



Lvl 6, 60 Marcus Clarke St.,
postal: GPO Box 1301
Canberra ACT 2601
ABN 83 113 331 623

Tel: 02 6243 5120
Fax: 02 6243 5143
john.boshier@ngf.com.au
www.ngf.com.au

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The Chairman
Australian Energy Market Commission
Level 5, 201 Elizabeth Street
SYDNEY NSW 2000

Email: submissions@aemc.gov.au

Dear Dr Tamblyn

Request for a Rule change to modify the confidentiality arrangements in respect of information required for power system studies

Person requesting the Rule

The National Generators Forum, ABN 83 113 331 623 (**NGF**), requests the making of this Rule (**Rule Proposal**). The address for notices is GPO Box 1301, Canberra ACT 2601

The NGF has consulted with NEMMCO and various other industry participants including the Clean Energy Council and generators in relation to the draft Rule which is attached to this Rule Proposal as Attachment A (**Draft Rule**).

Description of the proposed Rule

This Rule Proposal is concerned with the effect of the confidentiality of information provisions in the existing Rules. It provides for:

- NEMMCO to disclose sufficient information to Registered Participants for planning and operational purposes while protecting the commercial value of information which it is only necessary to provide to NEMMCO; and
- NSPs to disclose to other NSPs sufficient information for planning and other purposes provided that consent is obtained from the person who provided the information.

Issues to be addressed by the proposed Rule

Existing Generators, and persons wishing to connect to the National Electricity Market (**NEM**) are required to provide to NEMMCO source code and functional block diagrams as described in clauses S5.2.4(b)(5) and (6) of the Rules (**Proprietary Information**). This Proprietary Information is frequently commercially valuable to the supplier of the generating system.

Clause 3.13.3(k) of the existing Rules permits Registered Participants to request the Proprietary Information from NEMMCO.

However, NEMMCO is presently unable to provide the Proprietary Information because one or both of clauses 5.3.8 and 8.6.1 of the Rules, which relate to confidential information, prohibit NEMMCO from disclosing the Proprietary Information.

In order to undertake power system studies (including load flow and dynamic simulations) for planning and operational purposes, it is necessary for Registered Participants to obtain from NEMMCO certain parts of the functional block diagrams (**Releasable User Guide**) and source code.

This Rule Proposal addresses this issue by amending the Rules to define a Releasable User Guide which must be provided to NEMMCO and inserting provisions requiring that in certain circumstances, NEMMCO may disclose the Releasable User Guide and source code (together **Releasable Information**) to Registered Participants.

As the Releasable Information is commercially valuable, it is necessary that the Rules restrict the form in which it may be disclosed by NEMMCO to third parties and provide for a list to be maintained of the persons to whom the information has been provided.

This Rule Proposal addresses this issue by:

- Setting out particular forms in which NEMMCO will be required to provide the Releasable Information; and
- Providing that NEMMCO is to maintain a register describing the Releasable Information that it has released and to whom it has been released.

The confidentiality provisions in the existing Rules also affect the disclosure of information by one NSP to another. Existing rule 5.3.8 (c) provides that an NSP may provide information obtained under rule 5.3 to another NSP provided that the information is materially relevant to the second NSP for connection.

However, for planning and other purposes, it is desirable that NSPs be able to obtain Releasable User Guides provided to adjacent NSPs not only in relation to connection, but also in a broader range of circumstances. The existing Rules do not provide for this unless the disclosure of the information is materially relevant for connection.

This Rule Proposal addresses this issue by amending the Rules to provide that NSPs may disclose Releasable User Guides to other NSPs provided that the disclosing NSP obtains the written consent of the person who provided the Releasable User Guide.

How the Rule change meets the Market Objective

The National Electricity Market objective is set out in section 7 of the NEL. It provides:

'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.' (**NEM Objective**)

This Rule Proposal promotes efficient operation of electricity services by ensuring that sufficient information can be provided to Registered Participants to undertake power

system studies for planning and operational purposes thereby assisting Registered Participants to operate in an efficient and informed manner and plan for future operation in an efficient and informed manner.

This Rule Proposal promotes efficient operation and use of electricity services with respect to quality, safety, reliability and security by ensuring that sufficient information can be provided to Registered Participants to undertake power system studies for planning and operational purposes. The facilitation of power system studies is likely to promote the quality, safety, reliability and security of the supply of electricity and the reliability, safety and security of the national electricity system.

Expected costs and benefits of the change

If implemented, this Rule Proposal would be likely to have a number costs and benefits.

Benefits flowing from the implementation of this Rule Proposal would be likely to include:

- Increased reliability, security, safety and quality of supply of electricity as a result of Registered Participants having sufficient information to conduct power system studies for planning and operational purposes;
- More efficient investment in the reliability, security, safety and quality of supply of electricity as a result of Registered Participants having the necessary information to understand what investment is required;
- More efficient investment in generation technology as a result of increased certainty that proprietary information will be protected by the Rules.

Costs flowing from the implementation of this Rule Proposal would be likely to include:

- A minor increase in administrative costs as a result of the requirement for NEMMCO to maintain a register concerning the information that it has disclosed. This cost may be passed on to Registered Participants by NEMMCO.

Potential impacts of the change on those likely to be affected

The implementation of this Rule Proposal would be likely to affect Generators, the AER and NEMMCO. In the view of NGF, the likely impact on these parties of implementation include:

- Generators
 - This Rule Proposal provides for Generators to obtain information that is necessary for them to conduct power system studies for planning and operational purposes.
 - This Rule Proposal provides comfort to generators that any proprietary technology developed by them will not be released by NEMMCO to other participants, while still allowing for each Generator to obtain sufficient information from NEMMCO to conduct power system studies.
- NEMMCO
 - This Rule Proposal provides certainty for NEMMCO as to the manner in which it may disclose confidential information which it is necessary to disclose to Registered Participants in order that those Registered Participants may undertake power system studies.
 - This Rule Proposal provides that a register be maintained by NEMMCO in relation to information disclosed by NEMMCO. The Rule Proposal provides

that NEMMCO may pass on the reasonable costs of maintaining this register to Registered Participants.

- NSPs
 - This Rule Proposal provides certainty for NSPs in relation to the circumstances in which they may provide certain confidential information referred to as a releasable user guide to other NSPs.

Contacts for this Rule change

The contact within the NGF for this Rule change proposal is Alex Cruickshank, who can be reached on (03) 8633 6026, mobile 0402 060 881 or by email to acruicks@agl.com.au.

Yours sincerely

A handwritten signature in black ink, appearing to read 'JBoshier', with a large loop at the end of the 'r'.

John Boshier
Executive Director

Attachment A

3.13 Market Information

3.13.1 Provision of information

- (a) In addition to any specific obligation or power of *NEMMCO* under the *Rules* to provide information, *NEMMCO* must make available to *Scheduled Generators* and *Market Participants* on request any information concerning the operation of the *market* not defined by the *AEMC* or the *Rules* as confidential or commercially sensitive and may charge a fee reflecting the cost of providing any information under this clause 3.13.1(a).
- (b) *NEMMCO* must make information available to the public on request in respect of the *regional reference price* at any *regional reference node* and, where requested and available, reasons for any significant movements in prices.

3.13.3 Standing data

...

- (k) ~~Subject to the requirements relating to disclosure of information under clause 5.3.8(a), a Registered Participant may request from *NEMMCO*:~~
- (1) *registered bid and offer data*;
 - (2) information that is reasonably required by the *Registered Participant* to carry out *power system* studies (including load flow and dynamic simulations) for planning and operational purposes ~~including:~~
 - ~~(i) historical information relating to the operating conditions of the *power system* that is not confidential information;~~
 - ~~(ii) information and data provided to *NEMMCO* under paragraphs (f)(1), (f)(3) and (g); and~~
 - ~~(iii) details of the shared *transmission and distribution network* impedance data and other technical data as listed in schedules 5.5.3 and 5.5.4; and~~
 - (3) operation and maintenance procedures and practices for *transmission network* or *distribution network* operation, developed for the purposes of schedule 5.1 sufficient to enable the *Registered Participant* to carry out *power system* modelling under normal, *outage* and emergency conditions.
- (k1) If *NEMMCO* is required, pursuant to subclause (l), to provide a *releasable user guide* that *NEMMCO* received under clause S5.2.4(b)(7), *NEMMCO* must provide the *releasable user guide* to the *Registered Participant* in an unaltered form.
- (k2) If *NEMMCO* is required, pursuant to subclause (l), to provide a form of the source code that *NEMMCO* received under clause S5.2.4(b)(6), *NEMMCO* must provide that information:
- (1) only in the form of, at *NEMMCO*'s discretion, either:
 - (i) compiled information (such as, for example, compiled Fortran code in object code or dynamic link library (DLL) form);
 - (ii) encrypted information; or
 - (iii) a secured format agreed by the provider of the source code,
- unless it obtains the written consent of the person who provided the information to *NEMMCO* to provide it in another form, and

(2) _____ in an form that can be interpreted by one software simulation product nominated by NEMMCO.

(l) Subject to subclauses (k1) and (k2), wWhere NEMMCO holds information requested under paragraph (k), ~~it~~NEMMCO must ~~be~~provided the requested information to the *Registered Participant* as soon as practicable. NEMMCO may charge a fee to recover all reasonable costs incurred in providing this service.

(p1) _____ NEMMCO must establish, maintain and publish a register listing the instances in which it has provided information under sub-clause (l) and the name of the person to whom the information was provided.

5.3.7 Finalisation of connection agreements

- (a) If a *Connection Applicant* wishes to accept an offer to *connect*, the *Connection Applicant* must negotiate and enter into a *connection agreement* with each relevant *Network Service Provider* identified in accordance with clauses 5.3.3(b)(3) and (4) and in doing so must use its reasonable endeavours to negotiate in good faith with all parties with which the *Connection Applicant* must negotiate such a *connection agreement*.
- (b) The *connection agreement* must include proposed *performance standards* with respect to each of the technical requirements identified in schedules 5.2, 5.3 and 5.3a and each proposed *performance standard* must have been established in accordance with the relevant technical requirement.
- (c) The proposed *performance standards* must be based on the *automatic access standard* or, if the procedures in clause 5.3.4A have been followed, the *negotiated access standard*.
- (d) The provision of *connection* by any *Network Service Provider* may be made subject to gaining environmental and planning approvals for any necessary *augmentation* or *extension* works to a *network*.
- (e) Where permitted by the applicable law in the relevant *participating jurisdiction*, the *connection agreement* may assign responsibility to the *Connection Applicant* for obtaining the approvals referred to in paragraph (d) as part of the project proposal and the *Network Service Provider* must provide all reasonable information and may provide reasonable assistance for a reasonable fee to enable preparation of applications for such approvals.
- (f) Subject to paragraph (e), each *connection agreement* must be based on the offer to *connect* as varied by agreement between the parties.
- (g) The *Network Service Provider* responsible for the *connection point* and the *Registered Participant* must jointly notify NEMMCO that a *connection agreement* has been entered into between them and forward to NEMMCO relevant technical details of the proposed *plant* and *connection*, including as applicable:
 - (1) details of all *performance standards* that form part of the terms and conditions of the *connection agreement*;
 - (2) if a *Generator*, the arrangements for updating the information required under clause S5.2.4(b);
 - (3) the proposed *metering installation*;
 - (4) arrangements for the *Metering Provider* to obtain physical access to the *metering installation*; and
 - (5) the terms upon which a *Registered Participant* is to supply any *ancillary services* under the *connection agreement*.
- (h) NEMMCO must, within 20 *business days* of receipt of the notice under paragraph (g), advise the relevant *Network Service Provider* and the *Registered Participant* of whether the proposed *metering installation* is acceptable for those *metering installations* associated with those *connection points* which are classified as *metering installation* types 1, 2, 3 and 4 as specified in schedule 7.2.

5.3.8 Provision and use of information

- (a) The data and information provided under this rule 5.3 is *confidential information* and must:
- (1) be prepared, given and used in good faith; and
 - (2) not be disclosed or made available by the recipient to a third party except in the circumstances set out in [clause 3.13.3\(k1\)](#), [clause 3.13.3\(k2\)](#) or this clause 5.3.8.
- (b) The data and information to be provided under this rule 5.3 may be shared between a *Network Service Provider* and *NEMMCO* for the purpose of enabling:
- (1) the *Network Service Provider* to advise *NEMMCO* of *ancillary services* or similar services described in clause 3.11.3(j); and
 - (2) either party to:
 - (i) assess the effect of a proposed *facility* or proposed alteration to *generating plant* (as the case may be) on:
 - (A) the performance of the *power system*; or
 - (B) another proposed *facility* or another proposed alteration;
 - (ii) assess proposed *negotiated access standards*; or
 - (iii) determine the extent of any required *augmentation* or *extension*.
- (c) A *Network Service Provider* may disclose the data and information to be provided under this rule 5.3 to another *Network Service Provider* if the *Network Service Provider* considers the information or data is materially relevant to that provider for *connection*.
- (c1) Without limiting subclause (c), a *Network Service Provider* may disclose a *releasable user guide* that was provided under this rule 5.3 to another *Network Service Provider* if the first *Network Service Provider* has obtained written consent to do so from the provider of that *releasable user guide*.
- (d) A person intending to disclose information under paragraphs (b) ~~and-or~~ (c) must first advise the relevant *Connection Applicant* of the extent of the disclosure.
- (e) If a *Connection Applicant* or *Network Service Provider* becomes aware of any material change to any information contained in or relevant to an *application to connect*, it must promptly notify the other party in writing of that change.
- (f) A *Registered Participant* must, within 5 *business days* of becoming aware that any information provided to *NEMMCO* in relation to a *performance standard* or other information of a kind required to be provided to *NEMMCO* under clause 5.3.7 is incorrect, advise *NEMMCO* of the correct information.

S5.2.4 Provision of information

- (a) A *Generator* or person who is negotiating a *connection agreement* with a *Network Service Provider* must promptly on request by *NEMMCO* or the *Network Service Provider* provide all data in relation to that *generating system* specified in schedule 5.5.
- (b) A *Generator*, or person required under the *Rules* to register as the *Generator* in respect of a *generating system* comprised of *generating units* with a combined *nameplate rating* of 30 MW or more, by the earlier of:
- (1) the day on which an *application to connect* is made under clause 5.3.4(a);
 - (2) the day on which amendments to *performance standards* are submitted under clause 5.3.9(b);
 - (3) three months before commissioning of a *generating system* or planned alteration to a *generating system*; or
 - (4) 5 *business days* before commissioning of a *generating system* alteration that is repairing *plant* after a *plant* failure, if *plant* performance after the alteration will differ from performance prior to the *plant* failure,

must provide:

- (5) to *NEMMCO* and the relevant *Network Service Providers* (including the relevant *Transmission Network Service Provider* in respect of an *embedded generating unit*) the following information about the *control systems* of the *generating system*:
- (i) a set of functional block diagrams, including all functions between feedback signals and *generating system* output;
 - (ii) the parameters of each functional block, including all settings, gains, time constants, delays, deadbands and limits; and
 - (iii) the characteristics of non-linear elements, with sufficient detail for *NEMMCO* and *Network Service Providers* to perform load flow and dynamic simulation studies; ~~and~~

- (6) to *NEMMCO*, model source code associated with the model in subparagraph (5) in an unencrypted form suitable for at least one of the software simulation products nominated by *NEMMCO* and in a form that would allow conversion for use with other software simulation products by *NEMMCO*; ~~and~~

(7) to *NEMMCO* and the relevant *Network Service Providers* (including the relevant *Transmission Network Service Provider* in respect of an *embedded generating unit*) a *releasable user guide* in relation to the model in subparagraph (5).

- (c) The information provided under paragraph (b) must:
- (1) encompass all *control systems* that respond to *voltage* or *frequency* disturbances on the *power system*, and which are either integral to the *generating units* or otherwise part of the *generating system*, including those applying to *reactive power* equipment that forms part of the *generating system*; and
 - (2) conform with the applicable models developed in accordance with the *Generating System Model Guidelines*, or an alternative model agreed with *NEMMCO* to be necessary to adequately represent the *generating plant* to carry out load flow and dynamic simulations.

- (d) The *Generator* must update the information provided under paragraph (b) within 3 months after commissioning tests or other tests undertaken in accordance with clause 5.7.3 are completed.
- (e) For the purposes of clause 5.3.2(f), the technical information that a *Network Service Provider* must if requested provide to a *Connection Applicant* in respect of a proposed *connection* for a *generating system* includes:
- (1) the highest expected single phase and three phase fault levels at the *connection point* with the *generating system* not connected;
 - (2) the clearing times of the existing *protection systems* that would clear a fault at the location at which the new *connection* would be connected into the existing *transmission system* or *distribution system*;
 - (3) the expected limits of *voltage* fluctuation, harmonic *voltage* distortion and *voltage* unbalance at the *connection point* with the *generating system* not connected;
 - (4) technical information relevant to the *connection point* with the *generating system* not *synchronised* including equivalent source impedance information, sufficient to estimate fault levels, *voltage* fluctuations, harmonic *voltage* distortion (for harmonics relevant to the *generating system*) and *voltage* unbalance; and
 - (5) information relating to the performance of the *national grid* that is reasonably necessary for the *Connection Applicant* to prepare an application to *connect*, including:
 - (i) a model of the *power system*, including relevant *considered projects* and the range of expected operating conditions, sufficient to carry out load flow and dynamic simulations; and
 - (ii) information on *inter-regional* and *intra-regional power transfer capabilities* and relevant *plant* ratings.
- (f) All information provided under this clause S5.2.4 is *confidential information*.

8.6 Confidentiality

8.6.1 Confidentiality

- (a) Each *Registered Participant* and *NEMMCO* (each being a "Recipient" for the purposes of this rule 8.6) must use all reasonable endeavours to keep confidential any *confidential information* which comes into the possession or control of that Recipient or of which that Recipient becomes aware.
- (b) A Recipient:
- (1) must not disclose *confidential information* to any person except as permitted by the *Rules*;
 - (2) must only use or reproduce *confidential information* for the purpose for which it was disclosed or another purpose contemplated by the *Rules*; and
 - (3) must not permit unauthorised persons to have access to *confidential information*.
- (c) Each Recipient must use all reasonable endeavours:
- (1) to prevent unauthorised access to *confidential information* which is in the possession or control of that Recipient; and
 - (2) to ensure that any person to whom it discloses *confidential information* observes the provisions of this rule 8.6 in relation to that information.
- (d) The officers of a *Transmission Network Service Provider* participating in *transmission service pricing* must not be involved in or associated with competitive electricity trading activities of any other *Registered Participant*.
- (e) A *Transmission Network Service Provider* participating in *transmission service pricing* must provide to any *Transmission Network Service Provider* or *Registered Participant* which supplies information for *transmission service pricing* an undertaking that the *Transmission Network Service Provider* to which that information was supplied will comply with the confidentiality requirements set out in clause 6.9.2.

8.6.2 Exceptions

This rule 8.6 does not prevent:

- (m) ~~(modelling): the disclosure, use or reproduction of data held by NEMMCO or a Network Service Provider for the purpose of modelling the operation of the power system, to the extent reasonably necessary to enable a Connection Applicant to develop an application to connect but does not include information provided in accordance with clauses S5.2.4(a), (b)(5) and (b)(6)~~ ~~[deleted]~~; or

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releasable user guide: a document associated with a functional block diagram that contains sufficient information to enable a Registered Participant to use the encrypted source code to carry out power system studies for planning and operational purposes.