

SCHEDULE OF INTENDING PARTICIPANT RIGHTS & OBLIGATIONS

CHANGE PROPOSAL
NATIONAL ELECTRICITY MARKET

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EXECUTIVE SUMMARY

AEMO is proposing to amend the current Schedule of Rights & Obligations of Intending Participants (Schedule)¹, published by AEMO following approval by the Australian Energy Market Commission as required under rule 2.7(d) of the National Electricity Rules (NER).

To be registered in a given participant category under chapter 2 of the NER, an applicant must meet certain eligibility criteria. Some of these cannot be established until the applicant has developed the activity, plant or facility for which it needs to be registered. By registering as an Intending Participant, a person should be able to undertake the preliminary activities necessary to meet registration pre-requisites under the NER, which could not otherwise be completed.

Based on recent and expected future developments in the national electricity market (NEM), AEMO has identified that there are some gaps in the coverage of the Schedule, in particular for intending network service providers (NSPs) who may not be existing registered NSPs. It is timely to fill those gaps, as the ongoing NEM transition will see significant power system development and regulatory change in near future.

AEMO intends to expand the Schedule to ensure it includes rights and obligations relevant to:

- Intending NSPs who need to receive and respond to connection applications, seek regulatory determinations where relevant, and undertake planning activities.
- Intending generators and connecting parties in other relevant categories who are planning commissioning activities or seeking to alter their plant after performance standards have been included in a connection agreement.
- Intending Participants generally in respect of requests for, provision and receipt of information under the NER, where this is reasonably necessary having regard to the nature and stage of development of the activity, plant or facility that is the subject of the Intending Participant's registration.

AEMO is seeking feedback from interested stakeholders on its proposed amendments to the Schedule, prior to submission to the AEMC for approval.

Stakeholders are invited to make written submissions on the proposed changes (published with this change proposal) by 5.00 pm (Melbourne time) on **Thursday, 16 December 2021**.

¹ Current schedule available on AEMO's NEM registrations webpage at <https://aemo.com.au/energy-systems/electricity/national-electricity-market-nem/participate-in-the-market/registration/register-as-an-intending-participant-in-the-nem>



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1. STAKEHOLDER CONSULTATION

AEMO may specify rights and obligations applicable to intending participants under rule 2.7(d) of the National Electricity Rules (NER), subject to approval by the Australian Energy Market Commission (AEMC). Currently, those rights and obligations are specified in the Schedule of Rights & Obligations of Intending Participants² published on AEMO’s website (Schedule).

Although AEMO is not required to consult on amendments to the Schedule, AEMO is seeking feedback from interested stakeholders on whether the Schedule adequately and appropriately covers the range of NER-regulated activities that an intending participant would likely need to undertake before it is eligible to be registered as a ‘full’ participant in any category under chapter 2 of the NER.

AEMO’s indicative timeline for this consultation is outlined below.

Deliverable	Date (indicative)
Draft Schedule and change proposal published	25 November 2021
Submissions due on change proposal	16 December 2021
Final report published and Schedule submitted to AEMC for approval	by 31 January 2022

Invitation to Make Submissions

AEMO invites written submissions on this change proposal and the amended draft of the Schedule published with it on AEMO’s website, by the closing date specified below.

All submissions will be published on AEMO’s website, other than confidential content. Please identify any parts of your submission that you wish to remain confidential and explain why. AEMO may still publish that information if it does not consider it to be confidential, but will consult with you before doing so.

Please note that material identified as confidential may be given less weight than material that is published.

Meetings

Stakeholders may request a meeting with AEMO if they wish to discuss aspects specific to their project that are likely to assist in determining the appropriate inclusions in the Schedule. Meetings will be held at AEMO’s discretion and, subject to confidentiality restrictions, AEMO will generally publish details of matters discussed at a meeting.

Closing Date and Time

Submissions should be sent by email addressed to Kevin Ly, Group Manager – Regulation at email RegulationUpdate@aemo.com.au by 5.00pm (Melbourne time) on **Thursday, 16 December 2021**.

² Available at: <https://aemo.com.au/energy-systems/electricity/national-electricity-market-nem/participate-in-the-market/registration/register-as-an-intending-participant-in-the-nem>



2. BACKGROUND

2.1 NER requirements

Rule 2.7 of the NER allows a person intending to carry out an activity for which it must or may be registered, to apply for registration by AEMO as an intending participant. While an intending participant is, by definition, a registered participant, rule 2.7(d) of the NER states:

As a Registered Participant, an Intending Participant may exercise such rights and is bound by such obligations under the Rules as are specified by AEMO (on the basis of whether the Intending Participant intends to become a Customer, Generator, Network Service Provider or Special Participant) and approved by the AEMC.

The Schedule is the document that specifies the rights and obligations applicable to intending participants under the NER. It is noted that rule 2.7(d) only mentions the four participant categories that existed at the time the rule was introduced into the NER, although several new participant categories have since been introduced, all of which could apply for registration in the intending category.

AEMO interprets rule 2.7(d) to mean that an intending participant will **only** have the rights and obligations of a registered participant – generally or in the category applicable to the intending activity – to the extent specified in the schedule or directly in another provision of the NER.

Other than in chapter 2, intending participants are specifically identified in the NER as having rights or obligations under only three provisions:

- Clause 5.16B(a) – right to dispute the proponent’s conclusions in the regulatory investment test for transmission process.
- Clause 5.17.3(a) – right to dispute the proponent’s conclusions in the regulatory investment test for distribution process.
- Rule 8.9 – right to be consulted under the rules consultation procedures where their intended registration category is included in the ‘Consulted Persons’.

2.2 Context for this consultation

Connection applicants (primarily generators) commonly apply for intending participant registration for the main purpose of requesting and receiving confidential power system model information that is only available to registered participants under clause 3.13.3(k) and (l) of the NER for simulation studies.

The Schedule was last updated with the AEMC’s approval in early 2020, having previously remained unchanged since it was first issued under the National Electricity Code. The original schedule included individual tables listing applicable rules and chapters applicable to intending participants in each of the four initial registered participant categories. Most of the table contents were replicated across all categories.

At the time of the 2020 update, there were over 130 intending participants in the generator category, about four in the customer category, and one intending NSP (i.e. Copperstring).

In the 2020 update, AEMO consolidated rule references and collapsed the four individual tables into a single list for intending participants in all categories, with an explanatory section indicating that each of those provisions applied to an Intending Participant:

- where expressed to be applicable to registered participants generally, or to the category of registered participant in which the intending participant intends to act; and



- only in so far as the provision applies to the intended activity, and where the intending participant is reasonably able to exercise the right or comply with the obligation, having regard to the status or progress of the intended activity.

The update also removed NER chapters 5 and 6 from the Schedule, with the following rationale:

- For new facilities connecting to the NEM power system, chapter 5 already provides for the rights and obligations of the proponent as a 'connection applicant', without the need for registration.
- It was considered that an NSP would be in a position to register before establishing a distribution or transmission determination for the purposes of chapter 6 (or 6A), given the detailed nature of the network information to be submitted.

Since the 2020 update, it has become apparent that some additional NER provisions, including in chapters 5, 6 and 6A, may need to be utilised by or applied to some intending participants before they can meet all the requirements for registration in respect of their facilities. More generally, as the NEM continues the transition that will see significant changes to the NER in the near future, the Schedule will need to cover different registered participant categories and additional rights and obligations involving the provision or receipt of information relevant to a proposed activity or facility.

AEMO therefore intends to expand the Schedule to ensure it includes rights and obligations relevant to:

- Intending NSPs who need to receive and respond to connection applications, seek regulatory determinations where relevant, and undertake planning activities.
- Intending generators and connecting parties in other relevant categories who are planning commissioning activities or seeking to alter their plant after performance standards have been included in a connection agreement.
- Intending Participants generally in respect of requests for, provision and receipt of information under the NER, where this is reasonably necessary having regard to the nature and stage of development of the activity, plant or facility that is the subject of the Intending Participant's registration.



3. DISCUSSION OF PROPOSED SCHEDULE CHANGES

This section describes the material changes AEMO is proposing to the Schedule, and the reasons for those proposed changes. To help stakeholders respond to this proposal, AEMO has also published a draft change-marked version of the Schedule.

3.1 Better accommodating intending NSPs

To register as an NSP, an applicant must supply details of its system, connection points and metering that it is not likely to have until the network is substantially built. However, in planning and developing a new network (in particular, a proposed regulated access network), a proponent may need to undertake tasks that require it to exercise NER rights or be subject to NER obligations of an NSP before it is in a position to apply for registration. These may include, for example:

- Receiving, assessing and processing connection enquiries and applications under rule 5.3 or 5.3A or chapter 5A.
- Planning a proposed new network facility to meet power system security requirements under chapter 4, including provision of information and assistance to AEMO in determining power system limits, load or generating shedding requirements, etc.
- Conduct of system strength assessments using an appropriate model provided by AEMO under clause 4.6.6.
- Planning of inter-network testing and commissioning under clause 5.7.7 and rule 5.8.
- Participating in network planning under part D of chapter 5.
- Preparatory steps for submission of a revenue proposal under chapter 6 or 6A, e.g. development of a framework and approach paper, application of economic regulatory guidelines.

Some of these potential pre-registration activities for intending NSPs are not, or not clearly, covered by the existing Schedule.

In the NEM to date, new network developments have generally been undertaken either by incumbent registered network service providers, new market network service providers, or as contestable augmentations or extensions where the network specification is contractually defined and the intending NSP is not subject to economic or full access regulation. Generally, the application of the Schedule has not been necessary.

The proposed Copperstring transmission project between Mt Isa and the Powerlink network at or around Townsville does not fit into the above categories. Both the proponent and anyone interfacing with the project must rely on the intending NSP category to undertake regulated activities before NSP registration can realistically occur. AEMO notes that other major new transmission initiatives (such as Marinus Link) are currently being progressed by incumbent NSPs, but expansions to the Schedule would allow the use of different business structures for these projects in future, such as subsidiary or special purpose entities.

To ensure that relevant activities are captured, AEMO is proposing to amend the Schedule to apply all rights and obligations of NSPs under chapters 4, 5, 5A, 6 and 6A of the NER to intending NSPs, where appropriate based on the nature and stage of development of the proposed activity or facility.

3.2 Intending generators planning commissioning or seeking plant alteration

Anyone proposing to connect a new generating system for which registration under the NER is required will typically register as an intending generator to access the confidential modelling information they need to conduct simulation studies for their planned connection. However, the process of applying for and



negotiating a connection does not require an intending participant registration. For that process, a proponent has the rights and obligations of a 'connection applicant' under the NER. A connection applicant includes anyone who has submitted a connection enquiry or application or is negotiating a connection agreement under rule 5.3.

Chapter 5 of the NER also covers activities that may need to be conducted or commenced by a prospective generator after its connection agreement is concluded, but before it is registered and connected. These provisions do not always recognise the possibility that the proponent might not be a registered generator. For example, while rule 5.6 (post connection agreement matters) includes a 'person intending to be registered' as a generator, clause 5.3.9 (alteration of a generating system for which performance standards have previously been accepted) and clauses 5.8.2 to 5.8.4 (coordination prior to commissioning) do not.

AEMO proposes to amend the Schedule to apply NER chapter 5 rights and obligations to intending participants in relation to the connection or commissioning of their plant or facilities, where appropriate based on the nature and stage of development of the proposed activity or facility.

3.3 General information provisions

Planning for the NEM needs to take account of reasonably expected developments on the power system. Similarly, developers need to plan and design their registrable facilities having regard to power system conditions. The NER include several requirements intended to facilitate the exchange of necessary information between registered participants or market bodies for these purposes.

Although the Schedule will cover the key planning and information requirements in the current NER, AEMO considers it necessary to include a 'catch-all' provision extending all registered participant information rights and obligations to intending participants in corresponding categories, at the appropriate development stage. AEMO again notes that intending participants are bound by the confidentiality obligations in the NER, in the same way as other registered participants.

3.4 Consultation questions

The questions that AEMO asks interested stakeholders to address as part of this consultation are as follows:

1. Do stakeholders consider that the proposed rights and obligations are sufficient for intending participants to progress their proposed development or activity to a stage at which they can register as a full NEM participant?
2. Can participants identify any potential unintended consequences of applying the proposed rights and obligations to intending participants, with the proposed qualifications?

3.5 Drafting improvements

AEMO has proposed some other minor drafting amendments to remove redundant rights and obligations, and to better describe the nature and extent of the rights and obligations applicable to intending participants. Together with the other proposed amendments discussed in this section, these are marked up in the draft version of the Schedule published with this change proposal for stakeholder feedback.



APPENDIX A - GLOSSARY

Term or acronym	Meaning
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
NER	National Electricity Rules
NSP	Network Service Provider
Schedule	Schedule of Rights & Obligations of Intending Participants published by AEMO under NER rule 2.7(d)

SCHEDULE OF RIGHTS & OBLIGATIONS OF INTENDING PARTICIPANTS

National Electricity Market

PREPARED BY: AEMO
VERSION: [5.0]
EFFECTIVE DATE: [xx xxx] 202x
STATUS: **[DRAFT for consultation prior to AEMC Review (November 2021)]**

Approved for distribution and use by:

APPROVED BY: TBA
TITLE: TBA

DATE: / / 20xx

VERSION RELEASE HISTORY

Version	Effective Date	Summary of Changes
1.0 – 3.0		NEMMCO versions
3.1	1 July 2010	Republished by AEMO
4.0	3 June 2020	Completed <u>d</u> review
<u>[5.0]</u>	<u>[insert date]</u>	<p><u>Amendments to include rules and obligations relevant to:</u></p> <ul style="list-style-type: none"> <u>• activities by intending network service providers; and</u> <u>• alterations to as-yet unconnected generating systems with connection agreements in place.</u> <p><u>Removed NER rule 2.1, which has no substantive rights or obligations.</u></p> <p><u>Improved rule descriptions.</u></p>

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1. INTRODUCTION

1.1. Purpose and scope

This document is the schedule of rights and obligations of *Intending Participants* contemplated by clause 2.7(d) of the National Electricity Rules (NER). Those rights and obligations were approved by the Australian Energy Market Commission on ~~11 March 2020~~ [\[insert date\]](#).

This document has effect only for the purposes set out in the NER. The NER and the National Electricity Law (NEL) prevail over these Procedures to the extent of any inconsistency.

1.2. Definitions and interpretation

- (a) Terms defined in the NEL and the NER have the same meanings in this document unless otherwise specified. NER defined terms are intended to be identified by italicising them, but failure to italicise a term does not affect its meaning.
- (b) This document is subject to the principles of interpretation set out in Schedule 2 of the NEL.

2. SCHEDULE OF INTENDING PARTICIPANT RIGHTS AND OBLIGATIONS –ALL CATEGORIES

An *Intending Participant* may exercise the rights, and is subject to the obligations, in the NER provisions specified in Table 1 and expressed to be applicable to:

- (a) *Registered Participants* generally; or
- (b) ~~the a-~~ [the a-](#)category of *Registered Participant* in which the *Intending Participant* intends to act,

but only in so far as:

- (c) the relevant right or obligation applies to the intended activity [and, where applicable, the plant or facility](#) for which the *Intending Participant* was registered; and
- (d) the *Intending Participant* is reasonably able to exercise that right or comply with that obligation, having regard to the status or progress of the intended activity, [plant or facility](#).

Table 1 [Schedule of Intending Participant rights and obligationsAll categories](#)

NER chapter, rule or clause	Description
Chapter 1	Introduction
Rule 2.1	Registered Participants
Rule 2.7	Intention to commence activities or functions
Rule 2.10	Ceasing to be a Registered Participant
Rule 2.11	Application, determination and payment of Participant fees
Clause 3.13.1(a)	Provision by AEMO of non-confidential or commercially sensitive information to Registered Participants in a relevant category .
Clause 3.13.3(k) to (l7)	Request for, and provision of, certain information for <i>power system studies relating to the Intending Participant's plant or facility</i> .
Clause 3.13.3A(d) to (g)	Provision of information by a Registered Participant for the statement of opportunities .

NER chapter, rule or clause	Description
Chapter 4	Rights and obligations applicable to a Network Service Provider in respect of power system security matters affecting, or affected by, the Intending Participant's network.
Chapters 5 and 5A	Rights and obligations applicable to a Network Service Provider in respect of connection to, and planning of or in relation to, the Intending Participant's network.
Chapter 5	Rights and obligations of a Registered Participant in a relevant category in relation to the proposed connection or commissioning of the Intending Participant's plant or facility.
Chapters 6 and 6A	Rights and obligations applicable to a Network Service Provider in respect of services proposed to be provided by means of the Intending Participant's distribution system or transmission system.
Chapter 8	Administrative functions relating to Registered Participants.
Chapter 10	Defined terms as necessary for the interpretation and application of the rights and obligations specified in this schedule.
All Chapters – rules relating to access to systems	<p>To the extent that access to a part of AEMO's market systems is reasonably necessary for the <i>Intending Participant</i> to undertake activities required for the purposes of the intended activity prior to registration:</p> <ul style="list-style-type: none"> • the right of a <i>Registered Participant</i> to access and use that part of the system for that purpose, subject to • the obligations of a <i>Registered Participant</i> in respect of such access and use, whether specified in the NER or procedures made under the NER.
All Chapters – rules relating to access to and provision of information	<p>To the extent that it is reasonably necessary for the Intending Participant to provide, or be provided with, information for the purposes of undertaking activities required for the purposes of the intended activity prior to registration:</p> <ul style="list-style-type: none"> • the rights of a Registered Participant to obtain the relevant information, subject to its obligations in respect of the disclosure and use of that information; and • the obligations of a Registered Participant to provide the relevant information to another person.