

Australian Energy Market Commission

Final Rule Determination

National Electricity Amendment (NEM Reliability Settings: Information, Safety Net and Directions) Rule 2008

Rule Proponent

AEMC Reliability Panel

26 June 2008

Signed: 

John Tamblyn
Chairman

For and on behalf of
Australian Energy Market Commission

Commissioners
Tamblyn
Carver

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

Citation

AEMC 2008, *NEM Reliability Settings: Information, Safety Net and Directions*, Final Rule Determination, 26 June 2008, Sydney

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.

This work is copyright. The Copyright Act 1968 permits fair dealing for study, research, news reporting, criticism and review. Selected passages, tables or diagrams may be reproduced for such purposes provided acknowledgement of the source is included.

Contents

Abbreviations	iv
Executive Summary	v
The Commission's decision	v
Summary of the Panel's Rule change proposal	v
Summary of the Commission's process	v
Differences between the Commission's draft Rule and its final Rule	vi
The Commission's reasoning for its decision	vi
1 The Reliability Panel's Rule change proposal	1
1.1 The Commission's Rule making process for the Panel's Rule change proposal	1
1.2 The fast tracked Rule making process	2
1.3 Background to the Panel's Rule change proposal	5
1.4 Description of the Panel's Rule change proposal	6
1.5 The Panel's identified problems with the current Rules and its proposed solutions	9
1.6 How the Panel considers that its proposal meets the National Electricity Objective	11
2 The Commission's final Rule determination	15
2.1 The Commission's final Rule determination	15
2.2 The Commission's power to make the Rule	15
2.3 Relevant MCE statements of policy principles	16
2.4 Assessment of the Rule to be made: the National Electricity Objective and the Rule making test	16
2.5 The Commission's approach and decision making framework	17
2.6 Consultation on the Commission's draft Rule determination	18
3 The Commission's assessment of the Panel's proposed Rule against the National Electricity Objective	21
3.1 The EAAP	21
3.2 The RERT	31
3.3 NEMMCO's SOO load forecasts	44
3.4 NEMMCO's reliability directions powers	47
4 Implementation of the Panel's Rule change proposal	51
4.1 The EAAP	51
4.2 The RERT	53
4.3 NEMMCO's SOO load forecasts	55
4.4 NEMMCO's reliability directions powers	56
A Rule as made	59
B The Panel's consultation process during the Comprehensive Reliability Review	103

Abbreviations

AEMC	Australian Energy Market Commission
Commission	see AEMC
CRR	Comprehensive Reliability Review
EAAP	Energy Adequacy Assessment Projection
GELF	Generator Energy Limitation Framework
IRPC	Inter- Regional Planning Committee
MCE	Ministerial Council on Energy
MT-PASA	Medium Term Projected Assessment of System Adequacy
NEL	National Electricity Law
NEM	National Electricity Market
NEMMCO	National Electricity Market Management Company
NEO	National Electricity Objective
NGF	National Generators Forum
Panel	The AEMC Reliability Panel
PASA	Projected Assessment of System Adequacy
POE	Probability of Exceedance
RERT	Reliability and Emergency Reserve Trader
Rules	National Electricity Rules
SCO	Standing Committee of Officials
SOO	Statement of Opportunities
ST-PASA	Short Term Projected Assessment of System Adequacy
USE	Unserved Energy

Executive Summary

The Commission's decision

The Australian Energy Market Commission (Commission) makes this final Rule determination and the attached Rule to be made (see **Appendix A**) on the AEMC Reliability Panel's (Panel's) 'NEM Reliability Settings: Information, Safety Net and Directions' Rule change proposal, in accordance with Sections 102 and 103 of the National Electricity Law (NEL). All schedules of the final Rule will commence operation on 1 July 2008.

Summary of the Panel's Rule change proposal

On 15 February 2008, the Panel submitted the 'NEM Reliability Settings: Information, Safety Net and Directions' Rule change proposal to the Commission. This proposal has four main components:

1. Introduction of the Energy Adequacy Assessment Projection (EAAP), a new quarterly information mechanism which will provide the market with projections of the impact of generation input constraints on energy availability;
2. Introduction of the Reliability and Emergency Reserve Trader (RERT), which will replace and enhance the existing Reserve Trader arrangements from 1 July 2008;
3. A requirement that NEMMCO provide the Panel with an annual report on the accuracy of its most recent Statement of Opportunities (SOO) load forecasts and any improvements incorporated into the forecasting process; and
4. Extension of NEMMCO's reliability directions powers without sunset from 1 July 2008.

The Panel also sought to have its Rule change proposal processed under a fast tracked Rule making process under Section 96A of the NEL.

Summary of the Commission's process

On 20 March 2008, the Commission published a notice under Section 95 of the NEL, advising of its intention to commence the Rule change process and fast track the Panel's Rule change proposal under Section 96A of the NEL.

This is the first Rule change proposal to be processed by the Commission under a fast tracked Rule making process, following amendments to the NEL which commenced operation on 1 January 2008.

On 24 April 2008, the Commission published its draft Rule determination and draft Rule under Section 99 of the NEL, and commenced second round consultation on its draft Rule determination. The Commission decided to make the draft Rule on the Panel's Rule change proposal. However, the Commission made a number of

modifications to the Panel's proposed Rule to improve the governance arrangements and implementation of the Panel's proposal. These modifications related primarily to the EAAP and involved: inserting an 'EAAP Purpose', 'EAAP Principles', and a review process for the EAAP into the draft Rule; and reassigning the responsibility to develop the EAAP Guidelines from the Panel to NEMMCO.

Second round consultation closed on 6 June 2008, in accordance with the minimum six week second round consultation period specified under Section 99 of the NEL. Five submissions were received by the Commission.

Differences between the Commission's draft Rule and its final Rule

After assessing second round submissions on its draft Rule determination, the Commission determined to make a number of amendments to its draft Rule in relation to the EAAP and the RERT. The Commission considers that its amendments to the EAAP and RERT will improve the implementation of these arrangements and reduce the administrative burden on NEMMCO and Scheduled Generators associated with these new mechanisms. No changes were made to the Commission's draft Rule in relation to NEMMCO's reporting obligations on its SOO load forecasts or NEMMCO's reliability directions powers.

The Commission's main amendments to the EAAP in its Rule as made involve: extending the timeframe for NEMMCO to publish its first EAAP to 31 March 2010; removing the requirement for NEMMCO to publish additional updated versions of the EAAP in response to "materially significant events"; and reducing the administrative burden on Scheduled Generators by limiting their input requirements for the EAAP.

The Commission's main amendments to the RERT in its Rule as made involve: strengthening the savings and transitional arrangements for the RERT to allow it to become operational on 1 July 2008; and clarifying NEMMCO's reporting arrangements on the RERT.

The Commission's reasoning for its decision

The Commission considers that the four components in the Panel's Rule change proposal contribute to the achievement of the National Electricity Objective by: improving the reliability of supply in the NEM; improving the economic efficiency of dispatch; increasing market based responses to projected shortfalls in supply; and providing cost reflective and reliable supplies of electricity for end use consumers.

The Commission also considers that the Panel's proposals are necessary to address the risks which may arise from the tightening of the supply-demand balance. The Commission suggests that these risks may arise from: energy constraints related to the drought; potential interruptions to fuel supplies (e.g. gas); continued growth in

the demand for electricity; and the implications of climate change policies on the energy market. This tightening of the supply-demand balance is projected to occur across the NEM over the medium term.¹

The EAAP

The Commission notes that the EAAP will serve to formalise and extend NEMMCO's current Drought Scenarios Investigation Reports, and that these Reports have been perceived as a useful information source in the market. The Commission considers that the EAAP, as an additional source of information for the market regarding when and where energy constraints may impact on energy availability, will lead to an improved market response to projected shortfalls in reserve. The Commission believes that this is likely to: increase the efficiency of investment in generation; improve the reliability of supply for end use consumers; and reduce average energy prices relative to what they would have otherwise been, by smoothing out high prices during times of energy shortfall.

The RERT

Under clause 3.12.1 of the Rules, NEMMCO is able to contract for capacity reserves when a shortfall of reserve is projected. These reserves can be dispatched by NEMMCO when customer loads would be otherwise shed. These arrangements are known as NEMMCO's 'Reserve Trader' powers.

The Commission notes that the current Reserve Trader arrangements have the potential to distort market based responses to reserve shortfalls. However, the Commission considers that it would not be prudent to remove NEMMCO's powers to contract for reserves in current and prospective market conditions, when a tightening of the supply-demand balance is forecast.

The Commission has adopted the Panel's proposals to: increase the flexibility that NEMMCO has to contract for reserves; ensure that the reserves contracted by NEMMCO do not set the spot price and are only dispatched after all other bids and offers are dispatched; and to impose a review process and four year sunset on the RERT. The Commission agrees that the Panel's proposals to enhance the current Reserve Trader arrangements will minimise the distortionary impacts of NEMMCO's intervention, while also ensuring that NEMMCO's power to intervene to maintain supply reliability is maintained over time. Under the Rule as made, the effectiveness and continuing need for the RERT will be reviewed in three years time by the Panel.

NEMMCO's SOO load forecasts

It is the Commission's view that annual reporting by NEMMCO on its SOO load forecasts is likely to improve the accuracy of its forecasts over time, by increasing

¹ Reliability Panel, 2007, Comprehensive Reliability Review: Final Report, 21 December, pg. 49.

transparency in the way it prepares its forecasts, and contributing to continuous improvements in those forecasts. The Commission considers that an improvement in the accuracy of load forecasts is likely to: improve the accuracy of dispatch; increase the availability of generators during times of high demand; increase market based responses to projected shortfalls in reserves; increase supply reliability; and improve the efficiency of investment in generation and transmission.

NEMMCO's reliability directions powers

The Commission regards NEMMCO's power to issue reliability directions as necessary to maintain the supply reliability of the market and to provide the market with long term confidence and certainty that NEMMCO is able to intervene to avoid load shedding. For these reasons, the Commission has decided to extend NEMMCO's reliability directions powers without sunset.

1 The Reliability Panel's Rule change proposal

This Chapter sets out:

- The Commission's Rule making process for the AEMC Reliability Panel's (Panel's) Rule change proposal;
- The fast tracked Rule making process and the Commission's considerations in assessing the Panel's request to fast track its Rule change proposal;
- Background to the Panel's Rule change proposal; and
- A description of the Panel's Rule change proposal, including the Panel's identified problems with the current Rules, and how it believes its proposal will address these problems and promote the National Electricity Objective.

1.1 The Commission's Rule making process for the Panel's Rule change proposal

On 15 February 2008, the Panel submitted a Rule change proposal, titled 'NEM Reliability Settings: Information, Safety Net and Directions' to the Commission. This Rule change proposal related to the Reserve Trader arrangements, NEMMCO's reliability directions power, and new information mechanisms for projections of energy adequacy and load.

The Panel's Rule change proposal indicated that it was seeking to have its proposal fast tracked under Section 96A of the National Electricity Law (NEL).

On 20 March 2008, the Commission published a notice under Section 95 of the NEL advising of its intention to commence the Rule change process and fast track this Rule change proposal under Section 96A of the NEL.

On 24 April 2008, the Commission published its draft Rule determination and draft Rule under Section 99 of the NEL, and commenced second round consultation on its draft Rule determination. The Commission decided to make the draft Rule on the Panel's Rule change proposal. However, the Commission made a number of modifications to the Panel's proposed Rule to improve the governance arrangements and implementation of the Panel's proposal. These modifications related primarily to the Panel's proposed Energy Adequacy and Assessment Projection (EAAP) and involved: inserting an 'EAAP Purpose', 'EAAP Principles', and a review process for the EAAP into the draft Rule; and reassigning the responsibility to develop the EAAP Guidelines from the Panel to NEMMCO.

Second round consultation on the Panel's Rule change proposal closed on 6 June 2008 and five submissions were received. The issues raised in second round submissions and the Commission's response are discussed in Chapter 3.

1.2 The fast tracked Rule making process

The Panel's Rule change proposal is the first proposal to be approved by the Commission for a fast tracked Rule making process under Section 96A of the NEL. This section explains the fast tracked Rule making process and the Commission's considerations in assessing the Panel's request for a fast tracked process.

1.2.1 What is a fast tracked Rule making process?

The option of a fast tracked Rule making process is a recent amendment to the NEL and commenced operation on 1 January 2008. Once a fast tracked Rule making process has been approved by the Commission, the first round of consultation and option for a public hearing is bypassed. Following the publication of a Section 95 notice initiating the Rule change process, the Commission has five weeks to publish a draft Rule determination. Under Section 96A of the NEL, once the draft Rule determination has been published, the Rule making process will continue as normal with a six week second round of consultation and the publication of a final Rule determination within six weeks of the close of second round consultation.

A simplified diagram summarising the differences between a standard Rule making process and a fast tracked Rule making process, can be found below in **Figure 1**.¹

1.2.2 The Panel's reasons for requesting a fast tracked Rule change process

The Panel suggested in its proposal documents that Section 96A of the NEL applied to its Rule change as:

1. Under Section 87 of the NEL, the Panel is considered to be an 'electricity market regulatory body' which has the power to submit a fast tracked Rule change proposal; and
2. The Panel conducted a public consultation on the proposals contained in its Rule change.

¹ Note, this diagram is a simplified version of the Rule making process and is not an exhaustive representation of the Rule making procedures under the NEL. This diagram should be used in conjunction with the NEL. This diagram assumes that both Rule change proposals meet the minimum threshold tests to initiate the Rule making process under Section 94 of the NEL and that the Rule change proposal requesting a fast tracked process is approved under Section 96A of the NEL by the Commission. If a fast tracked process was not approved by the Commission, the Rule change proposal would follow the standard Rule making process.

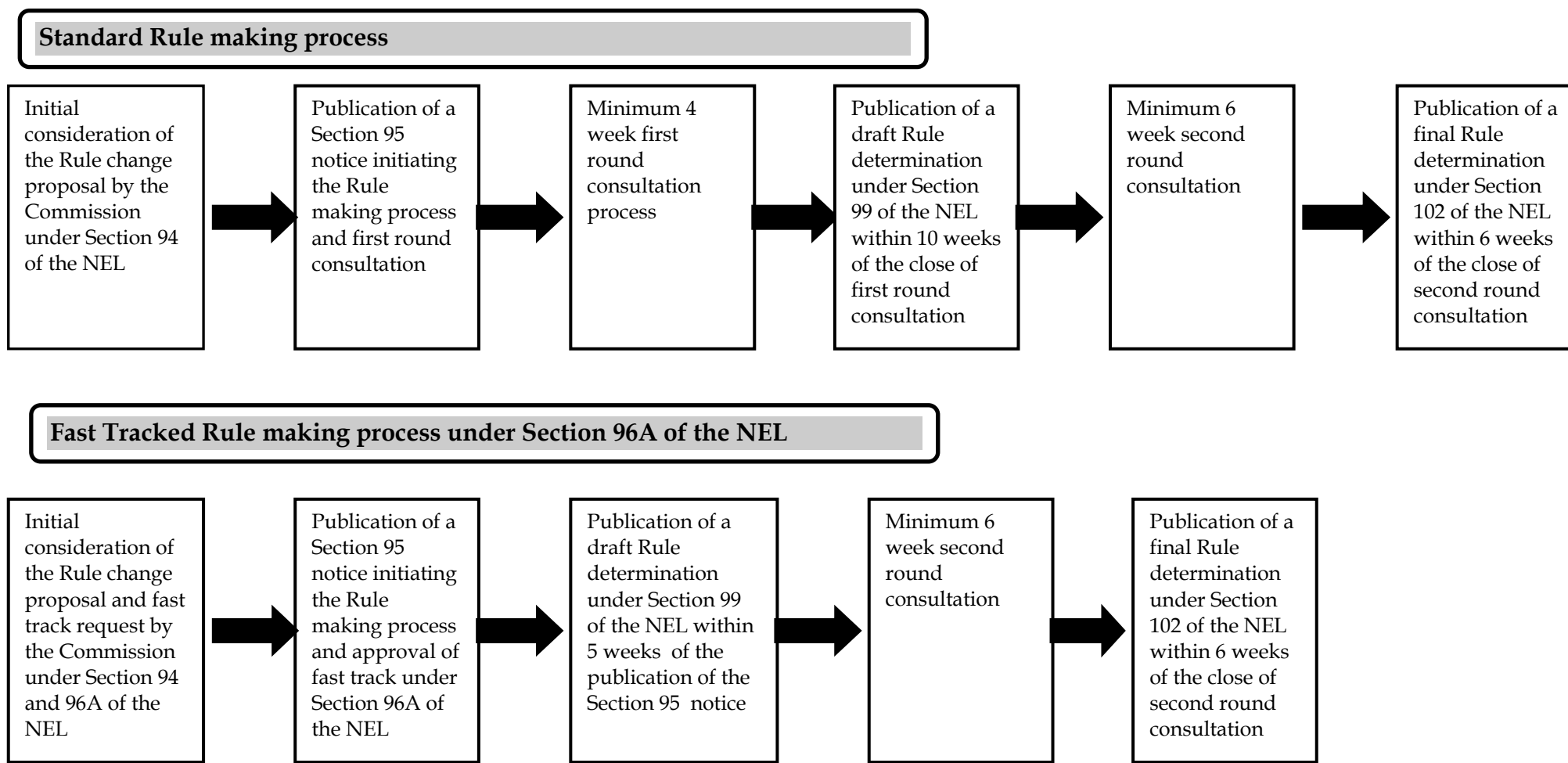
1.2.3 The Commission's analysis and decision on the Panel's fast track request

In assessing the Panel's request for a fast tracked Rule making process under Section 96A of the Rules, the Commission considered the following factors:

1. Whether the Exposure Draft that was consulted on during the Comprehensive Reliability Review (CRR) was consistent with the recommendations contained in the Rule change proposal that was submitted to the Commission;
2. The standard and extent of consultation conducted by the Panel during the CRR and on the Exposure Draft in particular; and
3. How the Panel addressed the issues raised by stakeholders during consultations on the CRR and its Exposure Draft, including its consideration and inclusion of additional or alternative solutions to those suggested by the Panel.

The Commission determined that the Panel had met the minimum requirements for a fast tracked Rule making process under Section 96A of the NEL and approved the Panel's request for fast track. A summary of the Panel's consultation process during the CRR can be found in **Appendix B**.

Figure 1- Standard Rule making process vs. a fast tracked Rule making process



1.3 Background to the Panel's Rule change proposal

The Panel is a specialist body within the Commission and comprises of industry and consumer representatives. It is responsible for monitoring, reviewing and reporting on the safety, security and reliability of the national electricity system and advising the Commission on these matters.

The Panel's Rule change proposal was developed during the Panel's CRR. This Rule change proposal is the first Rule change to be submitted by the Panel as a result of the Panel's Final Report on the CRR, published on 21 December 2007. A second Rule change proposal from the Panel arising from the CRR, in relation to the level of the value of lost load (VoLL) and the cumulative price threshold (CPT), is expected to be submitted to the Commission during 2008.

1.3.1 Comprehensive Reliability Review

In December 2005, the Commission directed the Panel to undertake a comprehensive and integrated review of the reliability settings for achieving reliability of supply in the national electricity market (NEM). An Issues Paper on the CRR was published in May 2006 and following stakeholder consultation, the First Interim Report on the CRR was published in April 2007.

In June 2007, the Ministerial Council on Energy (MCE) wrote to the Commission requesting that the Panel's terms of reference for the CRR be expanded to "consider what, if any, improvements can be made to arrangements, including Reserve Trader, to strengthen the market's ability to manage [generator] input constraints"². A key responsibility of the Commission is to provide the MCE with policy advice, when requested. This request from the MCE was made in the context of energy shortfalls being projected by NEMMCO if the prevailing drought conditions in south eastern Australia continued.

In August 2007, the Panel published its Second Interim Report on the CRR³ after undertaking consultation on the First Interim Report. Appendix C of the Second Interim Report contained an Exposure Draft of Rule changes relating to the introduction of new information mechanisms for energy adequacy, changes to the current Reserve Trader arrangements, and a clarification of NEMMCO's reliability directions powers. This Exposure Draft was amended following consultation with stakeholders and the amended Exposure Draft formed the basis of the Panel's 'NEM Reliability Settings: Information, Safety Net and Directions' Rule change proposal, which was submitted to the Commission in February 2008.

² MCE, 2007, Letter requesting an expansion of the CRR's terms of reference, 13 June, p. 1. Available here:
<http://www.aemc.gov.au/pdfs/reviews/Comprehensive%20Reliability%20Review/reliability%20panel%20docs/000Letter%20from%20the%20SCO.pdf>

³ Reliability Panel, 2007, Comprehensive Reliability Review: Second Interim Report. Available at:
<http://www.aemc.gov.au/electricity.php?r=20051215.142656>

1.4 Description of the Panel's Rule change proposal

The Panel's Rule change proposal has four main components:

- The Energy Adequacy Assessment Projection;
- The Reliability and Emergency Reserve Trader;
- NEMMCO's reliability directions powers; and
- NEMMCO's Statement of Opportunities load forecasts.

Each component of the Panel's Rule change proposal is described below. A diagram summarising the key elements of the Panel's Rule change proposal can also be found in **Figure 2** below.

1.4.1 The Energy Adequacy Assessment Projection (EAAP)

The Panel has proposed the introduction of a new information mechanism, the EAAP, which will provide, at least every quarter, two year projections of the impact of generation input constraints (e.g. water and fuel restrictions) on energy availability. The Panel notes in its proposal that the EAAP differs from the Medium Term Projected Assessment of System Adequacy (MT-PASA) in that, while the EAAP will provide projections of the impact of generation input constraints on energy availability, the MT-PASA provides projections on whether there is sufficient capacity to meet projected demand.

The EAAP seeks to ensure that the recent information that NEMMCO has been publishing on the impact of the drought on power generation continues to be distributed in the market. To assist NEMMCO to produce these assessments of energy availability, Scheduled Generators will be required to lodge a quarterly 'Generator Energy Limitation Framework' (GELF) with NEMMCO, which describes their energy generation constraints.

1.4.2 The Reliability and Emergency Reserve Trader (RERT)

Under clause 3.12.1 of the Rules, NEMMCO is able to contract for capacity reserves when a shortfall of reserve is projected. These reserves can be dispatched by NEMMCO when customer loads would be otherwise shed. These arrangements are known as NEMMCO's 'Reserve Trader' powers.

The Panel is seeking to replace the existing Reserve Trader arrangements which are due to expire under the Rules on 1 July 2008, with the RERT, which is an enhanced reserve trader mechanism with a four year sunset period.

The RERT has two main enhancements from the current Reserve Trader arrangements:

1. NEMMCO will be able to contract for capacity reserves for up to nine months in advance of a projected shortfall rather than six months; and
2. NEMMCO will be able to undertake multiple rounds of tendering and contracting when selecting reserve contracts rather than a single round.

The RERT will continue to operate on a regional basis and be funded by Market Customers in the affected regions.

1.4.3 NEMMCO's reliability directions power

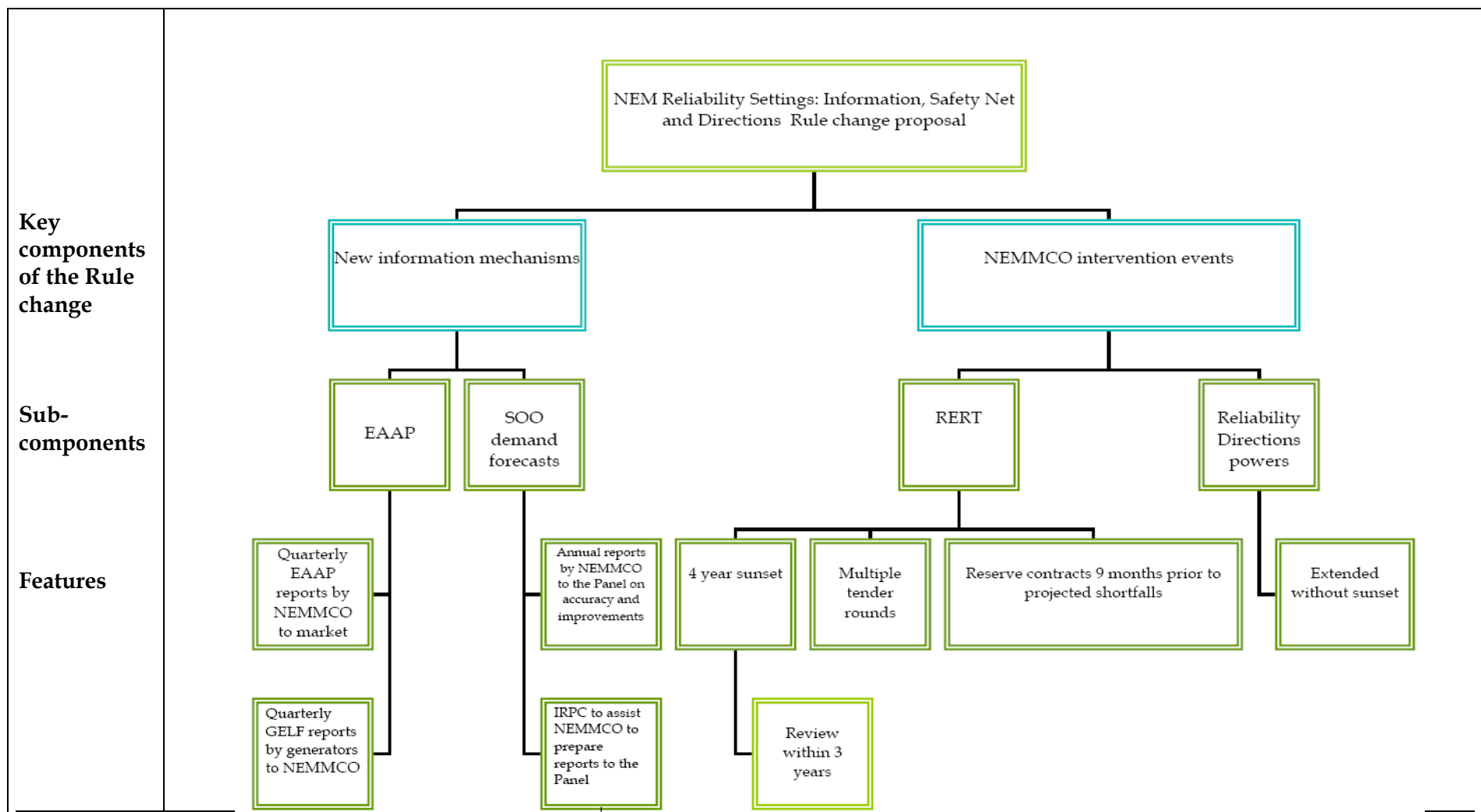
The Panel is seeking to extend the powers in clause 4.8.9 of the Rules that allow NEMMCO to issue reliability directions to maintain or re-establish the power system to a reliable operating state. Under the existing Rules, the Panel suggests that it is unclear whether this power has an expiry date of 1 July 2008. The Panel is seeking to extend this power without a sunset period.

1.4.4 NEMMCO's Statement of Opportunities (SOO) load forecasts

The Panel is seeking to require:

1. NEMMCO to report to the Panel by 1 November each year on the accuracy of its most recent SOO load forecasts and any improvements that have been incorporated into the forecasting process that will apply to the next SOO; and
2. That the Inter-Regional Planning Committee (IRPC) assists NEMMCO in meeting the above reporting obligation to the Panel.

Figure 2- Summary of the Panel's NEM Reliability Settings: Information, Safety Net and Directions Rule change proposal



1.5 The Panel's identified problems with the current Rules and its proposed solutions

Sections 1 and 4 of the Panel's Rule change proposal outline the Panel's identified problems with the current Rules and how the Panel considers that its proposal will provide a solution to each of the issues it has identified. The four main issues that the Panel has identified with the current Rules include:

1. Generator input constraints;
2. The continued need for a reliability safety net;
3. The continued need for NEMMCO's reliability directions powers; and
4. The accuracy of NEMMCO's maximum demand forecasts in the SOO.

1.5.1 Generation input constraints

The Panel suggests that the prolonged and severe drought in eastern and south eastern Australia is having an increasing impact on generator energy constraints. Further, the Panel suggests that such significant energy constraints have not been experienced on the Australian mainland since the start of the NEM and therefore it is uncertain how well the market will operate when faced with relatively widespread potential energy constraints.

To address its concerns regarding generator energy constraints, the Panel has proposed that NEMMCO publish the EAAP—a two year outlook of the impact of generation input constraints on energy availability. The EAAP is proposed to be published at least quarterly and generators will be required to lodge their generation input limitations with NEMMCO to assist NEMMCO in its assessments of energy availability. The Panel anticipates that the EAAP will improve the information available to Market Participants in relation to when and where energy constraints may occur; and, consequentially, should facilitate market responses such as the reallocation of existing fuel and water resources to periods of projected energy constraints.

1.5.2 Continued need for a reliability safety net

The current power that NEMMCO has to contract for reserves when a shortfall of reserve is projected (i.e. Reserve Trader power) expires on 1 July 2008 under clause 3.12.1 of the Rules. The Panel considers that the Reserve Trader arrangements are a market distortion that would not be necessary if there was an assurance that the market would deliver the required standard of reliability in all circumstances where the supply-demand balance is tight and the level of reserves is low. However, the Panel suggests that as tighter demand-supply conditions are projected and the market's response to these conditions has never been tested, the Reserve Trader arrangements should be retained at this stage.

The Panel states that there are two broad issues with the current Reserve Trader and has proposed changes to address these issues.

- Firstly, the Panel states that under the current arrangements, NEMMCO is only able to contract for reserves six months prior to a projected shortfall. The Panel considers that this is a short time frame, which means that there are only a limited number of potential sources of reserve capacity available when NEMMCO contracts reserves. However, the Panel suggests that if NEMMCO is allowed to procure reserves too far in advance, NEMMCO may distort investment incentives for new generating plant.
- Secondly, the Panel also states that under the current arrangements NEMMCO only has one opportunity to tender and enter into contracts for reserves, which may prevent it from entering into the most efficient reserve contracts.

To address the above issues, the Panel has proposed that NEMMCO be allowed to:

1. Contract for reserves up to nine months prior to a projected shortfall to increase competition for reserve contracts and reduce the cost of procurement; and
2. Undertake multiple rounds of tendering and contracting when selecting reserves.

The Panel suggests that a rolling tendering process will allow NEMMCO's reserve contracting to be informed by updated quarterly projections of the impact of generation input constraints (i.e. the proposed EAAP).

The Panel has proposed to call this redesigned Reserve Trader, the RERT.

To address concerns regarding the distortionary effects that these arrangements may have on the market, the Panel has proposed that the RERT have a four year sunset period and the Panel be required to review the operation of the RERT within three years of its operation. The Panel has also proposed that it be required to prepare a set of guidelines for NEMMCO's operation of the RERT.

1.5.3 Continued need for NEMMCO's reliability directions powers

The Panel suggests that when NEMMCO's Reserve Trader powers under rule 3.12 cease, NEMMCO's powers to issue a direction or clause 4.8.9 instruction to maintain or re-establish the power system to a reliable operating state under clause 4.8.9(h) of the Rules cease.

The Panel considers that NEMMCO's power to issue directions for reliability is an important mechanism to manage the reliability of the national electricity system, and therefore recommends that NEMMCO's power to issue reliability directions be extended indefinitely.

1.5.4 Accuracy of maximum demand projections

The Panel has stated that stakeholders are concerned that NEMMCO's maximum demand projections in the SOO have been systematically too high, particularly at 10% probability of exceedance (POE) demand levels (i.e. 1 in 10 year levels of demand). The Panel notes that stakeholders believe that because of systematically high demand forecasts, NEMMCO may have intervened too often to contract for reserves, which ex-post are not needed, and that the cost of procuring these reserves has been passed on to consumers.

To address stakeholder concerns, the Panel has proposed that NEMMCO report to the Panel annually, with the assistance of the IRPC, on the accuracy of the most recent SOO demand forecasts and any improvements to the process used to prepare the SOO forecasts.

1.6 How the Panel considers that its proposal meets the National Electricity Objective

A Rule change proponent is required to state how it considers its proposed Rule would or would be likely to contribute to the achievement of the National Electricity Objective (NEO).⁴

Section 5 of the Panel's Rule change proposal provides a statement outlining how it considers that its proposed Rule would or would be likely to contribute to the NEO. The Panel has suggested that each component of its proposal will contribute to the NEO in the following ways.

1.6.1 The EAAP

There are five reasons why the Panel considers that the EAAP will promote the NEO.

The Panel suggests the EAAP will:

1. Promote the efficient use of electricity services by improving the information provided to market participants and stakeholders on the impact of generation energy constraints. The Panel anticipates that this information will lead to market responses which will improve the use of constrained generation inputs.
2. Improve the reliability of supply to consumers and to the national electricity system.

⁴ The NEM Objective was renamed the National Electricity Objective (NEO) following amendments to the NEL, which commenced on 1 January 2008. Despite this change in name, the wording of the NEO is identical to that of the NEM Objective.

3. Reduce the prices paid by electricity consumers, relative to what they would have otherwise been. The Panel notes that average end use consumer prices may reduce through the smoothing of high prices during projected energy shortfalls.
4. Increase the efficiency of investment in generating systems through the more efficient use of existing generation, which will further improve reliability and reduce end use consumer prices.
5. Provide benefits for energy traders in the NEM, as improved projections of energy limitations will improve their ability to determine efficient contracting levels.

1.6.2 The RERT

The Panel considers that the RERT will:

1. Lead to a more efficient use of potential electricity services by providing an emergency mechanism that allows additional capacity reserves to be made available over and above those already in the NEM;
2. Increase the reliability of supply to consumers and reduce involuntary load shedding by providing a mechanism for NEMMCO to procure additional reserve capacity during projected shortfalls; and
3. Increase market certainty by providing continuity of the Reserve Trader arrangements and reducing the need for NEMMCO to issue directions to restore the power system to a reliable operating state.

The Panel notes that the RERT also has the potential to provide another opportunity for consumers to negotiate demand side responses, other than directly contracting with a retailer.

1.6.3 NEMMCO's SOO load forecasts

The Panel anticipates that improving the accuracy of demand forecasts will lead to either more efficient investment in transmission and generation services (where high forecasts are avoided) or improved reliability of supply (where low forecasts are avoided). The Panel also suggests that the costs to consumers from over-investment in generation are likely to be reduced. The Panel notes that energy traders in the NEM will also benefit from improved demand forecasts as it will improve their ability to determine efficient contracting levels.

1.6.4 NEMMCO's reliability directions powers

The Panel suggests that its proposed extension of NEMMCO's reliability directions powers will lead to a more efficient use of electricity services by allowing NEMMCO to intervene to prevent involuntary load shedding.

The Panel indicates that some of the other benefits that will occur through the extension of NEMMCO's reliability directions powers include:

1. An increased reliability of supply to consumers;
2. Greater market certainty through the continuity of the current arrangements; and
3. A reduced operational burden on NEMMCO by removing the need for NEMMCO to distinguish between reliability and security directions at the time an incident occurs.

For these reasons, the Panel considers that its Rule change proposal has the potential to satisfy the Rule making test.

This page has been intentionally left blank

2 The Commission's final Rule determination

This Chapter sets out:

- The Commission's final Rule determination;
- The Commission's power to make the Rule;
- Relevant MCE statements of policy principles;
- The NEO and Rule making test;
- The Commission's approach and decision making framework; and
- A summary of the consultation process on the Commission's draft Rule determination.

2.1 The Commission's final Rule determination

The Commission has determined in accordance with Sections 102 and 103 of the NEL to make the final Rule. All schedules of the final Rule will commence operation on 1 July 2008. A copy of the Commission's final Rule can be found at **Appendix A**.

In making the final Rule, the Commission has taken into account:

- The Commission's powers under the NEL to make the Rule;
- The Panel's Rule change proposal and proposed Rule;
- Relevant MCE statements of policy principles;
- The Commission's approach and decision making framework;
- Submissions received on the Commission's Draft Rule Determination and Draft Rule; and
- The Commission's analysis as to the ways in which the Rule to be made will or is likely to contribute to the achievement of the NEO so that it satisfies the statutory Rule making test.

2.2 The Commission's power to make the Rule

The subject matters about which the AEMC may make Rules are set out in Section 34 of the NEL and more specifically in Schedule 1 to the NEL.

The proposed Rule falls within the subject matters that the AEMC may make Rules about as it relates to the regulation of:

- The operation of the NEM (as it relates to the Rules for the procurement and dispatching of contracted reserves and non-scheduled reserves);
- The operation of the national electricity system for the purposes of the safety, security and reliability of that system (as it relates to NEMMCO's powers to issue reliability directions and NEMMCO's ability to maintain reliability in the presence of generator energy limitations); and
- The activities of persons participating in the NEM or involved in the operation of the national electricity system (as it involves the provision of market related information by Scheduled Generators to NEMMCO and the provision of market related information from NEMMCO to Registered Participants).

The Commission is satisfied that the proposed Rule is a matter about which the Commission may make a Rule.

The Rule is also within matters set out in Schedule 1 to the NEL as it relates to:

- the operation of generating systems, transmission systems, distribution systems or other facilities (item 11 of Schedule 1 of the NEL);
- reviews by or on behalf of the Reliability Panel or any other panel or committee established by the AEMC (item 33(b) of Schedule 1 of the NEL); and
- confidential information held by Registered participants, the AER, the AEMC, NEMMCO and other persons or bodies conferred a function, or exercising a power or right, or on whom an obligation is imposed, under the Rules, and the manner and circumstances in which that information may be disclosed (item 35 of Schedule 1 of the NEL).

2.3 Relevant MCE statements of policy principles

The NEL requires the Commission to have regard to any MCE statements of policy principles in applying the Rule making test. The Commission notes that currently there are no MCE statements of policy principles that relate to the issues contained in the Panel's Rule change proposal.

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

The NEO is the basis of assessment under the Rule making test and is set out in Section 7 of the NEL:

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.⁵

The Rule making test states:

- (1) The AEMC 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;
- (2) For the purposes of subsection (1), the AEMC may give such weight to any aspect of the national electricity objective as it considers appropriate in all the circumstances having regard to any relevant MCE statement of policy principles.⁶

The Commission also has the following Rule making powers under the NEL:

- Under Section 91A of the NEL, the Commission is able to make a “more preferable Rule”⁷, if the Commission is satisfied that, having regard to the issue or issues raised by the proposed Rule, the more preferable Rule will or is likely to better contribute to the achievement of the NEO. The Commission’s power to make a “more preferable Rule” commenced operation on 1 January 2008, following amendments to the NEL; and
- Under Section 91B of the NEL, the Commission is able to make a Rule that is “necessary or consequential”⁸ to a proposed Rule.

2.5 The Commission’s approach and decision making framework

The Panel’s Rule change proposal is the first to be considered under a fast tracked Rule making process, in accordance with Section 96A of the NEL. A fast tracked Rule making process significantly reduces the statutory timeframes of a standard Rule making process. In addition under a fast tracked Rule making process, only one round of consultation is held as the first round of consultation is bypassed. As a result, the fast tracked Rule making process requires the Commission to approach its assessment of the Panel’s Rule change proposal in a different way to how it considers proposed Rule changes under the standard Rule making process.

⁵ Section 7 of the National Electricity Law

⁶ Section 88 of the National Electricity Law.

⁷ Section 91A of the National Electricity Law.

⁸ Section 91B of the National Electricity Law.

Further, as NEMMCO's reliability directions powers and the current Reserve Trader arrangements both expire under the Rules on 1 July 2008, the Commission decided that it was appropriate to publish its final Rule determination in a shorter period than the maximum allowable period of six weeks following the close of second round consultation. This ensures that there is no interruption to NEMMCO's reliability directions powers and allows the RERT to seamlessly transition from the Reserve Trader arrangements following their expiry on 1 July 2008.

In preparing this final Rule determination the Commission has:

1. Assessed the process that was undertaken by the Panel in the development of its Rule change proposal, including the issues that were raised by stakeholders during the CRR and how the Panel addressed these issues in its Rule change proposal;
2. Assessed the views of second round submissions received; and
3. Assessed the Rule change proposal against the NEO.

A summary of the Panel's consultation process during the CRR, including the issues that were raised by stakeholders and how these issues were addressed by the Panel, can be found at **Appendix B**.

In assessing the Panel's Rule change proposal against the NEO, the Commission has also informed its decision by considering the following criteria.

1. The likely effect of the proposal on:
 - the economic efficiency of dispatch;
 - inter-regional trading and risk management;
 - pricing outcomes and participant responses;
 - power system security, supply reliability, and technical issues;
2. Whether the proposal is consistent with principles of good regulatory practice;
3. The likely long term implications of the proposal and its consistency with public policy settings; and
4. The likely timing and cost of the proposal and any other implementation issues.

2.6 Consultation on the Commission's draft Rule determination

Consultation on the Commission's draft Rule determination commenced on 24 April 2008 and closed on 6 June 2008, in accordance with the minimum six week second round consultation period specified under Section 99 of the NEL.

Five submissions were received by the Commission from the following organisations:

- The Panel;
- NEMMCO;
- Snowy Hydro;
- Hydro Tasmania; and
- The National Generators Forum (NGF).

Copies of these submissions are available on the Commission's website.

All of the submissions received appeared to broadly support the Commission's recommendations in its draft Rule determination.

The main concerns raised in submissions related to the implementation of the EAAP and the RERT. In particular, the submissions from generators highlighted concern about the administrative burden on generators associated with the quarterly publication of the EAAP. NEMMCO's submission noted potential transitional issues with the implementation of the RERT and also sought to address existing issues in the Rules, which it suggested had been replicated in the draft Rule.

None of the submissions received raised issues relating to NEMMCO's reliability directions powers or NEMMCO's reporting obligations on the accuracy of its SOO forecasts.

Further discussion on the specific issues raised in submissions is in Chapter 3.

This page has been intentionally left blank

3 The Commission's assessment of the Panel's proposed Rule against the National Electricity Objective

This Chapter sets out the Commission's:

- Assessment of each component of the Panel's Rule change proposal against the NEO;
- Consideration of second round submissions received; and
- Amendments to its draft Rule in its Rule as made.

3.1 The EAAP

3.1.1 The Panel's proposal

The Panel is seeking to introduce a new information mechanism, the EAAP, which will provide two year projections of the impact of generation input constraints (e.g. water and fuel restrictions) on energy availability. To assist NEMMCO's assessments of energy availability, Scheduled Generators will be required to lodge a quarterly GELF with NEMMCO, which describes their energy generation constraints. The Panel has proposed that NEMMCO publish the EAAP at least every quarter.

3.1.2 The Commission's assessment of the Panel's proposal

The Panel has suggested in its Rule change proposal that the drought in eastern and south eastern Australia is having an increasing impact on energy availability. Further, the Panel has indicated that it is uncertain how well the market will operate when faced with relatively widespread potential energy constraints, as these conditions have not been experienced on the Australian mainland since the start of the NEM.

The Commission agrees with the Panel's assessment of the potential for future energy constraints. The Commission also agrees that additional information for the market regarding when and where energy constraints could impact on reliability is a way to address this risk and should lead to an improved market response to projected shortfalls. The Commission considers that the Panel's proposed EAAP is likely to be an effective mechanism to fulfil this need for additional market information on projected generation input constraints. Further, the Commission notes that the EAAP will serve to formalise and extend the information that NEMMCO has been providing to the market through its Drought Scenarios Investigation Reports⁹, to ensure that the information provided in these reports

⁹ In late 2006, the MCE Standing Committee of Officials requested that NEMMCO investigate the potential impact of the drought on electricity supplies in the NEM. NEMMCO's first 'Drought Scenarios Investigation Report' was published in May 2007. Updated versions of this report were published by

becomes a permanent information source in the market. The Commission notes that NEMMCO's Drought Scenarios Investigation Reports have been perceived as a useful information source in the market.

The Commission considers that as both NEMMCO and Scheduled Generators have been contributing to the preparation of the Drought Scenarios Investigation Reports since late 2006, the additional implementation costs associated with the publication of the EAAP are likely to be relatively low for NEMMCO and Scheduled Generators. However, it should be noted that there is an ongoing compliance cost associated with this element of the final Rule relative to the existing reports being discontinued.

The Panel has anticipated that in the long term, the EAAP will facilitate the reallocation of limited energy inputs to periods of projected shortfall. This reallocation of scarce energy inputs will improve the reliability of supply to consumers and reduce average energy prices, by smoothing out high prices during times of energy shortfall. The Commission agrees that this is a potential benefit of the EAAP.

The Commission also considers that the EAAP will improve the efficiency of investment in generation and reduce the likelihood of unnecessary investment costs being passed on to end use consumers. The Commission suggests that this is a potential outcome of the EAAP, because the EAAP will provide the market with more extensive information on when and where projected shortfalls may occur; and thus when and where further investment in generation may be required.

The Commission notes that while the EAAP will not be used to trigger market intervention by NEMMCO, the EAAP will provide an additional source of information to assist NEMMCO in assessing the likelihood of energy shortfalls in the NEM. The Commission also considers that as the EAAP will improve the quality of information available to NEMMCO, the risk of NEMMCO unnecessarily intervening in the market should be reduced. An improvement in the quality of information on projected shortfalls will also provide benefits for jurisdictional governments, as it will assist them to better predict when they may be required to implement power restrictions.

The Commission also notes that the Panel has recommended that to support the implementation of the EAAP, the following Guidelines should be developed and published prior to the publication of the first quarterly EAAP:

1. 'EAAP Guidelines', to be developed by the Panel, that must be taken into account by NEMMCO in preparing the EAAP; and
2. 'GELF Guidelines', to be developed by NEMMCO, that must be taken into account by Scheduled Generators in preparing their GELFs.

NEMMCO in August 2007, December 2007, and March 2008. These reports can be found at:
<http://www.nemmco.com.au/nemgeneral/900-0001.htm>

3.1.3 The Commission's draft Rule

In its draft Rule determination, the Commission considered that the EAAP— as a new information mechanism on the impact of generation input constraints on energy availability— would be a useful and effective resource for the market that would improve supply reliability. However, to improve the implementation and governance structure of the EAAP, the Commission made a number of modifications to the Panel's proposed Rule in its draft Rule.

These modifications included:

1. Inserting a statement of purpose for the EAAP, the 'EAAP Purpose', into the draft Rule;
2. Reassigning the responsibility to develop and publish the EAAP Guidelines from the Panel to NEMMCO;
3. Removing the requirement that NEMMCO develop and publish the GELF Guidelines;
4. Amalgamating the material that was to be included in the proposed GELF Guidelines into the EAAP Guidelines;
5. Inserting 'EAAP Principles' which included the contents of the EAAP and inputs to the EAAP into the draft Rule, which NEMMCO must have regard to in developing the EAAP Guidelines and preparing the EAAP;
6. Requiring NEMMCO to publish its first EAAP Guidelines by 30 June 2009 and its first EAAP by 31 December 2009;
7. Requiring NEMMCO to have regard to the likely costs incurred by Scheduled Generators in providing inputs to the EAAP compared to the likely benefits from the use of that information in the EAAP, when NEMMCO considers what information is required from Scheduled Generators; and
8. Requiring the Panel to conduct a review of the EAAP within three years of the publication of the first EAAP by NEMMCO.

The intent of these changes was to move away from a framework under which the EAAP was prepared consistent with guidelines produced by the Panel, to a framework in which the key parameters for the EAAP (i.e. EAAP Purpose and EAAP Principles) are defined in the Rules with supplementary guidelines produced by NEMMCO following consultation. The Commission considered that this approach was more consistent with comparable information mechanisms already contained in the Rules, such as the MT-PASA and the Short Term PASA (ST-PASA). The Commission also considered that the insertion of a Purpose, high level Principles, and an external review process into the draft Rule was consistent with good regulatory practice and would strengthen the governance arrangements of the EAAP.

The Commission's intent of amalgamating the GELF Guidelines into the EAAP Guidelines was to streamline the implementation and administration of the EAAP

and allow the first EAAP to be published in a shorter timeframe. The Commission suggested in its draft Rule determination that it appeared unnecessary for there to be both EAAP Guidelines and GELF Guidelines to be developed by different bodies at different times.

The Commission's draft Rule determination also sought to reduce the administrative burden on Scheduled Generators, by requiring NEMMCO to have regard to the likely costs and benefits of Scheduled Generators providing inputs to the EAAP, when NEMMCO requests information from Scheduled Generators. The Commission determined to make this amendment to the Panel's proposed Rule after noting concerns in submissions¹⁰ on the Second Interim Report on the CRR, in relation to the potential costs for Scheduled Generators of complying with their input requirements for the EAAP.

3.1.4 Views of second round submissions

All of the submissions received by the Commission on its draft Rule determination raised issues relating to the EAAP. These issues included:

1. Implementation of the EAAP;
2. The potential outputs of the EAAP;
3. The required inputs to the EAAP and the administrative burden on Scheduled Generators from providing these inputs; and
4. Drafting changes to improve the clarity of the final Rule.

Each of these issues, and the Commission's responses, are discussed below.

3.1.4.1 Implementation of the EAAP

The Commission's draft Rule determination reassigned the responsibility to develop the EAAP Guidelines from the Panel to NEMMCO. The Panel has suggested that this decision was appropriate as:

- It is consistent with other information mechanisms in the Rules;
- The Commission has inserted an EAAP Purpose and EAAP Principles into the draft Rule; and
- It reduces the regulatory burden on the market as it removes the need to develop separate GELF Guidelines.¹¹

¹⁰ See submissions on the Second Interim Report on the CRR from Macquarie Generation, National Generators Forum, TRUenergy, and the Energy Retailers Association of Australia. These submissions are available at: <http://www.aemc.gov.au/electricity.php?r=20051215.142656>

¹¹ Reliability Panel, 2008, Submission- draft Rule determination, p. 1.

NEMMCO's submission also indicated that it was comfortable with developing the EAAP Guidelines. However, NEMMCO suggested that it should be required to publish its first EAAP by 31 March 2010 rather than by 31 December 2009, as was required in clause 3.7B(d) of the draft Rule. NEMMCO indicated that it was seeking this three month extension to allow for the implementation of a new more automated data system, which it will use to produce the EAAP.

The Commission considers that it is appropriate to provide NEMMCO with a three month extension to the period of time that NEMMCO has to publish its first EAAP by, to allow for the full implementation of its new more automated data system. The Commission suggests that this more automated data system will increase the efficiency of the implementation of the EAAP and improve the procedural rigour of the EAAP. The Commission understands that NEMMCO is currently in the process of tendering for this data system.¹²

Further details on the implementation of the EAAP can be found at Chapter 4.

3.1.4.2 EAAP outputs

NEMMCO's submission raised two issues in relation the proposed outputs of the EAAP.

Firstly, NEMMCO suggested that it is not confident that it will be able to provide information on projected energy shortfalls, based on the difference between each participant's preferred energy usage pattern and the minimum unserved energy (USE) outcome possible.¹³ This potential output was mentioned in the Panel's Rule change proposal but there was no requirement for NEMMCO to produce this specific output in the draft Rule. NEMMCO indicated that it was seeking to ensure that it will not be required to produce this output in the final Rule.

NEMMCO suggested that this output may not always be feasible as "it may not be possible to readily determine projected unserved energy amounts that relate to participants' preferred energy usage pattern if the majority of participants report a set monthly energy usage"¹⁴. However, it suggests that it will consider the feasibility of providing this output when it develops the EAAP Guidelines.

Secondly, NEMMCO has suggested that the option for it to produce additional versions of the EAAP following changes which are "materially significant" under clause 3.7B(e) of the draft Rule, should be removed.¹⁵ NEMMCO's submission suggests that this clause creates an expectation that NEMMCO will produce additional EAAPs in the event of "materially significant" changes. However, NEMMCO considers that there is little reason for undertaking the significant amount of modelling necessary to produce additional updates to the EAAP, if there is no obligation for Scheduled Generators to provide additional input data for these

¹² NEMMCO, 2008, Submission- draft Rule determination, p. 2.

¹³ NEMMCO, 2008, Submission- draft Rule determination, p. 5.

¹⁴ Ibid.

¹⁵ NEMMCO, 2008, Submission- draft Rule determination, p. 4.

additional updated EAAPs. NEMMCO has suggested that the Commission should either remove this option for NEMMCO to produce additional updated EAAPs or insert a requirement in the final Rule for Scheduled Generators to provide updated inputs.

The Commission has determined that it is appropriate for NEMMCO to examine the feasibility of providing information on the difference between each participant's preferred energy usage pattern and the minimum USE outcome possible, through the development of the EAAP Guidelines. The Commission has not inserted a requirement in the final Rule for NEMMCO to provide this output as part of the quarterly EAAP. The Commission notes that NEMMCO's submission indicates that if this output can not be published in the EAAP, NEMMCO consider that it would be possible to report this output confidentially to each participant.

The Commission has also removed the option in clause 3.7B(e) of the draft Rule for NEMMCO to produce additional versions of the EAAP in the event of materially significant changes. The Commission has also amended rule 3.7C(d) in the Rule as made, so that NEMMCO will only be required to publish the EAAP every three months rather than "at least" every three months.

The Commission agrees that there would be little point in NEMMCO producing these additional updated versions of the EAAP if it was not able to verify its data with Scheduled Generators. Further, the Commission does not support the insertion of an additional requirement on Scheduled Generators to provide updated inputs to enable NEMMCO to verify this data, as it may impose an overly onerous administrative burden on Scheduled Generators. The Commission also considers that as the EAAP will be published regularly every quarter, the impacts of any materially significant event will be modelled in the next EAAP, and there may be little value in publishing updates to the EAAP in between the EAAP's quarterly cycle.

3.1.4.3 EAAP inputs and the administrative burden on Scheduled Generators

To assist it to implement and produce the EAAP, NEMMCO has suggested that it should be allowed to use all of the inputs for the MT-PASA, as outlined in clauses 3.7.1 and 3.7.2 of the Rules. Under the draft Rule, NEMMCO is only allowed to use the MT-PASA inputs outlined in clause 3.7.2(c) of the Rules, which relate to load forecasts, regional reserve requirements, and inter-regional network constraints.

The Commission considers that NEMMCO should be able to use the MT-PASA inputs, as outlined in clauses 3.7.1 and 3.7.2 of the Rules when it produces the EAAP. The Commission considers that this will increase NEMMCO's efficiency in preparing the EAAP, as much of the information in the MT-PASA is relevant to the EAAP. Allowing NEMMCO to use all of the inputs for the MT-PASA may also reduce the regulatory burden on Scheduled Generators, as it may reduce the amount and breadth of information that Scheduled Generators will need to provide NEMMCO to prepare the EAAP.

The administrative burden on Scheduled Generators from complying with their input requirements for the EAAP was raised in submissions from Snowy Hydro, Hydro Tasmania, and the NGF. All three of these submissions highlighted that they did not support any amendments to the Rules, which would increase the administrative burden on generators, beyond what is currently required to produce NEMMCO's Drought Scenarios Investigation Reports.

In particular, Snowy Hydro and Hydro Tasmania suggested that the administrative burden on Scheduled Generators should be reduced by:

1. Removing the obligation in rule 3.7B(f)(2) of the draft Rule, which requires Scheduled Generators to provide NEMMCO with estimates of anticipated generation for each generating unit for each month of the EAAP;¹⁶ and
2. Amending rule 3.7B(i) of the draft Rule, to require Scheduled Generators to only update their GELF parameters every three months, rather than "at least" every three months.¹⁷

As discussed above, the Commission has determined that NEMMCO should not be required in the final Rule to:

1. Produce information on projected energy shortfalls, based on the difference between each participant's preferred energy usage pattern and the minimum USE outcome possible; and
2. Have the option of producing additional updated versions of the EAAP in response to a materially significant event.

Therefore, the Commission considers that Scheduled Generators should not be required in the final Rule to provide NEMMCO with estimates of monthly anticipated generation, if NEMMCO is not confident that it can produce information in the EAAP on projected energy shortfalls, based on the difference between each participant's preferred energy usage pattern and the minimum USE outcome possible. If NEMMCO determines through the EAAP Guidelines process that it will be able to provide this output, the Commission considers that NEMMCO has the power under the final Rule to request information on monthly anticipated generation from Scheduled Generators, because NEMMCO is able to specify the components and forms of GELFs that Scheduled Generators must provide under rules 3.7C(k)(3) and 3.7C(k)(4) of the final Rule.

The Commission has also removed the requirement under rule 3.7B(b)(6)(E) in the draft Rule, for NEMMCO to take into account estimates of anticipated generation for the scheduled generating units of each Scheduled Generator when preparing the EAAP. As the requirement for Scheduled Generators to provide NEMMCO with

¹⁶ Snowy Hydro, 2008, Submission- draft Rule determination, pg. 2-3; Hydro Tasmania, 2008, Submissions- draft Rule determination, pg. 1-2

¹⁷ Snowy Hydro, 2008, Submission- draft Rule determination, p. 2; Hydro Tasmania, 2008, Submissions- draft Rule determination, p. 3.

estimates of monthly anticipated generation has been removed from the draft Rule, the Commission considers that it is appropriate to remove the requirement for NEMMCO to take this information into account when it prepares the EAAP, as NEMMCO may not have access to this information.

In addition, because NEMMCO will not be required to publish additional updated versions of the EAAP beyond the quarterly cycle of the EAAP, the Commission considers that Scheduled Generators should not be required to update their GELF Parameters more often than every three months.

The Commission judges that these amendments to the draft Rule should alleviate concerns by Scheduled Generators regarding the administrative burden that they may face from complying with their EAAP input requirements. The Commission also notes that it inserted an obligation into the draft Rule (which is also in rule 3.7C(f) of the final Rule) that NEMMCO must have regard to the likely costs and benefits of any information it requests from Scheduled Generators to produce the EAAP, prior to requesting it. There will also be an opportunity for Scheduled Generators to raise any concerns about the specific inputs they will be required to provide NEMMCO, through NEMMCO's public consultation process to develop its EAAP Guidelines.

3.1.4.4 Drafting changes

NEMMCO and the NGF also proposed that a number of drafting changes be made to the draft Rule, to improve the clarity of the final Rule. These changes have been made, where considered appropriate by the Commission. The specific clauses which have been amended are outlined in section 3.1.5 below.

Two of the main drafting changes that were made include:

1. Rule 3.7B(b)(5) in the draft Rule, which relates to the EAAP Principles, has been amended (see rule 3.7C(b)(5) in the final Rule) so that it now refers to the EAAP providing aggregated information on "the adequacy of energy availability" rather than "power system adequacy" for each scenario of the EAAP.

This drafting change was made in response to NEMMCO's submission¹⁸ which suggested that it was unclear what "power system adequacy" referred to in this subparagraph and what was intended by this term.

2. Rule 3.7B(j) in the draft Rule, which relates to the GELF, has been amended (see rule 3.7C(i) in the final Rule) so that a Scheduled Generator is only required to revise and re-submit its GELF if there has been "a material *change* to any of its *scheduled generating units* which has an impact on the *energy constraints* associated with that GELF". Previously this clause stated that a Scheduled Generator would be required to revise and resubmit its GELF if there had been "a material *change* to the *energy constraints* associated with that GELF".

¹⁸ NEMMCO, 2008, Submission- draft Rule determination, p. 5.

This drafting change was made following submissions from Snowy Hydro and Hydro Tasmania which suggested that the intent of when Scheduled Generators would be required to resubmit their GELFs was unclear.¹⁹ The Commission agrees with Snowy Hydro and Hydro Tasmania that the intention of this rule is to require a Scheduled Generator to only revise and resubmit its GELF if there has been a material change in its generating units that has an impact on its energy production ability. However, the Commission notes that Scheduled Generators will still be required to provide NEMMCO with their updated GELF parameters every three months.

3.1.5 The Commission's final Rule

The Commission has retained the changes that were made in the Commission's draft Rule in its final Rule (see section 3.1.3 above for information on the Commission's draft Rule). As discussed in sections 3.1.4.1 to 3.1.4.4 above, in developing its final Rule, the Commission has also made a number of amendments to its draft Rule, in response to the issues raised in second round submissions.

The Commission's Rule as made contains the following amendments to its draft Rule in relation to the EAAP:

- 1. The location of all of the Rules related to the EAAP has been moved to rule 3.7C in the Rule as made. The location of the EAAP was in rule 3.7B in the Commission's draft Rule;²⁰**
- 2. The publication date that the first EAAP must be published by has been extended by three months from 31 December 2009 in the draft Rule to 31 March 2010 in rule 3.7C(d) of the Rule as made;**
- 3. Rule 3.7B(b)(5) in the draft Rule, which relates to the EAAP Principles, has been amended (see rule 3.7C(b)(5) in the final Rule) so that it now refers to the EAAP providing aggregated information on "the adequacy of energy availability" rather than "power system adequacy" for each scenario of the EAAP;**
- 4. Rule 3.7B(e) in the draft Rule has been deleted. This rule provided NEMMCO with the option to publish additional updated versions of the EAAP in the event of changes which are materially significant;**

¹⁹ Snowy Hydro, 2008, Submission- draft Rule determination, p.g.1-2; Hydro Tasmania, 2008, Submission- draft Rule determination, p. 2.

²⁰ All of the rules relating to the EAAP were located in rule 3.7B of the Commission's draft Rule. However, the Commission has become aware that it has already determined to make a rule 3.7B in the Rules in Schedule 2 of its National Electricity Amendment (Central Dispatch and Integration of Wind and Other Intermittent Generation) Rule 2008. This Rule was made on 1 May 2008. As Schedule 2 of this Rule will commence on 31 March 2009, it has not yet been included in the current version of the Rules. However, to avoid any duplication in the Rules, the Commission has determined to change the location of the EAAP from rule 3.7B to 3.7C in its final Rule.

5. Under rule 3.7C(d) of the Rule as made, NEMMCO will now only be required to publish the EAAP every three months rather than “at least” every three months;
6. The MT-PASA inputs that NEMMCO must take into account when preparing the EAAP have been broadened. NEMMCO is now required to take into account the information and MT-PASA inputs referred to in clauses 3.7.1 and 3.7.2 of the Rules (clause 3.7C(b)(6)(A) of the Rule as made);
7. Rule 3.7B(f)(2) in the draft Rule has been deleted. This rule required Scheduled Generators to provide NEMMCO with an estimate of anticipated generation for their generating units for each month of the EAAP;
8. Rule 3.7B(b)(6)(E) in the draft Rule has been deleted. This rule required NEMMCO to take into account estimates of anticipated generation for the scheduled generating units of each Scheduled Generator, when preparing the EAAP;
9. Rule 3.7B(j) in the draft Rule has been amended (see rule 3.7C(i) in the final Rule) so that a Scheduled Generator is only required to revise and re-submit its GELF if there has been “a material *change* to any of its *scheduled generating units* which has an impact on the *energy constraints* associated with that GELF”; and
10. Scheduled Generators will now only be required to update their GELF Parameters every three months rather than “at least” every three months (rule 3.7C(h) of the Rule as made).

Incremental drafting changes have also been made to the following clauses/rules in the draft Rule to improve the clarity of the Rule as made. It should be noted that the Commission considers that these changes have not altered the intent or substance of these clauses/rules:

1. EAAP Purpose- rule 3.7B(a) in the draft Rule (rule 3.7C(a) in the Rule as made);
2. EAAP Principles- rule 3.7B(b)(3) in the draft Rule (rule 3.7C(b)(3) in the Rule as made);
3. EAAP Guidelines- rule 3.7B(l) in the draft Rule (rule 3.7C(k) in the Rule as made);
4. Administration of the EAAP- clause 3.13.4(y) of the draft Rule has been deleted as there was repetition with rule 3.7C(d) of the Rule as made; and
5. Provision of information to Scheduled Generators- rule 3.7B(s) in the draft Rule (rule 3.7C(r) in the Rule as made).

3.2 The RERT

3.2.1 The Panel's proposal

The Panel is seeking to replace the existing Reserve Trader arrangements which are due to expire under the Rules on 1 July 2008, with the RERT, which is an enhanced reserve trader mechanism with a four year sunset period.

The RERT has two main enhancements from the current Reserve Trader arrangements:

1. NEMMCO will be able to contract for capacity reserves for up to nine months in advance of a projected shortfall rather than six months; and
2. NEMMCO will be able to undertake multiple rounds of tendering and contracting when selecting reserve contracts rather than a single round.

3.2.2 The Commission's assessment of the Panel's proposal

Under clause 3.12.1 of the Rules, NEMMCO's power to tender and contract for reserves in response to a projected shortfall ('Reserve Trader powers') expires on 1 July 2008.

The Commission notes that during the CRR, the Panel and stakeholders commented on the distortionary impact of the current Reserve Trader arrangements on the market, and considered whether it was appropriate for these arrangements to continue beyond their expiry date, in light of these impacts. The Panel noted in its Issues Paper on the CRR that the Reserve Trader arrangements may have a distortionary effect on the market as they may "diminish incentives for the market to respond to reserve shortfalls and place an ongoing reliance on central intervention"²¹.

Some of the specific distortionary effects that the Reserve Trader arrangements may have on the market, that were highlighted by the Panel during the CRR, include:

- The Reserve Trader may distort incentives for investment in generation and may lead to under investment, as it reduces market incentives to respond to reserve shortfalls;²²
- NEMMCO is in a weak bargaining position when it contracts for reserves as it only contracts for reserves in response to a projected shortfall. This may increase the potential costs of reserves;²³

²¹ Reliability Panel, 2006, Issues Paper, Comprehensive Reliability Review, May, p. 42. Available at: <http://www.aemc.gov.au/electricity.php?r=20051215.142656>

²² Ibid

²³ Ibid

- The cost of the Reserve Trader creates an unhedgeable and unpredictable levy on retailers and results in the cost of market inefficiencies being passed on to consumers;²⁴ and
- The Reserve Trader does not induce new supply into the market as it is invoked only months prior to a projected shortfall and as a result relies primarily on a demand response.²⁵

However, the Panel suggests in its Rule change proposal that while the Reserve Trader arrangements “are a market distortion which would not be necessary under ideal conditions, on balance the prevailing market conditions are such that a revised form of the reliability safety net provisions needs to be maintained for a defined period of time”²⁶. The Panel suggests that as tighter demand and supply conditions are forecast over the medium term, it may not be prudent to remove the Reserve Trader arrangements at this time.

The Commission agrees with the Panel’s analysis and conclusions regarding an ongoing need for a revised version of the current Reserve Trader arrangements, in light of the potential future risks to the supply reliability of the NEM.

To reduce the distortionary impacts from NEMMCO intervening in the market to respond to a projected shortfall in reserves, and preserve market signals to foster a market response to those shortfalls, the Panel’s Rule includes proposals to:

- Increase the flexibility of how NEMMCO is able to tender and contract for reserves;
- Ensure that contracted reserves can not set the dispatch price;
- Ensure that contracted reserves are dispatched (in the case of scheduled reserves) or activated (in the case of unscheduled reserves) only after all other energy and ancillary service bids and offers have been dispatched;
- Impose a four year sunset period on the RERT; and
- Require that the RERT be reviewed by the Panel after three years of operation.

The Commission considers that these revisions to the current Reserve Trader arrangements provide an appropriate balance between allowing market responses to projected shortfalls to develop and providing a (temporary) mechanism to maintain the supply reliability of the market.

The Commission concludes that the Panel’s proposed enhancements to the Reserve Trader arrangements will:

²⁴ Reliability Panel, 2007, Interim Report, Comprehensive Reliability Review, April, p. 74. Available at: <http://www.aemc.gov.au/electricity.php?r=20051215.142656>

²⁵ Ibid.

²⁶ The Panel’s Rule change proposal, p. 11.

1. Increase the range of sources and providers of reserves for NEMMCO to choose from;
2. Reduce the cost and likelihood of NEMMCO needing to procure reserves, and therefore the cost impact on end use consumers from procuring reserves;
3. Improve the development of market responses by participants to projected shortfalls and the economic efficiency of how electricity services are dispatched and supplied;
4. Improve the ability of NEMMCO to appropriately tailor the amount of reserves to procure if necessary by increasing NEMMCO's flexibility in how it tenders and contracts for reserves;
5. Increase the reliability of electricity supply to end use consumers and reduce the likelihood of load shedding;
6. Reduce the likelihood of NEMMCO intervening in the market through issuing directions to maintain market reliability;
7. Provide the market with confidence and certainty that NEMMCO will be able to contract for reserves in light of a projected tightening in the supply-demand balance; and
8. Provide a signal to the market through the RERT's four year sunset period, that the RERT is a distortionary mechanism which should not be necessary under ideal conditions.

The Commission also agrees with the Panel's principle of 'beneficiary pays', in that the cost of operating the RERT, like the Reserve Trader, should be recovered from market participants in the affected regions only, as the participants and consumers in these regions would have materially benefited from the improved supply reliability. The Commission also endorses having NEMMCO consult with jurisdictions that benefit from the procurement of reserves, on how these jurisdictions would like to share the costs of reserve contracts.

The Commission notes that the provision for the recovery of compensation costs for participants affected by the dispatch of reserves is not based on regional benefit, and that these costs are currently recovered from Registered Participants under clause 3.15.8(g) of the Rules. The Commission has received a submission from NEMMCO²⁷ which has proposed that compensation costs for participants affected by the dispatch of reserve contracts should be recovered in proportion to regional benefit, in a similar way to how compensation for participants affected by directions is awarded. A discussion of NEMMCO's submission and the Commission's response can be found in section 3.2.4.3 of this Chapter.

²⁷ NEMMCO, 2008, Submission- Draft Rule Determination, p. 10.

The Commission also notes that the Panel has proposed the development and publication of the following guidelines and procedures to support the implementation of the RERT:

1. 'RERT Guidelines' to be developed by the Panel to assist NEMMCO to operate the RERT (clause 3.20.10 of the Panel's proposed Rule); and
2. Procedures for NEMMCO's exercise of the RERT to be developed by NEMMCO (clause 3.20.9(g) of the Panel's proposed Rule).

The Commission agrees that the development and publication of the RERT Guidelines and the procedures for NEMMCO's exercise of the RERT are necessary for the successful implementation of the RERT.

The Commission notes that under clause 8.8.1(a)(4) of the Rules, the Panel is responsible for the development of guidelines for NEMMCO's exercise of its power to enter into contracts for the provision of reserves, and that the Panel's responsibility to develop the RERT Guidelines will be a continuation of this role. The Commission agrees that the Panel should continue to be responsible for developing NEMMCO's guidelines for contracting reserves, due to the distortionary impact that these interventions can have on the market, and to provide long term consistency in the settings of the reliability safety net.

It does not appear that NEMMCO is currently required to develop procedures for its exercise of the Reserve Trader arrangements under the Rules. However, the Commission considers that, as the RERT is a modified version of the Reserve Trader, in accordance with good regulatory practice, it is appropriate that NEMMCO be required to develop and publish information on how it will exercise the RERT.

3.2.3 The Commission's draft Rule

The Commission's draft Rule determination included a decision to adopt the Panel's proposal to replace the existing Reserve Trader arrangements with the RERT, from 1 July 2008. All of the Panel's proposed features of the RERT, including the ability of NEMMCO to contract for reserves nine months in advance of a projected shortfall and undertake multiple rounds of tendering and contracting when selecting reserves, were adopted by the Commission. The Commission also determined to adopt the Panel's proposal to include a review process for the RERT and a four year sunset provision in its draft Rule.

To improve the implementation of the RERT, the Commission also made a number of changes to the Panel's proposed Rule in its draft Rule.

These modifications included:

1. Requiring the Panel to publish its first RERT Guidelines by 30 November 2008;
2. Requiring NEMMCO to have regard to the draft RERT Guidelines published by the Panel as part of its Exposure Draft on this Rule change proposal, if required to

operate the RERT prior to the finalisation of the RERT Guidelines by the Panel;
and

3. Requiring NEMMCO to publish procedures on the exercise of the RERT by 30 June 2009.

The Commission also amended the Panel's proposed Rule to refer to 'scheduled' and 'unscheduled' (rather than 'non-scheduled') reserve. In addition, various references in the Rules to 'reserve', which the Commission understood as largely consistent with the new concept of 'scheduled reserve', were amended to refer to 'scheduled reserve'.

3.2.4 Views of second round submissions

NEMMCO's submission raised a number of issues in relation to the RERT and also proposed some amendments to address existing issues in the Rules, which it suggested were replicated in the Commission's draft Rule. These issues included:

1. Implementation of the RERT;
2. NEMMCO's obligations to ensure that any unscheduled reserves it contracts are not offered to the market (i.e. 'double dipping' obligations);
3. The recovery of compensation costs awarded to participants which are affected by the dispatch of reserve contracts;
4. The use of panel arrangements when NEMMCO tenders for reserves; and
5. NEMMCO's reporting obligations when it uses the RERT.

NEMMCO's submission and the NGF's submission also proposed that a number of drafting changes be made to the final Rule to improve the clarity of the provisions relating to the RERT.

Each of these issues, and the Commission's responses, are discussed in detail below.

3.2.4.1 Implementation of the RERT

Under clause 3.12.1 of the Rules, the current Reserve Trader arrangements will expire on 1 July 2008. Under the Commission's draft Rule, the RERT is to commence on 1 July 2008. However, NEMMCO has suggested that as a number of procedures and guidelines will need to be developed before the RERT will be fully operational, NEMMCO will be required to rely on transitional arrangements for 12 months following the commencement of the RERT on 1 July 2008. In particular, NEMMCO is concerned that the current transitional arrangements in the draft Rule may not allow NEMMCO to exercise the RERT during the 2008-09 summer.

To enable NEMMCO to exercise the RERT during this transitional period, particularly in the event that NEMMCO will need to exercise the RERT during the 2008-09 summer, NEMMCO has suggested that the draft Rule be amended to:

1. Allow NEMMCO to make minor and administrative changes to its methodology for activating generating units and loads under unscheduled reserve contracts; and
2. Allow NEMMCO to publish interim RERT procedures without undergoing a consultation process, for use in the transitional period until 30 June 2009. NEMMCO has suggested that the final Rule should only require NEMMCO to publish these interim RERT procedures, if NEMMCO identifies the need for the potential use of the RERT through the MT-PASA process.

NEMMCO has also suggested, as a possible alternative, extending the current Reserve Trader arrangements until 30 June 2009 as an option to the above amendments.

The Commission considers that NEMMCO's proposed amendments to the draft Rule are appropriate and will allow the RERT to commence operation on 1 July 2008. The RERT has a number of enhancements from the existing Reserve Trader arrangements, which the Commission considers will improve the flexibility that NEMMCO has to contract for reserves. Therefore, the Commission does not support extending the current Reserve Trader arrangements until 30 June 2009 and considers that the Reserve Trader should expire on 1 July 2008 as currently scheduled under the Rules.

In relation to NEMMCO's proposed amendment to allow it to make minor and administrative changes to its methodology for activating unscheduled reserve contracts, the Commission notes that under clause 11.X.8 of the Commission's draft Rule there was a similar provision to allow NEMMCO to make minor and administrative changes to its procedure for pricing during an intervention event. Therefore, the Commission considers that it is consistent to insert a similar provision into the final Rule to allow NEMMCO to make minor and administrative changes to its methodology for activating unscheduled reserve contracts (see clause 3.20.4(c) of the Rule as made).

The Commission also notes that NEMMCO has requested that it be allowed to develop interim RERT procedures without a consultation process, only in the event that it forecasts the potential need to use the RERT. Under clause 3.20.7(g) of the final Rule, NEMMCO is required to publish the first RERT procedures by 30 June 2009. Therefore, NEMMCO's interim RERT procedures will only be used in the period until 30 June 2009, while the first RERT procedures are being developed. The Commission considers that this is a prudent amendment which will allow NEMMCO to exercise the RERT in this interim implementation period. The Commission notes that NEMMCO is required to develop the first and any subsequent RERT procedures through a public consultation process.

Further details on the implementation of the RERT can be found at Chapter 4.

3.2.4.2 NEMMCO's 'double dipping' obligations when it contracts for unscheduled reserves

NEMMCO appears to suggest in its submission that the Commission's draft Rule imposes more onerous obligations on NEMMCO than currently exist in the Rules, when it contracts for unscheduled reserves. In particular, NEMMCO has suggested that in order to meet its obligations under the draft Rule to ensure that any unscheduled reserves it contracts are not "otherwise engaged", it will require "adequate powers of discovery", to "enable NEMMCO to validate that tendered unscheduled services are not being offered to the market in other ways"²⁸.

NEMMCO's submission provides an example of how these "powers of discovery" may be used. NEMMCO has suggested that if it were considering an unscheduled reserve tender from a consumer, it would require access to the consumer's retail contract and information from the consumer's retailer and distributor in relation to interruptibility and connection agreements, in order to validate that this unscheduled reserve was not being offered to the market in other ways.²⁹

The Commission does not consider that its draft Rule imposes more onerous obligations on NEMMCO than currently exist in the Rules, in relation to ensuring that any unscheduled reserves it contracts are not otherwise committed or available to the market.

For instance, the Commission notes that NEMMCO's 'double dipping' obligations for unscheduled reserve contracts in clause 3.20.4(b) of the draft Rule are almost identical in wording to NEMMCO's current 'double dipping' obligations for unscheduled reserve contracts in Chapter 8A, Part 7, clause 3.9.3(d) of the Rules. The only difference in wording in relation to clause 3.20.4(b) of the draft Rule and Chapter 8A, Part 7, clause 3.9.3(d) in the current Rules, is that while the Commission's draft Rule refers to unscheduled reserves not being "engaged", the current Rules refer to unscheduled reserves not being "encumbered". "Encumbered" was changed to "engaged" in the Commission's draft Rule, to improve the clarity of the clause as the meaning of "encumbered" was not readily evident.

NEMMCO currently does not have any "powers of discovery" in relation to its 'double dipping' obligations when contracting unscheduled reserves. Therefore, as the Commission's draft Rule does not appear to impose any additional obligations on NEMMCO, the Commission does not believe there is a need to provide NEMMCO with new "powers of discovery" to ensure that any unscheduled reserves it contracts are not being offered to the market.

However, the Commission does note that unlike the existing Rules, clause 3.20.3(j)(2) of the draft Rule requires NEMMCO to only enter into an unscheduled reserve contract if it contains a provision that the reserve has not and will not be offered in the market. This clause is also in the Commission's final Rule in clause 3.20.3(j). The Commission notes that NEMMCO's current 'Non-scheduled Reserve Contract'

²⁸ NEMMCO, 2008, Submission- draft Rule determination, p.8.

²⁹ Ibid.

procedures³⁰ indicate that its contracts for unscheduled reserves must contain a similar provision. Therefore, clause 3.20.3(j)(2) of the draft Rule appears to be formalising NEMMCO's current practices. The Commission suggests that a requirement in the Rules for NEMMCO to include a 'double dipping' provision in any contracts it has for unscheduled reserves, should provide NEMMCO with some comfort that any unscheduled reserves it contracts are not otherwise engaged.

Clause 3.20.3(j)(2) of the draft Rule also requires NEMMCO to include a 'double dipping' provision in contracts it has for scheduled reserves. However, it appears from the wording of clause 3.20.3(j)(2) that this clause would not extend to Scheduled Generators and Market Participants with scheduled reserve contracts. The Commission considers that for consistency in the treatment of different classes of participants, the contracts that NEMMCO has for all scheduled and unscheduled reserve contracts should contain a 'double dipping' provision. Therefore, the Commission has amended its clauses 3.20.3(i) and 3.20.3(j) of the Rule as made to achieve this. Clause 3.20.3(i) of the Rule as made has also been broadened to impose a good faith negotiation obligation on all Registered Participants, not just Scheduled Generators and Market Participants, in respect of both scheduled and unscheduled reserve contracts.

NEMMCO's submission also indicated that it was seeking clarification in relation to clause 3.20.4(b) of the Commission's draft Rule, which requires NEMMCO to develop measures for reducing the possibility that the reserves it contracts under unscheduled reserve contracts are not being offered to the market. Under clause 3.20.4(b) of the Commission's draft Rule, NEMMCO is required to develop these measures when it develops its intervention pricing methodology. NEMMCO has suggested that clause 3.20.4(b) of the Commission's draft Rule appears to be inappropriately mixing measures to manage double dipping with measures to price the market during intervention.

In its Rule as made, the Commission has removed the requirement for NEMMCO to develop its measures to reduce double dipping when it contracts for unscheduled reserves with its methodology for intervention pricing. The Commission has amended its Rule as made to require NEMMCO to develop its measures to reduce double dipping for unscheduled reserves, when it develops its RERT procedures.

The Commission notes that NEMMCO is required to take into account the RERT Guidelines when it develops its RERT procedures and that these Guidelines will include the actions that NEMMCO may take to ensure that the reserves it has contracted are not available to the market through any other arrangement. Therefore, the Commission considers that the RERT procedures are an appropriate location for NEMMCO's measures to reduce double dipping for unscheduled reserves it contracts.

³⁰ NEMMCO, 2003, Non-scheduled Reserve Contract Consultation- Final Report, p. 15. Available at: <http://www.nemmco.com.au/powersystemops/198-0004.pdf>

3.2.4.3 Recovery of compensation costs awarded to participants affected by the dispatch of reserve contracts

NEMMCO's submission suggests that the Commission's draft Rule does not provide a means for the recovery of the costs of compensation awarded to participants affected by the dispatch of reserve contracts under clause 3.12.2 of the draft Rule. On this basis, NEMMCO states that although participants affected by the dispatch of reserve contracts are entitled to claim compensation under clause 3.12.2 of the draft Rule, there is no means to recover the costs of this compensation. NEMMCO considers that this is an oversight in the current Rules which has been replicated in the Commission's draft Rule.

Under clause 3.15.8(a) of the Rules, NEMMCO is able to recover the costs of compensation for participants who are entitled to claim compensation under existing clause 3.12.11, as a result of being affected by the issuing of directions by NEMMCO.

NEMMCO has suggested that clause 3.15.8 of the Rules should be amended so that it also provides for a similar compensation recovery provision to fund the cost of compensation for participants that have been affected by the dispatch of reserve contracts. NEMMCO has indicated in its submission that if this change to the Rules is considered beyond the scope of the Panel's Rule change proposal, it will consider lodging a Rule change proposal on this matter.

The Commission considers that there is currently a mechanism for NEMMCO to recover the costs of compensation for participants affected by the dispatch of reserve contracts under clause 3.15.8(g) of the Rules. Clause 3.15.8(g) of the Rules indicates that these compensation costs can be recovered "from Registered Participants in the same proportion as the largest single fixed component of Participants fees"³¹. The Commission notes that this clause is general and does not appear to be as well targeted as other cost recovery mechanisms in the Rules, which reflect the 'beneficiary pays' principle.

The Commission notes that the method for recovering the costs of compensation for participants affected by the dispatch of reserve contracts may not be the most appropriate mechanism to recover these costs as it smears the costs of compensation across Registered Participants. Rather, it may be more appropriate for the costs of compensation to be funded on a regional basis, in proportion to the benefit that each region has received from the improved reliability associated with the dispatch of reserve contracts.

The Commission notes that the costs of reserve contracts are currently funded on a regional basis, and that the cost sharing arrangements are negotiated between NEMMCO and relevant jurisdictions. This arrangement will continue under the RERT. The Commission considers that it would be preferable to have more consistency in the way that the costs of reserve contracts are funded and the way that compensation costs for participants affected by the dispatch of reserve contracts are funded.

³¹ Clause 3.15.8(g) of the National Electricity Rules

However, the Commission has determined not to amend its final Rule to insert a new compensation recovery mechanism for participants affected by the dispatch of reserve contracts. The Commission considers that it would not be appropriate to make a material change to this area of the Rules without further consultation, which is not practicable as part of this fast tracked Rule change process. While there may be merit in re-examining the current compensation mechanism for participants affected by the dispatch of reserve contracts in clause 3.15.8(g) of the Rules, the Commission suggests that the appropriate vehicle for this is a separate Rule change proposal.

3.2.4.4 Use of panel arrangements when NEMMCO tenders for reserves

The Commission's draft Rule determination adopted the Panel's proposal to increase NEMMCO's flexibility when it contracts for reserves, by allowing NEMMCO to undertake multiple rounds of tendering and contracting when selecting reserves under the RERT. The Panel's Rule change proposal referred to this as a "rolling tendering process".

NEMMCO has indicated in its submission that it agrees with the motivation for a rolling tendering process, and that it is currently examining options for a flexible acquisition process for reserves. NEMMCO has indicated that it is considering undertaking an initial tender process to establish a qualified 'panel' of providers, which would then be used for a period of time to allow incremental changes to its reserve portfolio at short notice.

NEMMCO is seeking clarification as to whether this 'panel' arrangement would be consistent with the Commission's concept of a rolling tendering process.

The Commission considers that a panel arrangement would not be consistent with the Commission's concept of a "rolling tendering process".

The objective of the RERT is to enhance the existing Reserve Trader arrangements by providing NEMMCO with greater flexibility when it contracts for reserves. This is achieved by allowing NEMMCO to undertake multiple rounds of tendering and contracting and allowing NEMMCO to contract for reserves for up to nine months rather than six months, prior to a projected shortfall.

These enhancements were adopted by the Commission to provide NEMMCO with greater choice when it contracts for reserves and to allow a broader range of participants offering reserves to be contracted by NEMMCO. In particular, the Commission considered that the RERT would allow a greater number of demand side reserves to be contracted by NEMMCO. The Commission highlighted in its draft Rule determination that an increase in the range of sources and providers of reserves for NEMMCO to choose from would also serve to reduce the cost impact on end use consumers from NEMMCO procuring reserves. The Commission also notes that presentations, including those from the Major Energy Users and the Energy Supply Industry Planning Council, at the Panel's September 2007 forum on its Second Interim Report on the CRR, indicated that they supported more competition

in offers for reserve contracts³² and an increased use of demand side responses to improve reliability in the NEM.³³

A panel arrangement by nature limits the sources of potential reserves that NEMMCO can contract. Therefore, the Commission considers that if a panel arrangement was implemented by NEMMCO many of the anticipated benefits of the RERT may not eventuate.

The Commission has not considered it necessary to amend its final Rule to ensure that NEMMCO will not use a panel arrangement when it tenders for reserves. The Commission considers that explaining the intent of its final Rule through its final Rule determination is a sufficient response to NEMMCO's request for clarification.

3.2.4.5 NEMMCO's reporting obligations when it uses the RERT

NEMMCO's submission also highlighted that it is seeking clarification in relation to two aspects of its reporting obligations for the RERT under the final Rule.

1. Under clause 3.20.3(g) of the draft Rule, NEMMCO is required to publish a notice when it commences contract negotiations for the provision of reserves. NEMMCO seeks clarification as to whether it would be required to publish a notice when it commences renegotiations for existing contracts or when it adjusts its reserve portfolio under a panel arrangement; and
2. Under clause 3.20.7(c) of the draft Rule, NEMMCO is required to publish a report within 30 days of the end of each financial year containing details of its usage of the RERT over the previous financial year. NEMMCO is seeking clarification as to whether it would be required to publish a report even if it had not used the RERT over the previous financial year.

The Commission has amended its final Rule to:

1. Only require NEMMCO to publish a notice when it commences contract negotiations for the provision of additional reserves whether through amending an existing contract or entering into a new contract. Therefore, when NEMMCO renegotiates existing contracts for the same reserves it would not be required to publish a notice; and

³² Major Energy Users, 2007, Presentation, Forum on the Second Interim Report on the CRR, September, p. 14. Available at: <http://www.aemc.gov.au/pdfs/reviews/Comprehensive%20Reliability%20Review/presentations2/002MEU.pdf>

³³ Energy Supply Industry Planning Council, 2007, Presentation, Forum on the Second Interim Report on the CRR, September, p. 17. Available at: <http://www.aemc.gov.au/pdfs/reviews/Comprehensive%20Reliability%20Review/presentations2/004ESIPC.pdf>

2. Only require NEMMCO to publish a report at the end of each financial year detailing its use of the RERT if it has exercised the RERT over the previous financial year. Therefore, if NEMMCO had not exercised the RERT over the previous financial year, it would not be required to publish a report.

The Commission considers that these amendments will clarify the intent of the final Rule. These amendments will also reduce the administrative burden on NEMMCO associated with exercising the RERT and ensure that NEMMCO is not required to report to the market unnecessarily.

3.2.4.6 Drafting changes

Both NEMMCO and the NGF have proposed that a number of drafting changes be made to the draft Rule, in order to improve the clarity of the final Rule. These suggested changes have been made, where considered appropriate by the Commission. The specific clauses which have been amended are outlined in section 3.2.5 below.

A key drafting change that has been made to the RERT is the relocation of the settlements rules in clause 3.20.5 of the draft Rule back to rule 3.15 in the Rule as made. This change was made following a submission from NEMMCO which highlighted that currently in the Rules nearly all the rules relating to settlements are located in rule 3.15. However, the Panel's proposed Rule and the Commission's draft Rule moved a number of clauses from rule 3.15 to a new clause, clause 3.20.5, in order to place all of the Rules relating to the RERT in a single location.

The Commission has determined to relocate the settlements rules in clause 3.20.5 of the draft Rule back to rule 3.15, as the settlements rules are likely to be used more often than the RERT and therefore they should be retained in a single location for ease of use. The Commission also has the position that when new rules are drafted, all of the existing and established rules and clauses should be kept in their current location and any new rules should be located in a new area of the Rules. The Commission considers that this convention should be maintained to preserve the clarity of the Rules and to ensure that users of the Rules are able to easily locate established sections of the Rules.

The Commission notes that this amendment to the Rule as made has only involved the relocation of the settlements rules in clause 3.20.5 of the draft Rule. No changes to the wording of these settlements rules, as contained in the draft Rule, have been made except to clarify the time period used in the formulae to recover the costs of reserve contracts in clause 3.15.9(e) in the Rule as made.

3.2.5 The Commission's final Rule

The Commission has retained the changes that were made in the Commission's draft Rule in its final Rule (see section 3.2.3 above for information on the Commission's draft Rule). Under the Rule as made, the RERT will commence operation on 1 July 2008.

As discussed in sections 3.2.4.1 to 3.2.4.6 above, in developing its final Rule, the Commission has also made a number of amendments to its draft Rule, in response to the issues raised in second round submissions.

The Commission's Rule as made contains the following amendments to its draft Rule in relation to the RERT:

1. Settlements rules in clause 3.20.5 of the draft Rule have been moved to rule 3.15.9 in the Rule as made;
2. Clause 11.21.3(b) of the Rule as made has been inserted to allow NEMMCO to publish interim RERT procedures without undergoing a consultation process—these procedures may only apply until the first RERT procedures are published, which must be by 30 June 2009;
3. Clause 3.20.4(c) has been inserted in the Rule as made, to allow NEMMCO to make minor and administrative changes to its methodology for activating generating units and loads under unscheduled reserve contracts;
4. The requirements in clauses 3.20.3(i) and 3.20.3(j) of the Rule as made have been amended to require NEMMCO to insert a provision in all contracts for scheduled and unscheduled reserves, to ensure that the reserve that is the subject of that contract has not and will not be offered in the market.
5. Clause 3.20.3(i) of the Rule as made has also been broadened to impose a good faith negotiation obligation on all Registered Participants, not just Scheduled Generators and Market Participants, in respect of both scheduled and unscheduled reserve contracts;
6. Clause 3.20.4(b) of the draft Rule has been relocated to clause 3.20.7(e) of the Rule as made, to require NEMMCO to develop with its RERT procedures, its measures for reducing the possibility that any unscheduled reserves its contracts are not otherwise engaged;
7. The requirement in clause 3.20.3(g) of the Rule as made has been amended to require NEMMCO to only publish a notice when it commences contract negotiations for the provision of additional reserves rather than where it merely negotiates contracts for the same reserves;
8. The requirement in clause 3.20.6(c) of the Rule as made has been amended to require NEMMCO to only publish a report on its usage of the RERT in the previous financial year if it has used the RERT in that financial year (i.e. no report will need to be published if NEMMCO has not used the RERT in the previous financial year).

The following additional drafting changes have also been made to the draft Rule to improve the clarity of the Rule as made. It should be noted that the Commission considers that these changes have not altered the intent or substance of these clauses/rules:

1. Reserve settlements- clause 3.20.5(e) in the draft Rule (clause 3.15.9(e) in the Rule as made);

2. Dispatch under conditions of supply scarcity- clause 3.8.14(a)(2) and 3.8.14(b)(2) in the draft Rule (clauses 3.8.14(a)(2) and 3.8.14(b)(2) in the Rule as made); and
3. Reporting on RERT by NEMMCO- clause 3.20.7(a) in the draft Rule (clause 3.20.6(a) in the Rule as made).

3.3 NEMMCO's SOO load forecasts

3.3.1 The Panel's proposal

The Panel is seeking to require NEMMCO to report to the Panel by 1 November each year on the accuracy of its most recent SOO load forecasts and any improvements that have been incorporated into the process used to prepare the forecasts. The Panel has also proposed that the IRPC assists NEMMCO in meeting this reporting obligation to the Panel.

3.3.2 The Commission's assessment of the Panel's proposal

The Commission considers that annual reporting by NEMMCO on the accuracy of its SOO load forecasts and any improvements that have been incorporated into the process used to prepare the forecasts, is likely to improve the accuracy of NEMMCO's SOO load forecasts over time. The Commission suggests that this is likely to occur as annual reporting will:

- Improve transparency in relation to the process that NEMMCO uses in preparing its SOO load forecasts; and therefore
- Promote a culture of continuous improvement in the way forecasts are prepared by NEMMCO.

The Commission believes that an improvement in the accuracy of SOO load forecasts over time is likely to lead to a number of short term, medium term and long term benefits for participants, end use consumers, and the efficiency of the market.

In the short term, the Commission considers that improvements in the accuracy of SOO load forecasts will improve the accuracy of dispatch, scheduling and fuel nominations for generators. More accurate information on the level of future demand will improve the efficiency of how generators structure their bids in terms of both price and volume, which will improve the economic efficiency of dispatch. This will occur as generators will be able to more accurately tailor their bids to reflect future demand, which will assist NEMMCO to dispatch an appropriate level of supply to meet demand. Generators will also be able to improve the efficiency of how they manage the operation of their plant and their fuel allocations. This will be particularly beneficial for fuel limited plants, such as gas plants, which may have take or pay contracts for their gas supply, and hydro generators.

In the medium term, improvements in the accuracy of SOO load forecasts will assist:

- Generators to optimise when to schedule plant maintenance; and
- NEMMCO's decision making in relation to when to procure reserves.

With improved information on future demand, generation owners will be able to more accurately forecast periods of high reserves, low demand and low prices when it may be more preferable to schedule planned maintenance. Improvements in the scheduling of maintenance are likely to increase the availability of plant during times of high demand, which should contribute to improving the reliability of supply and reducing the price of energy for end use consumers.

More accurate demand forecasts will also assist NEMMCO in projecting time periods with low levels of reserves, during which it might be necessary for NEMMCO to tender and contract for additional reserves. A more accurate understanding of likely shortfalls in reserves will contribute to:

- Reducing the likelihood of NEMMCO contracting for reserves unnecessarily, or contracting an excessive volume of reserves, which will reduce the potential costs which are passed on to end users from procuring reserves;
- Reducing the likelihood of NEMMCO contracting an inadequate amount of reserves, which will improve supply reliability; and
- Reducing the market distortions caused by NEMMCO's reserve contracting activities which can displace market based responses to projected shortfalls.

In the longer term, improvements in the accuracy of SOO load forecasts will:

- Improve the efficiency of investment in generation and transmission as market participants will have more accurate information on the level of likely future demand; and
- Reduce the likelihood of the cost of unnecessary and uneconomic investments being passed on to end use consumers through higher energy prices.

The Commission suggests that this new reporting obligation is likely to require minimal implementation by NEMMCO as NEMMCO is already engaged in a continuous improvement process for the preparation of its SOO load forecasts.³⁴

The Commission agrees with the Panel's proposal that the IRPC be required to assist NEMMCO in meeting this annual reporting obligation as:

1. The IRPC is responsible for assisting NEMMCO to prepare the SOO under clause 5.6.3(a) of the Rules; and

³⁴ The Panel notes on pg. 10 of its Rule change proposal that in late 2004, NEMMCO engaged KEMA Consulting to independently review its process for preparing its SOO demand forecasts and that NEMMCO is currently evaluating KEMA's recommendations as part of its continual improvement process.

2. Transmission Network Service Providers (many of whom have representatives on the IRPC) have responsibility for preparing demand projections for their respective Annual Planning Reports under clause 5.6.2A of the Rules.

3.3.3 The Commission's draft Rule

The Commission's draft Rule adopted the Panel's proposal to:

1. Require NEMMCO to report to the Panel by 1 November each year on the accuracy of its SOO load forecasts and any improvements made by NEMMCO to the forecasting process that will apply to the next SOO; and
2. Require the IRPC to assist NEMMCO to meet the above reporting obligation to the Panel.

The Commission's draft Rule amended the Panel's proposed Rule to:

1. Include a Savings and Transitional Rule under Schedule 4 of the draft Rule, to allow NEMMCO to begin preparing for its report to the Panel prior to the Rule's commencement date; and
2. Require the Panel to publish NEMMCO's report within 10 business days of receiving NEMMCO's report, rather than allowing the Panel the discretion to publish the report.

The Commission's draft Rule determination noted that in order for the benefits of improvements to the SOO load forecasts to be fully realised by the market and participants, NEMMCO's report needed to be published and accessible to the public. As such, the Commission determined to amend the Panel's proposed Rule to require the Panel to publish NEMMCO's report within 10 business days of receiving NEMMCO's report.

3.3.4 Views of second round submissions

None of the second round submissions received raised any issues relating to NEMMCO's new annual reporting obligations on the accuracy of its SOO load forecasts.

3.3.5 The Commission's final Rule

In relation to NEMMCO's new reporting obligations on its SOO load forecasts, the Commission's final Rule is identical to the Commission's draft Rule. No modifications to the Commission's draft Rule have been made in developing the Commission's final Rule.

The Commission's Rule to be made:

1. Requires NEMMCO to report to the Panel by 1 November each year on the accuracy of its SOO load forecasts and any improvements made by NEMMCO to

the forecasting process that will apply to the next SOO (clause 3.13.3(u) of the Rule to be made);

2. Requires the IRPC to assist NEMMCO to meet the above reporting obligation to the Panel (clause 5.6.3(a)(8) of the Rule to be made);
3. Includes a savings and transitional rule allowing NEMMCO to begin preparing for its report to the Panel prior to the Rule's commencement date (clause 11.21.7 of Schedule 4 of the Rule to be made); and
3. Requires the Panel to publish NEMMCO's report within 10 business days of receiving NEMMCO's report (clause 3.13.3(v) of the Rule to be made).

The Commission notes that its Draft Report for the National Transmission Planner Review, released on 2 May 2008, has recommended that the Australian Energy Market Operator become responsible for the IRPC's functions. The Commission also notes that its Draft Report has recommended that some of the IRPC's functions be retained by Jurisdictional Planning Bodies.³⁵

In light of these recommendations, the Commission's Final Report on the National Transmission Planner Review will consider how to incorporate these new functions under the new National Transmission Planner arrangements. The Commission's Final Report on the National Transmission Planner Review will be released by 30 June 2008.

Further details on the implementation of NEMMCO's annual reports on its SOO load forecasts is in Chapter 4.

3.4 NEMMCO's reliability directions powers

3.4.1 The Panel's proposal

The Panel is seeking to extend, without a sunset, the powers in clause 4.8.9 of the Rules that allow NEMMCO to issue reliability directions to maintain or re-establish the power system to a reliable operating state. Under the existing Rules, the Panel suggests that it is unclear whether this power has an expiry date of 1 July 2008.

3.4.2 The Commission's assessment of the Panel's proposal

The Commission notes that currently under clause 4.8.9(a)(1) of the Rules, NEMMCO has the power to issue directions to Registered Participants to do such things as NEMMCO considers necessary to maintain or re-establish the power system to a:

- secure operating state;

³⁵ AEMC, 2008, Draft Report on the National Transmission Planner Review, 2 May. Available at: <http://www.aemc.gov.au/electricity.php?r=20070710.172341>

- satisfactory operating state; or
- reliable operating state.

Under clause 4.8.9(h) of the Rules it states that:

“NEMMCO's obligations and powers under clause 4.8.9(a) to issue a direction or clause 4.8.9 instruction to maintain or re-establish the power system in a reliable operating state cease when NEMMCO's right to enter into contracts for the provision of reserves in accordance with rule 3.12 ceases”.

Rule 3.12 of the Rules relates to the “Reserve Trader” arrangements and provisions for the calculation of compensation in relation to directions and reserve contracts. Clause 3.12.1 of the Rules indicates that the current Reserve Trader arrangements will cease on 1 July 2008.

The Commission agrees with the Panel that the Rules are currently unclear as to whether NEMMCO's power to issue directions to maintain a reliable operating state (reliability directions powers) expire on 1 July 2008. The Commission also agrees that it is desirable to remove this ambiguity in the Rules.

The Commission notes that NEMMCO's power to issue reliability directions is a market distortion, which similarly to the Reserve Trader arrangements, would not be necessary under ideal conditions. However, the Commission considers that NEMMCO's power to issue reliability directions is required as a ‘last resort’ mechanism to maintain the supply reliability of the NEM, particularly in light of a projected tightening in the supply-demand balance.³⁶

Therefore, the Commission considers that NEMMCO's power to issue reliability directions should be extended beyond its potential expiry date of 1 July 2008. The Commission also considers that NEMMCO's power to issue reliability directions should be extended indefinitely, in order to provide the market with long term certainty and confidence that NEMMCO is able to direct participants in the event of projected shortfall to avoid load shedding. The Commission agrees with the Panel's view that an extension of NEMMCO's reliability directions powers is likely to contribute to a more efficient use of electricity services and an increased reliability of supply to end use consumers.

3.4.3 The Commission's draft Rule

The Commission's draft Rule adopted the Panel's proposal, without amendments, to extend NEMMCO's reliability directions powers in clause 4.8.9 of the Rules without a sunset period.

³⁶ Reliability Panel, 2007, Comprehensive Reliability Review: Final Report, 21 December, pg. 49.

3.4.4 Views of second round submissions

None of the second round submissions received raised any issues relating to NEMMCO's reliability directions powers.

3.4.5 The Commission's final Rule

In relation to NEMMCO's reliability directions powers, the Commission's final Rule is identical to the Commission's draft Rule. No modifications to the Commission's draft Rule have been made in developing the Commission's final Rule.

The Commission's Rule to be made extends NEMMCO's reliability directions powers without sunset.

As this Rule will commence operation on 1 July 2008, there should be no interruption to NEMMCO's reliability directions powers.

This page has been intentionally left blank

4 Implementation of the Panel's Rule change proposal

This Chapter sets out the implementation process for each component of the Panel's Rule change proposal. All schedules of the final Rule will commence operation on 1 July 2008.

The implementation of the EAAP, RERT and reporting on NEMMCO's SOO load forecasts, will require the development and publication of a number of documents. A summary table outlining the timeframes in the Rule as made for the publication of these documents can be found below in **Table 1**.

4.1 The EAAP

4.1.1 The Panel's proposed implementation process

The Panel is seeking to introduce a new quarterly information mechanism, the EAAP, which will provide the market with two year projections of the impact of generation input constraints on energy availability. In order to assist NEMMCO's assessments of energy availability, Scheduled Generators will be required to lodge a quarterly GELF with NEMMCO, describing their energy generation constraints.

The Panel has suggested that the implementation of the EAAP will require:

1. The development and publication of 'EAAP Guidelines' by the Panel that must be taken into account by NEMMCO in preparing the EAAP (clause 3.7B(m) of the Panel's proposed Rule); and
2. The development and publication of 'GELF Guidelines' by NEMMCO that must be taken into account by Scheduled Generators in preparing their GELFs (clause 3.7B(i) of the Panel's proposed Rule).

4.1.2 The Commission's final Rule

As discussed in Chapter 3, the Commission's draft Rule contained the following amendments to the Panel's proposed Rule in relation to the EAAP:

1. NEMMCO rather than the Panel will be required to develop the EAAP Guidelines. The EAAP Guidelines will also now include the information that was to be provided in the GELF Guidelines under the Panel's proposed Rule;
2. Savings and transitional rules to allow NEMMCO to begin preparing for the development of the first EAAP Guidelines, prior to the Rule's commencement date;
3. NEMMCO will be required to publish the first EAAP Guidelines by 30 June 2009;
4. In preparing its EAAP Guidelines, NEMMCO will be required to comply with the 'EAAP Principles';

5. NEMMCO will be required to have regard to the likely costs incurred by Scheduled Generators in providing inputs to the EAAP compared to the likely benefits from the use of that information in the EAAP, when NEMMCO considers what information is required from Scheduled Generators;
6. NEMMCO will be required to publish its first quarterly EAAP by 31 December 2009; and
7. The Panel will be required to review the operation of the EAAP within three years of the publication of the first EAAP by NEMMCO.

The Commission's Rule as made has retained all of the above changes that it made to the Panel's proposed Rule in its draft Rule, except for item 6, the publication date for the first EAAP.

As discussed in Chapter 3, the Commission's Rule as made has extended by three months the timeframe for NEMMCO to publish its first EAAP by. NEMMCO's first EAAP must now be published by 31 March 2010 under rule 3.7C(d) of the Rule as made. This amendment was made following a submission from NEMMCO³⁷ requesting this three month extension to allow for the full implementation of a new more automated data system that it will use to prepare the EAAP.

The Commission considers that its changes to the Panel's proposed Rule will:

- streamline the implementation of the EAAP; and
- allow the EAAP to be published in a faster timeframe.

The Commission suggests that this will occur as the number of Guidelines which need to be developed and published before the first EAAP can be published by NEMMCO has been reduced. In addition, rather than having both the Panel and NEMMCO responsible for developing Guidelines for the EAAP, NEMMCO will be the sole body responsible for developing Guidelines to support the EAAP's implementation. Further, as NEMMCO is also the body responsible for preparing and publishing the EAAP, delays between the publication of the EAAP Guidelines and the publication of the first EAAP should be reduced.

The Commission also suggests that the inclusion of a review process of the EAAP by the Panel within three years of the publication of the first EAAP, will ensure that the operation and implementation of this new information mechanism is appropriately scrutinised, in accordance with good regulatory practice.

³⁷ NEMMCO, 2008, Submission- draft Rule determination, p. 2.

Table 1- Timeline of the publication of key documents for the implementation of the Panel's Rule change proposal

The EAAP			
Document	Developers	Users	Publication date
EAAP Guidelines	NEMMCO	NEMMCO and Scheduled Generators	By 30 June 2009
EAAP	NEMMCO, with input from Scheduled Generators	Market Participants, jurisdictional governments, regulatory bodies etc	By 31 March 2010
Review of the EAAP	The Panel	NEMMCO, Market Participants, jurisdictional governments, regulatory bodies etc	Within three years of the publication of the first EAAP by NEMMCO
The RERT			
Document	Developers	Users	Publication date
RERT Guidelines	The Panel	NEMMCO	By 30 November 2008
Procedures for the operation of the RERT	NEMMCO	NEMMCO	By 30 June 2009 Interim procedures to be developed by NEMMCO prior to 30 June 2009 without consultation, if NEMMCO identifies the potential need to use the RERT through the MT-PASA.
NEMMCO's report on its usage of the RERT	NEMMCO	Market Participants, jurisdictional governments, regulatory bodies etc	To be published within 30 days of the end of each financial year, if NEMMCO has used the RERT over the previous financial year.
Review of the RERT	The Panel	Market Participants, jurisdictional governments, regulatory bodies etc	By 1 July 2011
NEMMCO's SOO load forecasts			
Document	Developers	Users	Publication date
Report on the accuracy of NEMMCO's most recent SOO load forecasts and improvements made to the forecasting process	NEMMCO	The Panel	By 1 November 2008 and by 1 November each following year. Panel to publish NEMMCO's report within 10 business days of receiving NEMMCO's report.

4.2 The RERT

4.2.1 The Panel's proposed implementation process

The Panel has suggested that the implementation of the RERT will require:

1. The development and publication of the RERT Guidelines by the Panel to assist NEMMCO to operate the RERT; and
2. The development and publication of procedures for NEMMCO's exercise of the RERT by NEMMCO.

4.2.2 The Commission's final Rule

As discussed in Chapter 3, the Commission's draft Rule contained the following amendments to the Panel's proposed Rule:

1. The Panel will be required to publish its first RERT Guidelines by 30 November 2008;
2. NEMMCO will be required to publish its first procedures for exercising the RERT by 30 June 2009; and
3. NEMMCO will be required to have regard to the Panel's draft RERT Guidelines – as published in the Exposure Draft for this Rule change proposal in the Second Interim Report on the CRR – if NEMMCO is required to exercise the RERT prior to the publication of the first RERT Guidelines by the Panel.

The Commission has retained these amendments in its Rule as made.

The Commission's Rule as made also contains the following amendments to its draft Rule in relation to the implementation of the RERT:

1. Savings and transitional rules have been inserted in clause 11.21.3(b) of the Rule as made to enable NEMMCO to publish interim RERT procedures without undertaking a public consultation process. These interim procedures would only apply until the publication of the first RERT procedures, which must occur by 30 June 2009;
2. Clause 3.20.4(c) has been inserted in the Rule as made, to allow NEMMCO to make minor and administrative changes to its methodology for activating generating units and loads under unscheduled reserve contracts; and
3. The requirement in clause 3.20.6(c) of the Rule as made has been amended to require NEMMCO to only publish a report on its usage of the RERT in the previous financial year, if it has used the RERT in that financial year.

These amendments to the Rule as made were adopted following a submission from NEMMCO, which indicated that these transitional arrangements were required to allow the RERT to be operational from 1 July 2008, as scheduled.³⁸ NEMMCO's submission suggested that if these amendments were not made it may be necessary for the current Reserve Trader arrangements to remain in place until 30 June 2009, when NEMMCO's RERT procedures would be finalised.

NEMMCO's submission also indicated that it was seeking clarification in relation to its reporting obligations on its usage of the RERT.

Under the Commission's Rule as made, NEMMCO will only be required to report on its usage of the RERT if it has used the RERT over the previous financial year. Therefore, the Commission expects that it is likely that NEMMCO may not publish a report every year on its RERT usage.

Following its amendments to its draft Rule, the Commission notes that:

1. The current Reserve Trader arrangements will expire on 1 July 2008, in accordance with clause 3.12.1 of the Rules;
2. The RERT will be operational from 1 July 2008;
3. The RERT will be reviewed by the Panel by 1 July 2011; and
4. The RERT will expire on 30 June 2012 or an earlier date determined by the Commission on the advice of the Panel following the Panel's review of the RERT.

4.3 NEMMCO's SOO load forecasts

4.3.1 The Panel's proposed implementation process

Under clause 3.13.3(u) of the Panel's proposed Rule, NEMMCO will be required to report to the Panel by 1 November each year on the accuracy of demand forecasts in its most recent SOO and any improvements made by NEMMCO or other relevant parties to the forecasting process that will apply to the next SOO.

Under the Panel's proposed Rule the IRPC will also be required to assist NEMMCO in preparing this report to the Panel.

4.3.2 The Commission's final Rule

As discussed in Chapter 3, the Commission's draft Rule contained the following amendments to the Panel's proposed Rule:

³⁸ NEMMCO, 2008, Submission- draft Rule determination, p. 6.

1. A savings and transitional rule was inserted to allow NEMMCO to begin preparing for its report to the Panel, prior to the Rule's commencement date; and
2. The Panel will be required to publish NEMMCO's report within 10 business days of receiving NEMMCO's report, rather than allowing the Panel the discretion to publish the report.

The Commission has retained the above amendments in its Rule as made. The Commission has made no additional amendments in its Rule as made to those that were made in its draft Rule.

The Commission considers that NEMMCO should begin its new reporting obligation in 2008. Therefore, NEMMCO should submit its first report to the Panel on the accuracy of its SOO load forecasts and any improvements made to the forecasting process, by 1 November 2008. The Panel would then be required to publish this report within 10 business days of receiving it.

The Commission suggests that this new reporting obligation will require minimal implementation by NEMMCO, as NEMMCO is already engaged in a continuous improvement process for the preparation of its demand projections following an independent review of its processes in 2004.³⁹

As discussed in Chapter 3, the Commission notes that its Draft Report for the National Transmission Planner Review, released on 2 May 2008, has recommended that the Australian Energy Market Operator become responsible for the IRPC's functions. In light of these recommendations, the Commission's Final Report on the National Transmission Planner Review will consider how to incorporate the IRPC's new functions under the new National Transmission Planner arrangements. The Commission's Final Report on the National Transmission Planner Review will be released by 30 June 2008.

4.4 NEMMCO's reliability directions powers

4.4.1 The Panel's proposed implementation process

NEMMCO's current powers to issue reliability directions under clause 4.8.9 of the Rules expire on 1 July 2008. Under the Panel's Rule change proposal, this power would be extended indefinitely without a sunset period.

³⁹ The Panel notes on pg. 10 of its Rule change proposal that in late 2004, NEMMCO engaged KEMA Consulting to independently review its process for preparing its SOO demand forecasts and that NEMMCO is currently evaluating KEMA's recommendations as part of its continual improvement process.

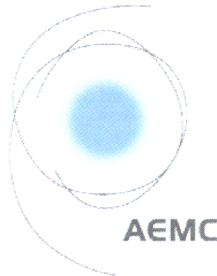
4.4.2 The Commission's final Rule

The Commission has made no amendments to the Panel's proposed Rule in relation to NEMMCO's power to issue reliability directions.

The Commission's Rule as made has adopted the Panel's proposal to extend NEMMCO's power to issue reliability directions indefinitely without a sunset period.

The Commission considers that there will be no implementation issues in relation to NEMMCO's power to issue reliability directions under clause 4.8.9 of the Rule as made, and that this power will continue seamlessly and without interruption following 1 July 2008.

This page has been intentionally left blank

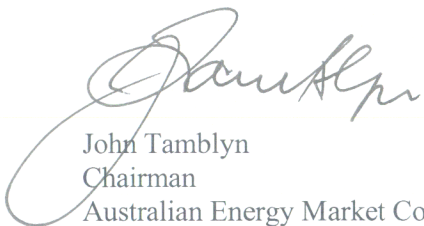


National Electricity Amendment (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008 No. 6

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 (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008 No. 6

1. Title of Rule

This Rule is the *National Electricity Amendment (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008 No 6*.

2. Commencement

This Rule commences operation on 1 July 2008.

3. Amendment of the National Electricity Rules

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

4. Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedules 2 and 3.

5. Savings and Transitional Amendments to the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 4.

Schedule 1 Amendments of the National Electricity Rules

(Clause 3)

[1] New Rule 3.7C Energy Adequacy Assessment Projection

After rule 3.7B, insert:

3.7C Energy Adequacy Assessment Projection

Purpose of EAAP

- (a) The purpose of the *energy adequacy assessment projection* (or *EAAP*) is to make available to *Market Participants* and other interested persons an analysis that quantifies the impact of *energy constraints* on *energy* availability over a 24 month period under a range of scenarios.

EAAP principles

- (b) The *EAAP* must:
 - (1) cover a 24 month period, commencing on the day the *EAAP* is *published* under this rule 3.7C;
 - (2) be *published* every three months;
 - (3) provide a probabilistic assessment of projected *energy* availability for each *region*;
 - (4) provide projected *unserved energy* levels for each *region* with a monthly resolution;
 - (5) provide aggregated information on the adequacy of *energy* availability for each scenario that *NEMMCO* defines for the purposes of the *EAAP*, based on information received from *Registered Participants* and on anticipated *power system* constraints;
 - (6) take into account:
 - (A) where relevant, the information and *medium term PASA* inputs referred to in clauses 3.7.1 and 3.7.2;
 - (B) where relevant, the matters *NEMMCO* considers in, and for the purposes of, clause 5.6.5(c) in carrying out the *ANTS review*;

- (C) *Generator Energy Limitation Frameworks* provided in accordance with paragraph (g), including *GELFs* that apply to more than one *scheduled generating unit* under clause 3.7C(k)(6) where those *GELFs* adequately represent the relevant *generating units*; and
 - (D) *GELF parameters* for each *GELF* which are provided in accordance with the *EAAP guidelines* and are updated in accordance with the *timetable*.
- (c) *NEMMCO* must comply with the *EAAP principles* in preparing the *EAAP*.

Administration of EAAP

- (d) *NEMMCO* must *publish* the *EAAP* every three months in accordance with the *timetable* and the first *EAAP* must be published by 31 March 2010.
- (e) For the purposes of preparing the *EAAP*, a *Scheduled Generator* must provide *NEMMCO* with the following information in accordance with the *timetable*:
 - (1) updated *GELF parameters* for each *GELF* provided by it in accordance with paragraph (g); and
 - (2) other information that supplements the data provided under subparagraph (1) that is reasonably required by *NEMMCO* to study the scenarios defined in the *EAAP guidelines*.
- (f) In considering whether information referred to in subparagraph (e)(2) is reasonably required, *NEMMCO* must have regard to the likely costs that may be incurred by the *Scheduled Generator* in preparing and providing that information compared to the likely benefits from the use of that information for the purposes of the *EAAP*.

Generator Energy Limitation Framework

- (g) A *Scheduled Generator* must prepare and submit to *NEMMCO*, in accordance with the *EAAP guidelines* and for the purposes of the *EAAP*, a description of the *energy constraints* that affect the ability of each of its *scheduled generating units* to generate electricity ('*GELF*' or '*Generator Energy Limitation Framework*'). The *GELF* must be in a form that adequately represents that *generating unit* sufficient for *NEMMCO* to include the *GELF* in the *EAAP*.
- (h) A *GELF* submitted under paragraph (g) must be supplemented by *GELF parameters* for that *GELF* as defined in the *EAAP guidelines*,

and those parameters must be updated every three months in accordance with the *timetable*.

- (i) Where a *Scheduled Generator* has submitted a *GELF* under paragraph (g) and there has been a material *change* to any of its *scheduled generating units* which has an impact on the *energy constraints* associated with that *GELF*, the *Scheduled Generator* must revise and re-submit the *GELF* in accordance with that paragraph.
- (j) Subject to paragraph (r), a *GELF* or information provided in relation to a *GELF* to *NEMMCO* must be treated by *NEMMCO* as *confidential information*.

EAAP guidelines

- (k) *NEMMCO* must develop and *publish* guidelines (the '*EAAP guidelines*') that:
 - (1) define scenarios that *NEMMCO* must study in preparing the *EAAP*;
 - (2) define modelling assumptions for the *EAAP*;
 - (3) define the components of a *GELF* that a *Scheduled Generator* must include in a *GELF* submitted under paragraph (g);
 - (4) provide detail on the forms of the *GELF* sufficient for a *Scheduled Generator* to meet the requirements of paragraph (g);
 - (5) define variable parameters specific to a *GELF* ('*GELF parameters*') that are likely to have a material impact on the *GELF* and therefore the *EAAP*, and which may include, but are not limited to, parameters in relation to:
 - (i) hydro storage including pump storage;
 - (ii) thermal generation fuel;
 - (iii) cooling water availability; and
 - (iv) gas supply limitations;
 - (6) define circumstances where a *GELF* submitted under paragraph (g) can apply to a collection of *scheduled generating units* that face common *energy constraints* due to their geographic location, access to fuel source or another similar reason;

- (7) define the form of information to be submitted by each *Scheduled Generator* in accordance with paragraph (e); and
 - (8) define arrangements for managing the confidentiality of information submitted to *NEMMCO* under this rule 3.7C.
- (l) The scenarios that are defined for the purposes of subparagraph (k)(1) may include, but are not limited to:
 - (1) water conditions such as normal rainfall and drought;
 - (2) material restrictions on the supply of a significant fuel source;
 - (3) other limits on a fuel source for a major form of generation; and
 - (4) any other scenario that *NEMMCO* reasonably considers will have a material impact on the *EAAP*.
- (m) *NEMMCO* must comply with the *EAAP principles* in preparing the *EAAP guidelines*.
- (n) *NEMMCO* must comply with the *EAAP guidelines* in preparing the *EAAP*.
- (o) *NEMMCO* must develop and *publish* the *EAAP guidelines* in accordance with the *Rules consultation procedures*.
- (p) *NEMMCO* must develop and *publish* the first *EAAP guidelines* by 30 June 2009 and there must be a set of *EAAP guidelines* available at all times after that date.
- (q) *NEMMCO* may from time to time in accordance with the *Rules consultation procedures* amend or replace the *EAAP guidelines*.

Provision of information to Scheduled Generators

- (r) *NEMMCO* must provide to each *Scheduled Generator*, based on the relevant *GELF*, an estimate of the total *energy* production of the *scheduled generating units* of that *Scheduled Generator* for the period of the *EAAP*.

Review

- (s) The *Reliability Panel* must conduct a review of the operation of this rule 3.7C by no later than the end of the third year after the *publication* of the first *EAAP*.

[2] Clause 3.13.3 Standing data

After clause 3.13.3(t), insert:

- (u) By 1 November each year, *NEMMCO* must prepare and provide a report to the *Reliability Panel* on:
 - (1) the accuracy of the demand forecasts to date in the most recent *statement of opportunities*; and
 - (2) any improvements made by *NEMMCO* or other relevant parties to the forecasting process that will apply to the next *statement of opportunities*.
- (v) The *Reliability Panel* must *publish* each report provided to it under paragraph (u) within ten *business days* after being provided with that report.

[3] Clause 5.6.3 Inter-regional planning committee

In clause 5.6.3(a)(7), omit the word “and” (where secondly occurring).

[4] Clause 5.6.3

In clause 5.6.3(a)(8), omit the matter “.” and substitute:

; and

- (9) provide such assistance as *NEMMCO* reasonably requests in connection with the preparation of the report that is required to be provided by *NEMMCO* to the *Reliability Panel* in accordance with clause 3.13.3(u).

[5] Chapter 10 Glossary

In Chapter 10, insert the following new definitions in alphabetical order:

EAAP guidelines

The guidelines *published* by *NEMMCO* in accordance with clause 3.7C(k) that *NEMMCO* must comply with in preparing the *EAAP*.

EAAP principles

The principles referred to in clause 3.7C(b) that *NEMMCO* must comply with in preparing the *EAAP* and the *EAAP guidelines*.

energy adequacy assessment projection (EAAP)

A projection of *NEMMCO*'s assessment of *energy* availability that accounts for *energy constraints* for each month over a 24 month period, which is prepared and *published* in accordance with rule 3.7C and is measured as *unserved energy* for each *region*.

energy constraint

A limitation on the ability of a *generating unit* or group of *generating units* to generate *active power* due to the restrictions in the availability of fuel or other necessary expendable resources such as, but not limited to, gas, coal, or water for operating turbines or for cooling.

GELF parameters

Variable parameters specific to a *Generator Energy Limitation Framework (GELF)* which are defined in the *EAAP guidelines* and supplement the *GELF*, and are submitted by a *Scheduled Generator* and updated in accordance with rule 3.7C for the purpose of the *EAAP*.

Generator Energy Limitation Framework (GELF)

A description of the *energy constraints* that affect the ability of a *scheduled generating unit* to generate electricity prepared in accordance with the *EAAP guidelines*.

unserved energy

The amount of *energy* that is demanded, but cannot be supplied, in a *region* and which is defined in accordance with the *power system security and reliability standards* and is expressed as:

- (a) GWh; or

- (b) a percentage of the total *energy* demanded in that *region* over a specific period of time such as a year.

Schedule 2 Amendments of the National Electricity Rules

(Clause 4)

[1] New rule 3.20

After rule 3.19, insert the following:

3.20 Reliability and Emergency Reserve Trader

3.20.1 Expiry of reserve and emergency reliability trader

This rule 3.20 expires on the earlier of:

- (a) 30 June 2012; or
- (b) a date determined by the *AEMC* on the advice of the *Reliability Panel* in accordance with clause 3.20.9.

3.20.2 Reliability and emergency reserve trader

- (a) *NEMMCO* must take all reasonable actions to ensure reliability of *supply* by negotiating and entering into contracts to secure the availability of *reserves* under *reserve contracts* ('reliability and emergency reserve trader' or 'RERT') in accordance with:
 - (1) this rule 3.20;
 - (2) where relevant:
 - (i) clauses 1.11, 3.8.1, 3.8.14, 3.9.3, 3.12, 3.12A.5, 3.15.6, 3.15.9, 4.8.5A and 4.8.5B; and
 - (ii) any other provision of the *Rules* necessary to exercise the *RERT*;
 - (3) the *RERT principles*; and
 - (4) the *RERT guidelines*.
- (b) *NEMMCO* must have regard to the following principles ('RERT principles') in exercising the RERT under paragraph (a):
 - (1) actions taken should be those which *NEMMCO* reasonably expects, acting reasonably, to have the least distortionary effect on the operation of the *market*; and
 - (2) actions taken should aim to maximise the effectiveness of *reserve contracts* at the least cost to end use consumers of electricity.

- (c) In having regard to the *RERT principles*, *NEMMCO* must have regard where relevant to the *RERT guidelines*.

3.20.3 Reserve contracts

- (a) *NEMMCO* may enter into one or more contracts with any person in relation to the capacity of:
 - (1) *scheduled generating units, scheduled network services or scheduled loads* (being *scheduled reserve contracts*); and
 - (2) *unscheduled reserves* (being *unscheduled reserve contracts*).
- (b) *NEMMCO* may determine to enter into *reserve contracts* to ensure that the reliability of *supply* in a *region* or *regions* meets the relevant *power system security and reliability standards* established by the *Reliability Panel* for the *region*.
- (c) *NEMMCO* must consult with persons nominated by the relevant *participating jurisdictions* in relation to any determination to enter into contracts under paragraph (b).
- (d) *NEMMCO* must not enter into, or renegotiate, a *reserve contract* more than nine months prior to the date that *NEMMCO* reasonably expects that the *reserve* under that contract may be required to ensure reliability of *supply*.
- (e) Subject to paragraph (d), *NEMMCO* may :
 - (1) enter into *reserve contracts*; or
 - (2) renegotiate existing *reserve contracts*,in addition to the contracts already entered into by *NEMMCO* under this rule 3.20.
- (f) In entering into *reserve contracts* under paragraph (b) *NEMMCO* must agree with the relevant nominated persons referred to in paragraph (c) cost-sharing arrangements between the *regions* for the purpose of clause 3.15.9.
- (g) If, at any time *NEMMCO* determines that it is necessary to commence contract negotiations for the provision of additional *reserves*, *NEMMCO* must *publish* a notice of its intention to do so.
- (h) When contracting for the provision of *scheduled reserves* under *scheduled reserve contracts*, *NEMMCO* must not enter contracts in relation to capacity of *generating units, scheduled network services* or

scheduled loads for which *dispatch offers* or *dispatch bids* have been submitted or are considered by *NEMMCO* to be likely to be submitted or be otherwise available for *dispatch* in the *trading intervals* to which the contract relates.

Terms and conditions of a contract

- (i) If *NEMMCO* seeks to enter into a *reserve contract* with a *Registered Participant* then the *Registered Participant* must *negotiate* with *NEMMCO* in good faith as to the terms and conditions of the contract.
- (j) *NEMMCO* may only enter into a *reserve contract* if the contract contains a provision that the other party to the contract has not and will not otherwise offer the *reserve* the subject of the contract in the *market* for the *trading intervals* to which the contract with *NEMMCO* relates except in accordance with the contract.

3.20.4 Dispatch pricing methodology for unscheduled reserve contracts

- (a) Subject to paragraph (c), *NEMMCO* must develop in accordance with the *Rules consultation procedures* and *publish* details of the methodology it will use to request that *generating units* or *loads* under *unscheduled reserve contracts* be *activated*.
- (b) *NEMMCO* may develop and *publish* the methodology developed in accordance with this clause 3.20.4 as part of the methodology *NEMMCO* is required to develop under clause 3.9.3(e).
- (c) *NEMMCO* may make minor and administrative amendments to the methodology developed in accordance with this clause 3.20.4 without complying with the *Rules consultation procedures*.

3.20.5 NEMMCO's risk management and accounts relating to the reliability safety net

- (a) *NEMMCO* may enter into insurance arrangements with an insurance provider with a view to minimising potential financial losses in respect of *NEMMCO's RERT* activities described in this rule 3.20.
- (b) *NEMMCO* must ensure that it maintains in its books separate accounts relating to the *RERT* functions and powers granted to *NEMMCO* under this rule 3.20.

3.20.6 Reporting on RERT by NEMMCO

- (a) If a *scheduled generating unit*, *scheduled network service* or *scheduled load* under a *scheduled reserve contract* with *NEMMCO* is *dispatched*

or *generating units* or *loads* are activated under an *unscheduled reserve contract*, then *NEMMCO* must, as soon as practicable thereafter, *publish* a report detailing:

- (1) the circumstances giving rise to the need for the *dispatch* of *scheduled reserves* or *activation of unscheduled reserves*;
- (2) the basis on which it determined the latest time for that *dispatch* of *scheduled reserves* or *activation of unscheduled reserves* and on what basis it determined that a market response would not have avoided the need for the *dispatch* of *scheduled reserves* or the *activation of unscheduled reserves*;
- (3) the changes in *dispatch* outcomes due to the *dispatch* of *scheduled reserves* or *activation of unscheduled reserves*; and
- (4) the processes implemented by *NEMMCO* to *dispatch* the *scheduled reserves* or *activate the unscheduled reserves*,

and if applicable:

- (5) reasons why *NEMMCO* did not follow any or all of the processes set out in rule 4.8 either in whole or in part prior to the *dispatch* of *scheduled reserves* or the *activation of unscheduled reserves*; and
 - (6) the basis upon which *NEMMCO* considered it impractical to set *spot prices* and *ancillary service prices* in accordance with clause 3.9.3(b).
- (b) As soon as reasonably practicable after *NEMMCO* has, in accordance with clause 3.15.9, included the amounts arising under a *reserve contract* in a *final statement* provided under clause 3.15.15, *NEMMCO* must *publish* details of:
- (1) the payments under the *reserve contract* for the relevant *billing periods*; and
 - (2) a breakdown of the recovery of those costs by each category of *Market Customer*, as determined by *NEMMCO*, in each *region*.
- (c) Within 30 *days* of the end of each *financial year* in which *NEMMCO* has exercised the *RERT*, *NEMMCO* must *publish* a report detailing:
- (1) each occasion during the *financial year* on which it intervened to secure the availability of *reserves*;
 - (2) each occasion during the *financial year* when a *scheduled generating unit*, *scheduled network service* or *scheduled load*

under a *scheduled reserve contract* was *dispatched* or *generating units* or *loads* under an *unscheduled reserve contract* were *activated*; and

- (3) its costs and finances in connection with its *RERT* activities during the *financial year* according to appropriate accounting standards including profit and loss, balance sheet, sources and applications of funds.

3.20.7 NEMMCO's exercise of the RERT

- (a) Notwithstanding clauses 4.8.5A and 4.8.5B, if *NEMMCO* considers the latest time for exercising the *RERT* by:
 - (1) the *dispatch* of *scheduled reserves* it has available under *scheduled reserve contracts*; or
 - (2) the *activation* of *unscheduled reserves* it has available under *unscheduled reserve contracts*,has arrived, *NEMMCO* may *dispatch* such *scheduled reserves* or *activate* such *unscheduled reserves*.
- (b) *NEMMCO* must follow the relevant procedures in this rule 3.20 prior to *dispatching* a *scheduled generating unit*, *scheduled network service* or *scheduled load* the subject of a *scheduled reserve contract* or *activating generating units* or *loads* the subject of an *unscheduled reserve contract* unless it is not reasonably practicable to do so.
- (c) Subject to paragraph (b), *NEMMCO* must only *dispatch* a *scheduled generating unit*, a *scheduled network service* or a *scheduled load* the subject of a *scheduled reserve contract* or *activate generating units* or *loads* the subject of an *unscheduled reserve contract* in accordance with the procedures developed pursuant to paragraph (e).
- (d) In order to effect the *dispatch* of a *scheduled generating unit*, *scheduled network service* or *scheduled load* the subject of a *scheduled reserve contract* or the *activation* of *generating units* or *loads* the subject of an *unscheduled reserve contract* *NEMMCO* may:
 - (1) submit, update or vary *dispatch bids* or *dispatch offers* in relation to all or part of such a *scheduled generating unit*, *scheduled network service* or *scheduled load* which is the subject of a *scheduled reserve contract*; or
 - (2) change other inputs to the *dispatch process* to give effect to the *dispatch* of *scheduled generating units*, *scheduled network*

services or scheduled loads the subject of a scheduled revenue contract or the activation of generating units or loads the subject of an unscheduled reserve contract.

- (e) *NEMMCO must develop, publish, and may amend from time to time, in accordance with the Rules consultation procedures, procedures for the exercise of the RERT under this rule 3.20 that take into account the RERT principles and RERT guidelines. These procedures must include measures to be adopted in order to reduce the possibility that generating units or loads likely to be activated under unscheduled reserve contracts are otherwise engaged at the time the unscheduled reserve contracts are entered into by NEMMCO.*
- (f) *When exercising the RERT under this rule 3.20, NEMMCO must take into account the RERT guidelines.*
- (g) *NEMMCO must publish the first procedures referred to in paragraph (e) by 30 June 2009.*

3.20.8 RERT Guidelines

- (a) *For the purposes of this rule 3.20, the Reliability Panel must develop and publish guidelines (the 'RERT guidelines') for or with respect to:*
 - (1) *what information NEMMCO must take into account when deciding whether to exercise the RERT;*
 - (2) *the relevance of the RERT principles to the exercise of the RERT;*
 - (3) *the actions that NEMMCO may take to be satisfied that the reserve that is to be the subject of a reserve contract is not available to the market through any other arrangement;*
 - (4) *the process NEMMCO should undertake in contracting for reserves including the process for tendering for contracts for such reserves;*
 - (5) *any specific or additional assumptions about key parameters that NEMMCO must take into account in assessing the cost effectiveness of exercising the RERT;*
 - (6) *matters relevant to NEMMCO managing a portfolio of reserve contracts; and*
 - (7) *additional forecasts that NEMMCO should take into account prior to exercising the RERT.*

- (b) The *Reliability Panel* must develop, *publish* and amend from time to time, the *RERT guidelines* in accordance with clauses 8.8.3(d) – (l).
- (c) The *Reliability Panel* must *publish* the first *RERT guidelines* by 30 November 2008 and there must be such guidelines in place at all times after that date.

3.20.9 Review of reserve and emergency reliability trader

- (a) The Reliability Panel must, no later than one year prior to the date the RERT is due to expire under clause 3.20.1, complete a review of the RERT ('RERT review') to determine:
 - (1) whether the *RERT* should expire on the date specified in clause 3.20.1(a); or
 - (2) whether the *RERT* should expire prior to the date referred to in subparagraph (1) and, if so, that date;
- (b) The *Reliability Panel* must conduct the RERT review in accordance with clauses 8.8.3(d) – (l).
- (c) The *Reliability Panel* may conduct the review referred to in paragraph (a) as part of the review conducted by the *Reliability Panel* under clause 8.8.3(b).
- (d) On receipt of the written report from the RERT review in accordance with clause 8.8.3(j), the *AEMC* may, taking into account the report, make a determination that the *RERT* is to expire and specify the date of expiry.
- (e) The *AEMC* must *publish* the determination referred to in paragraph (d).

[2] Chapter 8A, Part 7

Omit Part 7 of Chapter 8A and substitute "[Deleted]".

Schedule 3 Amendments of the National Electricity Rules

(Clause 4)

[1] Rule 1.11 NEMMCO Rule funds

Omit rule 1.11 and substitute:

1.11 NEMMCO Rule Funds

- (a) *NEMMCO* must continue to maintain, in the books of the corporation:
 - (1) the registration and administration fund;
 - (2) the security deposit fund; and
 - (3) any other fund which the *Rules* provide will be maintained in *NEMMCO's* books,(each a "*Rule fund*").
- (b) *NEMMCO* must ensure that there is paid into each *Rule fund*:
 - (1) in the case of the registration and administration fund, all amounts of *Participant fees* and *auction expense fees* and any other amounts payable under the *auction rules* or *SRD agreements* as *NEMMCO* considers necessary from time to time other than those which are to be paid into another *Rule fund*;
 - (2) in the case of the security deposit fund, amounts which are received by *NEMMCO* under clauses 3.3.8A, 3.3.13(a)(2) and 3.3.13(a)(3);
 - (3) in the case of a fund referred to in paragraph (a)(3):
 - (i) all amounts which are received by *NEMMCO* in connection with carrying out its functions or powers in relation to that fund;
 - (ii) all amounts of *Participant fees* which are received or recovered by *NEMMCO* which relate to *NEMMCO's* actual or budgeted costs and expenses for carrying out its functions or powers in relation to that fund; and
 - (4) in the case of each *Rule fund*, income from investment of money in the *Rule fund*.
- (c) In respect of the security deposit fund, *NEMMCO* must keep records, in respect of each individual *Market Participant*, of:

- (1) security deposits made by that *Market Participant* and actual interest or other income earned on that *Market Participant's* payments to that fund which will be recorded as credits for that *Market Participant*;
 - (2) any application, or return to that *Market Participant*, of monies in the security deposit fund in accordance with clause 3.3.13A;
 - (3) deductions for liabilities and expenses of the security deposit fund referable, or allocated, to that *Market Participant* which will be recorded as debits to that *Market Participant*; and
 - (4) the credit or debit balance for that *Market Participant*.
- (d) *NEMMCO* must ensure that money from each *Rule fund* is only applied in payment of:
- (1) in the case of the registration and administration fund, costs and expenses of *NEMMCO* carrying out its functions or powers:
 - (i) in relation to a fund referred to paragraph (a)(3) to the extent that such costs and expenses cannot be met from the money contained in that fund; or
 - (ii) other than those functions and powers referred to in subparagraph (i);
 - (2) in the case of the security deposit fund, monies owing to *NEMMCO* by a *Market Participant* or the return of monies to a *Market Participant* in accordance with clause 3.3.13A;
 - (3) in the case of a fund referred to in paragraph (a)(3), costs and expenses of *NEMMCO* carrying out its functions or powers in relation to that fund; and
 - (4) in the case of each *Rule fund*:
 - (i) other than the security deposit fund, reimbursement to a *Registered Participant* or another *Rule fund* to make any necessary adjustment for any excess amounts which are paid as *Participant fees* as a result of any of *NEMMCO's* actual costs and expenses being less than the budgeted costs and expenses or as a result of the payment of any interim *Participant fees*; and
 - (ii) liabilities or expenses of the *Rule fund*.

[2] Clause 3.2.5 Reserves

Omit clause 3.2.5 and substitute:

[Deleted]

[3] Clause 3.8.1 Central Dispatch

Omit clause 3.8.1(b)(11) and substitute:

(11) ensuring that as far as reasonably practical, in relation to a *NEMMCO intervention event*:

(A) the number of *Affected Participants*; and

(B) the effect on *interconnector* flows,

is minimised.

[4] Clause 3.8.14 Dispatch under conditions of supply scarcity

Omit clause 3.8.14 and substitute:

3.8.14 Dispatch under conditions of supply scarcity

During times of *supply* scarcity, *NEMMCO* must use its reasonable endeavours to ensure that the actions set out below occur in the following sequence:

(a) subject to:

(1) any adjustments which may be necessary to implement action under paragraph (c); and

(2) any *plant* operating restrictions associated with a *relevant NEMMCO intervention event*,

all valid *dispatch bids* and *dispatch offers* submitted by *Scheduled Generators* or *Market Participants* are *dispatched*, including those priced at *VoLL*;

(b) subject to:

(1) any adjustments which may be necessary to implement action under paragraph (c); and

- (2) any *plant* operating restrictions associated with a *relevant NEMMCO intervention event*,

after all valid *dispatch bids* and *dispatch offers* referred to in paragraph (a) have been exhausted, exercise the *reliability and emergency reserve trader* in accordance with rule 3.20 by:
 - (3) *dispatching scheduled generating units, scheduled network services or scheduled loads* in accordance with any *scheduled reserve contract*; or
 - (4) *activating loads or generating units* under any *unscheduled reserve contract*; and
- (c) any further corrective actions required are implemented in accordance with clauses 4.8.5B and 4.8.9.

[5] Clause 3.9.3 Pricing in the event of intervention by NEMMCO

Omit clause 3.9.3 and substitute:

3.9.3 Pricing in the event of intervention by NEMMCO

- (a) In respect of a *dispatch interval* where a *NEMMCO intervention event* occurs *NEMMCO* must declare that *dispatch interval* to be an *intervention price dispatch interval*.
- (b) Subject to paragraphs (c) and (d), *NEMMCO* must in accordance with the methodology or assumptions *published* pursuant to paragraph (e) set the *dispatch price* and *ancillary service prices* for an *intervention price dispatch interval* at the value which *NEMMCO*, in its reasonable opinion, considers would have applied as the *dispatch price* and *ancillary service price* for that *dispatch interval* in the relevant *region* had the *NEMMCO intervention event* not occurred.
- (c) *NEMMCO* may continue to set *dispatch prices* pursuant to clause 3.9.2 and *ancillary service prices* pursuant to clause 3.9.2A until the later of:
 - (1) the second *dispatch interval* after the first *dispatch interval* in which the *NEMMCO intervention event* occurred; or
 - (2) if applicable, the second *dispatch interval* after the restoration of the *power system* to a *secure operating state* after any *direction* which constitutes the *NEMMCO intervention event* was issued,

provided that *NEMMCO* must use its reasonable endeavours to set *dispatch prices* and *ancillary service prices* pursuant to this clause 3.9.3 as soon as practicable following the *NEMMCO intervention event*.

- (d) *NEMMCO* must continue to set *dispatch prices* pursuant to clause 3.9.2 and *ancillary service prices* pursuant to clause 3.9.2A if a *direction* given to a *Registered Participant* in respect of *plant* at the *regional reference node* would not in *NEMMCO's* reasonable opinion have avoided the need for any *direction* which constitutes the *NEMMCO intervention event* to be issued.
- (e) Subject to paragraph (g), *NEMMCO* must develop in accordance with the *Rules consultation procedures* and *publish* details of the methodology it will use, and any assumptions it may be required to make, to determine *dispatch prices* and *ancillary service prices* for the purposes of paragraph (b).
- (f) The methodology developed by *NEMMCO* under paragraph (e) must wherever reasonably practicable:
 - (1) be consistent with the principles for *spot price* determination set out in clause 3.9.1;
 - (2) enable *NEMMCO* to determine and *publish* such prices in accordance with clause 3.13.4; and
 - (3) be consistent with the principles for *ancillary service price* determination set out in clauses 3.9.2 and 3.9.2A.
- (g) *NEMMCO* may make minor and administrative amendments to the methodology developed under paragraph (e) without complying with the *Rules consultation procedures*.

[6] References to clause 3.9.3

In clause 3.9.2(e)(2), omit the words "clauses 3.9.3(a2) and 3.9.3(a3)" and substitute the words "clauses 3.9.3(c) and 3.9.3(d)".

In clause 3.13.6A(a)(6), omit the words "clause 3.9.3(a1)" and substitute the words "clause 3.9.3(b)".

[7] Rule 3.12 Market intervention by NEMMCO

Omit clauses 3.12.1 – 3.12.9 and renumber clauses 3.12.10, 3.12.11 and 3.12.11A as clauses 3.12.1, 3.12.2 and 3.12.3 respectively.

[8] References to clauses 3.12.10, 3.12.11 and 3.12.11A

In the Rules, wherever the clause reference in column A occurs, substitute the clause reference in column B.

A (old clause number)	B (renumbered clause)
3.12.10	3.12.1
3.12.11	3.12.2
3.12.11A	3.12.3

[9] Clause 3.12.1 Intervention settlement timetable

Omit clause 3.12.1(a) (as renumbered by amendment [7]) and substitute:

- (a) *NEMMCO* must use reasonable endeavours to complete and fulfil its obligations set out in clauses 3.12.2, 3.12.3, 3.15.7, 3.15.7A, 3.15.7B, 3.15.8 and 3.15.10C as soon as practicable and no later than:
 - (1) 100 *business days* after the end of the *NEMMCO intervention event* or the end of a series of related *NEMMCO intervention events* if *NEMMCO* is not required to appoint an independent expert pursuant to clause 3.15.7A; and
 - (2) 150 *business days* after the end of the *NEMMCO intervention event* or the end of a series of related *NEMMCO intervention events* if *NEMMCO* is required to appoint an independent expert pursuant to clause 3.15.7A.

[10] Clause 3.12.2 Affected Participants and Market Customers entitlements to compensation in relation to directions and reserve contracts

Omit clause 3.12.2 and substitute:

3.12.2 Affected Participants and Market Customers entitlements to compensation in relation to NEMMCO intervention

- (a) In respect of each *intervention price trading interval*:
 - (1) an *Affected Participant* is entitled to receive from *NEMMCO*, or must pay to *NEMMCO*, an amount as determined in accordance with this clause 3.12.2 that will put the *Affected Participant* in the position that the *Affected Participant* would have been in

regarding the *scheduled generating unit* or *scheduled network service*, as the case may be, had the *NEMMCO intervention event* not occurred, taking into account solely the items listed in paragraph (j);

- (2) a *Market Customer*, other than a *Market Customer* which was the subject of any *direction* that constituted the *NEMMCO intervention event*, is entitled, in respect of one or more of its *scheduled loads*, to receive an amount calculated by applying the following formula:

$$DC = ((RRP \times LF) - BidP) \times QD$$

where:

DC (in dollars) is the amount the *Market Customer* is entitled to receive in respect of that *scheduled load* for the relevant *intervention price trading interval*;

RRP (in dollars per MWh) is the *regional reference price* in the relevant *intervention price trading interval* determined in accordance with clause 3.9.3;

LF where the *scheduled load's connection point* is a *transmission connection point*, is the *intra-regional loss factor* at that *connection point* or where the *scheduled load's connection point* is a *distribution network connection point*, is the product of the *distribution loss factor* at that *connection point* multiplied by the *intra-regional loss factor* at the *transmission connection point* to which it is assigned;

BidP (in dollars per MWh) is the price of the highest priced *price band* specified in a *dispatch offer* for the *scheduled load* in the relevant *intervention price trading interval*;

QD (in MWh) is the difference between the amount of electricity consumed by the *scheduled load* during the relevant *intervention price trading interval* determined from the *metering data* and the amount of electricity which *NEMMCO* reasonably determines would have been consumed by the *scheduled load* if the *NEMMCO intervention event* had not occurred,

provided that if DC is negative for the relevant *intervention price trading interval*, then the adjustment that the *Market Customer* is entitled to claim in respect of that *scheduled load* for that *intervention price trading interval* is zero.

- (b) In respect of a single *intervention price trading interval*, an *Affected Participant* or *Market Customer* is not entitled to receive from, or obliged to pay to, *NEMMCO* an amount pursuant to this clause 3.12.2 if such an amount is less than \$5,000.
- (c) In respect of each *intervention price trading interval*, *NEMMCO* must, in accordance with the *intervention settlement timetable*, notify, in writing:
 - (1) each *Affected Participant* (except *eligible persons*) of:
 - (i) the estimated level of *dispatch* in MW that its *scheduled network service* or *scheduled generating unit* would have been *dispatched* at had the *NEMMCO intervention event* not occurred; and
 - (ii) an amount equal to:
 - (A) the estimated *trading amount* that it would have received had the *NEMMCO intervention event* not occurred based on the level of *dispatch* in subparagraph (i), less:
 - (B) the *trading amount* for that *Affected Participant* (excluding from that *trading amount* the amount referred to in clause 3.15.10C(a)) as set out in its *final statement* provided pursuant to clause 3.15.14 for the *billing period* in which the *intervention price trading interval* occurs;
 - (2) each *eligible person* of:
 - (i) the estimated level of flow in MW of all relevant *directional interconnectors* that would have occurred had the *NEMMCO intervention event* not occurred; and
 - (ii) an amount equal to:
 - (A) the estimated amount that person would have been entitled to receive pursuant to clause 3.18.1(b) had the *NEMMCO intervention event* not occurred based upon the flows referred to in subparagraph (i); less
 - (B) the actual entitlement of that person under clause 3.18.1(b); and
 - (3) each *Market Customer*, the amount calculated by *NEMMCO* in accordance with paragraph (a)(2) for that *Market Customer*.

- (d) *NEMMCO* must include in an *Affected Participant's* or *Market Customer's final statement* provided pursuant to clause 3.15.1 for a *billing period* in which one or more *intervention price trading intervals* occurred:
 - (1) the amount notified by *NEMMCO* pursuant to paragraph (c) if the absolute value of such amount is greater than \$5,000; and
 - (2) in all other cases no amount in relation to compensation pursuant to this clause 3.12.2.
- (e) If the figure calculated in accordance with paragraph (c) is:
 - (1) negative, the absolute value of that amount is the amount payable to *NEMMCO* by the relevant person; and
 - (2) positive, the absolute value of that amount is the amount receivable from *NEMMCO* by the relevant person.
- (f) Subject to paragraphs (h) and (i), within 7 *business days* of receipt of the notice referred to in paragraph (c) an *Affected Participant* or *Market Customer* may make a written submission to *NEMMCO* in accordance with paragraph (g) claiming that the amount set out in the notice is greater than, less than, or equal to its entitlement pursuant to paragraph (a)(1) as an *Affected Participant* or paragraph (a)(2) as a *Market Customer*, as the case may be.
- (g) A written submission made by an *Affected Participant* or *Market Customer* pursuant to paragraph (f) must:
 - (1) itemise each component of the claim;
 - (2) contain sufficient data and information to substantiate each component of the claim;
 - (3) if the *Affected Participant* claims that the amount calculated by *NEMMCO* pursuant to paragraphs (c)(1) or (c)(2) is less than the amount the *Affected Participant* is entitled to receive pursuant to paragraph (a)(1), specify the difference between such amounts (such difference being the “*affected participant's adjustment claim*”);
 - (4) if the *Market Customer* claims that the amount calculated by *NEMMCO* pursuant to paragraph (c)(3) is less than the amount the *Market Customer* is entitled to receive pursuant to paragraph (a)(2), specify the difference between such amounts (such difference being the “*market customer's additional claim*”); and

- (5) be signed by an authorised officer of the *Affected Participant* or *Market Customer* certifying that the written submission is true and correct.
- (h) If an *Affected Participant* or *Market Customer* does not deliver to *NEMMCO* a written submission in accordance with paragraph (f) it shall cease to have an entitlement to compensation under this clause 3.12.2.
- (i) In respect of a single *intervention price trading interval* an *Affected Participant* or *Market Customer* may only make a claim pursuant to paragraph (f) in respect of that *intervention price trading interval* if it claims that its entitlement or liability pursuant to this clause 3.12.2 is greater than \$5,000.
- (j) In determining the amount for the purposes of paragraph (a)(1), the following must, as appropriate, be taken into account:
 - (1) the direct costs incurred or avoided by the *Affected Participant* in respect of that *scheduled generating unit* or *scheduled network service*, as the case may be, as a result of the *NEMMCO intervention event* including:
 - (i) fuel costs in connection with the *scheduled generating unit* or *scheduled network service*;
 - (ii) incremental maintenance costs in connection with the *scheduled generating unit* or *scheduled network service*; and
 - (iii) incremental manning costs in connection with the *scheduled generating unit* or *scheduled network service*;
 - (2) any amounts which the *Affected Participant* is entitled to receive under clauses 3.15.6 and 3.15.6A; and
 - (3) the *regional reference price published* pursuant to clause 3.13.4(m).
- (k) *NEMMCO* must in accordance with the *intervention settlement timetable* calculate the “*additional intervention claim*” being the total of:
 - (1) the sum of the *affected participant’s adjustment claims* and *market customer’s additional claims* in respect of a *NEMMCO intervention event*, or in respect of, in *NEMMCO’s* reasonable opinion, a series of related *NEMMCO intervention events*; plus

- (2) the total claims by *Directed Participants* pursuant to clauses 3.15.7B(a), 3.15.7B(a1) and 3.15.7B(a2) in respect of that *NEMMCO intervention event*, or in respect of that series of related *NEMMCO intervention events*.
- (l) *NEMMCO* must in accordance with the *intervention settlement timetable*:
 - (1) refer an *affected participant's adjustment claim* or *market customer's additional claim* to an independent expert to determine such claim in accordance with clause 3.12.3 if the claim is equal to or greater than \$20,000 and the *additional intervention claim* that includes that claim is equal to or greater than \$100,000; and
 - (2) determine in its sole discretion whether all other *affected participants' adjustment claims* and *market customers' additional claims* are reasonable and if so pay the amounts claimed in accordance with clause 3.15.10C.
- (m) If *NEMMCO* determines pursuant to paragraph (l) that an *affected participant's adjustment claim* or *market customer's additional claim* in respect of a *NEMMCO intervention event* is unreasonable, it must in accordance with the *intervention settlement timetable*:
 - (1) advise the *Affected Participant* or *Market Customer*, as the case may be, in writing of its determination including its reasons for the determination; and
 - (2) refer the matter to an independent expert to determine the claim for compensation in accordance with clause 3.12.3.
- (n) For the purposes of clauses 3.15.8 and 3.15.10C(b) any payment pursuant to paragraph (a) must include interest on the sum of that amount less the payment made in accordance with 3.15.10C(a)(1), computed at the average *bank bill rate* for the period from the date on which payment was required to be made under clauses 3.15.16 and 3.15.17 in respect of the *final statement* for the *billing period* in which the *NEMMCO intervention event* occurred to the date on which payment is required to be made pursuant to clause 3.15.10C.

[11] Clause 3.12.3 Role of Independent Expert in calculating payments in relation to intervention by NEMMCO

In clause 3.12.3(a) (as renumbered by amendment [7]), omit the words “3.12.2(f), 3.12.2(g)” and substitute the words “3.12.2(l), 3.12.2(m)”.

[12] Clause 3.12.3 Role of Independent Expert in calculating payments in relation to intervention by NEMMCO

In clause 3.12.3(b) (as renumbered by amendment [7]), omit the words “3.12.2(c)” and substitute the words “3.12.2(f)”.

[13] Clause 3.12.3 Role of Independent Expert in calculating payments in relation to intervention by NEMMCO

Omit clause 3.12.3(b1) (as renumbered by amendment [7]) and substitute:

- (b1) To the extent reasonably practicable, all claims arising out of a single *NEMMCO intervention event* or arising out of, in *NEMMCO’s* reasonable opinion, a series of related *NEMMCO intervention events*, should be determined by the same independent expert as part of the same process.

[14] Clause 3.12.3 Role of Independent Expert in calculating payments in relation to intervention by NEMMCO

In clause 3.12.3(c)(1)(i)(A)(as renumbered by amendment [7]), omit the words “3.12.2(f) and 3.12.2(g)” and substitute the words “3.12.2(l) and 3.12.2(m)”.

[15] Clause 3.12.3 Role of Independent Expert in calculating payments in relation to intervention by NEMMCO

In clause 3.12.3(c)(6) (as renumbered by amendment [7]), omit the words “3.12.2(c)” and substitute the words “3.12.2(f)”.

[16] Clause 3.12A.5 Dispatch of restriction offers

Omit clause 3.12A.5(a) and substitute:

- (a) In a *dispatch interval* *NEMMCO* may only *dispatch* the capacity of a *scheduled generating unit* or *scheduled network service* in accordance with the procedures for the *rebidding* and *dispatch* of capacity the subject of an *accepted restriction offer* developed by *NEMMCO* in consultation with *Registered Participants*. Such procedures must as far as reasonably practical incorporate the following principles:
 - (i) *dispatch* of *accepted restriction offers* only after all the capacity of *scheduled loads*, *scheduled generating units* and *scheduled*

network services contained in valid *dispatch offers* and *dispatch bids* have been *dispatched*;

- (ii) recognise any requirement for advance notice or action for generators to operate at minimum generation, provide advance notice to *loads* or obtain capacity of *market network services* that are or may become the subject of a *NEMMCO intervention event*;
- (iii) be consistent with the price of *accepted restriction offers* in accordance with clause 3.12A.6; and
- (iv) minimise the *restriction shortfall amount*.

[17] Clause 3.13.6 Reserve trading by NEMMCO

Omit clause 3.13.6 and substitute:

[Deleted]

[18] References to Clause 4.8.5A

In clause 3.13.6A(a)(7), omit the words "clause 4.8.5A(c)" and substitute the words "clause 4.8.5A(d)".

[19] Clause 3.15.6 Spot market transactions

Omit clauses 3.15.6(b) and (c) and substitute:

- (b) *NEMMCO* is entitled to the *trading amount* resulting from a *NEMMCO intervention event* and, for the purposes of determining *settlement amounts*, any such *trading amount* is not a *trading amount* for the relevant *Market Participant*.
- (c) A *Directed Participant* is entitled to the *trading amount* resulting from any service, other than the service the subject of the *NEMMCO intervention event*, rendered as a consequence of that event.

[20] Clause 3.15.9 Reserve settlements

Omit clause 3.15.9 and substitute:

3.15.9 Reserve settlements

- (a) *NEMMCO's costs incurred in contracting for the provision of reserves are to be met by fees imposed on Market Customers in accordance with this clause 3.15.9.*
 - (b) *Included in the statements to be provided under clauses 3.15.14 and 3.15.15, NEMMCO must give each Market Participant a statement setting out:*
 - (1) *the aggregate of the amounts payable by NEMMCO under reserve contracts in respect of the relevant billing period;*
 - (2) *any amounts determined as payable by NEMMCO:*
 - (i) *by the independent expert under clause 3.12.3; or*
 - (ii) *as a result of a scheduled generating unit, scheduled network service or scheduled load under a scheduled reserve contract being dispatched or generating units or loads under an unscheduled reserve contract being activated,*

in respect of the relevant billing period; and

 - (3) *the aggregate of the amounts receivable by NEMMCO under the Rules in respect of reserve contracts during the relevant billing period.*
- (c) *Separate statements must be provided under paragraph (b):*
 - (1) *for reserve contracts entered into by NEMMCO specifically in respect of the Market Participant's region in accordance with paragraph (d); and*
 - (2) *for reserve contracts other than those entered into for and allocated to a specific region or regions.*
- (d) *Where either:*
 - (1) *without the intervention in the market of NEMMCO a region would otherwise, in NEMMCO's reasonable opinion, fail to meet the minimum power system security and reliability standards; or*

- (2) a *region* requires a level of *power system reliability* or *reserves* which, in *NEMMCO's* reasonable opinion, exceeds the level required to meet the minimum *power system security and reliability standards*,

then *NEMMCO* must recover its net liabilities, or distribute its net profits, under the terms of *reserve contracts* entered into to meet these requirements, from or to the *Market Customers* in that *region* in accordance with paragraph (e).

- (e) In respect of *reserve contracts* entered into by *NEMMCO*, *NEMMCO* must calculate in relation to each *Market Customer* for each *region* in respect of each *billing period* a sum determined by applying the following formula:

$$MCP = \frac{E \times RRC}{\Sigma E}$$

where:

MCP is the amount payable by a *Market Customer* for a *region* in respect of a *billing period*;

E is the sum of all that *Market Customer's* adjusted gross energy amounts in a *region* (the “**relevant region**”) in each *trading interval* which occurs between 0800 hours and 2000 hours (EST) on a *business day* in the *billing period* excluding any loads in that *region* in respect of which the *Market Customer* submitted a *dispatch bid* for any such *trading interval*;

RRC is the total amount payable by *NEMMCO* under *reserve contracts* which relate to the relevant *region* in the *billing period* as agreed under clause 3.20.3(f); and

ΣE is the sum of all amounts determined as “E” in accordance with this paragraph (e) in respect of that *region*.

- (f) A *Market Customer* is liable to pay *NEMMCO* an amount equal to the sum calculated under paragraph (e) in respect of that *Market Customer*.
- (g) Operational and administrative costs incurred by *NEMMCO* in arranging for the provision of *reserves*, other than its liabilities under the terms of the *reserve contracts* into which it has entered, are to be recovered by *NEMMCO* from all *Market Participants* as part of the fees imposed in accordance with rule 2.11.

- (h) For the purposes of clause 3.15.19, a re-determination by a panel established under clause 3.12.2 is to be taken to be an agreement between *NEMMCO* and each of the *Market Participants* and *Scheduled Generators*.

[21] Clause 3.15.10C Intervention settlements

In clause 3.15.10C, omit the words “clause 3.12.2(b)” wherever occurring and substitute the words “clause 3.12.2(c)”.

[22] Clause 4.3.1 Responsibility of NEMMCO for power system security

In clause 4.3.1(l), omit the words “initiate action in relation to the trading in *reserves* in accordance with Chapter 3” and substitute the words “initiate action in relation to a *relevant NEMMCO intervention event*”.

[23] Clauses 4.8.5A – 4.8.6

Omit clauses 4.8.5A – 4.8.6 and substitute:

4.8.5A Determination of the latest time for NEMMCO intervention

- (a) *NEMMCO* must immediately *publish* a notice of any foreseeable circumstances that may require *NEMMCO* to implement a *NEMMCO intervention event*.
- (b) A notice referred to in paragraph (a) must include the forecast circumstances creating the need for the *NEMMCO intervention event*.
- (c) *NEMMCO* must, as soon as reasonably practicable after the *publication* of a notice in accordance with paragraph (a), estimate and *publish* the latest time at which it would need to intervene through a *NEMMCO intervention event* should the response from the *market* not be such as to obviate the need for the *NEMMCO intervention event*.
- (d) In order to estimate the time referred to in paragraph (c), *NEMMCO* may request information from a *Scheduled Network Service Provider*, *Scheduled Generator* or *Market Customer* and may specify the time within which that information is to be provided.
- (e) The information that *NEMMCO* may request in accordance with paragraph (d) may include, but is not limited to:
 - (1) *plant* status;

- (2) any expected or planned *plant outages* and the MW capacity affected by the *outage*, proposed start date and time and expected end date and time associated with the *outage* and an indication of the possibility of deferring the *outage*; and
 - (3) estimates of the relevant costs to be incurred by the *Scheduled Network Service Provider*, *Scheduled Generator* or *Market Customer* should it be the subject of a *direction*, but only if *NEMMCO* considers it reasonably likely that such *Scheduled Network Service Provider*, *Scheduled Generator* or *Market Customer* will be subject to a *direction*.
- (f) A *Scheduled Network Service Provider*, *Scheduled Generator* or *Market Customer* must use reasonable endeavours:
 - (1) to comply with a request for information under paragraph (d); and
 - (2) to provide *NEMMCO* with the information required in the time specified by *NEMMCO*.
- (g) *NEMMCO* must regularly review its estimate of the latest time at which it would need to intervene through a *NEMMCO intervention event*, and *publish* any revisions to the estimate.
- (h) *NEMMCO* must treat any information provided in response to a request under paragraph (d) as *confidential information* and use it for the sole purpose of assessing to which *Scheduled Network Service Provider*, *Market Customer* or *Scheduled Generator* it should issue *directions*.

4.8.5B Notifications of last time of NEMMCO intervention

If the latest practicable time for a *NEMMCO intervention event*, as estimated by *NEMMCO* under clause 4.8.5A, is reached and, taking into account *relevant NEMMCO intervention events*, the circumstances described under clause 4.8.5A(a) have not been alleviated, *NEMMCO* must to the extent reasonably practicable immediately:

- (1) *publish* a notice that *NEMMCO*:
 - (i) considers the time for the negotiation of further *reserve contracts* in accordance with rule 3.20 has elapsed; and
 - (ii) intends to implement a *NEMMCO intervention event*; and
- (2) amend the *pre-dispatch schedule* to ensure that it is a physically realisable schedule for all periods in which *NEMMCO* intends to implement a *NEMMCO intervention event*.

4.8.6 [Deleted]

[24] References to clause 4.8.6

In clause 3.9.4(c1)(1), omit the words “clauses 4.8.6(a)” and substitute the words “clauses 3.20.7(a)”.

[25] Clause 4.8.9 Power to issue directions and clause 4.8.9 instructions

Omit clause 4.8.9(g) – (l) and substitute:

- (g) Any *Registered Participant* who is aware of a failure to comply with a *direction* or *clause 4.8.9 instruction* or who believes any such failure has taken place must notify *NEMMCO* and the *AER* in writing and as soon as practicable of that fact.
- (h) If *NEMMCO* issues a *direction* or *clause 4.8.9 instruction*, *NEMMCO* may, to give effect to the *direction* or *clause 4.8.9 instruction*:
 - (1) submit, update or vary *dispatch bids*, *dispatch offers* or *rebids* in relation to the *plant* of *Directed Participants* and *Affected Participants*;
 - (2) change other inputs to the *dispatch process*; or
 - (3) select a *Market Participant* or *Market Participants* to become *Affected Participants* to implement clause 3.8.1(b)(11).
- (i) When issuing *clause 4.8.9 instructions* to implement *load shedding* across *interconnected regions*, *NEMMCO* must use reasonable endeavours to implement *load shedding* in an equitable manner as specified in the *power system security and reliability standards*, taking into account the *power transfer capability* of the relevant *networks*.
- (j) When issuing *clause 4.8.9 instructions* to implement *load shedding*, *NEMMCO* must comply with its obligations under clauses 4.3.2(e) to (l) and Part 8 of the *National Electricity Law*.

[26] References to scheduled reserve

In clauses 3.7.2(f)(1), 3.7.3(d)(2) (except where secondly occurring), 3.7.3(h)(1), 3.8.12, 3.13.4(f)(1), 3.13.4(f)(5), 3.13.4(f)(5A)(iv) and 3.13.4(f)(5B)(iv), omit the words “*reserve*” and “*reserves*” wherever occurring and substitute the words “*scheduled reserve*” and “*scheduled reserves*” respectively.

In the heading 3.8.12, omit “**reserve**” and substitute “**scheduled reserve**”.

In Chapter 10 in the definitions of **power system reserve constraint** and **slow start reserve generating unit**, omit the word "*reserve*" and substitute the words "*scheduled reserve*".

[27] Chapter 10 Substituted definitions for Glossary

Omit the following definitions and substitute:

Affected Participant

- (a) In respect of a particular *direction* in an *intervention price trading interval*:
 - (1) a *Scheduled Generator* or *Scheduled Network Service Provider*:
 - (i) which was not the subject of the *direction*, that had its *dispatched* quantity affected by that *direction*; or
 - (ii) which was the subject of the *direction*, that had its *dispatched* quantity for other *generating units* or other services which were not the subject of that *direction* affected by that *direction*, however, the *Scheduled Generator* or *Scheduled Network Service Provider* is only an *Affected Participant* in respect of those *generating units* and services which were not the subject of that *direction*; or
 - (2) an *eligible person* entitled to receive an amount from NEMMCO pursuant to clause 3.18.1(b)(1) where there has been a change in flow of a *directional interconnector*, for which the *eligible person* holds units for the *intervention price trading interval*, as a result of the *direction*; and
- (b) in relation to the exercise of the *RERT* under rule 3.20:
 - (1) a *Scheduled Generator* or *Scheduled Network Service Provider*:
 - (i) whose *plant* or *scheduled network service* was not *dispatched* under a *scheduled reserve contract*, that had its *dispatched* quantity affected by the *dispatch* of *plant* or *scheduled network service* under that *scheduled reserve contract*; and
 - (ii) who was not the subject of *activation* under an *unscheduled reserve contract*, that had its *dispatched* quantity affected by the *activation* of *generating units* or *loads* under that *unscheduled reserve contract*;

- (2) a *Scheduled Generator* or *Scheduled Network Service Provider* whose *plant* or *scheduled network service* was *dispatched* under a *scheduled reserve contract*, that had its *dispatched* quantity for other *generating units* or other services which were not *dispatched* under the *scheduled reserve contract* affected by that *dispatch* of *plant* or *scheduled network service* under that *scheduled reserve contract*, however, the *Scheduled Generator* or *Scheduled Network Service Provider* is only an *Affected Participant* in respect of those *generating units* and services which were not *dispatched* under that *scheduled reserve contract*; or
- (3) an *eligible person* entitled to receive an amount from *NEMMCO* pursuant to clause 3.18.1(b)(1) where there has been a change in flow of a *directional interconnector*, for which the *eligible person* holds units for the *intervention price trading interval*, as a result of the *dispatch* of *plant* or *scheduled network service* under a *scheduled reserve contract* or the *activation* of *generating units* or *loads* under an *unscheduled reserve contract*.

dispatch

The act of initiating or enabling all or part of the response specified in a *dispatch bid*, *dispatch offer* or *market ancillary service offer* in respect of a *scheduled generating unit*, a *scheduled load*, a *scheduled network service*, an *ancillary service generating unit* or an *ancillary service load* in accordance with clause 3.8, or a *direction* or operation of capacity the subject of a *scheduled reserve contract* in accordance with rule 3.20 as appropriate.

reserve

Scheduled reserve or *unscheduled reserve*.

reserve contract

A *scheduled reserve contract* or an *unscheduled reserve contract*.

[28] Chapter 10 New definitions for Glossary

In Chapter 10, insert the following new definitions in alphabetical order:

activate, activated, activation

The operation of a *generating unit* (other than a *scheduled generating unit*) at an increased *loading level* or reduction in demand (other than a *scheduled load*) undertaken in response to a request by *NEMMCO* in accordance with an *unscheduled reserve contract*.

NEMMCO intervention event

An event where *NEMMCO* intervenes in the *market* under the *Rules* by:

- (a) issuing a *direction* in accordance with clause 4.8.9; or
- (b) exercising the *reliability and emergency reserve trader* in accordance with rule 3.20 by:
 - (1) *dispatching scheduled generating units, scheduled network services or scheduled loads* in accordance with a *scheduled reserve contract*; or
 - (2) *activating loads or generating units* under an *unscheduled reserve contract*.

relevant NEMMCO intervention event

A *NEMMCO intervention event* that involves the exercise of the *reliability and emergency reserve trader* in accordance with rule 3.20 as referred to in paragraph (b) of the definition of *NEMMCO intervention event*.

reliability and emergency reserve trader (RERT)

The actions taken by *NEMMCO* as referred to in clause 3.20.2, in accordance with rule 3.20, to ensure reliability of *supply*.

RERT guidelines

The guidelines developed and *published* by the *Reliability Panel* under clause 3.20.8.

RERT principles

The principles referred to in clause 3.20.2(b).

scheduled reserve

The amount of surplus or unused capacity:

- (a) of *scheduled generating units*;
- (b) of *scheduled network services*; or
- (c) arising out of the ability to reduce *scheduled loads*.

scheduled reserve contract

A contract entered into by *NEMMCO* for the provision of *scheduled reserve* in accordance with rule 3.20.

unscheduled reserve

The amount of surplus or unused capacity:

- (a) of *generating units* (other than *scheduled generating units*); or
- (b) arising out of the ability to reduce demand (other than a *scheduled load*).

unscheduled reserve contract

A contract entered into by *NEMMCO* for the provision of *unscheduled reserve* in accordance with rule 3.20.

[29] Chapter 10 Definitions deleted in Glossary

In Chapter 10, omit the following definitions:

reliability safety net end date

A date which is the earlier of:

- (a) a date determined by the *AEMC* and published in the South Australian Government Gazette, having regard to any recommendation of the *Reliability Panel* under clause 3.12.1(b); or
- (b) 1 July 2008.

[30] Chapter 10 References to clauses 3.12.11 and 3.12.2

In Chapter 10 in the definition of **additional intervention claim**, omit the words "clause 3.12.2(e)" and substitute the words "clause 3.12.2(k)".

In Chapter 10 in the definition of **affected participant's adjustment claim**, omit the words "clause 3.12.2(c1)(3)" and substitute the words "clause 3.12.2(g)(3)".

In Chapter 10 in the definition of **market customer's additional claim**, omit the words "clause 3.12.2(c1)(4)" and substitute the words "clause 3.12.2(g)(4)".

In Chapter 10 in the definition of **Referred Affected Participant**, omit the words "clauses 3.12.2(f) or 3.12.2(g)" and substitute the words "clauses 3.12.2(l) or 3.12.2(m)".

In Chapter 10 in the definition of **Referred Market Customer**, omit the words "clauses 3.12.2(f) or 3.12.2(g)" and substitute the words "clauses 3.12.2(l) or 3.12.2(m)".

Schedule 4 Savings and Transitional Amendments to the National Electricity Rules

(Clause 5)

Chapter 11 Savings and Transitional Rules

After rule 11.20, insert:

11.21 Rules consequential on the making of the National Electricity Amendment (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008 No. 6

11.21.1 Definitions

In this rule 11.21:

Amending Rule means the National Electricity Amendment (NEM Reliability Settings: Information Safety Net and Directions) Rule 2008 No. 6.

Commencement date means the date the Amending Rule commences operation.

11.21.2 EAAP guidelines

All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date for the purposes of preparing and publishing the first *EAAP guidelines* as required by clause 3.7C(p) are taken to satisfy the equivalent actions required for *EAAP guidelines* under rule 3.7C.

11.21.3 NEMMCO procedures for exercising RERT

- (a) All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date for the purposes of developing and publishing the procedures for the exercise of the *RERT* as required by clause 3.20.7(e) are taken to satisfy the equivalent actions required for the procedures under clause 3.20.7.
- (b) *NEMMCO* may develop, *publish*, and may amend from time to time, interim procedures for the exercise of the *RERT* under rule 3.20 at any time before it *publishes* the first procedures for that purpose as required by clause 3.20.7(e). For these purposes:

- (1) *NEMMCO* is not required to develop, *publish* or amend those interim procedures in accordance with the *Rules consultation procedures*;
- (2) those interim procedures must take into account the *RERT principles* and *RERT guidelines* or, if there are no *RERT guidelines* in existence at that time, the draft guidelines referred to in clause 11.21.4(b);
- (3) those interim procedures must include measures as referred to in clause 3.20.7(e);
- (4) those interim procedures will cease to apply when *NEMMCO publishes* the first procedures for the exercise of the *RERT* as required by clause 3.20.7(g); and
- (5) for so long as those interim procedures apply, references in rule 3.20 to the procedures referred to in clause 3.20.7(e) are taken to include references to those interim procedures.

11.21.4 RERT guidelines

- (a) All actions taken by the *Reliability Panel* prior to the commencement date in anticipation of the commencement date for the purposes of developing and *publishing* the first *RERT guidelines* as required by clause 3.20.8(c) are taken to satisfy the equivalent actions required for *RERT guidelines* under clause 3.20.8.
- (b) If it exercises the *RERT* under rule 3.20 prior to the *publication* of the first *RERT guidelines* as required by clause 3.20.8(c), *NEMMCO* must take into account the draft guidelines set out in Appendix C.3 to the document entitled 'Comprehensive Reliability Review: Second Interim Report' issued by the *Reliability Panel* and dated August 2007.

11.21.5 Timetable

- (a) *NEMMCO* must amend the *timetable* in accordance with clause 3.4.3(b) to take into account the Amending Rule and those amendments are to take effect from the commencement date.
- (b) All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date to amend the *timetable* as required by paragraph (a) are taken to satisfy the equivalent action required under clause 3.4.3(b).

11.21.6 Power system security and reliability standards

- (a) The *Reliability Panel* must amend the *power system security and reliability standards* in accordance with clause 8.8.3 to take into account the Amending Rule and those amendments are to take effect from the commencement date.
- (b) All actions taken by the *Reliability Panel* prior to the commencement date in anticipation of the commencement date to amend the *power system security and reliability standards* as required by paragraph (a) are taken to satisfy the equivalent action required under clause 8.8.3.

11.21.7 Report on statement of opportunities

All actions taken by *NEMMCO* prior to the commencement date in anticipation of the commencement date for the purposes of preparing and providing a report to the *Reliability Panel* as required by clause 3.13.3(u) are taken to satisfy the equivalent actions required for preparing and providing a report under clause 3.13.3(u).

11.21.8 Methodology for dispatch prices and ancillary services prices

Minor or administrative amendments made by *NEMMCO* to the methodology for determining *dispatch prices* and *ancillary service prices* developed in accordance with clause 3.9.3(e) prior to the commencement date are taken to have been made under clause 3.9.3(g).

END OF RULE AS MADE

This page has been intentionally left blank

B The Panel's consultation process during the Comprehensive Reliability Review

The Panel undertook a range of consultation in developing its Rule change proposal during the CRR. Stakeholders had opportunities to provide written submissions on the development of the proposal during consultations on an Issues Paper, First Interim Report, Second Interim Report and Exposure Draft Rule. Stakeholders also had opportunities to provide in-person presentations at two public forums which were held during consultations on the CRR Issues Paper and Second Interim Report/Exposure Draft Rule. The consultation conducted appears to have been robust and comprehensive and at a standard similar to the type of consultation conducted during first round consultations by the Commission on Rule change proposals. The Panel alerted the public of its consultations on the Commission website and emailed interested stakeholders to notify them of the consultation process.

Interested stakeholders appear to have had an adequate opportunity to comment on the development of the recommendations in this Rule change proposal. This is demonstrated by the submissions received from stakeholders- such as NEMMCO, the National Generators Forum, the Major Energy Users, and the Energy Retailers Association of Australia on the Exposure Draft in the CRR's Second Interim Report.

The Panel appears to have considered the range of issues raised by stakeholders during these consultations and has amended its Rule change proposal to reflect and respond to the issues raised where seen as appropriate. For instance, the Panel's Exposure Draft Rule included a requirement that the SOO include projections over ten years of generation energy constraints and reliability of supply. However, following submissions and presentations on the Exposure Draft Rule, which suggested that such a requirement was superfluous as generation input constraints can already be managed within the current SOO and Annual National Transmission Statement process, this requirement was removed from the Panel's proposed Rule.

The Commission notes that in conducting an extended consultation process, such as the process the Panel conducted during the CRR, it may not have been feasible for the Panel to respond to all the issues that were raised during consultations by amending its Rule change proposal. However, there do not appear to have been any ongoing concerns or objections raised by stakeholders in relation to the Panel's consultation process. As a result, it appears that the majority of stakeholders were relatively comfortable with how the Panel responded to the issues they raised during the development of this Rule change proposal, and the recommendations that were reached by the Panel.

A comprehensive list of the issues raised during stakeholder consultations during the CRR and how the Panel responded to the issues raised in developing its Rule change proposal is at **Table A** below. An outline of the Panel's consultation process on the CRR can be found on page 17 of the Panel's Rule change proposal.

Table A- Issues raised by stakeholders during the CRR consultation process and the Panel's response

1. The EAAP

Respondent	Stage of CRR	Issue Raised	Panel's Response to Issue
NEMMCO	Exposure Draft	The timing of the publication of the EAAP should not be fixed and be specified through market consultations instead	Under the proposed Rule, NEMMCO will be required to consult on the market timetable, in accordance with clause 3.4.3 of the Rules to determine the EAAP publication cycle.
NEMMCO	Exposure Draft	If NEMMCO is able to publish the EAAP more than quarterly then it should have the power to gather the necessary input data from stakeholders.	The Panel suggests that requiring generators to provide information to NEMMCO more than quarterly would be too arduous. However if NEMMCO does receive update information from generators it can update the most recent EAAP using this information, but only using the data that is available to it.
EnergyAustralia	Exposure Draft	The EAAP guidelines should allow for one-off studies to cater for unforeseen circumstances.	The Panel considers that the proposed Rule should not preclude one-off studies and the guidelines should make it possible. However, the Panel considers that generators should not be obliged to provide additional information over and above that required by the consulted on list of scenarios.
NEMMCO	Second Interim Report	The GELF should apply to as many generating units as practical, while maintaining the accuracy of the EAAP studies.	The Panel has included this principle in clause 3.7B(i)(3) of its proposed Rule.

NEMMCO	Second Interim Report	There may be value in NEMMCO providing generators with confidential estimates of their monthly energy production to assist generators in their information provision obligations under the EAAP.	The Panel agrees. However NEMMCO's projections would be only for information and not represent an obligation on generators.
NEMMCO	Second Interim Report	The definition of the USE should be more general in the proposed Rule and be linked to the Panel's reliability standard.	The Panel agrees with NEMMCO and has included a more general USE definition in the proposed Rule.
NEMMCO	Second Interim Report	Clause 3.7B(p)(3) of the Exposure Draft includes a number of examples of possible EAAP scenarios. NEMMCO suggests that this clause should not use a gas pipeline outage as an example because it expects that MT-PASA would largely cover the effect of a gas pipeline.	The Panel agrees that a gas pipeline outage would generally be covered by MT-PASA and has removed this example from its proposed Rule.
NGF, TRUenergy, Energy Supply Industry Planning Council (ESIPC)	Second Interim Report	EAAP should be limited to drought scenarios and exclude fossil fuels as their availability is not stochastic in nature.	The Panel disagrees and considers that all energy constraints should be considered as it is difficult to foresee future impacts in other fuel markets.
ESIPC	Second Interim Report	Gas pipeline arrangements are complicated and difficult to represent in the EAAP.	The Panel disagrees and considers that all energy constraints should be considered as it is difficult to foresee future impacts in other fuel markets.

2. The RERT

Respondent	Stage of CRR	Issue Raised	Panel's Response to Issue
Major Energy Users' (MEU)	Exposure Draft	Even if all existing sources of capacity have not been dispatched, that NEMMCO should be able to dispatch reserve contracted under RERT at the contracted energy price, as the RERT contract costs are sunk.	<p>The Panel does not support dispatch under this scenario because this would:</p> <ul style="list-style-type: none"> - undermine the VoLL price signal designed to elicit capacity when the market is distressed; - provide a long term disincentive to generation investors as they may in the future be subject to subsidised competition from contracted reserves under the RERT; - distort the operation of the spot market by offering a different risk profile to reserves receiving a form of 'capacity payment', and tends to reinforce the need for the RERT; and - be a disincentive to future generator investment that may lead to higher energy prices in the long term through a reduction in competition.
International Power Australia and Loy Yang Marketing Company	Exposure Draft	Supply and demand side sources of reserves are not treated equitably in the manner that they are settled.	The Panel has not reached a final view on this issue. The Panel is not proposing a change to this aspect of the current arrangements and has referred this issue to the Commission for further consideration in the Commission's Review of Demand Side Participation in the National Electricity Market.
MEU	Second Interim	It makes little sense for the RERT to have an	The Panel disagrees with the MEU on this point

	Report	expiry date if its operation was to be reviewed.	<p>because it wants to give a clear signal that the RERT is a distortion to the operation of the NEM and ideally should be removed after the review. The outcome of this future review will depend on the Panel's assessment, following consultation with the market, of the conditions that apply in the NEM at that time.</p> <p>Under the proposed Rule the RERT would operate for four years but within three years the Panel would be required to complete a review of the performance of the RERT and its ongoing need.</p>
ESIPC	Second Interim Report	The costs of operating the RERT should be recovered from the market as a whole rather than just from the regions in shortfall.	The Panel notes that, where a group of regions face a joint shortfall of reserves, there is little benefit in NEMMCO contracting for reserves in any regions other than those facing the joint shortfall, with the unaffected regions being on the other side of network congestion at the time of projected shortfall. Therefore, under the Panel's proposal the costs of contracting would only be recovered from the regions affected by the joint shortfall of reserves as these are the regions that would materially benefit from the additional reserves, through improved reliability.
Multiple written submissions and presentations (specific respondents	Second Interim Report	NEMMCO should have more flexible reserve contracting arrangements.	The Panel is proposing that in addition to any contracts it has already entered into, NEMMCO would be able to enter into reserve contracts or non-scheduled reserve contracts or renegotiate existing reserve contracts or existing

were not specified in the Panel's Rule change proposal)			non-scheduled reserve contracts.
Multiple written submissions and presentations (specific respondents were not specified in the Panel's Rule change proposal)	Second Interim Report	NEMMCO should not administer a series of administered funds to spread the costs of operating the RERT across a number of years.	The Panel has not included this mechanism in the proposed Rule.

3. NEMMCO's reliability directions powers

Respondent	Stage of CRR	Issue Raised	Panel's Response to Issue
National Generators Forum'	Exposure Draft	It is difficult to separate reliability and security incidents in real time and hence NEMMCO should be able to give directions to both maintain system security and reliability.	The Panel considers that NEMMCO's power to issue reliability directions should be retained because: in practice it is not always clear at the time of a system incident whether a direction is a reliability direction or a direction to re-establish the power system to a secure operating state; and it is desirable to remove the ambiguity associated with the expiry date. Under the proposed Rule, NEMMCO's power to issue reliability directions would be extended without a sunset.
MEU	Exposure Draft	Generators who benefit from a NEMMCO direction should be required to refund their windfall gains in a similar manner to adversely affected generators being compensated.	The Panel considers that this is outside of the scope of the CRR to the extent that it does not directly relate to reliability.

4. SOO load forecasts

Respondent	Stage of CRR	Issue Raised	Panel's Response to Issue
NEMMCO	Exposure Draft	Reporting to the Panel on the SOO Load Forecasts should be in November instead of September and the IRPC should be required to assist NEMMCO to prepare the reports to the Panel.	The Panel agrees. The proposed Rule requires reporting to the Panel occur in November instead of September and that the IRPC assist NEMMCO in its reporting.
Multiple written submissions and presentations (specific respondents were not specified in the Panel's Rule change proposal)	Exposure Draft	NEMMCO should not be required to include a ten year projection of generation energy constraints and projected reliability of supply in the SOO, as generation input constraints can already be managed through the SOO and ANTS process.	The Panel has removed the requirement for a ten year projection of generation energy constraints in the SOO from their proposed Rule.