

There is no relevant Ministerial Council on Energy (MCE) statement of policy principles for this rule change request.⁵³

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.⁵⁴ The more preferable final rule is compatible with AEMO's declared network functions because it provides clarity regarding AEMO's roles and responsibilities within the prudent discount framework as the TNSP for the Victorian jurisdiction.

Further, under s.91(9) of the NEL, the Commission may only make a rule that affects the allocation of powers, functions and duties between AEMO and a DTSO if either AEMO consents to the making of the rule, or the rule is requested by the Minister of the relevant adoptive jurisdiction. Given the Commission is making a more preferable final rule (and therefore has not adopted the rule proposed by the relevant Minister in the rule change request) it sought AEMO's consent to the making of the more preferable final rule. AEMO provided its written consent on 4 December 2020.

B.4 Civil penalties

The Commission cannot create new civil penalty provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NEL be classified as civil penalty provisions.

The final rule does not amend any clauses that are currently classified as civil penalty provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as civil penalty provisions.

B.5 Conduct provisions

The Commission cannot create new conduct provisions. However, it may recommend to the COAG Energy Council that new or existing provisions of the NEL be classified as conduct provisions.

The final rule does not amend any rules that are currently classified as conduct provisions under the NEL or National Electricity (South Australia) Regulations. The Commission does not propose to recommend to the COAG Energy Council that any of the proposed amendments made by the final rule be classified as conduct provisions.

⁵³ Under s. 33 of the NEL the AEMC must have regard to any relevant MCE statement of policy principles in making a rule. The MCE is referenced in the AEMC's governing legislation and is a legally enduring body comprising the Federal, State and Territory Ministers responsible for energy. On 1 July 2011, the MCE was amalgamated with the Ministerial Council on Mineral and Petroleum Resources. The amalgamated council is now called the COAG Energy Council.

⁵⁴ Section 91(8) of the NEL.