

Wholesale Electricity Market Rule Change Proposal Submission

RC_2013_15 - Outage Planning Phase 2 - Outage Process Refinements: Draft Rule Change Report.

Submitted by

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Submissions on Rule Change Proposals can be sent by:

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Attn: Executive Officer
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PO Box 8469
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1. Please provide your views on the proposal, including any objections or suggested revisions.

The Australian Energy Market Operator (**AEMO**) appreciates the opportunity to provide this submission to the Rule Change Panel in response to the Draft Rule Change Report: Outage Planning Phase 2 – Outage Process Refinements (RC_2013_15) (**Draft Rule Change Report**).

In general, AEMO supports the proposed changes. In particular, AEMO supports:

- the enhancements to the Opportunistic Maintenance process; and
- maintenance of the current requirements for the inclusion of network equipment on the Equipment List, which do not require inclusion of distribution equipment.

The Rule Change Panel specifically requested stakeholder feedback on the following two issues in the Draft Rule Change Report:

1) Materiality threshold for Non-Scheduled Generator outages

AEMO has reviewed this issue in the context of discussions at the stakeholder workshop held on 10 June 2019 and considers there is a need to review the appropriateness of having a single materiality threshold for all relevant facilities to cater for different

technologies (e.g. hybrid facilities). AEMO suggests that dealing with specific thresholds may be better managed procedurally to allow for variation between facilities.

2) Clarification of 'unavailable for service'

AEMO considers it is necessary to review and amend proposed clause 3.18.1B of the Wholesale Electricity Market Rules (**WEM Rules**). This is because the current drafting could lead to unintended outcomes and uncertainty in relation to what information should be taken into account to determine what an instruction or direction from AEMO must be consistent with. This could cause ambiguity and uncertainty in the market. AEMO suggests the following drafting of clause 3.18.1B:

For the purposes of this section 3.18 and section 3.19, capacity or capability associated with an Outage Facility is deemed to be unavailable for service in a Trading Interval if the capacity or capability could not, in response to an instruction or direction to the Market Participant or Network Operator from System Management that was consistent with the Outage Facility's Equipment Limits, any relevant limits or information relating to the capacity or capability of an Outage Facility provided to System Management in accordance with the Power System Operation Procedure referred to in clause 2.28.3A(a), ~~or any relevant limits specified in an Ancillary Service Contract (as applicable)~~, be used to provide the relevant service expected from the capacity or capability of the Outage Facility. To avoid doubt, capacity of a Non-Scheduled Generator is not deemed to be unavailable for service because of a shortfall of the intermittent energy source used by the Non-Scheduled Generator to generate electricity.

AEMO also makes the following comments in relation to matters raised in the Draft Rule Change Report:

'Ought to be aware'

The Draft Rule Change Report proposes to impose obligations on AEMO to not schedule an Outage Plan (proposed new clause 3.18.10A of the WEM Rules), or approve an Opportunistic Maintenance (proposed new clause 3.19.3B of the WEM Rules), in circumstances where AEMO is 'aware or ought to be aware' that the capacity or capability would not be available for service for any part of the outage, if the Outage Plan or Opportunistic Maintenance had been rejected.

AEMO's compliance with these obligations depends on its actions prior to the commencement of the relevant outage. These obligations imply that AEMO is either:

- **Aware**, meaning AEMO has the knowledge that the capacity or capability would not be available for service; or
- **Ought to be aware**, meaning AEMO is not aware that the capacity or capability would not be available, but should be.

AEMO strongly objects to the proposed imposition of these obligations, and notes the following issues with the use of 'ought to be aware' in proposed new clauses 3.18.10A and 3.19.3B.

1. **AEMO is unable to comply with these unnecessary obligations:** AEMO has no knowledge of, or ability to determine, whether a Facility will be available, other than as notified by the relevant Rule Participant (unless AEMO arranges for a representative to physically inspect the Facility).

To comply with proposed new clauses 3.18.10A and 3.19.3B, AEMO would need to identify circumstances that it is not aware of, but should be, prior to the commencement of the outage. This is paradoxical, as, prior to the commencement of the outage, if AEMO is aware of circumstances that it ought to be aware of, then AEMO **is** aware of the circumstances.

Consequently, AEMO is only able to identify circumstances where it 'ought to be aware' retrospectively. Therefore, the proposed new clauses introduce a compliance burden on AEMO that cannot be met, as AEMO's decision must be made before the circumstances that it 'ought to be aware' of have been determined.

As AEMO must rely on the Rule Participant for information, there is no case for 'wilful blindness'. AEMO is either aware, in which case it would take action and not approve the Outage Plan or Opportunistic Maintenance request, or it is not aware, in which case it would assess the Outage Plan or Opportunistic Maintenance request as required under the WEM Rules.

Given the imposition of obligations on the Rule Participant to inform AEMO of the Facility's unavailability, the situation that the Rule Change Panel is seeking to address is already covered. There are sufficient checks and balances, and the ERA has the ability to take compliance action where the Rule Participant is found to have acted inappropriately.

The imposition of an additional obligation on AEMO, with which it can never comply without arranging for an AEMO representative to physically inspect a Facility, is unnecessary and impractical.

2. **Requirement to actively investigate:** The Draft Rule Change Report, at page 70, states the Rule Change Panel's position that '*there is no requirement for System Management to proactively investigate every situation*'. AEMO suggests that this conclusion is misconceived and does not reflect the requirements and obligations of the WEM Rules relating to compliance activities.

The proposed drafting, 'ought to be aware', implies AEMO should make further inquiries in relation to every outage request it receives. The Market Auditor also holds this view.

The Market Auditor has advised AEMO that 'ought to be aware' implies a positive, proactive obligation on AEMO to take steps to satisfy itself that the Facility would be available. A formal response from the Market Auditor is **attached** to this document and marked 'Attachment A'. In this letter, the Market Auditor outlines a process AEMO would be required to follow to ensure the Market Auditor is satisfied that AEMO meets the obligations imposed by the 'ought to be aware' drafting in proposed new clauses 3.18.10A and 3.19.3B. This process involves actively engaging with, and obtaining a positive declaration from, each Rule Participant who requests an outage.

AEMO notes that, in certain situations, even a positive declaration from a Rule Participant may be insufficient, and AEMO will need to make further investigation.

The process outlined by the Market Auditor to satisfy the proposed new 'ought to be aware' obligation creates an unnecessary, onerous obligation on AEMO that would require system changes and additional actions by AEMO, thereby increasing costs to Rule Participants. AEMO received approximately 3,700 network and generation outage requests in 2017 and approximately 2,400 requests in 2018. The Rule Change Panel's proposal is unworkable.

3. **Consequential uncertainty of outage approval:** As a result of the above points, should the Rule Change Panel impose an obligation for AEMO to take action where it 'ought to be aware', Rule Participants will have less certainty of receiving approval for Planned Outages.

AEMO will be obliged to assess the veracity of information provided by Rule Participants, in addition to assessing whether the proposed outage is permissible in terms of Power System Security considerations. As such, Rule Participants will not be able to take measures to maximise the probability of an outage being approved,

because the matters under consideration will be unspecified and will relate to the specific situation of each and every outage.

AEMO cannot identify a single benefit that the imposition of this obligation would achieve.

4. **'Ought to be aware' precedents**: The Rule Change Panel has indicated that phrases similar to *'ought to be aware'* are used in the National Electricity Rules (NER), as well as the WA Gas Retail Market Procedures (**WAGRM Procedures**). AEMO's view is that the instances of the similar phrases used in the NER and the WAGRM Procedures, referred to by the Rule Change Panel, are distinguishable because they relate to instances where the proponent is required to be aware of a specified matter based on information that is available to the proponent. In contrast, proposed new clauses 3.18.10A and 3.19.3B require awareness of a specified matter (the availability or otherwise of a Facility) based on information that is available to another party. As this is a different concept, and difficult to ascertain with certainty, the precedents in the NER and the WAGRM Procedures are not applicable:
- The NER examples are isolated uses of the 'ought to be aware' terminology and, therefore, caution should be exercised when comparing these examples with proposed new clauses 3.18.10A and 3.19.3B. In chapters 3 and 4 of the NER, there are many more obligations triggered by awareness of information or circumstances, none of which incorporate an 'ought to be aware' concept. Nevertheless, AEMO has considered the application of the specified NER examples in the next two points.
 - The context of clause 4.3.3(e) of the NER is different to the situation considered in the Draft Rule Change Report, where Rule Participants operate their own Facilities and, unlike AEMO, have access to all relevant information regarding the availability, or otherwise, of those Facilities. This is because in clause 4.3.3(e) of the NER, a System Operator (typically a transmission network service provider), by nature of its duties, should always be aware of the relevant circumstances of its own system, and is responsible for making itself aware. It does not solely rely on information provided by other parties, and any case where it 'ought to be aware' is likely to result because it has not prudently undertaken its duties, that is, wilful blindness is a relevant factor in this situation.
 - The context of clause 4.6.4 of the NER is also different. Clause 4.6.4 of the NER relates to thermal ratings, which can only be determined and provided by Network Service Providers (**NSPs**). The thermal ratings are in existence at all times and can change from time to time. AEMO is informed of the thermal ratings by NSPs. However, where an NSP may not have formally defined a thermal rating, it may be reasonable in some cases for AEMO to infer the thermal rating from available information provided by the NSP in another context, or, based on the current state of the network, that it should have been advised. As such, in this situation, AEMO 'ought to have been aware' and should take action to avoid exceeding the apparent thermal rating. By contrast, the situation considered in the Draft Rule Change Report concerns a future state about which AEMO has no information and cannot make any assessment other than as advised by the Rule Participant.
 - Similarly, the context of clause 325 of the WAGRM Procedures can be distinguished from the situation considered in the Draft Rule Change Report. The distinction is that the obligation is not mandatory, so a situation where it is not aware of, but ought to be aware of, circumstances that it then chooses to disclose would be unlikely to practically arise.

AEMO proposes that, to avoid the above issues, the phrase 'ought to be aware' be deleted. This would reinstate previous drafting reviewed and accepted by AEMO, where AEMO must take action when, and only when, it is 'aware'. AEMO's position was supported by a number of Rule Participants at the workshop on 10 June 2019. AEMO notes that none of the attendees at that workshop supported the Rule Change Panel's position.

'Otherwise aware'

In addition, proposed new clauses 3.18.10B(b) and 3.19.3C(b) impose an obligation on AEMO to delay its evaluation of an Outage Plan or an Opportunistic Maintenance request where it is 'otherwise aware' of particular circumstances. This is referred to in the commentary on page 77 of the Draft Rule Change Report as an obligation where 'System Management knows it should have been told.' This interpretation would require AEMO to implement a similar process to that required under proposed new clauses 3.18.10A and 3.19.3B of the WEM Rules, in order for AEMO to determine whether it is 'otherwise aware' of, or 'knows whether it should have been told' about, a particular matter.

AEMO considers that the use of the term 'otherwise aware' would be more appropriate in the context of a phrase such as "AEMO is aware from information provided by a Rule Participant, or otherwise aware based on other information available to AEMO, that...", rather than in its current form, which places an imprecise and unattainable obligation on AEMO.

Monitoring compliance with clause 3.18.9C

Clause 2.13.9(g) of the WEM Rules requires AEMO to monitor Rule Participants for breaches of clause 3.18.2(f) of the WEM Rules. Clause 3.18.2(f) of the WEM Rules requires a Market Participant or Network Operator to schedule outages in accordance with sections 3.18, 3.19, 3.20 and 3.21 of the WEM Rules.

The proposed amendments introduce clause 3.18.9C of the WEM Rules that AEMO will not be able to monitor. Clause 3.18.9C of the WEM Rules identifies specific conditions where a Market Participant or Network Operator is not required to comply with proposed new clause 3.18.9B of the WEM Rules, which relates to knowledge known only by the Market Participant or Network Operator. AEMO will not be able to monitor whether the Market Participant or Network Operator is compliant with clauses 3.18.2(f) and 3.18.9B (as required by clause 2.13.9(g)), as it cannot objectively assess what the Market Participant or Network Operator is aware of.

Self-assessed 'credible risk'

AEMO is concerned about the lack of clarity regarding the self-assessment of credible risks in accordance with clause 7A.2.9(g)(ii) of the WEM Rules, as compliance with this clause is not measurable for similar reasons to those outlined immediately above, including that the assessment is subjective and independent information to assess compliance is not able to be readily obtained. AEMO suggests including some guidance on how Synergy would determine this risk to avoid doubt.

Exclusion of start-up time from calculation of the period of Opportunistic Maintenance and related issues regarding definition of Forced Outage

The current fundamental principle of outage planning and approval is enshrined in clause 3.21.1, which defines a Forced Outage as any outage that has not received AEMO's approval. Proposed new clause 3.19.2H creates an exception to this principle, allowing a Facility to perform maintenance of which AEMO is not aware and has not approved.

AEMO is concerned that enabling this exception to the general principle may lead to the introduction of further exceptions in the future, which over time may erode AEMO's ability to ensure that Power System Security is maintained.

Use of 'System Management'

AEMO reiterates its previous comments that the WEM Rules should refer to AEMO generally throughout, not specifically to System Management, as this may have unintended implications for the market and its participants.

Use of 'Market Participant'

AEMO notes that obligations imposed in this rule change refer to Market Participants, which results in obligations being placed on Market Generators and Market Customers only. Therefore, the obligations would not apply to parties registered as Ancillary Service Providers or other participants not registered as Market Generators and Market Customers. As such, these parties would not be required to obtain approval for Planned Outages or meet the other obligations. AEMO is aware of at least one registered Rule Participant covered by this situation. Accordingly, for the sake of completeness, AEMO suggests that the references to 'Market Participants' pertaining to obligations in relation to outages be replaced by references to 'Rule Participants'.

Direction of Self-Scheduling Outage Facilities

Following further review, AEMO considers that its powers of direction to recall a Facility from outage in an Emergency Operating State or High Risk Operating State should not be limited to Equipment List Facilities. As such, the revised clause 3.20.1, should also apply to Self-Scheduling Outage Facilities. AEMO considers that an inability to direct all facilities in the SWIS, in the case of an emergency, may have adverse consequences for Power System Security and Power System Reliability.

Transitional arrangements

The Rule Change Panel should consider the requirement for transitional arrangements for Planned Outages and Opportunistic Maintenance requests that have already been submitted, approved or are in progress at the time of commencement of the proposed Amending Rules.

Drafting issues

AEMO has also identified a number of specific drafting issues and suggested drafting adjustments. AEMO will provide these to the Rule Change Panel separately.

2. Please provide an assessment whether the change will better facilitate the achievement of the Wholesale Market Objectives.

AEMO has no comment at this time.

3. Please indicate if the proposed change will have any implications for your organisation (for example changes to your IT or business systems) and any costs involved in implementing these changes.

As noted in the Draft Rule Change Report, AEMO estimates that it will cost between \$30,000 to \$70,000 to implement the necessary changes required by the proposed amendments to the WEM Rules outlined in the Draft Rule Change Report.

AEMO also anticipates that it will incur further costs to implement system changes required to

comply with its obligations, as described by the Market Auditor, under proposed new clauses 3.18.10A and 3.19.3B of the WEM Rules. As noted in Section 2 above, similar system changes may be required for AEMO to comply with its obligations under proposed new clauses 3.18.10B(b) and 3.19.3C(b). These costs have not been quantified at this time, as AEMO has only recently become aware of the required changes after receiving the Market Auditor's advice regarding these obligations.

4. Please indicate the time required for your organisation to implement the change, should it be accepted as proposed.

As noted in the Draft Rule Change Report, AEMO intends to align delivery of the required system changes with the System Management System Transfer (**SMST**) project, which is targeting an end of November 2019 completion.

To accommodate the project scheduling risks of SMST, AEMO had recommended to the RCP a commencement date of 1 February 2020. This date did not take into account the additional changes likely to be required to enable AEMO to meet its obligations under proposed new clauses 3.18.10A, 3.19.3B, 3.18.10B(b) and 3.19.3C(b).

AEMO intends to conduct a system impact assessment to determine the extent of the changes and may need to revise the commencement date proposed.

26 June 2019

Audit Implications of Selected RC_2013_15 Clauses

Introduction

Rule change RC_2013_15 is currently under consideration. The AEMO have asked RBP for an indication of what we, as market auditors, would require from the AEMO to demonstrate compliance with two of the clauses that would be introduced as part of this rule change if it goes ahead. The two proposed clauses are as follows:

3.18.10A. Subject to clause 3.19.2G, System Management must not schedule a new Outage Plan in its outage schedule if it is aware or ought to be aware in the circumstances that, if it rejected the Outage Plan, any of the capacity or capability to which the Outage Plan applies would be unavailable for service for any part of the proposed outage period.

3.19.3B. Subject to clause 3.19.2G, System Management must not approve an Opportunistic Maintenance request for an Equipment List Facility if it is aware or ought to be aware in the circumstances that, if it rejected the request, any of the capacity or capability to which the request applies would be unavailable for service for any part of the proposed outage period.

Limitation and Disclaimer

The following is an initial opinion only; It is not a legal opinion and is subject to change if a legal opinion is obtained or the intention of these clauses is clarified.

Assumptions

We have made the following assumptions in producing the following opinion. As noted above, these are not legal opinions – we recommend that a legal opinion is obtained regarding the correct interpretation of the above clauses. In the absence of a legal opinion, we have assumed a conservative (i.e. stringent) interpretation of the above clauses.

Both clauses contain the phrase "... if it is aware or ought to be aware ...". Our assumption is that the use of this phrase rather than simply "... if it is aware ..." implies an obligation for some proactivity on the part of System Management (SM) to ensure that it has the information in question, rather than to rely only on information that it happens to have in its possession.

We also note that there are also clauses (3.18.5D and 3.19.2B) that prohibit Market Participants and the Network Operator from submitting Outage Plans or Opportunistic Maintenance requests under the same circumstances. Therefore we assume that the presence of clauses 3.18.10A and 3.19.3B also implies an obligation for SM to take steps to confirm the participant's compliance with these requirements, rather than to passively rely on participants' compliance.

Conclusions

Given the above assumptions, if conducting a market audit under these new rule clauses, we would look for evidence that SM are taking reasonable steps to ensure that they have the information required to comply with the new clauses – i.e. whether the capability/capacity would otherwise be unavailable during the period of the proposed Outage Plan or Opportunistic Maintenance.

Examples of such steps could include the following:

- SM should already have a process in place to not approve a planned outage for a facility that is currently on forced outage at the time of the request.
- Integrating the question "Will the facility be available for service for the entire period if the outage plan is not approved?" into the MPI form into which participants enter proposed Outage Plans; their response should then be automatically recorded.
- SM staff approving Outage Plans to be aware if the facility has been having repeated outages (which SM should be given their current procedure to monitor forced outages), and check that the justification provided for the Outage Plan is valid for the situation (i.e. to repair the problem causing the outages).
- The SM staff member receiving Opportunistic Maintenance requests to explicitly asks the "would the facility otherwise be unavailable" question. Where the request is received by phone, there should be a script to follow to ensure that the required information is received. Calls are recorded and archived, providing an audit trail.
- Ensure that the on-duty SM Operations controllers are aware of facilities experiencing repeated outages, to ensure that when they receive on-the-day

Opportunistic Maintenance requests for such facilities, they ensure that they receive a valid justification for the outage. Again, calls are recorded and archived, providing an audit trail.

Audit actions to test for compliance would then include:

- Requesting and checking audit trails of the above checks
- Perform compliance testing to check for Outage Plans being approved while the facility is on forced outage at the time of the request (which would indicate noncompliance)