



RULE CHANGE

Australian Energy Market Commission

DRAFT RULE DETERMINATION

National Electricity Amendment (Victoria
Generator Technical Performance Standards
Derogations) Rule 2010

Rule Proponent(s)

Victorian Minister for Energy and Resources

Commissioners

Pierce
Henderson
Spalding

17 June 2010

A handwritten signature in black ink, appearing to read "John Pierce".

JOHN PIERCE
Chairman
For and on behalf of the Australian Energy Market Commission

Inquiries

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E: aemc@aemc.gov.au
T: (02) 8296 7800
F: (02) 8296 7899

Reference: ERC0102

Citation

AEMC 2010, Victoria Generator Technical Performance Standards Derogations, Rule Determination, 17 June 2010 , Sydney

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 to be the rule maker for national energy markets. The AEMC is currently responsible for rules and providing advice to the MCE on matters relevant to the national energy markets. We are an independent, national body. Our key responsibilities are to consider rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

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 of draft Rule determination

On 30 December 2010, the Australian Energy Market Commission (AEMC or Commission) received a Rule change request from the Victorian Minister for Energy and Resources (Rule Proponent). In this Rule change request, the Rule Proponent is seeking to remove the Victorian generator technical performance standards derogations that appear to be redundant and has the potential to compromise reliability and security of the power system in the National Electricity Market (NEM).

Commission Rule determination

Under section 99 of the National Electricity Law (NEL), the Commission has determined to make this draft Rule determination and the draft National Electricity Amendment (Victoria Generator Technical Performance Standards Derogations) Rule 2010 (the Draft Rule).

As proposed by the Rule Proponent, the Draft Rule removes all generator technical performance standards jurisdictional derogations under Schedule 9A3 of the Rules except those that relate to Smelter Trader's Anglesea Power Station Unit 1.

The Commission is satisfied that the Draft Rule meets the Rule making test and will, or is likely to, contribute to the achievement of the national electricity objective (NEO). In making this assessment, the impacts of the Draft Rule on economic efficiency and good regulatory practice were taken into account. The Commission also took into account the impacts of the Draft Rule on the quality, reliability and security of the power system in the NEM.

The Commission notes that the transitional technical performance standards registration process under rule 4.16 of the Rules was completed on 30 June 2007. This registration process established the technical performance standards for the relevant generating units in the NEM. The registered performance standards are inconsistent with the technical performance standards derogations in Schedule 9A3 of the Rules. The Commission considers such inconsistencies could give rise to ambiguity in the NEM in relation to the technical performance standards applying to Victorian generators. Ambiguity in the Rules gives rise to regulatory uncertainty.

Regulatory uncertainty can pose unnecessary risks to participants the NEM. NEM participants are likely to incur unnecessary costs in managing these risks, and these costs would be a factor contributing to inefficiencies in the NEM. By removing the technical performance standards derogations from the Rules as proposed, the Draft Rule will clarify that the technical performance standards applying to generating units in Victoria are those as registered with Australian Energy Market Operator (AEMO), rather than those derogations under Schedule 9A3 of the Rules.¹ This is likely to reduce ambiguity in the Rules, hence promoting regulatory certainty.

¹ An exception applies to Anglesea Power Station Unit 1 as discussed earlier.

Promoting regulatory certainty reduces NEM participants' risks, hence reduces the costs necessary to manage these risks. The cost saving can be passed on to consumers of electricity. This is likely to promote efficient operation of electricity services for the long term interests of consumers with respect to price of supply of electricity, hence contributing towards the achievement of NEO.

The Commission considers the Rule, if made, will improve consistency of the registration and compliance requirements framework across the NEM. Improved consistency is likely to contribute towards reducing complexity in the Rules. Reduced Rules complexity means reduced administrative burdens and the associated cost burdens on NEM participants. As discussed above, cost saving by NEM participants is likely to contribute towards the achievement of the NEO.

The Commission considers the Rule, if made, will not, or is unlikely to, inappropriately dilute power system quality, reliability and security in the NEM.

In addition, the completion of the transitional technical performance standards registration process also means the technical performance standards derogations proposed to be removed are now redundant. The Commission considers that it is a good regulatory practice to remove redundant provisions in the Rules.

The Commission is not aware of any generating units that will be in breach of their registered performance standards if the technical performance standards derogations are to be removed from Schedule 9A3 of the Rules as proposed. Any breaches of the technical performance standards can be dealt with under rule 4.15 of the Rules. Therefore, Commission is not considering making a transitional arrangement (for example, delaying the commencement date of the Rule) to allow generating units sufficient time to upgrade their plants and equipments in order to comply with the registered performance standards.

Making a submission or request for a hearing

In accordance with the notice published under section 99 of the NEL, the Commission invites submissions on this draft Rule determination, including the Draft Rule, by 5 pm 30 July 2010.

In accordance with section 101(1a) of the NEL, any person or body may request that the Commission holds a hearing in relation to the draft Rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than 5 pm 24 June 2010.

Submissions and requests for a hearing should quote project number "ERC0102" and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Contents

1	Victorian Minister for Energy and Resources' Rule change request	1
1.1	The Rule change request	1
1.2	Rule Change request rationale	1
1.3	Solution proposed by the Rule change request	2
1.4	Commencement of Rule making process	3
1.5	Consultation on draft Rule determination	3
2	Draft Rule Determination	4
2.1	Commission's draft Rule determination.....	4
2.2	Commission's considerations.....	4
2.3	Commission's power to make the Rule	4
2.4	Rule making test.....	5
2.5	Other requirements under the NEL	6
3	Commission's reasons.....	7
3.1	Assessment.....	7
3.2	Draft Rule	8
4	Commission's analytical framework.....	9
4.1	General analytical approach.....	9
4.2	Application of analytical framework for the Rule change request	10
5	Clarity of the Rules and regulatory certainty	12
5.1	Rule change proponent's view	12
5.2	Stakeholder views	12
5.3	Analysis	12
5.4	Conclusion	13
6	Impacts on quality, reliability and security of the power system	14
6.1	Rule change proponent's view	14
6.2	Stakeholder views	14
6.3	Analysis	14

6.4	Conclusion	15
7	Impacts on administrative burdens on NEM participants.....	16
7.1	Stakeholder views	16
7.2	Analysis	16
7.3	Conclusion	16
8	Generators in breach of the registered performance standards	17
8.1	Analysis and Conclusion	17
	Abbreviations.....	18
A	Summary of issues raised in submissions	19

1 Victorian Minister for Energy and Resources' Rule change request

1.1 The Rule change request

On 30 December 2010, the Rule Proponent made a request to the Commission to make a Rule regarding the removal of most of the Victorian generator technical performance standards derogations from schedule 9A3 of the National Electricity Rules (Rules).

1.2 Rule Change request rationale

In this Rule change request, the Rule Proponent is seeking to remove the Victorian generator technical performance standards derogations that appear to be redundant and has the potential to compromise reliability and security of the power system in the NEM.

In December 2006, the Commission made a Rule that aimed to resolve issues relating to the performance standards of generators connected to transmission or distribution networks.² This Rule established a transitional process which required incumbent generators to register their actual technical capabilities with National Electricity Market Management Company (NEMMCO), now AEMO. This process was completed by 30 June 2007.³ The registration process (which established the technical performance standards for the relevant generating units) is set out in rule 4.16 of the Rules. The technical performance standards were to be resolved between AEMO and the relevant generators in accordance with the requirements under this rule of the Rules.

Schedule 9A3 of Chapter 9 of the Rules sets out the jurisdictional derogations relating to the technical performance standards for Victorian generators. In the Rule change request, the Rule Proponent submitted that these derogations are “inconsistent with the capabilities that the generators have registered with AEMO [under rule 4.16 of the Rules]”⁴. While these jurisdictional derogations remain in force, they take precedence over the technical standards that have been registered with AEMO.⁵

In the Rule change request, the Rule Proponent submitted that “in November 2007 the Australian Energy Regulator (AER) asked the Victorian Government to remove the technical performance derogations for Victorian generators from the NER [Rules]. The AER made this request as a result of its investigation into the events of the 16 January

² National Electricity Amendment (Resolution of existing generator performance standards) Rule 2006 No.21,
<http://www.aemc.gov.au/Electricity/Rule-changes/Completed/Resolution-of-existing-generator-performance-standards.html>

³ AEMC, 2006, *Rule determination - Resolution of existing generator performance standards*,
<http://www.aemc.gov.au/Electricity/Rule-changes/Completed/Resolution-of-existing-generator-performance-standards.html>.

⁴ See Rule change request, page 3.

⁵ See clause 9.1.1(b) of the Rules.

2007 Victorian bushfires. In its 2007 report the AER found that the bushfires caused widespread load shedding to occur in Victoria and that during a disturbance to the power system it was possible for generators to trip without breaching their respective jurisdictional derogations.⁶

In the Rule change request, the Rule Proponent submitted that “[t]he AER considers that since all generators have now registered the capability of their plant and equipment, the Chapter 9 derogations should be removed.”⁷

In addition to the Rule change request, the AER stated in its report that “derogations [relating to Victorian generator technical performance standards] apply less onerous technical performance standard”⁸. The report also states that “[n]ow that all [Victorian] generators have registered the actual capability of their plant and equipment with NEMMCO, the derogations related to those standards appear to have become redundant. The AER will recommend that the Victorian government remove the Chapter 9 derogations relating to generator technical standards.”⁹

1.3 Solution proposed by the Rule change request

On 30 December 2009, the Rule Proponent submitted a Rule change request to the Commission seeking to remove most of the Victorian generator technical performance standards derogations from Schedule 9A3 of the Rules.

The Rule change request from the Rule Proponent proposes to remove all derogations in Schedule 9A3 of the Rules except those that relate to Smelter Trader's Anglesea Power Station Unit 1. The Rule Proponent understands that the State Electricity Commission of Victoria (SECV) is the responsible market participant in respect of the Anglesea Power Station, and the SECV has advised the Victorian Government that the current derogations applying to the power station unit should remain in place. This is because “AEMO, Alcoa, and the SECV Trader have looked at the Anglesea Power Station in detail. It is possible that the technical issues in relation to it may not be resolved during the remaining life of the power station.”¹⁰

The Rule Proponent submitted that “[t]he deletion of the technical performance derogations that apply to the Victorian generating units will ensure that those generating units comply with the technical performance capabilities that have been registered with AEMO”.¹¹

The Rule Proponent does not expect that the generators will face "substantial unexpected costs in meeting the higher expectations that these standards require

⁶ Rule change request, page 3.

⁷ Ibid.

⁸ AER, 2007, The events of 16 January 2007 – Investigation Report, page 6,
<http://www.aer.gov.au/content/index.phtml/itemId/714828>.

⁹ Ibid.

¹⁰ Rule change request, page 5.

¹¹ Ibid.

[standards registered with AEMO].¹² This is because the "technical standards have already been settled between AEMO and the Victorian generators".¹³ However, the Rule if made may "cause certain Victorian generators to undertake upgrade work to ensure that they meet their agreed technical performance standards".¹⁴

The derogation clauses proposed to be removed for each of the relevant generating unit are set out in the table in section 4 of the Rule change request.

1.4 Commencement of Rule making process

On 11 March 2010, the Commission published a notice under section 95 of the NEL advising of its intention to commence the Rule change process and the first round of consultation in respect of the Rule change request. A consultation paper prepared by AEMC staff identifying specific issues or questions for consultation was also published with the Rule change request. Submissions closed on 9 April 2010.

The Commission received two submissions on the Rule change request as part of the first round of consultation. They are available on the AEMC website.¹⁵ A summary of the issues raised in submissions and the Commission's response to each issue is contained in Appendix A.

1.5 Consultation on draft Rule determination

In accordance with the notice published under section 99 of the NEL, the Commission invites submissions on this draft Rule determination, including the Draft Rule, by 5 pm 30 July 2010.

In accordance with section 101(1a) of the NEL, any person or body may request that the Commission holds a hearing in relation to the draft Rule determination. Any request for a hearing must be made in writing and must be received by the Commission no later than 5 pm 24 June 2010.

Submissions and requests for a hearing should quote project number "ERC0102" and may be lodged online at www.aemc.gov.au or by mail to:

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

¹² Ibid.

¹³ Ibid.

¹⁴ Ibid, page 6.

¹⁵ www.aemc.gov.au

2 Draft Rule Determination

2.1 Commission's draft Rule determination

In accordance with section 99 of the NEL the Commission has made this draft Rule determination in relation to the Rule proposed by the Rule Proponent.

The Commission has determined that it should make the Rule proposed by the Rule Proponent.

The Commission's reasons for making this draft Rule determination are set out in section 3.1

The Draft Rule is attached to and published with this draft Rule determination. The Draft Rule follows the Rule as proposed by the Rule Proponent. Its key features are described in section 3.2.

2.2 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;
- the fact that there are no relevant Ministerial Council on Energy (MCE) Statement of Policy Principles;¹⁶
- submissions received during first round consultation; and
- the Commission's analysis as to the ways in which the proposed Rule will, or is likely to, contribute to the NEO.

2.3 Commission's power to make the Rule

The Commission is satisfied that the Draft Rule falls within the subject matter about which the Commission may make Rules. The Draft Rule falls within the matters set out in section 34 of the NEL as it relates to the regulation of:

- the operation of the NEM (as generator technical performance standards would impact the way the power system is operated in the NEM);
- the operation of the national electricity system for the purposes of the safety, security and reliability of that system (as the generator technical performance

¹⁶ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule.

standards would possibly have an impact on the safety, security and reliability of the power system in the NEM); and

- the activities of persons participating in the NEM or involved in the operation of the national electricity system (as the generator technical performance standards proposed to be amended apply to generators, and these generators are participants in the NEM).

Further, the Draft Rule falls within the matters set out in schedule 1 to the NEL. The Draft Rule deals with the generator technical performance standards for connecting to the transmission and distribution networks. This relates to the subject matters contained in item 11 which relates to "the operation of generating systems, transmission systems, distribution systems or other facilities".

2.4 Rule making test

Under section 88(1) of 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 NEO. This is the decision making framework that the Commission must apply.

The NEO is set out in section 7 of the NEL as follows:

"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."

For the Rule change request, the Commission considers that the relevant aspect of the NEO is promoting the efficient operation of electricity services for the long term interests of consumers of electricity with respect to price.¹⁷

The Commission is satisfied that the Draft Rule will, or is likely to, contribute to the achievement of the NEO.

As discussed in section 5.3 of this document, the technical performance standards derogations in Schedule 9A3 of the Rules give rise to regulatory uncertainty.

Regulatory uncertainty can pose unnecessary risks to participants the NEM. NEM participants are likely to incur unnecessary costs in managing these risks, and these costs would be a factor contributing to inefficiencies in the NEM. Removing the technical performance standards derogations from the Rules as proposed is likely to reduce ambiguity in the Rules, hence promoting regulatory certainty.

¹⁷ Under section 88(2), for the purposes of section 88(1) the AEMC may give such weight to any aspect of the NEO as it considers appropriate in all the circumstances.

Promoting regulatory certainty reduces NEM participants' risks, hence reduces the costs necessary to manage these risks. The cost saving can be passed on to the consumers of electricity. This is likely to promote efficient operation of electricity services for the long term interests of consumers with respect to price of supply of electricity, hence contributing towards the achievement of NEO.

The Commission considers the Rule, if made, will improve consistency of the registration and compliance requirements framework across the NEM. Improved consistency is likely to contribute towards reducing complexity in the Rules. Reduced Rules complexity means reduced administrative and the associated cost burdens on NEM participants. As discussed above, cost saving by NEM participants is likely to contribute towards the achievement of the NEO.

The Commission considers the Rule, if made, will not, or is unlikely to, inappropriately dilute power system quality, reliability and security in the NEM.

In addition, the completion of the transitional technical performance standards registration process also means the technical performance standards derogations proposed to be removed are now redundant. The Commission considers that it is a good regulatory practice to remove redundant provisions in the Rules.

Under section 91(8) of the NEL 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. The Draft Rule is compatible with AEMO's declared network functions because it is unlikely to have an impact on AEMO's performance of this function.

2.5 Other requirements under the NEL

In applying the Rule making test in section 88 of the NEL, the Commission has also had regard to any relevant MCE Statements of Policy Principles as required under section 33 of the NEL.¹⁸ The Commission notes that currently there are no relevant MCE statement of policy principles that relate to the issues contained in the Rule proposal.

¹⁸ Under section 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a Rule..

3 Commission's reasons

The Commission has analysed the Rule change request and assessed the issues/propositions arising out of this Rule change request. For the reasons set out below, the Commission has determined that a Draft Rule be made. Its analysis of the Rule proposed by the Rule Proponent is also set out below.

3.1 Assessment

In this Rule change request, the Rule Proponent requested that most of the technical performance standards derogations in Schedule 9A3 of the Rules be removed. This request was made because most generators in Victoria have now registered the capability of their plants and equipments under rule 4.16 of the Rules. Completion of this registration process means the "technical standards have already been settled between AEMO and Victorian generators"¹⁹, and the derogations are now therefore redundant.

The registered performance standards are inconsistent with the technical performance standards in Schedule 9A3 of the Rules. Although most of the generators technical performance standards have already been resolved as a result of the completion of the registration process (hence the accepted technical performance standards have been established), the derogations still take precedence while they are still in force.²⁰ The Commission considers this would give rise to ambiguity in the NEM in relation to the technical performance standards applying to the Victorian generators.

The Rule Proponent submitted that the "removal of the jurisdictional technical performance derogations for Victorian generators will ensure that these generators comply with their registered technical performance capabilities".²¹

The Commission agrees that the technical performance standards derogations proposed to be removed are now redundant, and determines to remove them from the Rules. The Commission considers the ambiguity resulted by the redundant provisions of the Rules can be addressed by removing these provisions. This is further discussed in Chapter 5 of this document. The Commission also notes that it is a good regulatory practice to remove redundant provisions in the Rules.

The Commission is mindful of the impacts of removing these technical performance standards derogations from the Rules on the quality, reliability and security of the power system in the NEM. This is further discussed in Chapter 6 of this document.

The Commission considers removing the technical performance standards derogations will promote consistency of regulatory arrangement in the NEM, hence reducing Rules complexity. This is discussed further in Chapter 7 of this document.

¹⁹ Rule change request, page 5.

²⁰ See clause 9.1.1(b) of the Rules.

²¹ Rule change request, page 5.

3.2 Draft Rule

As proposed by the Rule Proponent, the Draft Rule removes all of the technical performance standards derogations except those that relate to Smelter Trader's Anglesea Power Station Unit 1.

This Rule involves the removal of the following clauses from Schedule 9A3 of the Rules:

- Clause 4 (Additional services that may be required);
- Clause 6 (Generating unit response to disturbances);
- Clause 7 (Partial load rejection);
- Clause 10 (Protection systems that impact on system security);
- Clause 11 (Asynchronous operation);
- Clause 14 (Governor control equipment); and
- Clause 15 (Reactive current compensation).

This Rule also involves the removal of the following clauses from Schedule 9A3 of the Rules for all generating units set out in these clauses except Smelter Trader's Anglesea Power Station Unit 1:

- Clause 5 (Reactive power capability);
- Clause 13 (Governor systems (load control));
- Clause 16 (Excitation control system).

As discussed in section 2.4, the Commission considers the Draft Rule will, or is likely to, contribute to the achievement of the NEO.

4 Commission’s analytical framework

This chapter describes the analytical framework that the Commission has applied to assess the Rule change request in accordance with the requirements set out in the NEL (as explained in Chapter 2).

4.1 General analytical approach

Under the NEL, before making a Rule, the Commission must be satisfied that there is a real chance that making the Rule would contribute materially to creating an environment which is, on balance, more conducive to improving efficiency in investment in, or operation or use of, electricity services in the long term interests of electricity consumers as set out in the NEO²². The point of comparison is the environment that would exist if the proposed Rule were not made.

The relevant “environment” is the collective range of incentives and obligations created by the Rules that, either directly or indirectly, influence behaviour and outcomes that might be relevant to assessing a Rule change request against the NEO and taking into account and considering other relevant factors as required under the NEL.

In considering each Rule change the Commission seeks to apply a consistent analytical framework. The purpose of the analytical framework is to ensure that issues are identified and understood systematically, and in a way that directly informs the decisions which the Commission must make under the NEL. The core, generic elements of the Commission’s analytical framework are:

- assessment of how the current Rules operate to test that the rationale for the Rule change is well founded;
- assessment of how changing the substance of the Rules (including, but not limited to, in the manner proposed in the Rule change request), might affect behaviour and outcomes relevant to the rationale for the Rule change request; and
- assessment of how, and to what extent, the affected behaviours and outcomes promote or inhibit attainment of different aspects of the NEO.

This generic framework is based on consideration of the interests of both current and future electricity consumers. It explicitly recognises that the decision-making framework for the Commission in respect of Rule change requests provides discretion for the Commission to decide how different aspects of the NEO should be weighted. The analytical framework is designed to ensure that these judgements have a sound basis in evidence. Information provided by the proponent of the Rule change request, or by other interested parties through submissions, are valuable inputs to the

²² This is reflected in section 88 of the NEL.

application of the analytical framework. They help inform how issues are identified, understood and interpreted.

While all Rules change requests must be assessed against the contribution to efficiency as set out in the NEO, the NEL also requires the Commission in some instances to have regard to and take into account other factors. This may affect the application of the analytical framework on a case-by-case basis.

4.2 Application of analytical framework for the Rule change request

In the present circumstances the application of this analytical framework has involved focussing on the following issues:

- the impacts of removing the technical performance standard derogations as proposed on clarity of the Rules and regulatory certainty;
- the impacts of removing the technical performance standard derogations as proposed on the power system quality, reliability and security;
- the impacts of removing the technical performance standard derogations as proposed on administrative burdens on NEM participants; and
- whether NEM participants will be in breach of their registered technical performance standards obligations if the derogations under Schedule 9A3 are removed from the Rules.

The Commission has focussed on this set of issues because:

- lack of Rules clarity can pose unnecessary risks to participants in the NEM. NEM participants are likely to incur unnecessary costs in managing these risks, and these costs would be a factor contributing to inefficiencies in the NEM. Clarity of the Rules is likely to promote regulatory certainty which would reduce NEM participants' risks, hence promoting efficiency in the NEM. The Commission considers clarity of the Rules can be improved by removing redundant provisions in the Rules.
- the proposed Rule has the potential to change the technical performance standards Victorian generators need to meet, and this is likely to have impacts on the power system quality, reliability and security in the NEM.
- the proposed Rule, if made, will require generators in Victoria to comply with the registered technical performance standards, rather than the technical performance standards derogations in Schedule 9A3 of the Rules. This change in compliance requirements may change the administrative burdens imposed on the generators, and a change in administrative burdens may have a cost impact.
- transitional arrangement (for example, a delay of Rule commencement) may be required if it is found that NEM participants are not able to meet the registered technical performance standards.

The application of the Commission’s analytical framework in this instance has involved the following tasks and methods:

- investigation of the technical performance standards derogations (under Schedule 9A3 of the Rules) as to whether or not they are now redundant following the completion of the performance standards registration process under rule 4.16 of the Rules, and whether or not removing the redundant provisions will improve Rules clarity (see Chapter 5);
- investigation of whether the Victorian generating units complying with the registered performance capabilities (rather than the performance standards derogations under Schedule 9A3 of the Rules) will inappropriately dilute power system quality, reliability and security (see Chapter 6);
- investigation of whether requiring the Victorian generating units to comply with the registered performance capabilities (rather than the performance standards derogations under Schedule 9A3 of the Rules) will impose or reduce administrative and cost burdens on the generating units (see Chapter 7); and
- investigation of whether the removal of the technical performance standard derogations will result in the Victorian generating units breaching the registered technical performance standards (see Chapter 8).

5 Clarity of the Rules and regulatory certainty

5.1 Rule change proponent's view

The Rule Proponent submitted that "the Victorian jurisdictional derogations incorporate technical standards that are inconsistent with the capabilities that the generators have registered with AEMO. While these jurisdictional derogations remain in force, they take precedence over the technical standards that have been registered with AEMO".²³.

The Rule Proponent submitted that "[t]he deletion of the technical performance derogations that apply to the Victorian generating units will ensure that those generating units comply with the technical performance capabilities that have been registered with AEMO".²⁴ The Rule Proponent also submitted that "these technical standards have already been settled between AEMO and the Victorian generators"²⁵.

5.2 Stakeholder views

AGL Energy Ltd (AGL) expressed support for the Rule change request because it:

- provides regulatory certainty on the required performance standards for the generators in Victoria; and
- would clarify the technical requirements and support AGL's on-going effort in managing the generator performance in accordance to the performance standards agreed with AEMO under rule 4.16 of the Rules.

AER also expressed support for the Rule change request because "[f]ollowing the introduction of a requirement under the Rules to register generator technical performance standards that reflect the actual capability of generators [registration process under rule 4.16 of the Rules], and arrangements that allow these performance standards to be renegotiated under certain conditions, the jurisdictional derogations in question have become unnecessary".²⁶

5.3 Analysis

The Commission notes that the transitional technical performance standards registration process under rule 4.16 of the Rules was completed on 30 June 2007.

The registered performance standards are inconsistent with the technical performance standards in Schedule 9A3 of the Rules. Although most of the technical standards have

²³ Rule change request, page 3

²⁴ Ibid, page 5.

²⁵ Ibid.

²⁶ See the submission from AER.

already been resolved as a result of the completion of registration process (this established technical performance standards for the relevant generating units), the derogations still take precedence while they are still in force.²⁷ The Commission considers this would give rise to ambiguity in the NEM in relation to the technical performance standards applying to the Victorian generators. Rules ambiguity gives rise to regulatory uncertainty. Completion of the registration process also means the technical performance standards derogations proposed to be removed are now redundant.

By removing the redundant provisions in the Rules, the Commission considers the Draft Rule will reduce ambiguity hence improve clarity of the Rules. Improved clarity in the Rules is likely to promote regulatory certainty.

In addition, the Commission considers it to be a good regulatory practice to remove redundant provisions in the Rules.

5.4 Conclusion

As discussed earlier, the Commission considers removing the technical performance standards derogations as proposed is likely to promote regulatory certainty. The derogations are to be removed on the premise that the necessary technical performance standards have been registered with AEMO under rule 4.16 of the Rules. The Rule Proponent understands that the registration process has been completed apart from those technical performance standards relating to Smelter Trader's Anglesea Power Station Unit 1.

The Commission therefore determines to remove all technical performance standards from Schedule 9A3 of the Rules apart from those relating to the generating unit of Smelter Trader's Anglesea Power Station Unit 1.

²⁷ See clause 9.1.1(b) of the Rules.

6 Impacts on quality, reliability and security of the power system

6.1 Rule change proponent's view

The Rule change was proposed as a result of a recommendation by the AER in November 2007. The AER made this recommendation as a result of its investigation into the events of the 16 January 2007 Victorian bushfires. In its 2007 report²⁸ the AER found that the bushfires caused widespread load shedding to occur in Victoria and that during a disturbance to the power system it was possible for generators to trip without breaching their respective jurisdictional derogations.

The Rule Proponent submitted that "[t]he removal of the jurisdictional technical performance derogations for Victorian generators will ensure that these generators comply with their registered technical performance capabilities [rather than the jurisdictional derogations]. The AER considers that this will improve the safety and security of the supply of electricity and the safety and security of the national electricity system".²⁹

6.2 Stakeholder views

The AER submitted that "[t]his Rule change proposal follows the AER's recommendations to the Victorian Government stemming from the investigation into the events of 16 January 2007, when bushfires in the north east of Victoria resulted in widespread load shedding. The investigation found that, among other things, the application of less exacting standards to generating units, through derogations in Chapter 9 of the Rules, has the potential to compromise system security".

6.3 Analysis

Removing the technical performance standards derogations (in Schedule 9A3 of the Rules) will compel the relevant Victorian generators to comply with the technical standards that have been registered with AEMO. The Commission has considered as to whether or not this will inappropriately dilute power system quality, reliability and security in the NEM.

AEMO advised the Commission that it "does not have an issue with the removal of the Victorian derogations pertaining to generator performance standards from the Rules as proposed, in terms of the impacts on quality, security and reliability of the power system in the NEM".

²⁸ AER, 2007, The events of 16 January 2007 – Investigation Report, <http://www.aer.gov.au/content/index.phtml/itemId/714828>

²⁹ Rule change request, page 5.

6.4 Conclusion

As a result of the advice from AEMO, the Commission considers removing the technical performance standards derogations from the Rules as proposed will not, or is unlikely to, inappropriately dilute power system quality, reliability and security in the NEM. The Commission therefore determines to remove technical performance standards from Schedule 9A3 of the Rules as proposed in the Rule change request.

7 Impacts on administrative burdens on NEM participants

7.1 Stakeholder views

AGL expressed support for the Rule change request because it "provides for a nationally consistent registration and compliance requirements [framework] for generators operating in the National Electricity Market [NEM]"³⁰.

AER submitted that "in 2008, your Commission approved a similar Rule change proposal made by the Queensland Government (Ref. ERC0070). As in that case, and in the interest of a consistent approach [or framework] to generator technical performance standards within the National Electricity Market [NEM], the AER ultimately looks forward to the removal of all relevant derogations".³¹

7.2 Analysis

The Commission considers the technical performance standards derogations in Schedule 9A3 of the Rules give rise to regional differences in regulatory arrangements. Such differences bring about increased complexity (and hence increased administrative burdens and the associated costs) for a generating unit participating in the NEM, compared to the arrangement where there is a nationally consistent regulatory arrangement.

The Commission considers that the Draft Rule will reduce administrative burdens by improving consistency of registration and compliance requirements framework across the NEM. Other things being equal, removing the jurisdictional derogations will promote efficiency by reducing the costs associated with understanding and complying with multiple arrangements, especially for parties who operate across more than one region of the NEM.

7.3 Conclusion

The Commission considers removing the technical performance standards derogations will promote consistency of regulatory arrangement in the NEM. This would reduce Rules complexity, hence promoting efficiency in the NEM. The Commission therefore determines to remove the technical performance standards derogations as proposed.

³⁰ See submission from AGL

³¹ See submission from AER.

8 Generators in breach of the registered performance standards

8.1 Analysis and Conclusion

The Commission has also considered whether or not requiring the relevant Victorian generating units to comply with the registered technical performance standards (rather than the technical performance standards under Schedule 9A3 of the Rules) will result in these generating units being in breach of their obligations to comply with the registered standards.

In the event where there is likely to be a breach, the Commission will consider making a transitional arrangement (for example, to delay commencement date of the Rule) to allow the generating units sufficient time to upgrade their plants and equipments in order to comply with the registered performance standards.

The Commission is not aware of any generating unit that will be in breach of its registered performance standards if the technical performance standards derogations are removed from Schedule 9A3 of the Rules as proposed. As a result, there would be no need to make any transitional arrangement. Any breaches of the technical performance standards should be dealt with under rule 4.15 of the Rules.

Abbreviations

AEMC or Commission	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
AGL	AGL Energy Ltd
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NEO	national electricity objective
Rule Proponent	Victorian Minister for Energy and Resources
Rules	National Electricity Rules
SECV	State Electricity Commission of Victoria

A Summary of issues raised in submissions

Stakeholder	Issue	AEMC Response
AGL	Removal of the technical performance standards derogations as proposed provides regulatory certainty on the required performance standards for the generators in Victoria.	The Commission agrees with AGL in relation to this issue. This is discussed further in Chapter 5.
AGL	Removal of the technical performance standards derogations as proposed provides for nationally consistent registration and compliance requirements framework for generators operating in the NEM.	The Commission agrees with AGL in relation to this issue. This is discussed further in Chapter 7.
AGL	Removal of the technical performance standards derogations as proposed would clarify the technical requirements and support AGL's on-going effort in managing the generator performance in accordance to the recently agreed performance standards with AEMO.	The Commission agrees with AGL in relation to this issue. As discussed in section 5.3, the Commission also considers clarity of the technical performance standards is likely to promote regulatory certainty.
AER	The technical performance standards derogations in Chapter 9 of the Rules have become unnecessary.	The Commission agrees that the technical performance standards derogations in Schedule 9A3 of the Rules are now unnecessary. This is because the transitional technical performance standards registration process (under rule 4.16 of the Rules) is now complete. Completion of the process means all technical performance standards for all generating units in Victoria have been established as required. These established standards replace the technical performance standards derogations. ³² This makes the derogations redundant.

³² Except the technical performance standards derogations relating to Smelter Trader's Anglesea Power Station Unit 1, as discussed earlier.

Stakeholder	Issue	AEMC Response
AER	"the application of less exacting standards to generating units [compared with the registered performance standards], through derogations in Chapter 9 of the Rules, has the potential to compromise system security". ³³	The Commission agrees that some aspects of the technical performance standards derogations in Schedule 9A3 (of Chapter 9 of the Rules) apply less onerous requirements compared with the technical performance standards registered with AEMO. These less onerous requirement has the potential to compromise system security.
AER	"in 2008, your Commission approved a similar Rule change proposal made by the Queensland Government (Ref. ERC0070). As in that case, and in the interest of a consistent approach to generator technical performance standards within the National Electricity Market, the AER ultimately looks forward to the removal of all relevant derogations". ³⁴	As in the case for Queensland generator technical performance standards derogations, ³⁵ this Rule removes the technical performance standards derogations for generators in Victoria as requested by the Rule Proponent.

³³ See submission from AER.

³⁴ See submission from AER.

³⁵ National Electricity Amendment (Queensland Generator Technical Performance Standards Derogation) Rule 2008 No. 16.