

Australian Energy Market Commission

CONSULTATION PAPER

**National Electricity Amendment (negative
intra-regional settlements residue) Rule 2012**

Rule Proponent
AEMO

2 February 2011

**RULE
CHANGE**

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy (MCE), established the Australian Energy Market Commission (AEMC) in July 2005. The AEMC has two principal functions. We make and amend the national electricity and gas rules, and we conduct independent reviews of the energy markets for the MCE.

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1 Introduction

On 14 October 2011, the Australian Energy Market Operator (AEMO or Proponent) submitted a rule change request to the Australian Energy Market Commission (AEMC or Commission) in relation to the payment arrangements for negative intra-regional settlements residue (intra-RR). The request relates specifically to the future payment procedures involving Transmission Network Service Providers' (TNSPs) payments to AEMO where negative intra-RR occurs.

This consultation paper has been prepared by the staff of the AEMC to facilitate public consultation on the rule change proposal and does not necessarily represent the views of the AEMC of any individual Commissioner or the AEMC.

This paper:

- sets out the background to negative intra-RR and a summary of the rule change request proposed by the Proponent;
- identifies a number of questions and issues to facilitate consultation on this rule change request; and
- outlines the process for making submissions.

1.1 Request for expedited process

The Proponent has asked that the rule change request be assessed under an expedited process as provided for under section 96 of the NEL as it considers the proposal to be non-controversial. The NEL defines a non-controversial rule as "a Rule that is unlikely to have a significant effect on the national electricity market". The Proponent considers that this proposed rule change will not have a significant effect on the national electricity market (NEM) as it only affects the settlement cycle for payment of TNSPs' negative intra-RR.

The Commission proposes to expedite the rule change request (subject to written requests from stakeholders not to do so) under section 96 of the NEL where the Commission would have six weeks, from the publication of the notice under section 95 of the NEL, to publish the final rule determination. Under this process, there would be no draft rule determination. Further detail on the consideration of the request under section 96 of the NEL is contained in Part 3 of this consultation paper.

More information on the expedited process and the due dates for submissions is contained in Part 6 of this consultation paper.

2 Background

The rule change request relates specifically to the payment arrangements for negative intra-RR. It does not address the payment of positive intra-RR. Hence, this consultation paper focusses solely on negative residues and the associated payment arrangements. There are a number of key differences between intra-RR and inter-regional settlements residue. For the purposes of this paper, information on negative inter-regional settlements residue is provided only where it is relevant to the proposed changes to negative intra-RR payments.

2.1 Overview of negative intra-RR

To appreciate the issues raised by Proponent, some context is required around how negative intra-RR arises and how it is currently paid. Negative intra-RR arises during the settlements process for the NEM spot market.

AEMO is responsible for the settlements process, which involves market customers paying AEMO for the electricity supplied to them for a seven day billing period and AEMO paying the generators for the electricity they supplied to the market pool during the same period. If the total amount of money to be received by AEMO for a billing period is different to the total amount that is due to be paid by AEMO to market participants, a 'settlements residue' occurs. This residue occurs due to the system used in the NEM to account for the electrical energy losses when electricity is transferred from generators to customers.

Intra-RR is the type of settlements residue that arises due to intra-regional losses of electrical energy within a region, as opposed to losses between regions. Intra-regional losses occur when electricity is transferred between the regional reference node (RRN) and transmission connection points in the same region. To account for these losses in the system, intra-regional marginal loss factors (MLFs) are used by AEMO when considering which generators to dispatch. MLFs are also used as a price multiplier to determine how much a customer owes to AEMO and how much AEMO pays to a generator, based on the market participant's location in the transmission network and the associated losses. It is the use of MLFs as a price multiplier that most commonly results in intra-RR.

MLFs for intra-regional losses are static numbers that apply for a whole financial year for every transmission connection point¹. The static MLF for each connection point² is calculated by averaging the marginal losses modelled for each 30 minute trading interval over a 12 month period. This approach results in MLFs that generally over-account for the actual losses in the transmission system and lead to the total

¹ AEMO releases the static intra-regional loss factors for a following financial year by 1 April.

² In some cases there are dual MLFs for one connection point. There are also cases where a virtual transmission node is created where multiple connection points have an MLF involving the weighted average of loss factors for an adjacent group of transmission connection points within a single region.

amount paid by customers being greater than the total amount due to be paid to generators (i.e. AEMO is due to receive a surplus for that billing period, which is known as 'a positive intra-regional settlements residue'). Where positive intra-RR occurs, AEMO is required to pay the full intra-RR amount to TNSPs who are then required to pass this on to customers as a reduction in transmission services fees.

While positive intra-RR is more common than negative intra-RR, negative intra-RR occurs under particular circumstances in the NEM and is the subject of the rule change request.

Negative intra-RR primarily occurs where there is a high spot price in combination with high temperatures and/or high load.³ These circumstances lead to higher losses in the system than the MLFs account for, resulting in AEMO collecting less than what it owes generators in that billing period. This difference or 'residue' is the negative intra-RR.

Where negative intra-RR occurs, it must be recovered by AEMO in order for AEMO to pay all money owed to market participants. If the negative intra-RR is not recovered by the settlement date AEMO must short pay all market participants for that billing period. AEMO must short pay participants because it cannot cover the cost of the negative intra-RR itself as it acts only as an intermediary in facilitating the settlement of payments in the NEM.

The NER requires that AEMO recovers the negative intra-RR from TNSPs. TNSPs then recover this cost from their customers through higher transmission charges.

It is a relatively infrequent market event and AEMO has cited examples in their rule change request of recent negative intra-RR of significance in New South Wales, totalling six events since 2008. The largest negative intra-RR occurred in 2011 and resulted in \$12.64 million for one billing period.⁴

2.2 Current payment arrangements for negative intra-RR

Payment by market customers to AEMO and payments by AEMO to generators all occur on the same day - that is, all payments involving market participants are made on the same day for a billing period. The date when all payments are to occur is defined in clause 3.15.16 of the NER as:

“On the 20th business day after the end of a billing period, or 2 business days after receiving a statement under clause 3.15.15, whichever is the later...”

For the purposes of this paper, this market payment date will be referred to as the market 'settlement date'. Currently, an exception to the above timing prescribed by

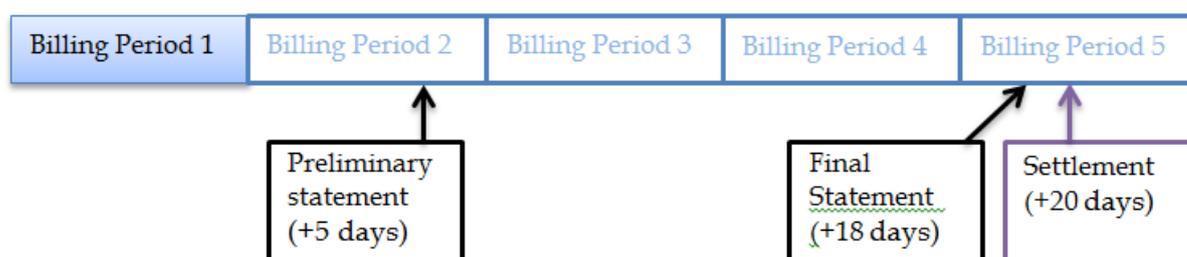
³ Negative intra-RR can also occur as a result of very high MLFs.

⁴ AEMO, rule change request, p3.

clause 3.15.16 applies to TNSPs paying inter-regional settlements residue.⁵ This exception enables AEMO to request payment earlier than the market settlement date. AEMO has proposed to have the same timing exception apply to TNSPs paying negative intra-RR. The specifics of AEMO's rule change request are discussed in Part 3 of this paper.

TNSPs paying negative intra-RR are defined as market participants in the NER for the purpose of settlements, and the payment timing depicted in Figure 2.1 applies.

Figure 2.1 Current payment timing for negative intra-RR



Under the current arrangements, the timing in clause 3.15.16 applies to negative intra-RR and TNSPs are required to pay the full negative intra-RR amount on the market settlement date. AEMO has advised that it issues Final Statements 18 business days after the billing period and the settlement date is always 20 business days after the billing period.

Under these arrangements, AEMO must receive any negative intra-RR owed by TNSPs on the settlement date in order for AEMO to pay the full amount owed to market participants on the same day. AEMO has advised there are currently two and a half hours between the time it is due to receive TNSP payments and the time that it is required to make payments to market participants.

TNSPs are not required to provide credit support to AEMO under the NER. If there are any issues with TNSP payment, AEMO therefore only has two and a half hours to resolve these issues with TNSPs before they would have to short pay all market participants for any shortfall in TNSP payment.

As noted, the payment timing for negative inter-regional settlements residue does not follow the timing for negative intra-RR and other market settlements described above. This type of payment is subject to clause 3.6.5(a)(4) that states:

“(i) AEMO must recover the amount from the appropriate Transmission Network Service Provider within the importing region, at a payment interval, and by a method, determined by AEMO following consultation with the appropriate Transmission Network Service Provider, and which

⁵ The exception applies through clause 3.6.5(a)(4) where AEMO may determine the payment timing and method following consultation with the appropriate TNSP.

may include a determination that an appropriate Transmission Network Service Provider make payment at a date prior to the settlement date determined in respect of other Transmission Network Service Providers; and

(ii) despite clause 3.15.16, the appropriate Transmission Network Service Provider must make the payment at the time and payment interval, and by the method, determined by AEMO in accordance with this subparagraph.”

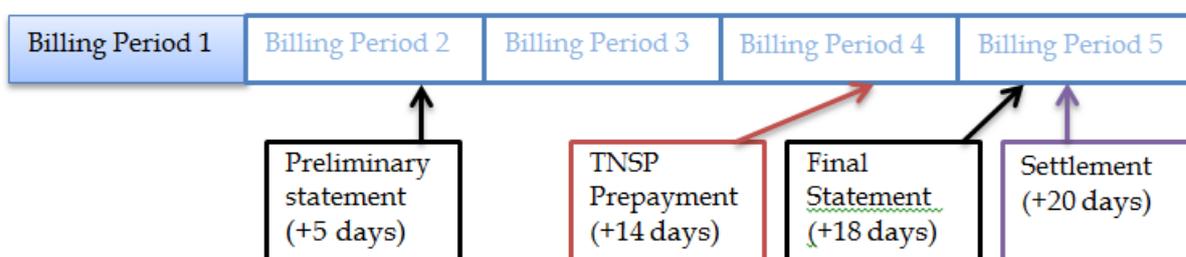
That is, the payment arrangements for negative inter-regional settlements residue are not specified in the NER and the clause enables AEMO to determine the payment arrangements following consultation with the appropriate TNSP.

The clause enables different payment procedures to be developed for different TNSPs, but AEMO advises that this has not occurred in practice.

We note there is some ambiguity in the wording of the clause as to what the consultation must involve and when it must occur. That is, the consultation could potentially be 'post-trigger event consultation' that takes place following a significant negative inter-regional settlement residue event and held between AEMO and the particular TNSP that is required to pay. We understand that this approach would not be appropriate in terms of AEMO's intent to manage TNSP payment risks.

In practice, AEMO has implemented this clause by adopting – in advance of a significant negative intra-RR event – one payment procedure to apply to all negative inter-regional settlements residue events and to apply to all TNSPs. The payment timing for negative inter-regional settlements residue is reflected in Figure 2.2 below.

Figure 2.2 Current payment timing for negative inter-regional settlements residue



It is understood by the AEMC that AEMO adopted the payment timing depicted in Figure 2.2 following the release of draft payment procedures on the AEMO website.⁶ Under the current arrangements, the TNSP must pay negative inter-regional settlements residue 14 business days after the billing period, which is six days before the market settlement date. As discussed above, the details of the payment timing and

⁶ The AEMO website notes that no submissions were received on the draft procedures and the draft was therefore adopted as the final procedures that are currently in place.

associated procedures are contained in AEMO procedures⁷ as opposed to the current arrangements for negative intra-RR where the timing details are contained in the NER.⁸

⁷ The payment procedures are provided in the AEMO procedures document on AEMO's website: 'NEM Transmission Network Service Providers Payment Procedure'.

⁸ In NER clause 3.15.16.

3 Details of the Rule Change Request

3.1 Proponent's rule change request

The rule change request from the Proponent proposes to:

- Extend clauses 3.6.5(a)(4) and (a)(4A) of the NER to cover intra-RR to enable AEMO to determine the payment arrangements where negative intra-RR is owed by TNSPs. That is, the timing of payments for negative intra-RR will be removed from the NER and contained in AEMO procedures.
- Amend the definition of 'settlements residue' in the NER to make explicit that it includes intra-regional settlements residue and inter-regional settlements residue.
- Delete NER clause 11.1 due to its redundancy.
- Have the rule change request treated on an expedited basis by the AEMC.

The Proponent's rule change request includes a proposed rule.

3.2 Rationale for the rule change request

In the rule change request the Proponent provides its rationale for the rule change. The key points raised in the rule change request are summarised below.

3.2.1 AEMO to determine payment arrangements

The Proponent considers the proposed rule promotes the efficient operation of electricity services because it would allow AEMO to manage TNSP payment risk associated with the settlement of negative intra-RR more efficiently than under the current arrangements. The current arrangements do not permit AEMO to require payment by TNSPs earlier than the market settlement date.⁹ AEMO has requested this rule change as they believe that additional time between when the TNSP payment is due and the market settlement date would enable AEMO to better manage the risks associated with TNSP payments.

AEMC officers have further clarified the context of the rule change request with AEMO. AEMO has advised that TNSPs do not make regular payments as part of the usual market settlement processes. This is because settlement residues are usually positive amounts, where AEMO is required to pay TNSPs. Given that negative

⁹ As discussed in Part 2.2 of this consultation paper, the market settlement date occurs 20 business days after the relevant billing period (or two business days after the final statement is issued, whichever is later). TNSPs currently pay negative intra-RR on the same day as all other market participants payments associated with spot market settlements. This is also the same day that AEMO pays all market participants for spot market transactions.

settlements residue is less common, TNSPs do not regularly make payments and managing these payments is not core business for TNSPs. TNSPs may therefore not have the required internal systems in place to ensure the correct amount is paid on time. AEMO considers that the risks associated with late payments from TNSPs could be reduced from implementing payment procedures similar to those already adopted for inter-regional settlements residue whereby the TNSP makes the payment in advance of the market settlement date.

The proposed rule change would enable AEMO to determine alternative payment arrangements for negative intra-RR, which could include an earlier payment date than the current arrangements, following AEMO's consultation with the appropriate TNSP. This would make the NER consistent in terms of enabling AEMO to determine the payment arrangements for both negative intra-regional and negative inter-regional settlements residue.

AEMO has indicated their intent to align the payment procedures for both types of negative settlements residue (i.e. inter-regional and intra-regional) if the rule change proceeds in its proposed format; however this is not a requirement of the current rule change proposal.¹⁰ We note that the proposed rule would permit AEMO to adopt different payment methods for different TNSPs and for different types of negative residue.

The Proponent also requests that clause 3.6.5(a)(4A) extend to negative intra-RR. This clause relates to the payment of interest on any unrecovered settlements residue and currently applies only to negative inter-regional settlements residue. It enables AEMO to determine the payment method and timing for interest that AEMO incurs due to any unrecovered settlements residue.

3.2.2 Amending the definition of 'settlements residue'

The Proponent considers that clarifying the definition of 'settlements residue' would improve the accuracy and consistency of the NER and help to make the NER clearer to stakeholders. The current definition of settlements residue in the Glossary¹¹ of the NER is as follows:

“settlements residue: any surplus of funds retained by AEMO upon completion of settlements to all Market Participants in respect of a trading interval.”

The Proponent has proposed that further clarification be provided for the avoidance of doubt that settlements residue includes both intra-regional and inter-regional settlements residue. While this meaning is currently implied in the NER with the term 'settlements residue' used to describe both intra-regional and inter-regional settlements

¹⁰ The current payment procedures for negative inter-regional settlements residue are contained in the AEMO document 'NEM Transmission Network Service Provider Payment Procedure' available on the AEMO website at: <http://www.aemo.com.au/electricityops/0508-0002.html>.

¹¹ The Glossary is contained in Chapter 10 of the NER.

residue¹², the Proponent considers that clarification of the definition would help make the NER clearer to stakeholders by informing them of their rights and obligations and would achieve a minor benefit at no cost.

3.2.3 Deletion of NER clause 11.1

The Proponent has requested that clause 11.1 be deleted from the NER as it is no longer needed.¹³ Clause 11.1 - 'Rules consequent on making of the National Electricity Amendment (Negative Inter-regional Settlements Residue Amounts) Rule 2009' - stipulates how negative inter-regional settlements residue is to be recovered if the residue occurred in a billing period prior to the introduction of the National Electricity Amendment (Negative Inter-regional Settlements Residue Amounts) Rule 2009. AEMO is responsible for recovering residue payments that occurred prior to the introduction of the 2009 rule and has advised in their rule change request that this clause is no longer necessary. This is because all residues that were incurred prior to the 2009 rule change have now been recovered.

Clause 11.1 is therefore considered redundant and the Proponent has stated that its removal will improve the accuracy and consistency of the NER by making the NER clearer to stakeholders - providing a minor benefit at no cost.

3.3 Consideration as a non-controversial rule change

The Proponent is seeking for this rule change request to be considered non-controversial under section 96 of the NEL¹⁴ on the basis that:

- the proposed rule change would not have a significant effect on the NEM because the proposal only effects the settlement cycle for payment of TNSPs' negative intra-RR;
- negative intra-RR occurs infrequently;
- the potential impact would be lessened as AEMO intends to consult with TNSPs on the payment procedure (AEMO also notes that effective arrangements are already in place for negative inter-regional settlements residue, which involved AEMO determining a payment method in consultation with TNSPs); and
- the proposed changes to the definition of 'settlements residue' and the removal of clause 11.1 of the NER are non-material.

¹² Examples of the use of the term 'settlements residue' to describe both intra-regional and inter-regional settlements residue are contained in clause 3.6.5 of the NER.

¹³ If clause 11.1 were deleted, references to this clause would also need to be deleted from clause 3.6.5(a)(4) and (a)(4A).

¹⁴ As noted in Part 1.1 of this paper, section 96 of the NEL defines non-controversial rule changes as: "a Rule that is unlikely to have a significant effect on the national electricity market".

The Commission is satisfied that the matter can be considered non-controversial on the grounds that it is unlikely to have a significant effect on the NEM, with the request focussing on payment procedures for negative intra-RR. The rule change request does not impact the quantum of the payment, nor the TNSP responsible for the payment. The Commission therefore proposes to expedite the process in accordance with the Proponent's request. We do, however, recognise that the Proponent has not formally consulted with TNSPs in developing the rule change proposal and we welcome submissions from TNSPs and other interested parties on whether the rule change request should proceed under the expedited process.

Question 1 Recognising that TNSPs were not formally consulted by the Proponent in developing the rule change request, are there any objections to the Commission assessing the request using the expedited process permitted under section 96 of the NEL?

a) That is, do stakeholders have reason to believe that the proposed rule change may have a significant effect on the NEM?

Please note that responses to this question would need to be received by 16 February 2012 to be considered as objections to the expedited process. Further detail on lodging submissions is contained in Part 6 of this paper.

Under an expedited process, the Commission has six weeks from the publication of the notice under section 95 of the NEL to publish a final rule determination. There is no draft rule determination published. Stakeholders have:

- Two weeks from the publication of the notice under section 95 of the NEL to lodge written requests not to make a rule under the expedited process in section 96 of the NEL; and
- Four weeks from the publication of the notice under section 95 of the NEL to lodge written submissions on the rule change request.

More information on the expedited process, and the due dates for written requests and submissions, is contained in Part 6 of this consultation paper.

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 objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to –

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

Specifically, the AEMC will have regard to whether, and to what extent, the NER should specify in advance (or codify) the criteria and process to be applied by the market operator (AEMO), compared to the level of discretion that the market operator should have over those matters in properly performing its functions. This requires finding a balance between an appropriate level of prescription in the NER, which would promote certainty and stability of regulatory outcomes as well as transparency of approach, with a level that provides the market operator with adequate flexibility and ability to accommodate particular circumstances in operational decision making.

In assessing the rule change request against the NEO, the AEMC will consider the likely long term costs and benefits of adopting the rule change request compared to the counterfactual of not making the proposed change to the NER. It will also consider whether the proposed rule satisfies the rule making test in that it will, or is likely to, contribute to the achievement of the NEO.

In assessing the rule change request against the NEO, the AEMC will inform its decision making by taking the following issues into consideration:

- The effect of the rule change request on the efficiency of the operation of the electricity market, and in particular, the market settlements process;
- The effect of the rule change request on the administration costs associated with electricity market settlements for TNSPs and AEMO;
- Whether the rule change request is consistent with the principles of good regulatory practice; and
- Whether the rule change, as proposed by AEMO, should be modified to achieve the same intent but better contribute to the achievement of the NEO.

AEMO has indicated their intent to adopt a payment procedure similar to their current procedure for negative inter-regional settlements residue.¹⁵ It is important to note that the rule change request relates specifically to moving payment arrangement details from the rules to AEMO procedures and, as drafted, would not stipulate the required payment procedure. It would therefore be inappropriate for the Commission to consider the rule change request as an actual change in payment procedures.

While the potential payment procedures that could result from the rule change will be considered by the Commission when drafting the final determination, this is not the focus of the Commission's assessment against the NEO. Assessing potential payment procedures against the NEO would require assessing hypothetical scenarios that may not necessarily eventuate from the proposed rule change. The key focus of the AEMC's assessment is on the issues directly associated with AEMO's proposed changes to the NER – i.e. the act of moving payment arrangements from the NER into AEMO procedures, the act of amending the 'settlements residue' definition, and the act of deleting clause 11.1.

¹⁵ This Procedure is detailed in AEMO's "NEM Transmission Network Service Provider Payment Procedure" available on the AEMO website at:
<http://www.aemo.com.au/electricityops/0508-0002.html>.

5 Issues for Consultation

Taking into consideration 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.

The 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 framework.

We note that any rule change issued with the final rule determination may differ from the draft rule change submitted by the Proponent based on information gathered during consultation and for the purposes of providing further clarification around the intent of the rule change.

5.1 Rules to Procedures

A key part of the proposed rule change involves enabling AEMO to determine the payment method and timing for negative intra-RR. Currently the payment timing for this type of residue is contained in the NER and we consider that the act of enabling AEMO to determine the timing essentially equates to shifting provisions from the NER to AEMO procedures.

The proposal to move payment provisions for negative intra-RR from the NER to AEMO procedures is consistent with the current regulatory approach adopted for negative inter-regional settlements residue payment provisions.¹⁶ As discussed in Part 2.2 of this consultation paper, the payment procedures for this latter type of settlements residue is determined by AEMO rather than stipulated in the NER. This alternative arrangement for negative inter-regional settlements residue is enabled by clause 3.6.5(a)(4). AEMO is seeking to have this clause, in addition to clause 3.6.5(a)(4A) on interest payments, extended to negative intra-RR. Again, it is important to note that AEMO's proposed rule change would not require AEMO to adopt identical payment procedures for both types of negative settlements residue. Nor would it require identical payment procedures for all TNSPs.

While this proposal may be consistent with the current regulatory approach for negative inter-regional settlements residue, the Commission needs to ensure there is no policy rationale for a difference in the regulatory approach for inter-regional and intra-regional settlements residue. The Commission also needs to ensure that the regulatory approach for negative inter-regional settlements residue efficiently deals with the settlements risk and is an appropriate model for intra-RR to follow. This includes consideration of whether this approach constitutes good regulatory practice and whether payment timing and methods are considered procedural issues that are

¹⁶ When referring to the 'regulatory approach' for negative inter-regional settlements residue in this paper, we are specifically referring to the act of containing payment provisions in AEMO procedures as opposed to containing payment provisions in the NER.

better contained in AEMO procedures. Submissions on all of the above points are welcome.

Question 2 Would the act of moving payment provisions from the NER into AEMO procedures be appropriate in the case of negative intra-RR?

a) Are there any conceivable circumstances where negative intra-RR provisions around payment timing and method should be contained in the NER, as opposed to AEMO procedures?

5.2 Degree of prescription in the rule change

The rule change proposal would enable AEMO to adopt any kind of payment arrangement for negative intra-RR, provided it is consistent with the NER principle that TNSPs are to pay AEMO for any negative intra-RR. As discussed, it does not require that AEMO adopt the same payment procedures for negative intra-RR as those that are currently in place for negative inter-regional settlements residue.

The rule change proposal would also enable AEMO to determine payment arrangements for any interest AEMO incurred as a result of unrecovered negative settlements residue, following consultation with the appropriate TNSP.¹⁷ This provision currently applies for negative inter-regional settlements residue and would be extended to negative intra-RR under the proposed rule change.¹⁸ We do not expect this part of the proposed rule change to pose any significant additional costs to TNSPs than the current arrangements but we welcome submissions on this issue.

As discussed, the proposed rule provides AEMO with a degree of flexibility to manage TNSP payment risk and the associated settlements risks. Some consideration needs to be given as to whether the rule change should be more prescriptive to reduce the risk of AEMO adopting payment procedures that pose higher costs on TNSPs or that have unintended negative consequences for the efficient operation of the NEM. We are of the view that the risk of this occurring is very low for the following reasons:

- AEMO is required to have regard to the national electricity objective when carrying out its statutory functions;¹⁹
- the proposed rule change includes a requirement for AEMO to consult with the appropriate TNSP before determining the payment procedure;

¹⁷ AEMO, rule change request, p4.

¹⁸ The current provision is contained in NER clause 3.6.5(a)(4A) for interest payments associated with unrecovered negative inter-regional settlements residue payments. AEMO is proposing for this existing clause to include interest from unrecovered negative intra-RR payments.

¹⁹ Part five of the National Electricity Law sets out this requirement, whereby AEMO must have regard to promoting efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to – (a) price, quality, safety, reliability and security of supply of electricity; and (b) the reliability, safety and security of the national electricity system.

- if a TNSPs was unsatisfied with the payment procedures, it could submit a rule change request to the AEMC to alter AEMO's powers under clause 3.6.5(a)(4) around the determination of payment procedures; and
- AEMO has indicated their intent to adopt an approach similar to the current payment method for negative inter-regional settlements residue, which it states has been effectively implemented on approximately 12 occasions.²⁰

We note that AEMO already has this degree of discretion to determine payment procedures for negative inter-regional settlements residue. A higher level of prescription in the wording of the final rule change could, however, be imposed if there was a policy rationale for requiring AEMO to implement the rule change within certain parameters.

Question 3 Are there any conceivable circumstances that would require clause 3.6.5(a)(4) to be more prescriptive in terms of the payment arrangements to be adopted by AEMO?

a) Would a greater degree of prescription in the rule offer material benefits to market participants?

b) Would a greater degree of prescription in the rule still permit AEMO to effectively manage the risks associated with TNSP payments?

Examples of where there could potentially be a policy rationale for a more prescriptive rule include where there may be marginal operational efficiencies (for AEMO and/or TNSPs) through consistent payment procedures for all TNSPs or for both types of negative settlements residue.

As discussed in Part 2.2 of this paper, the payment procedures for negative inter-regional settlements residue can vary for each TNSP under the current rules. In practice, AEMO has adopted one consistent method of payment for all TNSPs in all regions.

To maintain the simplicity of the current arrangements where one method applies consistently across all TNSPs, the proposed rule change could be modified to remove the current provision to create different payment procedures for different TNSPs.

We are interested in submissions to inform whether this type of amendment to the AEMO proposed rule change may help in promoting the NEO. For example, if it could provide greater market transparency, improve clarity for TNSPs regarding their obligations, and streamline operational processes for TNSPs and AEMO in relation to all negative settlements residues.

To help in assessing the potential benefits of requiring consistent payment procedures against the potential costs of this approach, the Commission needs to determine whether there is a policy rationale for the current flexibility in the clause. Submissions

²⁰ AEMO, rule change request, p3.

addressing Question 4 and Question 5 will assist the Commission in determining whether this is the case.

Question 4 **Is there a policy rationale for keeping the current NER wording of clauses 3.6.5(a)(4) and (a)(4A) that permits AEMO to implement different payment procedures for different TNSPs?**

a) Are there conceivable circumstances where different payment procedures would be required for different TNSPs?

b) Would the benefits of having flexibility with multiple payment procedures outweigh the potential administrative costs and uncertainty around different TNSP payment procedures?

Question 5 **Is there a policy rationale for enabling AEMO to implement different payment procedures for negative intra-regional and negative inter-regional settlements residue?**

a) Are there conceivable circumstances where different payment procedures would be required for negative intra-RR versus negative inter-regional settlements residue?

b) Would the benefits of having flexibility with multiple payment procedures outweigh the potential administrative costs and uncertainty around different TNSP payment procedures?

5.3 Potential outcomes of the rule change proposal

As noted in Part 4 of this consultation paper, the rule change request does not impose any specific payment procedures and it is therefore outside the scope of the NEO assessment to specifically examine AEMO's proposed payment timing. The Commission can, however, consider the proposed payment timing in the context of the broader assessment of the potential outcomes of the rule change proposal when developing the final rule determination.

To inform the consideration of potential market outcomes of the rule change, the Commission needs to understand how TNSPs operate under the existing payment arrangements and the potential impact of changing these arrangements.

Under the existing arrangements, TNSPs receive 15 days notice between when the Preliminary Statement is issued and when they are required to pay AEMO for negative intra-RR. The arrangements that every TNSP has in place to access finance within the 15 days to fund negative intra-RR amounts are unknown to the AEMC. It is therefore difficult to assess the likelihood and magnitude of impacts on TNSPs if AEMO were to bring forward the payment date for TNSPs per AEMO's rule change proposal.

We welcome submissions on this issue that can help to address Question 6. We do however note that the rule change assessment will be more heavily weighted towards

considerations under Part 5.1 for the reasons explained in the assessment framework in Part 4.

Question 6 What is the potential impact on TNSPs if AEMO were to change the payment timing for negative intra-RR?

- a) What kind of arrangements do TNSPs currently have in place to access the finance to pay for negative intra-RR events? For example, are negative intra-RR payments funded through existing operating capital or through commercial loans?**
- b) Would a change to the payment timing have a material impact on the TNSP's ability to access finance and/or have a material impact on the cost of capital for a TNSP?**
- c) Would a change to the payment timing present any other material costs for TNSPs that would affect the operational efficiency of the TNSP or that would be passed on to customers through higher transmission charges?**

When considering the potential costs of early payments, we note that existing AEMO procedures for negative inter-regional settlements residue payment involve AEMO banking the TNSP payments until the relevant settlement date and returning any interest accrued to the TNSP.²¹

5.4 Savings and transitional requirements

The rule change request includes a draft rule which removes the explicit reference to inter-regional settlements residue in clause 3.6.5(a)(4) and (a)(4A), which essentially extends the clause to also cover negative intra-RR. If the proposed rule change were adopted, there would need to be a transition from the current payment process to the new process that AEMO implements. In considering the proposed rule, the AEMC will therefore also take account of, and incorporate, any arrangements needed to provide a smooth transition from the current rule requirements to the new AEMO procedures.

²¹ This detail is contained in the AEMO procedure document 'NEM Transmission Network Service Providers Payment Procedure' available on the AEMO website at: <http://www.aemo.com.au/electricityops/0508-0002.html>.

6 Lodging a Submission

The Commission has published a notice under sections 95 and 96 of the NEL to assess the rule change request under an expedited rule making process. The Commission is now accepting written requests not to make a rule under the extradited process and is inviting written submissions on the rule change request.

Written requests not to make a rule under the extradited process under section 96 of the NEL must include reasons for the request, and must be lodged with the Commission on 16 February 2012. Requests may be lodged either online or by mail, in accordance with the requirements specified below.

Written submissions on the subject matter of this rule change request are to be lodged online or by mail on 1 March 2012 in accordance with the requirements set out below.

Where practicable, submissions should be prepared in accordance with the Commission's Guidelines for making written submissions on rule change proposals.²² The Commission publishes all submissions on its website subject to a claim of confidentiality.

All enquiries on this project should be addressed to Skye d'Almeida 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, using the "lodge a submission" function and selecting the project reference code ["ERC0139"]. 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 3 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: ERC0139.

²² This guideline is available on the Commission's website.

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

If this confirmation letter is not received within 3 business days, it is the submitter's responsibility to ensure successful delivery of the submission has occurred.

Abbreviations

AEMC	Australian Energy Market Commission
Commission	See AEMC
NEL	National Electricity Law
NEO	National Electricity Objective
NER	National Electricity Rules