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# RULE

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Australian Energy Market Commission

## CONSULTATION PAPER

# NATIONAL ELECTRICITY AMENDMENT (INTERVENTION COMPENSATION AND SETTLEMENT PROCESSES) RULE 2019

### PROPONENT

Australian Energy Market Operator

04 APRIL 2019

## INQUIRIES

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## ABOUT THE AEMC

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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# 1 INTRODUCTION

On 17 December 2018, the Australian Energy Market Operator (AEMO) submitted two rule change requests to the Australian Energy Market Commission (AEMC or Commission), namely:

- *Deadlines for additional compensation claims following market intervention*
- *Alignment of intervention compensation and settlement timetables.*

Despite both rule changes being submitted separately, they seek to adjust provisions of the National Electricity Rules (rules or NER) relating to market intervention and settlements. In particular, they seek to change the processes involved once AEMO has carried out an intervention event, such as the amount of time that participants have to make additional compensation claims, as well as changes to address the misalignment between the intervention and settlement timetables.

Given that both rule change requests relate to administrative processes following AEMO intervention events, the Commission has determined under s.93 of the National Electricity Law (NEL), that it is desirable that the rule change requests proposed by AEMO be dealt with together and treated as one request. Both rule changes will be progressed under the title and project code Intervention compensation and settlement processes (ERC0252).

This consultation paper therefore refers to the two rule change requests as one rule change request, and covers issues raised in both.

This consultation paper has been prepared to facilitate public consultation on this rule change request and to seek stakeholder submissions.

This paper:

- provides a summary of, and background to, the rule change request
- identifies a number of questions and issues to facilitate consultation on this rule change request
- outlines the process for making submissions
- forms part of the broader investigation into intervention mechanisms and system strength in the NEM.

## 1.1 Background

The interventions framework in the NER provides AEMO with the tools to intervene in the market for reliability purposes (e.g. in the event of a forecast breach of the reliability standard) or for power system security purposes (e.g. to return the power system to a secure state). The interventions framework is typically used as a last resort, particularly in the case of reliability, whereby market participants are expected to meet desired reliability outcomes, first and foremost.

### 1.1.1 Interventions framework

The interventions framework, as set out in the (NER), comprises the Reliability and Emergency Reserve Trader (RERT), 'directions' and 'instructions'<sup>1</sup> under clause 4.8.9 of the NER (clause 4.8.9 instructions).

The RERT allows AEMO to contract for emergency reserves (generation or demand-side capacity that is not otherwise available to the market). AEMO can use these emergency reserves in the event that it determines that market participants are not meeting the reliability standard (i.e. the level of reliability that the market is expected to provide).

AEMO can issue directions (in respect of scheduled plant or a market generating unit) to maintain system security and a reliable operating state. For example, direct a generator to increase its output, cancel or shift an outage or not to go off-line, if this is possible and can be done safely.

Clause 4.8.9 instructions are another form of market intervention available to AEMO. These are typically used to instruct a transmission network service provider to shed load involuntarily as a last resort.

### 1.1.2 Compensation framework

The first two types of intervention tools (RERT and directions) are known as AEMO intervention events. When they occur, AEMO is required to pay compensation to a number of affected parties.

The compensation framework makes sure that participants who have been directed by AEMO to provide services are not left out of pocket by an AEMO intervention event. The compensation framework is also designed to ensure that participants affected by the direction are in the position that they would have been in but for the direction or RERT activation – thereby minimising market distortions resulting from the intervention.

Where AEMO issues a direction, compensation is payable to both "directed participants" (those parties to whom the direction was issued) and "affected participants" (those parties who are affected by the direction – for example, a generator the output of which was constrained down to minimise flow on effects from the direction).

Where AEMO activates the RERT, compensation is only available to "affected participants" – reflecting that, in relation to the RERT, there are no "directed participants". Instead, the party providing services under the RERT is compensated pursuant to the relevant contractual arrangements.

### 1.1.3 Related work

As noted by AEMO in its rule change request, the frequency of interventions has increased in the last two years, with direction events lasting on average 3 days and up to 22 consecutive

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<sup>1</sup> An instruction differs from a direction in the types of market participants AEMO can require taking action, and the nature of the action taken. AEMO issues directions to generators to increase (or decrease) their output or a scheduled load to decrease (or increase) consumption. Instructions generally involve AEMO requiring a network service provider or a large energy user to shed load.

days (for one direction event in April 2018). In the last two years, the number of directions has increased from less than ten in 2016, to 29 in 2017 and over 163 in 2018. AEMO engaged consultants (SW Advisory and Endgame Economics) to undertake a review of the intervention pricing and compensation process, as a result.

The resulting report outlined recommendations for improvements to the compensation process as well as alternative methodologies for improvements to the compensation process as well as alternative methodologies for intervention pricing. The Final Report of the AEMC's *Reliability Frameworks Review* highlighted the changing nature and frequency of interventions have led to anomalies and inefficiencies within the intervention pricing and compensation frameworks.<sup>2</sup> Following a recommendation from the *Reliability Frameworks Review* the Commission is also undertaking an Investigation into intervention mechanisms and system strength in the National Electricity Market (NEM). The consultation paper for this investigation was also published by the AEMC today.

AEMO has sought stakeholder feedback on the issues raised by the aforementioned reviews through the establishment of its Intervention Pricing Working Group (IPWG). The IPWG met five times between November 2017 and May 2018 and considered that there may be benefit in making some changes to the intervention compensation framework and agreed that various rule changes should be proposed, including this consolidated rule change request. Two additional rule change requests were submitted by AEMO alongside those being addressed in this consultation paper namely;

- the Regional reference node test following activation of the RERT (ERC0253) and,
- Threshold for participant compensation following market intervention (ERC0255).

Both of these rule change requests are being assessed separately alongside but part of the Investigation into intervention mechanisms and system strength in the NEM.<sup>3</sup> The AEMC is also expecting further rule change requests following on from additional issues raised during the IPWG meetings.

#### 1.1.4

#### Scope of this rule change

The scope of this consolidated rule change request is limited to the issues raised in the next section. The Commission considers that issues raised in this rule change proposal are relatively minor and non-controversial. They do not include the broader issues that may be associated with the intervention framework, the compensation framework, or the RERT. These potential broader issues, such as the appropriateness of the intervention framework or the cost implications of the compensation framework in light of increased interventions are outside of the scope of this rule change proposal. Instead, they are being examined in the Commission's work on the Investigation into intervention mechanisms and system strength in the NEM. Similarly, broader issues relating to the RERT, including the methodology by which RERT costs are recovered are outside of the scope of this consolidated rule change but are being examined through the *Enhancement to the RERT* rule change

<sup>2</sup> AEMC, Reliability Frameworks Review, Final Report, 26 July 2018

<sup>3</sup> Consultation paper available on the AEMC website

process<https://www.aemc.gov.au/rule-changes/enhancement-reliability-and-emergency-reserve-trader>.

## 1.2 Issues raised in the rule change request

The issues raised by AEMO in the rule change request primarily relate to changes to the deadlines for additional compensation claims following market intervention and the alignment of intervention compensation and settlement timetables as outlined below.

### 1.2.1 Deadline for additional compensation claims

AEMO requests the AEMC to consider a proposal to alter the deadline<sup>5</sup> for additional compensation claims by affected participants and market customers following a market intervention. Following a market intervention AEMO initially notifies an affected participant or market customer<sup>6</sup> of the compensation that has been determined.

The NER currently permit a seven business day deadline for market participants to lodge a claim for additional compensation.<sup>7</sup> In its rule change request, AEMO states that, as directions have been more complex in the last two years, involving multiple, overlapping and extended interventions, this may be insufficient time for the participant to calculate the merits of claiming additional compensation.<sup>8</sup>

### 1.2.2 Directed participants' deadline for additional compensation claims

Directed participants are also permitted to make additional compensation claims following an intervention. However, while the NER specifies clear deadlines for additional compensation claims for affected participants, it does not set a deadline for additional compensation claims by directed participants.

This is an issue as AEMO must finalise all compensation and associated recovery calculations relating to a single intervention event or series of related events within the same overall time frame. As a result AEMO has, in practice, set a seven-day limit for directed participant claims for consistency with the affected participant deadline outlined in clause 3.12.2(f).<sup>9</sup>

### 1.2.3 Alignment of intervention compensation and settlement timetable

In accordance with the NER, AEMO must provide, for market participants registered under the provisions of chapter 2, a financial settlement service for the billing and clearance of all market trading transactions under chapter 3 of the rules. The NER currently defines the timetable for determining and paying participant compensation in business days after the

5 Pursuant to clause 3.12.2(f) of the NER

6 Largely retailers.

7 pursuant to clause 3.12.2(b), 3.12.2(i) and 3.15.7B(a4) of the NER

8 AEMO, Rule Change Proposal - Deadlines for Additional Compensation Claims Following Market Intervention, p2

9 AEMO, Rule Change Proposal - Deadlines for Additional Compensation Claims Following Market Intervention, p3

intervention event ends (100, 150 or 200 business days depending on the circumstances), whereas the settlement revision<sup>10</sup> time lines are defined in weeks after the end of each billing week (20 and 30 weeks).

The 100 and 150 business day time frames are similar to but not aligned with the settlement revisions that occur approximately 20 weeks and 30 weeks after the relevant billing week as required by clause 3.15.19(b) of the NER. AEMO states that updated metering data is processed in time to support these routine settlement revision processes, but in many instances the final updates will not be accounted for in the intervention compensation calculations, due to the misaligned time frame.<sup>11</sup>

Additionally, AEMO notes that following the “final determination” of intervention compensation (and within the intervention settlement time frames), clause 3.15.10C(b) of the NER requires that the amounts payable or receivable are included in the first preliminary statement (and corresponding final statement) immediately following the determination. AEMO states that these statements will relate to a different billing week than the billing week in which the intervention occurred as the intervention and settlement time tables are not aligned. This can be impracticable if the “final determination” of intervention compensation is produced very close to the next preliminary settlement statement.

AEMO identifies the following issues arising due to misaligned time tables:<sup>12</sup>

- The calculation of compensation quantities may not be based on the best available metering data, meaning that the final payments could over or under compensate market participants.
- Market participants may have increased difficulty reconciling settlement statements and aligning or streamlining their business processes where compensation payments adjustments are made in settlement statements for different billing weeks.
- Unnecessary administration of out-of-cycle payments.

#### 1.2.4

#### **Inconsistencies between intervention compensation and settlement rules**

AEMO also proposes some corrections and clarification of a number of inconsistencies within and between the intervention compensation and settlement provisions of the NER.

AEMO states that although clause 3.12 of the rules addresses the determination of compensation payments for AEMO intervention events generally, covering both directions and RERT activations, the two categories are not consistently addressed in the settlement provisions:<sup>13</sup>

- Clause 3.15.10C(a) of the NER, which deals with the inclusion of intervention compensation in settlement statements, refers only to directions, not the broader category of AEMO intervention events. This may be because clause 3.15.9 (RERT

<sup>10</sup> Settlement revisions are the revised statements issued by AEMO of provisionally calculated compensation amounts and refined through the inclusion of improved data such as updated metering data

<sup>11</sup> AEMO, Rule Change Proposal - Alignment of Intervention Compensation and Settlement Timetables, p5

<sup>12</sup> AEMO, Rule Change Proposal - Alignment of Intervention Compensation and Settlement Timetables, p5

<sup>13</sup> AEMO, Rule change proposal - Alignment of Intervention Compensation and Settlement Timetables, p5 & 6

recovery) mentions the inclusion of RERT-related compensation recovery amounts in (preliminary and final) settlement statements, although it is insufficiently detailed and does not address the timing differences between initial and final determination amounts.

- Clause 3.12.1 of the NER fails to mention the determination of amounts under clause 3.15.9. AEMO's practice is to determine final compensation and recovery amounts for RERT interventions in the same time frame as for directions.
- Clause 3.15.10C of the NER is expressed by reference to the billing period in which a direction was issued. This wording does not adequately cover intervention events that span billing periods, and is inconsistent with clause 3.12.2(d) of the NER.
- Clause 3.15.10C(b) of the NER appears to require final compensation amounts to be included in preliminary settlement statements. AEMO considers that the inclusion of either amount in a preliminary statement is unnecessary, and only delays payment of amounts that have already been finally determined.

#### QUESTION 1: ISSUES RAISED

- A. What are stakeholders' views on the issues raised by AEMO?
- B. Are there any other issues relevant to this rule change request that the AEMC should consider?

## 1.3 Proposed solution

AEMO proposes the following amendments to the NER to address issues identified above.<sup>14</sup>

### 1.3.1 Deadline for additional compensation claims

AEMO proposes to increase the deadline for additional compensation claims from seven business days to 15 business days.

AEMO states that altering the deadline for additional compensation claims by affected participants and market customers following a market intervention would provide participants with more time to assess the impact of intervention events before deciding whether to lodge a claim for additional compensation.<sup>15</sup> It states that this in turn would reduce the administrative overhead for participants to maintain the capability to respond in short time frames to events that may have high impact on financial returns.<sup>16</sup>

AEMO's proposed solution would reduce the time for AEMO to assess a claim and determine final compensation to approximately 13 weeks. AEMO considers that this time is sufficient to assess claims and determine final compensation amounts.<sup>17</sup>

<sup>14</sup> Any changes to the rules as a result of this rule change request will be made against the version of the rules existing at the time the rule is made

<sup>15</sup> AEMO, Rule Change Proposal - Deadlines for Additional Compensation Claims Following Market Intervention, p6

<sup>16</sup> Ibid, p6.

<sup>17</sup> Ibid, p6.

AEMO notes that this proposed change would require minor updates to the formulation of AEMO's intervention settlement timetables, which are published individually for each AEMO intervention event (or series of related interventions). It states that no other changes are envisaged to AEMO's procedures and guidelines that are established and maintained under the NER.<sup>18</sup>

### **1.3.2 Directed participants' deadline for additional compensation claims**

AEMO proposes that clause 3.15.7B(a) of the rules be amended to insert a 15 business day limit for claims for additional compensation by directed participants. AEMO's proposed solution also corrects a cross-referencing error in clause 3.15.7B(a)(2) and removes redundant drafting in clause 3.12.2(f).<sup>19</sup>

AEMO states that the adjustment will codify what AEMO currently does in practice and contribute to consistency and certainty in the application of the rules to directed participants.<sup>20</sup>

### **1.3.3 Alignment of intervention compensation and settlement timetable**

AEMO proposes that clause 3.12.1(a) of the NER be amended to refer to the 20- and 30-week routine revised statements, instead of 100, 150 or 200 business days as appropriate. In practice, this will result in the current 100 and 150-day processes will take longer (by up to 2 weeks). The existing 200-day process will be shortened (by about 10 weeks).

AEMO asserts that these adjustments will:

- ensure that the best available metering data is used in the calculation of compensation quantities, through the alignment of compensation determinations with the settlement revision timetable;
- improve the practicality of the timetable for AEMO and participants and mitigate compliance risk for AEMO by aligning intervention compensation payments with the settlement revision timeline for each billing week in which an AEMO intervention event occurred; and
- provide consistency and certainty in the application of the compensation rules to all AEMO intervention events, irrespective of category and duration.<sup>21</sup>

### **1.3.4 Inconsistency between intervention and compensation and settlement rules**

To ensure that longer duration events are accommodated, inconsistencies resolved, and unnecessary administrative steps removed, AEMO's proposes to extend the intervention settlement provisions in clause 3.12 of the rules to fully incorporate RERT interventions and RERT recovery amounts under clause 3.15.9 of the NER. AEMO's proposed solution also amends clause 3.15.10C of the NER to:

<sup>18</sup> Ibid, p6.

<sup>19</sup> AEMO, Rule Change Proposal - Deadlines for Additional Compensation Claims Following Market Intervention, p6

<sup>20</sup> AEMO, Rule Change Proposal - Deadlines for Additional Compensation Claims Following Market Intervention, p3

<sup>21</sup> AEMO, Rule change proposal Alignment of intervention compensation and settlement timetables, p6

- refer to settlement statements for billing periods in which any type of AEMO intervention event occurred;
- remove reference to clause 3.15.14 (preliminary statements); and
- for the settlement of final compensation amounts after determining additional claims, align with the changes to clause 3.12.1(a).

The proposed changes are limited to maintaining consistency between the provisions of the rules, as well as to maintain consistency between rules involving directions and those involving RERT. These particular changes aim to simplify, in the NER, the timetable used to recover RERT, directions and compensation costs, rather than change the timetable.

AEMO notes that this proposed change to the intervention compensation timetable would not require any changes to AEMO's procedures and guidelines that are established and maintained under the NER.

#### QUESTION 2: THE PROPOSED SOLUTIONS

- A. What are stakeholders views on the solutions proposed by AEMO?
- B. Do stakeholders envisage any costs or issues associated with the proposed solutions?

## 1.4

### 1.4.1

## Assessment framework

### Achieving the NEO

Under 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 national electricity objective (NEO).<sup>22</sup> This is the decision-making framework that the Commission must apply.

The NEO is:<sup>23</sup>

to promote efficient investment in, and efficient operation and use of, electricity services for the longer 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.

The Commission will consider whether implementing the proposed rules promote the NEO. In particular, it will consider the following principles:

- Reducing administrative costs: Improving the practicality of administrative processes can reduce administrative costs for participants and contribute to cost savings being passed on to customers.

<sup>22</sup> Section 88 of the NEL.

<sup>23</sup> Section 7 of the NEL.

- Improving transparency and clarity: The provision of relevant and accurate information to parties who require such information to carry out their responsibilities under the NER is important in supporting the efficiency of the power system.
- Improving consistency: The provision of consistency in the rules can increase certainty for market participants in relation to processes for compensation and increase the potential to reduce ongoing administrative costs.

### QUESTION 3: ASSESSMENT FRAMEWORK

- A. Is the assessment framework appropriate for considering the rule change request?
- B. Are there other relevant considerations that should be included in the assessment framework?

#### 1.4.2 Making a more preferable rule

Under s. 91A of the NEL, the Commission may make a rule that is different (including materially different) to a proposed rule (a more preferable rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule will or is likely to better contribute to the achievement of the NEO.

#### 1.4.3 Making a differential rule

Under the Northern Territory legislation adopting the NEL, the Commission may make a differential rule if, having regard to any relevant MCE statement of policy principles, a different rule will, or is likely to, better contribute to the achievement of the NEO than a uniform rule. A differential rule is a rule that:

- varies in its term as between:
  - the national electricity system, and
  - one or more, or all, of the local electricity systems, or
- does not have effect with respect to one or more of those systems

but is not a jurisdictional derogation, participant derogation or rule that has effect with respect to an adoptive jurisdiction for the purpose of s. 91(8) of the NEL.

As the proposed rule related to parts of the NER that currently do not apply in the Northern Territory, the Commission will not assess the proposed rule against additional elements required by the Northern Territory legislation.<sup>24</sup>

<sup>24</sup> From 1 July 2016, the NER, as amended from time to time, apply in the NT, subject to derogations set out in regulations made under the NT legislation adopting the NEL. Under those regulations, only certain parts of the NER have been adopted in the NT. (See the AEMC website for the NER that applies in the NT.) National Electricity (Northern Territory) (National Uniform Legislation) Act 2015.

## 2 PROCESS FOR THIS RULE CHANGE

### 2.1 Treatment as non-controversial rule change

The Commission considers that the rule change request is a request for a non-controversial rule because it is unlikely to have a significant impact on the national electricity market.<sup>25</sup> As the issues raised in the rule change request represent procedural changes and are administrative in nature. The proposed changes are not expected to result in significant additional costs to consumers.

In addition, AEMO stated in its rule change request that it has engaged with stakeholders through its IPWG and presented the recommendations from these meetings to AEMO's national Electricity Market Wholesale Consultative forum.

Rule changes that are considered to be non-controversial may be processed under an expedited (faster) process under which there is only one round of consultation and the AEMC must publish its final rule determination within eight weeks of commencing the rule change process.<sup>26</sup>

The Commission has decided to use an expedited process to consider this rule change request provided that it does not receive any valid requests not to use the expedited process by 18 April 2019. To be valid, an objection should set out the reasons why the rule change request will have a significant impact on the national electricity market.

### 2.2 Key dates

Given the tightly defined nature of the issue, and the background information provided in the rule change request, this consultation paper is brief. Nevertheless, submissions are invited in relation to the matters identified above, and any other relevant issue.

The key dates for stakeholders in this process are as follows:

- Commencement of this rule change process: 4th April 2019
- Objections to an expedited process to be received by: 18 April 2019
- Submissions to the proposal to be received by: 02 May 2019
- Final decision to be published under an expedited process by: 30 May 2019

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<sup>25</sup> Section 87 of the National Electricity Law.

<sup>26</sup> The AEMC has published a notice under sections 95 and 96 of the National Electricity Law to commence and assess this rule change request as a non-controversial rule.

## 3 LODGING A SUBMISSION

The Commission invites requests not to make a rule under the expedited process and written submissions on this rule change proposal.

All enquiries on this project should be addressed to David Reynolds on (02) 8296 0660 or [david.reynolds@aemc.gov.au](mailto:david.reynolds@aemc.gov.au).

### 3.1 Lodging a request not to make a rule under an expedited process

Written requests not to make a rule under the expedited process in s. 96 of the NEL must include reasons for the request, and must be lodged with the Commission by 18 April 2019 online in accordance with the process specified below.

### 3.2 Lodging a submission to this rule change request

Written submissions on the rule change request must be lodged with Commission by 03 May 2019 online in accordance with the process specified below.

Where practicable, submissions should be prepared in accordance with the Commission's guidelines for making written submissions on rule change requests.<sup>27</sup> The Commission publishes all submissions on its website, subject to a claim of confidentiality.

### 3.3 Lodging online

Submissions, or requests not to make a rule under the expedited process, must be lodged online via the Commission's website, [www.aemc.gov.au](http://www.aemc.gov.au), using the "lodge a submission" function and selecting the project reference code ERC0252.

The request or submission must be on letterhead (if submitted on behalf of an organisation), signed and dated.

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<sup>27</sup> This guideline is available on the Commission's website [www.aemc.gov.au](http://www.aemc.gov.au).

## ABBREVIATIONS

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
Commission	See AEMC
IPWG	Intervention Pricing Working Group
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National electricity objective
NER	National Electricity Rules
RERT	Reliability and Emergency Reserve Trader