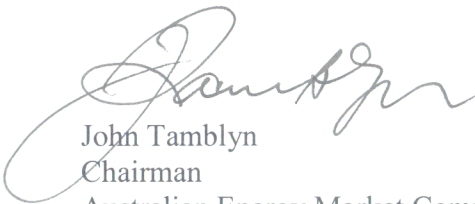


National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008 No. 10

under the National Electricity Law as applied by:

- (a) the National Electricity (South Australia) Act 1996;
- (b) the Electricity (National Scheme) Act 1997 of the Australian Capital Territory;
- (c) the National Electricity (New South Wales) Act 1997 of New South Wales;
- (d) the Electricity - National Scheme (Queensland) Act 1997 of Queensland;
- (e) the Electricity - National Scheme (Tasmania) Act 1999 of Tasmania;
- (f) the National Electricity (Victoria) Act 2005 of Victoria; and
- (g) the Australian Energy Market Act 2004 of the Commonwealth.

The Australian Energy Market Commission makes the following Rule under the National Electricity Law.



John Tamblyn
Chairman
Australian Energy Market Commission

National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008 No. 10

1. Title of Rule

This Rule is the *National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008 No. 10*.

2. Commencement

This Rule commences operation on 23 October 2008.

3. Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

Schedule 1 Amendment of National Electricity Rules

(Clause 3)

[1] Rule 4.13 Submission of Performance Standards

Omit rule 4.13 and substitute “[Deleted]”.

[2] Rule 4.14 Acceptance of Performance Standards

Omit rules 4.14(a) to 4.14(m) and substitute “[Deleted]” for each omitted rule.

[3] Rule 4.14 Acceptance of Performance Standards

After rule 4.14(o), insert:

- (p) A *performance standard* may be amended at any time by agreement between *NEMMCO*, the relevant *Registered Participant* and the *Network Service Provider* if:
 - (1) where the *performance standard* was established under a transitional arrangement in rule 4.16 or 4.17, the amendment is consistent with the actual *plant* capability agreed between *NEMMCO*, the relevant *Registered Participant* and the *Network Service Provider*, even if it is less than the relevant *minimum access standard* that applied to applications to *connect* at the time of agreement; or
 - (2) the amendment satisfies all requirements for *negotiated access standards* under clause 5.3.4A(b); or
 - (3) the amendment satisfies all requirements to be an *automatic access standard*.
- (q) *NEMMCO* must not withhold agreement under rule 4.14(p) on a matter that is not a *NEMMCO advisory matter* under clause 5.3.4A(a), unless the proposed amendment would adversely affect *power system security*.
- (r) The *Network Service Provider* may as a condition of considering an amendment proposed under rule 4.14(p) require payment of a fee to meet the reasonable costs anticipated to be incurred by the *Network Service Provider*, other *Network Service Providers* and *NEMMCO*, in the assessment of the proposed amendment.
- (s) The *Network Service Provider* must require payment of a fee under rule 4.14(r) if so requested by *NEMMCO*.

- (t) On payment of the required fee referred to in rule 4.14(r), the *Network Service Provider* must pay the costs anticipated to be incurred by the other *Network Service Providers* and *NEMMCO*, as appropriate.

[4] Rule 4.15 Performance Standard Compliance

In rule 4.15, omit the rule heading “Performance Standard Compliance” and substitute “Compliance with Performance Standards”.

[5] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(a) and substitute:

- (a) A *Registered Participant* must:
 - (1) ensure that its *plant* meets or exceeds the *performance standard* applicable to its *plant*; and
 - (2) ensure that its *plant* is not likely to cause a material adverse effect on *power system security* through its failure to comply with a *performance standard*; and
 - (3) immediately ensure that its *plant* ceases to be likely to cause a material adverse effect on *power system security* through its failure to comply with a *performance standard*, if:
 - (i) the *Registered Participant* reasonably believes that by failing to comply with a *performance standard*, its *plant* is likely to cause a material adverse effect on *power system security*; or
 - (ii) *NEMMCO* advises the *Registered Participant* that by failing to comply with a *performance standard*, the *Registered Participant’s plant* is likely to cause a material adverse effect on *power system security*.

[6] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(b) and substitute:

- (b) A *Registered Participant* who engages in the activity of planning, owning, controlling or operating a *plant* to which a *performance standard* applies must institute and maintain a compliance program which complies with rule 4.15(c). The compliance program must be instituted, as soon as reasonably practicable, but no later than:

- (1) 6 months after the day that *NEMMCO* gives notice to the *Registered Participant* of registration of the *performance standard* under rule 4.14(n); or
- (2) 6 months after the day on which the *plant* commences operation.

[7] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(c) and substitute:

- (c) A compliance program instituted and maintained under rule 4.15(b) must:
 - (1) be consistent with the *template for generator compliance programs*; and
 - (2) include procedures to monitor the performance of the *plant* in a manner that is consistent with *good electricity industry practice*; and
 - (3) be modified to be consistent with any amendments made under clause 8.8.3(ba) to the *template for generator compliance programs*, by no later than 6 months after amendments to the *template for generator compliance programs* are *published* or by a date determined by the *Reliability Panel*; and
 - (4) provide reasonable assurance of ongoing compliance with each applicable *performance standard*.
- (ca) The *template for generator compliance programs* must:
 - (1) cover all *performance standards*; and
 - (2) define suitable testing and monitoring regimes for each *performance standard* so that a *Registered Participant* can select a regime that complies with the obligations set out in rules 4.15(a), 4.15(b) and 4.15(c) for their particular *plant*.

[8] Rule 4.15 Performance Standard Compliance

In rule 4.15(e), omit the number “2” and substitute with the number “5”.

[9] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(f) and substitute:

- (f) A *Registered Participant* who engages in the activity of planning, owning, controlling or operating a *plant* to which a *performance standard* applies must immediately notify *NEMMCO* if:
- (1) the *Registered Participant* becomes aware that the *plant* is breaching a *performance standard* applicable to the *plant*; or
 - (2) the *Registered Participant* reasonably believes that the *plant* is likely to breach a *performance standard* applicable to the *plant*,
- and *NEMMCO* must forward a copy of that notice to the *AER* and the relevant *Network Service Provider* no later than 5 *business days* from the day on which *NEMMCO* received the notice.

[10] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(h) and substitute:

- (h) A *Registered Participant* who has notified *NEMMCO* in accordance with rule 4.15(f), must notify *NEMMCO* and the relevant *Network Service Provider* that its *plant* has returned to compliance with the *performance standard* immediately following the *Registered Participant* becoming aware of the return of the *plant* to compliance with the *performance standard*.

[11] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(i) and substitute:

- (i) If:
- (1) a *Registered Participant* notifies *NEMMCO* in accordance with rule 4.15(f); or
 - (2) *NEMMCO* otherwise reasonably believes that the *plant* of a *Registered Participant*, in respect of which a *performance standard* applies, is in breach of that *performance standard*,
- then:
- (3) *NEMMCO* must, in accordance with rule 4.15(j), notify the *Registered Participant* and the relevant *Network Service Provider* of its determination on the period within which the *Registered Participant* must rectify the breach; and

- (4) *NEMMCO* must notify the *AER* of a breach notified in accordance with rule 4.15(i)(1) or of its reasonable belief of a breach in accordance with rule 4.15(i)(2), as the case may be; and
- (5) the *Registered Participant* must rectify the breach within that period, unless the *Registered Participant* seeks a review from the *AER* of the rectification period under rule 4.15(n).

[12] Rule 4.15 Performance Standard Compliance

Omit rule 4.15(j) and substitute:

- (j) *NEMMCO* must, when determining the period within which a *Registered Participant* is required to rectify a *performance standard* breach in accordance with rule 4.15(i), take into consideration:
 - (1) the time that *NEMMCO*, in its reasonable opinion, considers necessary to provide the *Registered Participant* with the opportunity to remedy the breach; and
 - (2) the impact on the operation of the *NEM*, including on the *power system* and the *spot market*, resulting from the breach; and
 - (3) any actions required by *NEMMCO* in response to the breach.

[13] Rule 4.15 Performance Standard Compliance

Omit rules 4.15(k) to 4.15(m) and substitute “[**Deleted**]” for each omitted rule.

[14] Rule 4.15 Performance Standard Compliance

After rule 4.15(m), insert:

- (n) If *NEMMCO* notifies a *Registered Participant* of a rectification period under rule 4.15(i) and that *Registered Participant* considers that *NEMMCO* has not reasonably applied the criteria under rule 4.15(j) with respect to the rectification period, the *Registered Participant* may, no later than 20 *business days* from the day of receiving *NEMMCO*'s notification on the rectification period, make an application to the *AER* requesting a review of *NEMMCO*'s notification and the *Registered Participant*'s reasons for a review.
- (o) If the *AER* receives an application under rule 4.15(n), the *AER* must review the application, no later than 30 *business days* from receiving the application, and either:

- (1) accept the rectification period determined by *NEMMCO*; or
 - (2) determine the rectification period on the *Registered Participant*, and provide reasons in writing for its determination to the *Registered Participant*, *NEMMCO* and the relevant *Network Service Provider*.
- (p) The *Registered Participant* must comply with any determination on the rectification period made under rule 4.15(o) from the day of receiving the *AER*'s determination.
- (q) If the *plant* of a *Registered Participant* remains operating in a manner that is in breach of a *performance standard* for a period greater than that determined in accordance with rule 4.15(i) or 4.15(o), *NEMMCO* must notify the *AER* and the relevant *Network Service Provider*.

[15] Clause 4.16.1 Substituted Definitions

In clause 4.16.1, omit the following definitions and substitute:

agreed performance standard means a standard of performance that:

- (a) is established as a result of that standard being accepted by *NEMMCO* in accordance with:
 - (1) the Old rule 4.14(d)(1); or
 - (2) clause 4.14(d)(1) of the National Electricity Code; and
- (b) is in respect of a performance requirement.

deemed performance standard means a standard of performance that:

- (a) is deemed to apply in accordance with:
 - (1) the Old rule 4.14(h); or
 - (2) clause 4.14(h) of the National Electricity Code; and
- (b) is in respect of a performance requirement.

[16] Clause 4.16.1 New Definitions

In clause 4.16.1, insert the following new definitions in alphabetical order:

Amending Rule means the National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008.

Old rule 4.14(d)(1) means the rule 4.14(d)(1) in the version of the *Rules* which was in force immediately prior to the commencement of the Amending Rule.

Old rule 4.14(h) means the rule 4.14(h) in the version of the *Rules* which was in force immediately prior to the commencement of the Amending Rule.

[17] Clause 5.7.3 Tests to demonstrate compliance with connection requirements for generators

Omit clause 5.7.3(a) and substitute:

- (a) Each *Generator* must, in accordance with the time frames specified in rule 4.15, provide evidence to any relevant *Network Service Provider* with which that *Generator* has a *connection agreement* and to *NEMMCO*, that its *generating system* complies with:
 - (1) the applicable technical requirements of clause S5.2.5; and
 - (2) the relevant *connection agreement* including the *performance standards*.

[18] Clause 5.7.3 Tests to demonstrate compliance with connection requirements for generators

Omit clause 5.7.3(b) and substitute “[Deleted]”.

[19] Clause 5.7.3 Tests to demonstrate compliance with connection requirements for generators

Omit clause 5.7.3(c) and substitute:

- (c) If a test required by clause 5.7.3(a) demonstrates that a *generating system* is not complying with one or more technical requirements of clause S5.2.5 or the relevant *connection agreement* or one or more of the *performance standards* then the *Generator* must:
 - (1) promptly notify the relevant *Network Service Provider* and *NEMMCO* of that fact; and

- (2) promptly notify the *Network Service Provider* and *NEMMCO* of the remedial steps it proposes to take and the timetable for such remedial work; and
- (3) diligently undertake such remedial work and report at monthly intervals to the *Network Service Provider* on progress in implementing the remedial action; and
- (4) conduct further tests or monitoring on completion of the remedial work to confirm compliance with the relevant technical requirements or *performance standards* (as the case may be).

[20] Clause 5.7.3 Tests to demonstrate compliance with connection requirements for generators

In clause 5.7.3(d), omit the word “and” and substitute “or”.

[21] Clause S5.2.4 Provision of Information

In clause S5.2.4(b)(2), after the words “are submitted under”, insert the words “rule 4.14(p) or”.

[22] Clause S5.2.4 Provision of Information

In clause S5.2.4(b)(5), omit the word “and” where lastly occurring.

[23] Clause S5.2.4 Provision of Information

At the end of clause S5.2.4(b)(6), omit the “.” and substitute:

- ; and
- (7) a *Generator* is only required to provide new information under this clause S5.2.4(b) to the extent that it is different to the information originally provided and necessary to support a change in a *performance standard*.

[24] Clause 8.8.1 Purpose of Reliability Panel

After clause 8.8.1(a)(2a), insert:

- (2b) determine, and modify as necessary, and *publish* the *template for generator compliance programs*;

[25] Clause 8.8.3 Reliability review process

In clause 8.8.3(a)(4), omit the word “and”.

[26] Clause 8.8.3 Reliability review process

In clause 8.8.3(a)(5), omit “,” and substitute:

- ; and
- (6) the *template for generator compliance programs*,

[27] Clause 8.8.3 Reliability review process

After clause 8.8.3(b), insert:

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

[28] Clause 8.8.3 Reliability review process

Omit clause 8.8.3(c) and substitute:

- (c) The *AEMC* must advise the *Reliability Panel* of the terms of reference for any determination or review by the *Reliability Panel*. The *AEMC* may advise the *Reliability Panel* of standing terms of reference in relation to the reviews described in clauses 8.8.3(b) and 8.8.3(ba) from time to time.

[29] Chapter 10 Substituted definition

In Chapter 10, substitute the following definition:

performance standard

A standard of performance that:

- (a) is established as a result of it being taken to be an applicable performance standard in accordance with clause 5.3.4A(i); or

- (b) is included in the register of *performance standards* established and maintained by *NEMMCO* under rule 4.14(n),

as the case may be.

[30] Chapter 10 New definition

In Chapter 10, insert the following definition in alphabetical order:

template for generator compliance programs

The template determined and *published* by the *Reliability Panel* under clause 8.8.3 of the *Rules*.

[31] Chapter 11 Savings and Transitional Rules

After rule 11.22, insert:

Part S Performance Standard Compliance of Generators

11.23 Rules consequential on the making of the National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008

11.23.1 Definitions

For the purposes of this rule 11.23:

Amending Rule means the National Electricity Amendment (Performance Standards Compliance of Generators) Rule 2008.

Old Clause 5.7.3(b) means the clause 5.7.3(b) in the version of the *Rules* that was in force immediately prior to the commencement of the Amending Rule.

11.23.2 Application of rule 11.23 for compliance programs implemented immediately after the commencement of the Amending Rule

Registered Participants are not required to comply with the obligation set out in rule 4.15(b) until 3 months after the day on which the *Reliability Panel* published its initial *template for generator compliance programs* under clause 8.8.3 of the *Rules* or until a date determined by the *Reliability Panel*.

11.23.3 Application of rule 11.23 for compliance programs implemented immediately prior to the commencement of the Amending Rule

Registered Participants which implemented compliance programs under the Old Clause 5.7.3(b) must maintain compliance with those programs until 3 months after the day on which the *Reliability Panel* published its initial *template for generator compliance programs* under clause 8.8.3 of the *Rules* or until a date determined by the *Reliability Panel*.

11.23.4 Application of rule 11.23 for compliance programs not implemented immediately prior to the commencement of the Amending Rule

Registered Participants which have not implemented compliance programs under the Old Clause 5.7.3(b) must implement and maintain compliance programs under the Old Clause 5.7.3(b) until 3 months after the day on which the *Reliability Panel* published its initial *template for generator compliance programs* under clause 8.8.3 of the *Rules* or until a date determined by the *Reliability Panel*.

END OF RULE AS MADE
