



Australian Energy Market Commission

RULE DETERMINATION

National Electricity Amendment (AETV Participant Derogation to allow operation of new power station) Rule 2009

Rule Proponent(s)

Aurora Energy (Tamar Valley) Pty Ltd

Commissioners

Tamblyn

Ryan

Woodward

28 May 2009

JOHN TAMBLYN

Chairman

For and on behalf of the Australian Energy Market Commission

RULE
CHANGE

Inquiries

The Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

E: aemc@aemc.gov.au

T: (02) 8296 7800

F: (02) 8296 7899

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About the AEMC

The Council of Australian Governments, through its Ministerial Council on Energy, established the Australian Energy Market Commission (AEMC) in July 2005 to be the Rule maker for national energy markets. The AEMC is currently responsible for Rules and policy advice covering the National Electricity Market. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

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Abbreviations

AEMC	Australian Energy Market Commission
AER	Australian Energy Regulator
AETV	Aurora Energy (Tamar Valley) Pty Ltd
Commission	see AEMC
MCE	Ministerial Council on Energy
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company Ltd
NEO	National Electricity Objective
Rules	National Electricity Rules
Transend	Transend Networks Pty Ltd
TVPS	Tamar Valley Power Station

Summary

In accordance with sections 102 and 103 of the National Electricity Law (NEL) the Australian Energy Market Commission (Commission) has determined to make the National Electricity Amendment (AETV Participant Derogation to allow operation of new power station) Rule 2009 and related Rule determination. In this Rule determination, the Commission has approved Aurora Energy (Tamar Valley) Pty Ltd (AETV) Rule change proposal with some amendments and sets out the reasons for the Commission's determination. The Rule is scheduled to commence operation on 28 May 2009.

On 3 April 2009, AETV lodged a Rule change proposal.

The Participant Derogation Rule change proposal can be summarised as follows:

- To modify the frequency ranges applicable to Tamar Valley Power Station (TVPS) under clause S5.2.5.3(c) to those frequency ranges that will apply in Tasmania once the recommendations of the Reliability Panel dated 18 December 2008 commence to apply.

AETV also requested that its Rule change proposal be expedited under section 96 of the NEL as non-controversial, for the following reasons:

- The Participant Derogation will only apply for a short period of time, and merely brings forward changes in the Tasmanian frequency operating standards that will become effective across Tasmania later in 2009;
- Commissioning and operation will be undertaken in accordance with requirements of Transend and NEMMCO;

Additionally, AETV supplied letters of advice from Transend and NEMMCO, and a submission supporting the Participant Derogation was received from Hydro Tasmania. A joint submission from Roaring 40s and AETV was received, containing some slight amendments to the Rule change.

The Commission agreed to expedite the Rule making process as it considered that the proposed Rule with amendments would be unlikely to have a significant effect on the National Electricity Market (NEM), subject to any written objections to the expedited process. On 16 April 2009, the Commission published notice under sections 95 and 96 of the NEL of its intention to commence the Rule change process and consultation on this Rule change proposal. The period for written objections to the expedited process closed on 30 April 2009 and written submissions closed on 15 May 2009. One submission was received from Hydro Tasmania, supporting the Participant Derogation. A second, joint submission, was received from AETV and Roaring 40s on 30 April 2009, which contained an amendment to the proposed participant derogation with an express reference to the inclusion of the 144MW contingency size limit that forms part of the new Tasmania *frequency operating* standards. There were no written objections to the expedited process.

Having considered the issues raised in the Rule change proposal and its own analysis, the Commission is satisfied that the Rule is likely to contribute to the achievement of the National Electricity Objective (NEO). Changing the applicable *frequency operating standards* will allow earlier commissioning and operation of TVPS, as it will then meet the *minimum access standards*.. Early operation will increase the generation capacity in Tasmania earlier, and possibly provide downwards pressure on Tasmanian wholesale prices, thereby promoting the efficient operation of electricity services with respect to the price, quality, safety, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system.

1 Aurora Energy (Tamar Valley) Participant Derogation Rule Change Proposal

On 3 April 2009, Aurora Energy (Tamar Valley) Pty Ltd (AETV) lodged a Rule change proposal requesting the Commission make a Participant Derogation.

1.1 Summary of participant derogation rule change proposal

The derogation sought to modify, for a limited period of time, the frequency ranges applicable to AETV under clause S5.2.5.3(c) of the National Electricity Rules (Rules) to those frequency ranges that will apply in Tasmania once the new Tasmanian *frequency operating standards*, as modified by the Reliability Panel on 18 December 2008¹, commence.

1.2 Context and Background

On 18 December 2008 the Reliability Panel made a determination to modify the Tasmanian *frequency operating standards*. The decision will result in the tightening of the *frequency operating standards*, by increasing the allowable low frequency under extreme conditions, and reducing the over frequency limit for extreme events under island conditions².

The modified Tasmanian *frequency operating standards* will be implemented when a series of requirements has been met, no later than 31 December 2009³.

AETV is currently completing construction of the Tamar Valley Power Station (TVPS), and is expecting to be in a position to commence commissioning tests in respect of TVPS in June 2009. If able to be connected, commissioning tests are expected to continue until August 2009⁴.

AETV assert that TVPS does not meet the existing Tasmanian *frequency operating standards*. AETV state that TVPS will be able to meet the Transend Networks Pty Ltd (Transend) *minimum access standard* and NEMMCO's *performance standards* (ie. the new *frequency operating standard*) for Tasmania set out in clause S5.2.5.3(c) of the Rules once the New Tasmanian *frequency operating standards* as modified by the Reliability Panel are implemented.⁵

On 3 April 2009, AETV submitted a participant derogation Rule Change proposal. The derogation seeks to modify the frequency ranges applicable to AETV under clause S5.2.5.3(c) of the Rules to those frequency ranges that will apply in Tasmania

¹ AEMC Reliability Panel, "Tasmanian Frequency Operating Standard Review - Final Report" 18 December 2008. Published at: <http://www.aemc.gov.au/electricity.php?r=20080828.163451>

² Ibid

³ Ibid.

⁴ AETV Rule Change proposal. Published at: <http://www.aemc.gov.au/electricity.php?r=20090416.113143>

⁵ Ibid.

once the new Tasmanian *frequency operating standards* commence. This will allow TVPS to complete commissioning tests and commercial operation earlier than would otherwise be possible.

1.3 Consultation on the AETV proposal

AETV requested that its Rule change proposal be expedited under section 96 of the National Electricity Law (NEL) for reasons outlined in Chapter 2.

The Commission agreed to expedite the Rule making process as it considered that the proposed Rule will be unlikely to have a significant effect on the NEM, subject to any written objections to the expedited process.

On 16 April 2009, the Commission published notice under sections 95 and 96 of the NEL of its intention to commence the Rule change process and consultation on this Rule change proposal. The period for written objections to the expedited process closed on 30 April 2009 and written submissions closed on 15 May 2009. There were no written objections to the expedited process.

Letters of advice were received from Transend and NEMMCO. Transend stated that their "subjective assessment is that there is no significant detrimental impact on system security or the Tasmanian power system resulting from this derogation."⁶ NEMMCO's advice stated that "NEMMCO considered that if the derogation is granted then the risk to power system security is not increased as it is defined within the National Electricity Rules"⁷ and provided some non credible contingency events that may have a larger consequence on the Tasmanian power system than would otherwise be the case.

A submission in support of the participant derogation was received from Hydro Tasmania. A joint submission was received from AETV and Roaring 40's with a minor amendment to the rule change, explicitly referring to the 144MW contingency limit that falls under the new Tasmanian *frequency operating standards* and confirming that the 144MW limit will apply to AETV as part of the participant derogation.

No public hearing was held on this Rule change proposal.

⁶ Transend Letter of Advice. Published at:
<http://www.aemc.gov.au/electricity.php?r=20090416.113143>

⁷ NEMMCO Letter of Advice. Published at:
<http://www.aemc.gov.au/electricity.php?r=20090416.113143>

2 Methodology for Developing the Rule Determination

The Commission has determined in accordance with section 102 of the NEL to make this Rule determination and, in accordance with section 103, the Rule to be made. The Rule is scheduled to commence operation on 28 May 2009.

This determination sets out the Commission's reasons for making the Rule. The Commission has taken into account:

1. the Commission's powers under the NEL to make the Rule;
2. AETV's Rule change proposal and proposed Rule;
3. submissions received;
4. the Commission's analysis on the ways in which the Rule is likely to contribute to the achievement of the NEO so that it satisfies the statutory Rule making test; and
5. any relevant MCE statements of policy principles.

2.1 The Commission's powers to make the rule change

Under the NEL, the Commission may make a Rule if it falls within the subject matter for which the Commission may make Rules, as set out in section 34 and Schedule 1 to the NEL.

The Commission is satisfied that the Rule relates to:

1. section 34(1) of the NEL, which states that:

 "...the AEMC, in accordance with this Law and the Regulations, may make Rules, to be known, collectively, as the "National Electricity Rules", for or with respect to –

 (c) the activities of persons (including Registered participants) participating in the national electricity market or involved in the operation of the national electricity system;" and
2. Item 11 of Schedule 1 to the NEL, which relates to "the operation of generating systems, transmissions systems, distribution systems or other facilities."

2.2 The AETV Participant Derogation Rule change proposal and proposed Rule

AETV's Rule change proposal sought to make a participant derogation relating to the *minimum access standard* under clause S5.2.5.3(c) of the NER. The participant derogation will change the Tasmanian *frequency operating standards* applicable to TVPS to match those approved by the Reliability Panel on 18 December 2008, for commencement no later than 31 December 2009.

AETV state that TVPS does not meet the existing *frequency operating standards*, but will meet the new standards when they commence⁸. The participant derogation will allow TVPS to meet the standards earlier, and will therefore allow for earlier commissioning and operation of the new TVPS.

AETV also requested that its Rule change proposal be expedited under section 96 of the NEL for the following reasons:

- "The *participant derogation* will apply for only a very short period of time;
- The effect of the *participant derogation* is to bring forward (by a short period of time only and only in respect of the TVPS) changes in the Tasmanian *frequency operating standards* that will become effective across Tasmania later in 2009 in any event;
- The commissioning programme will be undertaken in accordance with the requirements of Transend and NEMMCO notified to AETV under clause 5.8.2;
- Despite the *participant derogation*, the *minimum access standard* under clause S5.2.5.3(c) will still have to be agreed with Transend and NEMMCO, having regard to the matters set out in clause 5.3.4A(b)(2) and (3); and
- As indicated, all of the *Registered Participants* who would be likely to be concerned with or affected by the *connection* of the TVPS not in accordance with the current Tasmanian *frequency operating standards*, in fact support this *participant derogation*."⁹

AETV provided a statement addressing how their Rule change proposal will or is likely to contribute to the NEO under the NEL. AETV expects the proposed Rule to:

- Improve the reliability of supply of electricity and diversify the generation mix in Tasmania, as production from TVPS will come on line earlier than would otherwise be possible;
- Potentially encourage downward pressure on Tasmanian wholesale electricity prices due to competitive pressure on bid prices from additional capacity.

⁸ AETV rule change proposal. Published at:
<http://www.aemc.gov.au/electricity.php?r=20090416.113143>

⁹ Ibid

Additionally, inflows to water storages in Tasmania are below long term average, resulting in increased reliance on thermal and wind generation in Tasmania and electricity imports across the Basslink¹⁰. Increased production capacity facilitated by the commissioning of TVPS could allow recovery of water storage levels, which would result in increased long term security of supply of electricity to customers in Tasmania, which has a high proportion of Hydro-powered plants.

AETV also provided a statement addressing the expected benefits and costs of its Rule change proposal and the potential impacts of the change on those likely to be affected. They state that:

- They expect the proposed Rule change would result in earlier improvement in the reliability and security of supply of electricity in Tasmania, and potentially, earlier downwards cost pressure on Tasmanian wholesale electricity prices;
- They expect minimal costs will be incurred, because AETV, NEMMCO and Transend would have to agree a commissioning plan in any event, and the oversight by Transend and NEMMCO mean there are unlikely to be any impacts on other Registered Participants.

2.3 Submissions received on the Rule change proposal

Letters of Advice were received from Transend and NEMMCO along with the Rule Change request. Both parties asserted that they did not expect the derogation to cause an increased risk to the Tasmanian power system security.

A submission was received from AETV proposing a latest expiry date for the Derogation of 31 Dec 2009, as Participant Derogations require a firm expiry date.

A submission was received from Hydro Tasmania on 17 April 2009, supporting the Participant Derogation and the treatment of the proposal as non-controversial.

A joint submission was received from Roaring 40s and AETV on 30th April 2009 in support of the participant derogation, conditional on the inclusion of an amendment that contains an express reference to the 144MW contingency limit that forms part of the new Tasmanian *frequency operating standards*.

No other submissions were received during consultation.

2.4 Assessment of the Rule: the Rule making test and the National Electricity Objective

Under the NEL, the Commission may make a Rule if it is satisfied that the Rule will or is likely to contribute to the achievement of the NEO.

¹⁰ AETV rule change proposal. Published at:
<http://www.aemc.gov.au/electricity.php?r=20090416.113143>

The Rule making test requires the Commission to consider whether the proposed Rule promotes 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;

2.5 The Commission's test of the National Electricity Objective

The Commission has applied the Rule making test to the Participant Derogation. The Commission is satisfied that the Rule is likely to contribute to the achievement of the NEO by:

- Assisting in improving reliability of supply of electricity in Tasmania as production will be able to come on line earlier than would otherwise be the case;
- Diversifying the generation mix in Tasmania, earlier, and thereby enhancing reliability of supply; and
- Creating likely downward pressure on Tasmanian wholesale electricity prices due to additional capacity as soon as TVPS is commissioned.

The Participant Derogation will therefore promote the efficient operation of electricity services with respect to the price, quality, safety, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system, and thus meets the rule making test.

2.6 MCE statements of policy principles

The NEL also requires the Commission to have regard to any Ministerial Council on Energy (MCE) statements of policy principles in making a Rule under the NEL. The Commission notes that there are no relevant MCE statements of policy principles to which it must have regard for this Rule change proposal.

2.7 Differences between proposed Rule and final Rule

The Commission has accepted AETV's proposed participant derogation, taking into account further information received on 9 April 2009. In particular:

- To modify the frequency ranges applicable to TVPS under clause S5.2.5.3(c) to those frequency ranges that will apply in Tasmania once the recommendations of the Reliability Panel date 18 December 2008 commence to apply in Tasmania, and;
- To explicitly bring forward the introduction of the 144MW contingency limit referred to in the new Tasmanian *frequency operating standard*, such that it applies to the participant derogation.

The Rule as made has minor amendments and includes a reference to the 144MW contingency limit for clarity.

A Commission's Analysis of the Proposed Rule

In this Appendix the Commission addresses the issues that were raised in AETV's participant derogation Rule change proposal and submissions.

A.1 Need for the Rule proposal

Submissions and Rule proposal

AETV's participant derogation Rule change proposal seeks to modify the frequency ranges applicable to AETV under clause 5.2.5.3(c) to those frequency ranges that will apply in Tasmania once the new Tasmanian *frequency operating standards*, as determined by the Reliability Panel on 18 December 2008, commence.

The participant derogation will allow AETV to commission and commercially operate the TVPS earlier than would otherwise be possible, as TVPS does not meet the existing Tasmanian *frequency operating standards*.

The Commission's Analysis

The Commission agrees that it is beneficial to the short term and long term security of supply of electricity, and possibly beneficial on long term wholesale electricity prices, to allow TVPS to commission and operate as early as possible. To that end, the Commission agrees that it is appropriate to make a Participant Derogation .

The Commission's Position

The Commission has determined to make a Participant Derogation for AETV.

A.2 Expiry Date

Submissions and Rule proposal

A submission from AETV amended the proposed Rule Change by changing the expiry date of the derogation to be the earlier of:

- The date on which the New Tasmanian *frequency operating standards* commence to apply in the Tasmanian regions; and
- 31 December 2009

In the initial Rule Change proposal, there was no firm, final end date.

The Commission's Analysis

Under section 92(2) of the NEL, a request for the making of a participant derogation must specify a date on which the participant derogation, if made, will expire.

Under section 103(4) of the NEL, in the case of a participant derogation, the AEMC must not make the derogation unless that derogation specifies a date on which it will expire.

The Commission considers the firm expiry date of 31 December 2009, as proposed by the AETV, is appropriate because it is the final date on which the new Tasmanian *frequency operating standards* must be met, as determined by the Reliability Panel.

The Commission's Position

The Commission has determined to include AETV's proposed firm expiry date of 31 December 2009 in the participant derogation because it is anticipated that the New Tasmanian *frequency operating standards* will be implemented by 31 December 2009 at the latest.

A.3 Contingency Limit

Submissions and Rule proposal

A joint submission was received from AETV and Roaring 40s on 30 April 2009, seeking to include a specific reference to the 144MW contingency limit that is part of the New Tasmanian *frequency operating standards*.

AETV have asserted that it was their intention that the contingency limit be imported as part of the Participant Derogation, and that they believed it to be the understanding of Transend and NEMMCO that the contingency limit would be imported.¹¹

The Commission's Analysis

The Commission determines that the contingency limit should be included in the Participant Derogation, and that the proponent also intend for the limit to be included. Explicitly including the contingency limit in the derogation will provide greater clarity to market participants as to the derogation's intent.

The Commission's Position

The Commission has determined to include an amendment to the proposed Rule, defining the **New Tasmanian *frequency operating standards*** as:

"the recommended Tasmanian *frequency operating standards* as determined by the *Reliability Panel* in its Final Report on the Tasmanian *Frequency Operating Standard Review* dated 18 December 2008, including but not limited to paragraph (h) in Part B of Appendix A of that Report."¹²

This amended phrasing will result in the desired outcome, in which the contingency limit is imported as part of the Participant Derogation.

¹¹ Roaring 40s AETVPower Submission. Published at:
<http://www.aemc.gov.au/electricity.php?r=20090416.113143>

¹² Rule as Made. Published at: <http://www.aemc.gov.au/electricity.php?r=20090416.113143>