant increase in administrative burden associated with explicitly allowing AEMO to prepare these forecasts as an NTP function.
- As connection point demand forecasts, developed from the "bottom up", will inform and help improve AEMO's regional level forecasts, developed from the "top down", the NER should also explicitly identify the preparation of regional level demand forecasts as an NTP function for AEMO. The regional level forecasts will also inform the connection point level forecasts.

The Commission is also satisfied that the more preferable rule will, or is likely to, better contribute to the NEO, compared to the proposed rule, because:

- Requiring AEMO to publish sufficient information used to prepare the demand forecasts to enable an understanding of how the forecasts were developed will provide transparency as to how AEMO calculates its demand forecasts.<sup>30</sup> This may provide greater confidence in AEMO's demand forecasts which, in turn may make it more likely that the more preferable rule will lead to better investment and operation of electricity services by NSPs and other energy market stakeholders. It may also give NSPs and other energy market stakeholders access to new information and enable them to develop their own forecasts should they wish to do so.
- No explicit provisions in the NER are necessary to enable AEMO to consult with the AER about the development of the forecasts or to require AEMO to provide the forecasts to the AER upon the AER's request.
- Similarly, it is not necessary to supplement AEMO's information gathering powers in the NEL with an obligation in the NER for network service providers to provide assistance to AEMO.

---

<sup>30</sup> To give AEMO time to develop the capacity, the requirement for AEMO to publish the information on which the forecasts are based does not take effect until 1 July 2017.

## **2.4 Strategic priority**

This rule change request relates to the AEMC's strategic priority relating to market arrangements that encourage efficient investment and flexibility. This is because explicitly allowing AEMO to develop demand forecasts at the connection point and regional level as a NTP function may impact on efficient investment in electricity networks in the NEM, particularly transmission networks.

### 3 Is there a problem?

This chapter considers:

- whether connection point demand forecasts prepared by AEMO will be useful;
- whether AEMO is the appropriate body to collect the information and prepare the forecasts; and
- whether AEMO can already collect connection point information under the NER.

#### 3.1 Will connection point forecasts prepared by AEMO be useful?

##### 3.1.1 The COAG Energy Council's view

The COAG Energy Council submitted that the demand forecasts that AEMO may prepare if the proposed rule were to be made:

- would be used as an input into the NTNDP and inform other planning reports prepared by AEMO such as the electricity statement of opportunities;
- would enhance the ability of the market more generally to identify and respond to investment issues; and
- may assist the AER to assess NSPs' regulatory proposals as part of their revenue determination processes.<sup>31</sup>

It considered that giving AEMO increased access to data will raise market participant confidence in the accuracy of AEMO's forecasts and planning reports.<sup>32</sup>

The COAG Energy Council identified some costs that may be incurred as a result of allowing AEMO to collect connection point data and information, in particular costs to NSPs in providing information to AEMO.<sup>33</sup>

##### 3.1.2 Stakeholder views

###### First round of consultation

Where commented, most stakeholders considered that giving AEMO access to information to develop connection point forecasts would enable AEMO to prepare improved planning forecasts for the NTNDP.<sup>34</sup> However, GDF Suez considered it was

---

<sup>31</sup> The COAG Energy Council's rule change request, 30 January 2015, p5.

<sup>32</sup> *ibid.* p8.

<sup>33</sup> *ibid.* pp8-9.

<sup>34</sup> Submissions to consultation paper: AEMO, 4 June 2015, p2; AER, 15 June 2015, p1; ENA, 4 June 2015, pp1,3.

not clear that AEMO would require demand forecasts to the connection point level to enable it to prepare the NTNDP.<sup>35</sup>

The AER considered that connection point forecasts developed by AEMO to date have already helped produce better forecasts of capital expenditure requirements and, in turn, better informed investment decisions by NSPs.<sup>36</sup> On the other hand, the Energy Networks Association (ENA) queried the ability of AEMO's connection point forecasts to improve TNSPs' investment decisions noting the long lead times in planning investment.<sup>37</sup> Similarly, GDF Suez considered it was not clear that TNSPs would be better informed by connection point demand forecasts prepared by AEMO as they already have access to connection point information within their region of responsibility.<sup>38</sup> However, it considered there may be some benefit for market participants that do not already have access to such data.<sup>39</sup>

In relation to the demand forecasts being used by the AER, the AER submitted that connection point demand forecasts developed by AEMO will assist the AER in assessing regulatory proposals from NSPs which it considers will also lead to more robust revenue determinations.<sup>40</sup> The ENA also supported the demand forecasts being available to the AER for the purpose of assessing NSPs' regulatory proposals.<sup>41</sup> GDF Suez considered it was not clear that connection point demand forecasts would assist the AER given that the AER can already request the relevant data and information from NSPs.<sup>42</sup>

## **Second round of consultation**

Ergon and Grid Australia considered the draft rule may improve the ability of AEMO to perform its demand forecasting role which may enable better informed transmission investment decisions.<sup>43</sup> No other stakeholders commented on this issue in response to the draft rule determination.

### **3.1.3 Analysis and conclusion**

Allowing AEMO to prepare connection point forecasts will give AEMO access to connection point data and information that will allow AEMO to better understand the activities occurring within distribution networks. This includes the increasing amount

---

35 GDF Suez submission to consultation paper, 4 June 2015, p2.

36 AER submission to consultation paper, 15 June 2015, p1.

37 ENA submission to consultation paper, 4 June 2015, p3.

38 GDF Suez submission to consultation paper, 4 June 2015, p2.

39 *ibid.* p3.

40 AER submission to consultation paper, 15 June 2015, p2.

41 ENA submission to consultation paper, 4 June 2015.

42 GDF Suez submission to consultation paper, 4 June 2015, p2.

43 Ergon submission to draft rule determination, 10 September 2015, p1; Grid Australia submission to draft rule determination, 10 September 2015, p1.

of embedded generation and the potential impact of emerging technologies such as storage.

A better understanding of the activities occurring within distribution networks may better inform AEMO's demand forecasts and in turn, AEMO's view of future transmission planning needs in the NEM. A more informed view of future planning needs by AEMO in the NTNDP may lead to more efficient investment and operational decisions by NSPs and other energy market stakeholders, in particular TNSPs.

NSPs and other energy market stakeholders may also use the demand forecasts to inform their planning and operational and investment decisions. In support of this view, the AER noted that TasNetworks used AEMO's forecasts to identify connection points that did not require augmentation in its most recent transmission revenue determination.<sup>44</sup>

In addition, the demand forecasts may be used by the AER to assess NSP forecasts in their regulatory proposals. The AER submitted that it was able to confirm the validity of forecasts submitted by distribution network service providers (DNSPs) in New South Wales and Queensland, by reconciling with AEMO's forecasts.<sup>45</sup> Therefore, having access to an improved independent set of demand forecasts may enable the AER to make more informed revenue determinations.

Ultimately, these potential outcomes may result in prices for electricity consumers being lower than what they would have been.

As AEMO is already preparing connection point demand forecasts and NSPs are providing the information to support these, there is not expected to be a significant increase in administrative burden associated with explicitly allowing AEMO to prepare connection point forecasts as an NTP function.

### **3.2 Is AEMO the appropriate body to collect the information and prepare the forecasts?**

#### **3.2.1 The COAG Energy Council's view**

The COAG Energy Council considered it appropriate that AEMO collects the information and prepares connection point demand forecasts.<sup>46</sup> It recognised that under the current arrangements the AER occasionally seeks independent forecasts during the revenue determination processes.<sup>47</sup>

---

<sup>44</sup> AER submission to consultation paper, 15 June 2015, pp1-2.

<sup>45</sup> *ibid.* pp1-2.

<sup>46</sup> COAG Energy Council's rule change request, 30 January 2015.

<sup>47</sup> COAG Energy Council's rule change request, 30 January 2015, p10.

### **3.2.2 Stakeholder views**

#### **First round of consultation**

Where commented, most stakeholders considered it appropriate for AEMO to develop connection point forecasts.<sup>48</sup> However, Energy Australia was concerned that the proposed rule could result in duplication of roles given that NSPs may also develop their own connection point demand forecasts.<sup>49</sup>

#### **Second round of consultation**

No stakeholders commented on the issue of whether AEMO is the appropriate body to collect the information and prepare the forecasts in response to the draft rule determination.

### **3.2.3 Analysis and conclusion**

It is appropriate that AEMO collect connection point data and information and prepare any forecasts that result from this. As discussed in section 3.1, AEMO may use this information to improve its demand forecasts which it uses to prepare the NTNDP.

In addition, the collection of connection point information and preparation of any connection point forecasts complements AEMO's development of regional forecasts which it has prepared for some time. This is because the regional, top down, forecasts and connection point, bottom up forecasts, inform one another.

The Commission recognises that NSPs may develop connection point forecasts for the purpose of developing their annual planning reports as noted by Energy Australia. However, allowing AEMO to develop these forecasts enables consistency of approach to developing the forecasts across the NEM which may lead to more efficient planning decisions. In addition, allowing AEMO to develop these forecasts will give the AER access to a set of connection point forecasts that is independent from the NSPs.

It should be noted that the more preferable rule would not prevent the AER from seeking independent demand forecasts from other sources for the purpose of regulatory determination processes should it wish to do so.

---

<sup>48</sup> Submissions to consultation paper: AER, 15 June 2015, pp3-4; ENA, 4 June 2015, pp3-4; GDF Suez, 4 June 2015, p3.

<sup>49</sup> Energy Australia submission to consultation paper, 4 June 2015, p1.

### **3.3 Can AEMO already collect connection point information and data under the NER?**

#### **3.3.1 The COAG Energy Council's view**

As set out in section 1.3, the COAG Energy Council submitted that AEMO may not currently have access to detailed connection point data and information so that it can improve its demand forecasts.

#### **3.3.2 Stakeholder views**

##### **First round of consultation**

Where commented, most stakeholders considered there was some doubt that AEMO can compel persons to provide connection point data and information and that this should be put beyond doubt in the NER.<sup>50</sup> In contrast, GDF Suez considered it was not clear that AEMO needs additional powers to prepare connection point forecasts noting that AEMO has already commenced publication of forecast connection point information.<sup>51</sup>

##### **Second round of consultation**

Energex and the ENA supported the draft rule on the basis that it will put beyond doubt that AEMO can develop demand forecasts and compel persons to provide the relevant information to prepare these.<sup>52</sup>

#### **3.3.3 Analysis and conclusion**

The development of the NTNDP and the associated NTNDP database are NTP functions in the NEL. This allows AEMO to collect information relevant to these functions using its information gathering powers in the NEL.

However, as indicated in stakeholder submissions there is currently some doubt that AEMO can compel persons to provide connection point data and information to improve its demand forecasts.

This uncertainty arises as a result of AEMO being able to only issue a market information order or market information notice if it considers it is reasonably necessary to do so for the exercise of a relevant function.<sup>53</sup> That is, it may be argued that the

---

<sup>50</sup> Submissions to consultation paper: AEMO, 4 June 2015, p2; AER, 15 June 2015, p3; ENA, 4 June 2015, p4.

<sup>51</sup> GDF Suez submission to consultation paper, 4 June 2015, p2.

<sup>52</sup> Submissions to draft rule determination: Energex, 10 September 2015, p1; ENA, 10 September 2015, p1.

<sup>53</sup> s. 53(1) of the NEL.

collection of connection point data and information may not be necessary for AEMO to perform its current NTP functions.

For this reason, the Commission considers it appropriate to make it clear in the NER that AEMO can compel persons to provide connection point data and information.

## 4 What level of forecasting should AEMO be able to undertake?

This chapter considers whether AEMO's role in developing demand forecasts should be limited to the transmission connection point level and whether there is a need for the NER to reference demand forecasts at the regional level.<sup>54</sup>

### 4.1 The COAG Energy Council's view

The rule proposed by the COAG Energy Council explicitly allowed AEMO to develop demand forecasts at the connection point and regional level.

A connection point is a defined term in the NER. It is defined as:

*“The agreed point of supply established between Network Service Provider(s) and another Registered Participant, Non-Registered Customer or franchise customer.”<sup>55</sup>*

Regional is also a defined term in the NER. It is defined as:

*“an area determined by the AEMC in accordance with Chapter 2A, being an area served by a particular part of the transmission network containing one or more major load centres or generation centres or both.”<sup>56</sup>*

Currently there are five regions in the NEM: Queensland, New South Wales including the ACT, Victoria, Tasmania and South Australia.

### 4.2 Stakeholder views

#### 4.2.1 First round of consultation

The AER and AEMO considered the NER should include sufficient flexibility to enable AEMO to develop forecasts at levels lower than transmission connection points.<sup>57</sup> The AER submitted that this may be required where a distribution network is heavily meshed, for example.<sup>58</sup> AEMO considered this is required to account for the changing nature of the electricity market.<sup>59</sup>

The AER considered it important that the NER refers to regional demand forecasts as well as connection point forecasts. It noted that the two forecasts are prepared through

---

<sup>54</sup> AEMC consultation paper, 7 May 2015, pp9-10.

<sup>55</sup> NER, Chapter 10.

<sup>56</sup> NER, Chapter 10.

<sup>57</sup> Submissions to consultation paper: AER, 15 June 2015, p1; AEMO, 15 June 2015, p2.

<sup>58</sup> AER submission to consultation paper, 15 June 2015, p1.

<sup>59</sup> AEMO submission to consultation paper, 15 June 2015, p2.

two distinct forecasting techniques. Regional forecasts are developed from the top down using an econometric process. In contrast, connection point forecasts are developed from the bottom up.<sup>60</sup>

#### **4.2.2 Second round of consultation**

Ergon considered the draft rule did not adequately restrict AEMO from using its information gathering powers in the NEL to develop demand forecasts at points on a distribution network where this does not relate to planning and investment of a transmission network.<sup>61</sup> As such, it recommended that clause 5.20.6(b) of the draft rule be amended to explicitly provide for this restriction.<sup>62</sup> The ENA had a similar view.<sup>63</sup>

No comments were made by stakeholders on whether the NER should allow AEMO to develop demand forecasts at the regional level in submissions to the draft rule determination.

### **4.3 Analysis and conclusions**

#### **4.3.1 Connection point level**

There may be instances where AEMO needs to understand demand at levels lower than the transmission level for the purpose of forecasting demand at the transmission connection point level. As identified by the AER, AEMO may need to understand demand at distribution zone substations to understand demand at the transmission connection point level where a distribution network is heavily meshed.<sup>64</sup> For this reason, it is not appropriate to restrict AEMO to only being able to develop forecasts at the transmission connection point level.

However, it is important to note that the final rule does not allow AEMO to use its information gathering powers in the NEL to develop demand forecasts at points on a distribution network where this does not relate to planning and investment of a transmission network. This is because the function included by the more preferable rule will need to be interpreted in the context of AEMO's NTP functions.

The Commission considers that the final rule adequately restricts AEMO to developing forecasts which relate to its transmission planning functions. It therefore does not propose to amend the drafting of the rule in response to the concerns raised by Ergon and the ENA.

In addition, it should be noted that there are sufficient checks and balances on AEMO's use of its information gathering powers in the NEL, namely market information orders

---

<sup>60</sup> AER submission to consultation paper, 15 June 2015, p4.

<sup>61</sup> Ergon submission to draft rule determination, 10 September 2015, p1.

<sup>62</sup> *ibid.*

<sup>63</sup> ENA submission to draft rule determination, 10 September 2015, pp1-2.

<sup>64</sup> AER submission to consultation paper, 15 June 2015, p1.

and market information notices. AEMO can only serve a market information order or notice if it considers it reasonably necessary to do so for the performance of its functions.<sup>65</sup> Before serving a market information order or notice, AEMO must also consult with the person or persons on whom a market information order or notice is served and have regard to the reasonable cost of efficient compliance with it.<sup>66</sup>

#### **4.3.2 Regional level**

The Commission considers it appropriate to explicitly allow AEMO to be able to prepare demand forecasts at a regional level. This recognises that some of the information collected at the connection point level will inform, and help to improve, AEMO's regional forecasts. The regional forecasts will also inform AEMO's connection point forecasts as identified by the AER.<sup>67</sup>

---

<sup>65</sup> s. 53(1) of the NEL

<sup>66</sup> s. 53 of the NEL.

<sup>67</sup> AER submission to consultation paper, 15 June 2015, p4.

## **5 Should the demand forecasts and the information used to develop the forecasts be published?**

This chapter considers whether the demand forecasts should be published in the NTNDP and whether the information used to develop the forecasts should also be published by AEMO. It also considers the timing of the publication of the demand forecasts and information on which they based.

### **5.1 The COAG Energy Council's view**

As set out in section 1.1, the COAG Energy Council considered that AEMO should be required to include any demand forecasts it prepares in the NTNDP database. AEMO is currently required to establish and maintain this database and make it available to the public.<sup>68</sup> Clause 5.20.4(c) of the NER allows AEMO to establish a part of the database for confidential information.

### **5.2 Stakeholder views**

#### **5.2.1 First round consultation**

There was broad stakeholder support for publication of the demand forecasts in the NTNDP database.<sup>69</sup> The ENA and Grid Australia considered the NER should also require AEMO to share the information on which any forecasts are based with NSPs.<sup>70</sup>

#### **5.2.2 Second round consultation**

Grid Australia supported the requirement for AEMO to publish its demand forecasts and the information on which they were based, however it considered there is a delay in when AEMO would publish its forecasts and when it would be required to publish the information on which the forecasts are based under the draft rule. It considered this delay should be removed.<sup>71</sup>

In addition, Grid Australia considered that TNSPs should have access to the data AEMO uses to develop its forecasts in a similar timeframe to AEMO gaining access to it. It noted that TNSPs are required to publish transmission annual planning reports by 30 June each year.<sup>72</sup> It also considered giving TNSPs access to data on which the forecasts are based before AEMO publishes the forecasts would give TNSPs the

---

<sup>68</sup> NER clause 5.20.4(a).

<sup>69</sup> Submissions to consultation paper: AEMO, 4 June 2015, p1; AER, 15 June 2015, pi; ENA, 4 June 2015, p1; GDF Suez, 4 June 2015, 1; Grid Australia, 4 June 2015, p1.

<sup>70</sup> Submissions to consultation paper: ENA, 4 June 2015 p1, Grid Australia, 4 June 2015, p1.

<sup>71</sup> Grid Australia submission to draft rule determination, 10 September 2015, p1.

<sup>72</sup> *ibid.*

opportunity to highlight any inconsistencies or inaccuracies in the data and thereby help to improve the robustness of AEMO's forecasts.<sup>73</sup>

While AEMO supported transparency as a general principle it asked the Commission to further consider how the requirement for AEMO to publish the information on which the forecasts are based would be implemented in practice.<sup>74</sup> It noted that AEMO uses a very large volume of data to develop its demand forecasts and considered that developing an IT platform that would allow it to publish all of the information on its website in a manner that is useable by stakeholders would be a major task.<sup>75</sup> To resolve this issue AEMO proposed an amendment to the draft rule which would require it to provide sufficient information to enable stakeholders to understand how the forecasts have been developed in addition to the forecasts.<sup>76</sup>

### 5.3 Analysis and conclusions

Any connection point and regional demand forecasts prepared by AEMO under its new NTP function should be published in the NTNDP database as provided for in the rule change request and supported by stakeholders.

Publishing the demand forecasts will provide transparency of the basis on which planning forecasts are determined in the NTNDP and thus may give stakeholders greater confidence in the NTNDP. It will also give TNSPs and other energy market stakeholders access to a set of connection point forecasts which they may use for their operational and investment planning purposes. Where TNSPs conduct their own connection point forecasts, they can compare their forecasts with AEMO's connection point forecasts. The AER could also access the connection point forecasts through the NTNDP database.

AEMO has flexibility about whether and when to develop and publish the forecasts under the final rule. AEMO is best placed to determine the timing of the forecasts given that it will use the forecasts for its functions, in particular the NTNDP. AEMO may also wish to consult with the AER and other stakeholders about the timing of the development and publication of the forecasts.

Equally, and as proposed by the ENA and Grid Australia, the information used to develop the demand forecasts should also be published by AEMO in the NTNDP database. Requiring the information used to develop the demand forecasts to be published will provide for greater transparency and potentially greater confidence in AEMO's demand forecasts. NSPs and other energy market stakeholders may therefore be more likely to use the demand forecasts and AEMO's NTNDP for the purpose of their own planning.

---

73 *ibid.*

74 AEMO submission to draft rule determination, 8 September 2015, p1.

75 *ibid.*

76 *ibid.*

In addition to these benefits, publication may also assist NSPs and other energy market stakeholders to develop their own forecasts. In support of this view, Grid Australia notes that TNSPs do not currently have access to data on embedded generation and industrial loads which AEMO collects as part of the connection point forecasting process. It considers it would be beneficial for TNSPs to have access to this data, noting that these factors may have a significant impact on load at a transmission connection point.<sup>77</sup>

The Commission recognises that there will be an increase in administrative burden for AEMO to provide the information on which the forecasts are based. However, it considers the benefits of requiring AEMO to provide this information outweighs this cost.

In this regard, the final rule clarifies that AEMO is to provide stakeholders with a sufficient amount of information such that they can understand how the forecasts have been developed. This recognises that it is appropriate that AEMO be able to determine the form it provides this information. For example, AEMO should not necessarily have to publish all of the data it has collected for the purpose of developing the forecasts. It may publish aggregated or analysed data where this is more appropriate and relevant to understanding the forecasts.

, In addition, to give AEMO time to develop the capacity and consult with stakeholders as necessary on the information to be provided, the requirement to publish the information used to develop the forecasts does not take effect until 1 July 2017.<sup>78</sup> The final rule also clarifies that AEMO is to publish information on which forecasts are based at the same time as it publishes the forecasts or as soon as practical after. This recognises that AEMO will generally be able to provide this information at the time it publishes the forecasts but some flexibility is reasonable. The requirement to publish the information used to develop the forecasts should not delay the publication of the forecasts themselves.

The proposal by Grid Australia to give TNSPs access to timely data for the purpose of their transmission annual planning reports, such as information on embedded generators and large industrial customers, goes beyond the scope of this rule change request. However, if TNSPs wished to access such data, they may be able to obtain it from DNSPs on request or as part of their joint planning obligations with DNSPs under the NER.<sup>79</sup>

Nevertheless, it is not necessary or appropriate to prescribe in the NER, as proposed by Grid Australia, that TNSPs may have access to information before it is published so that they can check the forecasts. AEMO and TNSPs should share information, subject to confidentiality, on a bilateral basis. It is in the interests of both AEMO and TNSPs to do so as it may enable AEMO to develop more robust forecasts.

---

<sup>77</sup> Grid Australia submission to consultation paper, 4 June 2015, p1.

<sup>78</sup> This does not prevent AEMO from publishing information on a voluntary basis before then. In this regard it is noted that AEMO currently provides information on its forecasts on its website.

<sup>79</sup> NER clause 5.14.1.

Finally, it should be noted that AEMO must treat any confidential and protected information it receives to develop the demand forecasts in accordance with the NEL. The NEL currently recognise that confidential information can be stored in a confidential part of the NTNDP database.<sup>80</sup> However, as discussed in Chapter 6, the NEL allows for AEMO to share confidential information it receives with the AER.<sup>81</sup>

---

80     NER clause 5.20.4(c).

81     Section 54C of the NEL.

## 6 AEMO coordination with the AER

This chapter considers whether the NER should contain specific provisions to enable AEMO to consult with the AER about the development of the forecasts and to require AEMO to provide the forecasts to the AER upon the AER's request.

### 6.1 The COAG Energy Council's view

The rule proposed by the COAG Energy Council:

- specified that AEMO may consult with the AER in developing the demand forecasts; and
- required AEMO to provide the demand forecasts to the AER upon the AER's request.<sup>82</sup>

### 6.2 Stakeholder views

#### 6.2.1 First round consultation

The AER submits that giving AEMO express discretion to consult and share findings with the AER on the demand forecasts provides regulatory certainty that this process can take place.<sup>83</sup> In contrast, the ENA and Grid Australia do not support expressly allowing AEMO to consult with the AER in the NER. They do not consider it is appropriate given the intent of the rule change request is for forecasts to be developed independently by AEMO.<sup>84</sup> However, the ENA did support expressly requiring AEMO to provide the forecasts to the AER on the AER's request.<sup>85</sup>

#### 6.2.2 Second round consultation

NSPs generally supported the approach in the draft rule to not provide specific provisions in the NER to enable AEMO to consult with the AER about the development of the forecasts.<sup>86</sup> There was similar support from NSPs for not requiring AEMO to provide the forecasts to the AER upon the AER's request.<sup>87</sup> No other stakeholders specifically commented on this issue in response to the draft rule determination.

---

82 *ibid.* pp6-8.

83 AER submission to consultation paper, 15 June 2015, p5.

84 Submissions to consultation paper: ENA, 4 June 2015, p4; Grid Australia, 4 June 2015, p1.

85 ENA submission to consultation paper, 4 June 2015, p4.

86 See for example: ENA submission to draft rule determination, 10 September 2010, p1; Grid Australia submission to draft rule determination, 10 September 2010, p2.

87 See for example: ENA submission to draft rule determination, 10 September 2010, p1.

### 6.3 Analysis and conclusions

As noted in the draft rule determination, giving AEMO an express discretion to consult with the AER on the demand forecasts as proposed in the rule change request is unnecessary. The AER and AEMO have agreed to communicate and share information relating to their functions in a memorandum of understanding.<sup>88</sup> In addition, to the extent that the AEMO needs to discuss protected information with the AER, the NEL authorises it to do so.<sup>89</sup>

Similarly, it is not necessary to explicitly require AEMO to provide the AER with the demand forecasts if the AER requests them as proposed in the rule change request. The forecasts will be publicly available and, to the extent that any information is not publicly available, the NEL allows AEMO to disclose protected information to the AER should the AER request this information.<sup>90</sup>

---

<sup>88</sup> *Memorandum of understanding between the AER and AEMO*, June 2011.

<sup>89</sup> s. 54C of the NEL.

<sup>90</sup> *ibid.*

## 7 Providing assistance to AEMO

This chapter considers whether to amend clause 5.20.5 of the NER to require NSPs to provide assistance AEMO reasonably requests in connection with the performance of its NTP functions.

### 7.1 The COAG Energy Council's view

As set out in section 1.1, the proposed rule amended clause 5.20.5 of the NER to require NSPs to provide assistance that AEMO reasonably requests in connection with the performance of its NTP functions.<sup>91</sup> Currently this clause only places an obligation on jurisdictional planning bodies to provide assistance to AEMO.<sup>92</sup>

### 7.2 Stakeholder views

#### 7.2.1 First round consultation

The AER supports the proposed changes to clause 5.20.5. It considers the proposed clause will complement AEMO's information gathering powers in the NEL and focus the attention of AEMO and NSPs on engaging and seeking to understand each others' input assumptions and forecasting techniques. It submits that in the absence of the proposed change to the clause, AEMO's ability to engage with NSPs and the ability of NSPs to cooperate with AEMO may be limited by a reliance on a prescriptive process, that is, AEMO's information gathering powers under the NEL.<sup>93</sup>

The ENA also supports AEMO having a rules based power to gather the information to develop connection point forecasts in addition to its information gathering powers under the NEL.<sup>94</sup> It considers the NER should include principles that AEMO must consider when seeking information from NSPs. For example, AEMO should be required to ensure that the cost of providing the information for NSPs should not exceed the expected benefits of seeking the information.<sup>95</sup> Energex has expressed a similar view.<sup>96</sup>

---

91 *ibid.* pp6-7.

92 A jurisdictional planning body is defined in the NEL as "the entity nominated by the relevant *Minister of a participating jurisdiction* as having *transmission system* planning responsibility in that participating jurisdiction." According to AEMO's website the jurisdictional planning bodies are the TNSPs in each state except in Victoria where it is AEMO.

93 AER submission to consultation paper, 4 June 2015, p5.

94 ENA submission to consultation paper, ENA, 4 June 2015.

95 *ibid.*

96 Energex submission to consultation paper, 4 June 2015, p1.

## 7.2.2 Second round consultation

The ENA endorsed the approach taken by the AEMC in the draft rule determination to not supplement AEMO's information gathering powers with an obligation in the NER for NSPs to assist AEMO.<sup>97</sup>

However, Energex sought additional provisions in the NER requiring AEMO to consult with the relevant DNSP and consider the costs and benefits of requiring the DNSP to provide the information before it issues a market information order or notice.<sup>98</sup> Similarly, Ergon stated it was not clear in the NER whether information to be provided to AEMO was raw data, processed data or analysed forecasts which it considered may result in different forecasts from the same data set.<sup>99</sup>

## 7.3 Analysis and conclusions

An obligation in the NER for parties to provide demand forecasting information to AEMO is not required. Nor are obligations in the NER which require AEMO to consider the costs and benefits of requiring parties to provide certain information.

The NEL already provides a regime for AEMO to seek information for the purpose of its NTP functions. This regime provides appropriate checks and balances for AEMO when considering whether to request information. For example, AEMO should only seek information if it considers it is reasonably necessary to do so for its NTP functions.<sup>100</sup> It must also consider the reasonable costs of compliance when seeking information which would include consideration of whether the party from whom the information is being sought already has the data in the form being requested or not.<sup>101</sup> Importantly, informal engagement between AEMO and NSPs in relation to information provision would still be expected to, and can, occur under this approach.

More specifically, the proposed obligation is broad in scope making compliance and enforcement uncertain. The information gathering powers in the NEL, namely market information orders and market information notices, provide more certainty for all parties than the proposed obligation. Under these powers, third parties are compelled to provide information where AEMO asks for the information in accordance with the requirements in the NEL, including a framework for consultation regarding the information sought.

The Commission has therefore decided not to amend clause 5.20.5 of the NER to require NSPs to provide assistance AEMO reasonably requests in connection with the performance of its NTP functions. In light of the obligation in the NEL for AEMO to have regard to the reasonable costs of efficient compliance when issuing a market

---

<sup>97</sup> ENA submission to draft rule determination, 10 September 2010, p1.

<sup>98</sup> Energex submission to draft rule determination, 10 September 2015, p1.

<sup>99</sup> Ergon submission to draft rule determination, 10 September 2015, p1.

<sup>100</sup> Section 53(1) of the NEL.

<sup>101</sup> Section 53(3) of the NEL.

information instrument, there is no need to include obligations in the NER which require AEMO to consider the costs and benefits of requiring parties to provide information. Further, to include obligations around the form in which AEMO can ask for information would be inconsistent with the NEL.<sup>102</sup>

---

<sup>102</sup> Section 53(5) of the NEL.

## Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
COAG	Council of Australian Governments
Commission	See AEMC
DNSP	Distribution Network Service Provider
ENA	Energy Networks Association
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National Electricity Market
NER	National Electricity Rules
NEO	National electricity objective
NTNDP	National Transmission Network Development Plan
NTP functions	AEMO's National Transmission Planner functions as described in s. 49(2) of the NEL
NSP	Network Service Provider
SCER	Standing Council on Energy and Resources (now COAG Energy Council)
TNSP	Transmission Network Service Provider

## **A AEMO's information gathering powers in the NEL**

AEMO's information gathering powers in the NEL are set out in Part 5 Division 5.

Specifically, the NEL provides that AEMO can request information from a person or a class of persons if it considers it reasonably necessary to do so for the exercise of a relevant function.<sup>103</sup>

The instruments in the NEL that AEMO can use to collect information for the purpose of a relevant function are market information orders and market information notices. A market information order may require information from a class of persons. A market information notice may require information from one person. These market information instruments may require the provision of information on a one-off, an annual or other periodic basis.

In considering whether to serve a market information order or market information notice, AEMO must have regard to the reasonable costs of efficient compliance. In addition, AEMO must invite written representations from whom the instrument is to be served before making it.

If a person does not comply with a market information instrument then they may be subject to a civil penalty. In addition, penalties can be imposed for providing false or misleading information in response to a market information instrument.

---

<sup>103</sup> A relevant function is defined in the NEL and includes NTP functions.

## B Summary of other issues raised in submissions

The following table sets out issues that were raised in consultation which have not been discussed in the main body of this final rule determination. The Commission's response to these issues is also provided.

Stakeholder	Issue	AEMC response
ENA: submission to consultation paper, p3; submission to draft rule determination, p2.	Provision should be made within the NER to reconcile differences in forecasts, between AEMO and DNSPs where divergent forecasts could have implications for planning purposes.	It is not the purpose of the rule change request to create “reconciled” forecasts. The purpose is to give AEMO access to information so that it can develop forecasts which are independent of the NSPs. The issue raised by the ENA is therefore not within the scope of this rule change request.
ENA submission to consultation paper, pp3-4.	Proposed rule should be amended to reflect that AEMO develop its demand forecasts independently.	This has not been adopted. It may be appropriate that AEMO consults with the AER, NSPs and other parties in the development of the forecasts. However, the explicit references in the proposed rule to allow AEMO to consult with the AER in developing and publishing the demand forecasts has not been included in the rule as this is not necessary. See Chapter 6.
Energy Australia submission to consultation paper, p2.	Would like a clearer understanding of specific shortfalls in data AEMO has experienced and further details of AEMO's likely application of the increased information gathering powers.	As discussed in section 3.3, there is some doubt that AEMO may be able to collect information for the purpose of developing connection point demand forecasts. The purpose of the COAG Energy Council's rule change request is to remove this doubt.  The AEMC is unable to comment on AEMO's likely application of increased access to information. However, the information gathering powers under the NEL provide appropriate checks and balances for AEMO when considering whether to collect information. See Chapter 7.
Ergon submission to draft rule determination, p1.	When publication of the data on which the forecasts are based occurs, AEMO should include the period that the data was obtained.	This would be expected to occur. Any detailed requirements relating to the information should be discussed with AEMO.

## **C Legal requirements under the NEL**

This appendix sets out the relevant legal requirements under the NEL for the AEMC to make this final rule determination.

### **C.1 Final rule determination**

In accordance with ss. 102 and 103 of the NEL the Commission has made this final rule and associated final rule determination in relation to the rule proposed by the COAG Energy Council.

The Commission's reasons for making this final rule determination are set out in section 2.3.

A copy of the more preferable rule is attached to and published with this final rule determination.<sup>104</sup> Its key features are described in Chapter 2.

### **C.2 Power to make the rule**

The Commission is satisfied that the rule falls within the subject matter about which the Commission may make rules. The rule falls within s. 34 of the NEL as it relates to the operation of the NEM and is otherwise contemplated by the NEL under s. 49(2)(e).

### **C.3 Commission's considerations**

In assessing the rule change request the Commission considered:

- the Commission's powers under the NEL to make the rule;
- the rule change request;
- submissions received during the first round of consultation; and
- the Commission's analysis as to the ways in which the proposed rule will or is likely to, contribute to the NEO.

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 AEMO's declared network functions.<sup>105</sup> The rule is compatible with AEMO's declared network functions.

---

<sup>104</sup> Under s. 91A of the NEL the AEMC may make a rule that is different (including materially different) from a market initiated proposed rule (a more preferable rule) if the AEMC is satisfied that having regard to the issue or issues that were raised by the market initiated proposed rule (to which the more preferable rule relates), the more preferable rule will or is likely to better contribute to the achievement of the national electricity objective.

<sup>105</sup> See s. 91(8) of the NEL.

## **C.4 Civil penalties**

The rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the more preferable rule be classified as civil penalty provisions.