



ENERGY SECURITY BOARD
Amendments to the Interim
Reliability Reserve
Decision paper

July 2022



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List of Abbreviations

AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
ESB	Energy Security Board
ESOO	Electricity Statement of Opportunities
JSR	Jurisdictional Strategic Reserve
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
NER	National Electricity Rules
P2025	ESB Post-2025 Review of the NEM
USE	Unserved Energy
VCR	Value of Customer Reliability

Executive summary

Reliability is both a crucial part of the energy market and an important consideration of the long-term interest of consumers. There is increasing uncertainty about reliability in the context of the transition to net zero, which is seeing the exit of large coal generators.

The Jurisdictional Strategic Reserve (JSR) was one of the short-term measures recommended by the Energy Security Board (ESB) as a practical action jurisdictional governments could take in the short-term to help manage their concerns about resource adequacy ahead of the development of an enduring capacity mechanism.

In response to the request from Energy Ministers, the ESB undertook further analysis which found that the concept of the JSR articulated in the Post-2025 (P2025) report can be operationalised under the current Reliability and Emergency Reserve Trade (RERT) framework, through the Australian Energy Market Operator's (AEMO) use of the short notice RERT Panel.

Discussions between jurisdictions and the ESB identified another amendment that could be made to further facilitate back-up measures for reliability in the NEM. This relates to removing a restriction on entering into multi-year interim reliability reserve contracts as the expiry of the interim reliability reserves rule approaches. Importantly, the ESB noted that this was to provide another tool to help manage the uncertainty of reliability within the transition. It was not to extend the existence of the interim reliability measure which currently expires on 31 March 2025, noting that the AEMC will review the mechanisms shortly.

Following four weeks of consultation, the ESB has made a rule recommendation to remove the restriction on entering into multi-year interim reliability reserve contracts as the expiry of the interim reliability reserves rule approaches.

Some stakeholders queried whether this recommendation should be reconsidered given recent changes in the energy policy space, including the agreement by Energy Ministers at the 8 June 2022 Ministers meeting to advance the work on a capacity mechanism. The ESB has noted this but still considers that providing AEMO with another tool or option to manage any reliability gaps that may emerge is an important change to make prior to the longer-term resource adequacy reforms being implemented. As recent events have shown, circumstances can change quickly and as we move through this transition it is important for AEMO to have tools at its disposal to manage the transition.

The rule recommendation enables AEMO to enter into multi-year contracts if there are forecast gaps in relation to reliability and it would be cheaper to enter into multi-year contracts, enabling any contracts to extend beyond the expiry of the interim reliability reserves rule on 31 March 2025. The rule recommendation does not remove the checks and balances that minimise the risk of over-procurement.

Stakeholders noted the ESB's intent that the proposed rule would not extend the existence of the interim reliability measure. However, all stakeholders submitting noted that given the trigger to enter into multi-year contracts past March 2025 was still based on the interim reliability standard, then that, in effect 'de facto' extends the interim reliability measure. The ESB acknowledges this point raised by stakeholders but considers that the interim reliability standard to be the appropriate trigger for any contract entered into before the expiry of the measure in March 2025 because:

- it is consistent with the purpose of the interim reliability reserve rule which was introduced to act as an interim solution until longer-term reliability solutions can be implemented.

- it provides AEMO with additional tools beyond the options available in the RERT framework, to manage the power system during the transitional period when circumstances can change quickly, as observed in recent times.
- by using the same trigger for the life of the contract, it minimises the potential for confusion when interpreting and implementing this measure.

The interim reliability measure will still expire on 31 March 2025 after which AEMO will only be able to enter into reserve contracts if there is a forecast exceedance of the reliability standard for that region.

It is worth noting that AEMO has not yet entered into any interim reliability reserves contracts, whether single or multi-year. This is because to date, the procurement trigger has not been met. Despite this, the ESB considers the measure to be an important part of AEMO's toolkit to manage reliability especially as power system conditions change throughout this transitional period. The ESB also considers the range of checks and balances in place are sufficient to minimise the risk of over procurement.

The AEMC is due to review the interim reliability measure by July 2023 which will provide an opportunity to examine whether it remains appropriate including in the context of other reforms underway.

Both aspects, the short notice RERT panel and the recommended amendment to the interim reliability reserves, work in tandem to action the P2025 recommendation to develop a NEM wide jurisdictional strategic reserve.

This decision paper outlines the interim reliability reserves rule recommendation and how we have taken stakeholder feedback into account. The ESB has undertaken this Rule change process in accordance with section 90F of the National Electricity Law. Under this process the ESB recommends Rule changes to Energy Ministers, who may then recommend to the South Australian Minister that the amending Rule be made.

The paper also provides advice on how jurisdictions can, under the current rules, fund their own out-of-market resources that could join AEMO's short notice RERT panel.

1 Introduction

1.1 Energy Ministers accepted the Energy Security Board’s recommendation for a Jurisdictional Strategic Reserve

The ESB recommended a JSR¹ under the resource adequacy workstream of its P2025 review. This review set out a suite of reforms to meet the needs of the significant transition that is currently underway in the electricity sector.²

The pathways for firm, flexible and affordable supply were recommended to manage both the orderly exit of old technologies (primarily ageing coal fired generation) and pave a way for new technologies. In particular, it was recommended that a capacity mechanism be developed alongside the energy only market to bring forward the right mix of firm, flexible and variable resources when they are needed.

In addition to longer term reforms, the ESB’s recommendations included short-term measures to address reliability of the electricity system while the capacity mechanism is being developed. These aimed to:

- provide governments with tools to organise extra supply when deciding that they need more insurance to support the electricity system through the transition
- improve transparency to the market by requiring generators to provide more information about their availability and potential early closure.

The JSR was one of the short-term measures, which was recommended as a practical action jurisdictional governments could take in the short term to help manage their concerns about resource adequacy ahead of the development of an enduring capacity mechanism.

In the ESB’s final P2025 advice³ it set out that a JSR would facilitate the procurement of any required reserves additional beyond the market reliability standard that jurisdictions consider necessary, in a manner that is targeted and least distortionary to current market arrangements. The jurisdiction would be responsible for determining the level of reserve that it considers appropriate and for establishing the reserve. The JSR would then become part of AEMO’s RERT portfolio and would be activated as needed. Costs of the reserve, once activated, would be recovered in a manner consistent with the existing cost recovery arrangement for the current RERT. The fixed purchase and establishment costs of the strategic reserves would be met by the jurisdictions seeking the reserves. The ESB noted that the JSR would be implemented through a rule change process, allowing for consultation with stakeholders on the final design.

The ESB recommended this approach because it provided jurisdictions with immediate access to choose their own level of out-of-market reserves, which they consider would best address their reliability concerns. For instance, jurisdictions may be concerned about the adequacy of the emergency backup resources to address current and emerging risks in their region. The other key reason for the JSR approach was that it could address jurisdictions’ concerns about reliability in the short-term, while allowing the more enduring proposed changes to the reliability framework to be

¹ [Post-2025 Final Report](#), ESB, July 2021, (p.19), Recommendation 1(a)(i).

² ESB, Post-2025 Market Design Final advice to Energy Ministers Part A, 27 July 2021, p. 19.

³ See: <https://www.energy.gov.au/government-priorities/energy-ministers/priorities/national-electricity-market-reforms/post-2025-market-design>

progressed, including the Reliability Panel's review of the reliability standard and settings and the work on the capacity mechanism.

On 29 October 2021, Energy Ministers published a response to the ESB's recommendations, in which Ministers indicated they agreed with the ESB's recommendation for a JSR. The Ministers requested that the ESB prepare a rule change submission in consultation with senior officials.⁴

1.2 Jurisdictions can establish JSRs through the existing RERT framework

In response to the request from Energy Ministers, the ESB undertook further analysis which found that the concept of the JSR articulated in the P2025 report can already be operationalised under the current RERT framework through AEMO's use of the short notice RERT Panel.

Information on how jurisdictional governments can, under the current rules, fund their own out-of-market resources through AEMO's short notice RERT panel is set out in Appendix A.

Using the current short notice RERT panel to facilitate a JSR has a number of benefits. It:

- provides an immediate avenue for jurisdictions to obtain more out-of-market emergency supplies to address reliability in their region as the electricity system rapidly transitions. This is because the current rules enable resources to be placed on AEMO's short notice RERT panel at any time, without the requirement of a forecast of a breach of a NEM wide reliability standard in the Electricity Statement of Opportunities (ESOO)
- utilises the existing RERT rules, which guard against market distortions and increasing costs for consumers; and there are no implementation costs to be passed on
- leverages AEMO's existing advisory functions to support jurisdictions in their consideration of whether a JSR is needed in their region and what resources would be suitable to support through a JSR.

Discussions between jurisdictions and the ESB identified another amendment that could be made to further facilitate backup measures for reliability in the NEM. This is related to restrictions on entering into multi-year interim reliability reserve contracts as the expiry of the interim reliability reserves rule approaches. These restrictions unduly limit the procurement options available to AEMO if a large reliability gap is forecast in the ESOP that could be most cost-effectively addressed through multi-year interim reliability reserve contracts. The ESB considers removing these restrictions would provide AEMO more options to manage the transitioning system and has set out its recommendations to achieve this below.

1.3 An amendment is being progressed to the interim reliability reserves under the Ministerial rule making powers

The ESB has made a recommendation under the Ministerial rule-making power (s90F) to the interim reliability reserve. Under this process, the ESB may make a recommendation to the Energy Ministers in certain circumstances, who may then recommend the South Australian Minister to make rules. The original interim reliability reserves were introduced via this process. More detail on this process is provided in Appendix C.

⁴ Energy Ministers, Summary of the final reform package and corresponding Energy Security Board recommendations, 29 October 2021, p. 1. See: <https://www.energy.gov.au/sites/default/files/2021-10/Summary%20of%20the%20final%20reform%20package%20and%20corresponding%20Energy%20Security%20Board%20recommendations0.pdf>

1.3.1 Background on the interim reliability reserves

The interim reliability reserve is one of several interim measures aimed at preserving reliability in the National Electricity Market (NEM) ahead of the P2025 market design project making more permanent recommendations and these being implemented.

The interim reliability reserve rule⁵ replaced long-term RERT following agreement and approval by energy ministers in August 2020. It is an additional out-of-market capacity reserve that has been established and implemented on a temporary basis, expiring 31 March 2025.

The interim reliability reserves are out-of-market reserves that AEMO can procure and use to avoid load shedding. They aim to help address reliability gaps that may occur between now and the expiry of the rule in 2025 by providing greater flexibility in procuring backup supplies. While they are a form of long notice RERT, interim reliability reserves differ in the following ways:

- The procurement trigger for interim reliability reserves is a forecast breach of the interim reliability measure in the ESOO report or ESOO update. This interim reliability measure was introduced by the Ministers in August 2020 to ensure that maximum expected unserved energy (USE) is no more than 0.0006% in any region in any financial year. This is different from long notice RERT which has the current reliability standard of 0.002% USE as the procurement trigger.
- The interim reliability reserve rules allow AEMO to enter into multi-year contracts with providers of emergency reserves,⁶ involving the payment of availability charges, where long notice RERT only allowed for single-year contracts. As described in Section 2.2.2 interim reliability reserves only allowed the procurement of multi-year contracts under certain circumstances to minimise the risk of over procurement, which would not be in the long-term interests of consumers.

The interim reliability reserves contracts have never been entered into, whether single or multi-year. This is because the procurement trigger has not been met. This is, a breach of the interim reliability measure has not been forecast to occur in the next 12 months in the ESOO (or ESOO update).

The interim reliability reserve rules included a requirement that by 1 July 2023, the Australian Energy Market Commission (AEMC) conduct a review of the⁷:

- procurement of the interim reliability reserve and
- the interim reliability measure.

The AEMC is due to commence its review of the interim reliability reserves later in 2022.

1.3.2 The interim reliability reserves rule recommendation addresses uncertainty about reliability in the short-term

The change to the interim reliability reserves rule will ensure AEMO can procure adequate volumes of emergency reserves to protect against load shedding, should a reliability gap occur in the interim period, prior to the longer-term resource adequacy reforms being implemented. It will enable AEMO to enter into multi-year contracts of interim reliability reserves in the later years of the rule, enabling any contracts to extend beyond the expiry of the rule. The interim reliability standard will remain as the trigger for all years in a contract that is entered into before the expiry of the interim reliability

⁵ National Electricity Amendment (Interim reliability measure) Rule 2020.

⁶ National Electricity Rule (NER) clause 11.128.4.

⁷ NER clause 11.128.12(c).

measure (that is, before 31 March 2025). That way, the trigger will be consistent across the life of the contract and align with the purpose of the interim reliability measure which is provide additional tools for AEMO to use during the transitional period before longer term reliability solutions are implemented.

If Ministers agree to the ESB's recommended rule, the South Australian Minister may make the rule under section 90F of the NEL. The ESB considers that this should occur as soon as practical with the recommended rule noting that the rule should commence seven days after it is gazetted.⁸

The rule recommendation does not remove the checks and balances that minimise the risk of over procurement. Nor does the rule change recommendation seek to extend the existence of the interim reliability measure i.e. it will still expire on 31 March 2025. Following the expiry of the interim reliability measure, AEMO will only be able to enter into reserve contracts where there is a forecast exceedance of the reliability standard for that region. Further details are set out in Section 2 of this decision paper.

1.4 Consultation with stakeholders

The ESB invited comments from interested parties in response to the Amendments to the Interim Reliability Reserves Consultation Paper and Draft Rule. The ESB received four stakeholder submissions from Shell Energy, CS Energy, EnergyAustralia and Snow Hydro. All submissions have been published on the Energy Minister's website.⁹

The key points from each submission and the ESB's response is discussed in the following chapters. Further detail on the submissions received and the ESB's response is outlined in the table that can be found in Appendix B.

⁸ National Electricity Law (NEL) clause 90F(9)(a)

⁹ <https://www.energy.gov.au/government-priorities/energy-ministers>

2 Rationale for amending the interim reliability rule

2.1 The problem is that the rule may limit best utilisation of the interim reliability reserve

Previously, the interim reliability reserve rule prevented interim reliability reserve contracts from extending beyond the expiry of the interim reliability reserves rule on 31 March 2025.

This means that AEMO could only enter into:

- 3-year interim reliability reserve contracts, if triggered, up until March 2022.
- 2-year contracts of interim reliability reserves, if triggered, up until March 2023.

After that, only single-year contracting was allowed.

There was a concern that this restriction may unduly limit the procurement options that are available to AEMO if a large reliability gap is forecast in the ESOO that could be most cost-effectively addressed through multi-year interim reliability reserve contracts.

There were also concerns about reliability uncertainty prior to the implementation of longer-term reforms, such as the capacity mechanism. In the increasingly rapid transition to net zero, it is possible that an ESOO update in the short to medium term could forecast a breach of the interim reliability measure or reliability standard, which could be difficult for AEMO to fill without access to multi-year contracting.

EnergyAustralia supported the proposal in principle, noting some suggested changes as detailed further below. Similarly, Shell Energy did not entirely disagree with the changes being sought but sought clarification on the need for change given the other work on to address reliability already underway. However, Snowy Hydro opposed the proposal considering that increases to centrally procured capacity are neither a short nor long-term solution to concerns regarding the lack of reserve. CS Energy also queried whether the proposal should be reconsidered, particularly given recent events in the energy market and the commitment by Ministers to advance progression of a capacity mechanism.

The ESB notes these comments but still considers that this change is important to make. It allows for an additional tool to manage any forecast reliability shortfalls in a cost-effective manner, while the more enduring longer-term reforms are being implemented. The ESB considers this small change to better utilise the existing interim reliability reserve is important given the dynamic and evolving energy market – particularly in light of recent market events.

2.2 The rule recommendation supports increased flexibility of multi-contracts

The rule recommendation removes the restriction for AEMO to procure interim reliability reserves over multiple years and improves flexibility for AEMO and participants. This ensures AEMO has a range of procurement options available to address any forecast reliability gaps prior to the implementation of more enduring mechanisms.

Multi-year contracting can provide a means for procuring reserves more cost-effectively where upfront fixed costs can be spread over a longer duration. It may also promote a greater market response if multi-contracts are available beyond the 31 March 2025 expiry.

The existing safeguards outlined below, combined with the requirement to consult with the relevant jurisdictions, will help address the risk of unnecessary amounts of emergency reserves being procured.

2.2.1 Amendment to the rule

The rule recommendation removes the requirement for the term of a multi-year interim reliability reserve contract to expire before 31 March 2025. AEMO will now be able to enter into multi-year interim reliability contracts, if triggered, up until the expiry of the rule on 31 March 2025. This means that a multi-year interim reliability contract may potentially be in place until March 2028. The recommended rule is attached.

All stakeholders that submitted noted that the proposed rule effectively extends the interim reliability measure by another two years since it will be the trigger for entering into multi-year contracts beyond 31 March 2025. Stakeholders noted that this contradicted the ESB's intent that this change not extend the interim reliability measure.

The ESB acknowledges this stakeholder feedback. However, it considers the interim reliability standard to be the appropriate trigger for the life of a multi-year contract entered into before the expiry of the measure in March 2025 because:

- it is consistent with the purpose of the interim reliability reserve rule which was introduced to act as an interim solution until longer-term reliability solutions can be implemented,
- it provides AEMO with additional tools beyond the options available in the RERT framework, to manage the power system during the transitional period when circumstances can change quickly, and
- by using the same trigger for the life of the contract, it minimises the potential for confusion when interpreting and implementing this measure.

The interim reliability measure will still expire on 31 March 2025. Following the expiry, AEMO will only be able to enter into reserve contracts in line with the long-notice RERT framework, for which the trigger is a forecast exceedance of the reliability standard for that region.

The rule recommendation does not remove the checks and balances that minimise the risk of over-procurement. These are detailed below.

If the amendment commences this year, this will mean that if there is a breach of the interim reliability measure in a region (forecast by AEMO in the ESOO report or ESOO update) later in 2022 up until the rule's expiry in 2025, AEMO will have additional procurement options, which could help to avoid load shedding or help to ensure that the interim reliability reserve contracts are more cost-effective.

Multi-year contracting could prove to be an important tool for AEMO in the interim as the more enduring reforms to reliability such as the capacity mechanism are being developed.

2.2.2 Current safeguards will continue to exist

The maximum period AEMO will be allowed to enter a multi-year reserve contract for the interim reliability reserve is three years, and this will only be permitted when there is forecast breach of the interim reliability measure, in at least two of the three years, including in the first year.

In addition, where AEMO is considering entering into a multi-year reserve contract, AEMO must have regard to whether it is a more cost-effective option, compared to procuring single year contracts over the same period. It should be noted that there are circumstances when entering into a single-year contract, even if it is entered into several years in a row, is more efficient and/or lower cost than entering into a multi-year contract.

For multi-year contracts, the maximum volume that can be procured by AEMO in any financial year in any region to meet the interim reliability measure are:

- on an annual basis, no more than is reasonably necessary to address the largest interim reliability exceedance identified during the period for which the contract would apply, and
- with respect to the contract term, no more than reasonably necessary to secure reliability of supply in the relevant region.¹⁰

In addition to the safeguards that will remain in place relating to multi-year contracting, the safeguards that apply to interim reliability reserves more generally will also continue to exist. The safeguards ensure the interim reliability reserve is only used as a last resort. These out-of-market rules mirror those that currently apply to resources participating in the RERT and specify that AEMO:

- is required to consult on the expected costs for any reserve contracts entered for the interim reliability reserve with the relevant jurisdictions prior to the contracts being entered.¹¹
- may only enter reserve contracts for the interim reliability reserve if there is a forecast interim reliability exceedance in the first financial year of the contract and the contract is no longer than three years in length.¹²
- must not procure a contract for the interim reliability reserve if the exceedance is expected to occur within ten weeks of AEMO's forecast. In this case, AEMO must use medium and short notice RERT in accordance with the existing RERT guidelines.¹³
- must also have regard to the RERT principles, which aim to minimise impacts on customer bills and market distortions. AEMO must also have regard to the potential impact on the interaction with the Retailer Reliability Obligation.¹⁴
- can only procure reserves under the interim reliability reserve for reserves that are out-of-market. Resources that have been scheduled in the last 12 months cannot participate in the interim reliability reserve. In addition, non-scheduled resources in the wholesale energy market, must not offer in resources under the interim reliability reserve, for the same dispatch intervals.¹⁵

2.3 Interaction with other reforms underway

Several stakeholders also queried the relationship between this proposal and a number of other pieces of work underway. The ESB considers that this recommended rule is consistent with those other reforms, as detailed below:

- Capacity mechanism – the recommended rule aims to better utilise interim reliability reserves while the capacity mechanism is being developed. The recent high level design consultation

¹⁰ For a single year reserve, the amount of reserve procured is to be no more than AEMO considers is reasonably necessary to address the interim reliability exceedance in that year for that region.

¹¹ NER clause 11.128.4 of clauses 3.20.3 (d).

¹² NER clause 11.128.4 (f).

¹³ NER clause 11.128.4 (f).

¹⁴ NER clause 11.128.4 (g).

¹⁵ NER clause 11.128.4 (g).

paper for a capacity mechanism notes that it should be operational by 1 July 2025.¹⁶ The changes recommended here would allow AEMO to enter into multi-year contracts up until March 2025. Therefore, the ESB does not consider that there is overlap between this recommended rule and the capacity mechanism.

- Reliability Panel’s review of reliability settings and standards – the Panel’s review is currently underway, with a final report due on 1 September 2022. Any final recommendation from the Panel on the level of the reliability standard would then be considered by the AEMC through a rule change process. To the extent the Panel recommends a change to the reliability standard, this would not apply to contracts entered into for interim reliability reserves.
- AEMC’s review of the interim reliability measure – the AEMC must undertake a review of the interim reliability measure by 1 July 2023. The ESB agrees that this is an important review but does not consider amending the timing for multi-year contracts to supersede this review.

2.4 Consistency with the National Electricity Objective and Strategic Energy Plan

Under the National Electricity Law, the ESB may recommend rules to the Energy National Cabinet Reform Committee (Energy Ministers) if the following requirements are satisfied:¹⁷

- the Rules are in connection with energy security and reliability of the NEM or long-term planning for the NEM
- the ESB is satisfied that the Rules are consistent with the national electricity objective, and
- the ESB has undertaken consultation on the Rules in accordance with any requirements determined by the Energy Ministers.

The national electricity objective is “to promote efficient investment in, and efficient operation and use of, electricity services for the longer-term interests of consumers of electricity with respect to

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”¹⁸

The ESB considers the rule recommendation is in connection with reliability of the NEM and is consistent with the NEO because it:

- **Contributes to reliability:** reliability is both a crucial part of the energy market and an important consideration of the long-term interest of consumers. There is increasing uncertainty about reliability in the context of the transition to net zero, which is seeing the exit of large coal generators. Multi-year contracts of RERT contribute to reliability as they provide important backup supply and an insurance against load shedding as the market continues its transition and as long-term reforms are progressing.
- **Minimises costs:** it is necessary to maintain reliability at a reasonable cost for customers. It is considered that this rule recommendation will achieve this as AEMO is only able to enter into a multi-year reserve contract when it is a more cost-effective option compared to procuring single year contracts over the same period. In addition, AEMO can only enter reserve contracts if there is a forecast breach of the interim reliability measure in the ESOO

¹⁶ ESB Capacity mechanism high-level design paper, June 2022, available here: <https://www.energy.gov.au/sites/default/files/2022-06/Capacity%20mechanism%20high-level%20design%20consultation%20paper.pdf>

¹⁷ Section 90F of the NEL

¹⁸ Section 7 of the National Electricity Law.

and the breach must occur in multiple years that the multi-year contract will cover. Allowing multi-year contracts expands the procurement options available to AEMO if a large reliability gap is forecast in the ESOO in the most practical.

- **Is a proportionate solution:** in addition to balancing reliability and costs, the rule change is also a proportionate solution in the energy transition. It is an amendment that increases the flexibility of the interim reliability reserve prior to implementation of more enduring reforms. It also does not distort the operation of the market given the Rule continues to be temporary and existing RERT rules apply.¹⁹

In addition to the NEO, the ESB is also required to consider the Strategic Energy Plan (the Plan) when reviewing and assessing this rule change. The Plan provides a clear strategic focus for Ministers and clarity of direction to market bodies and market participants. It establishes the ESB's vision for the future of Australia's energy market and outlines five high-level outcomes:

1. Affordability
2. Security
3. Reliability
4. Open and competitive markets
5. Investment in network

The rule recommendation aligns with the Plan's key principles. It seeks to address increasingly uncertain reliability outcomes and maintains safeguards that avoid adverse impacts on affordability and minimise distortions to a competitive market.

2.5 Costs and benefits of the rule recommendation

The costs associated with this change relate to any changes required in AEMO's procedures or internal processes relating to amending the multi-year requirements. The ESB anticipates that these would be minimal. While there may be costs incurred by AEMO in procuring additional resources when a forecast breach of the interim reliability measure is identified – we expect that the majority of these costs would have been incurred anyway because resources would have been sought if there was a shortfall (regardless of whether the contract is multi-year or not).

The ESB acknowledges that there are inherent costs associated with procuring out-of-market reserves given these resources cannot then not bidding into the energy market. The costs of these out-of-market reserves are unhedgable and passed onto consumers directly. Market efficiency may also be lost. Reserves procured further in advance of the forecast need can exacerbate these issues. In addition, contracting 3 years in advance may mean there is a risk of customers paying for reserves that are not needed if there is a change in the short-term forecast.

¹⁹ AEMO can only enter contracts up until the expiry of the rule on 31 March 2025. In addition, AEMO can only procure reserves under the Interim Reliability Reserve for reserves that are out-of-market. Resources that have been scheduled in the last 12 months cannot participate in the Interim Reliability Reserve. Non-scheduled resources in the wholesale energy market must not offer in resources under the interim reliability reserve, for the same dispatch intervals. These out-of-market rules mirror those that currently apply to resources participating in the RERT.

As such, the ESB notes that the additional costs that are inherent in contracting out-of-market reserves for multi-year periods, may be extended if a multi-year contract *was* entered into procuring reserves in 2026 and/or 2027 to meet the interim reliability standard, compared to the reliability standard. However, as previously noted there may also be savings from efficiencies related to multi-year contracts compared to single-year contract.²⁰

The ESB considers that the benefits associated with this rule change stem from having more flexibility and tools to manage reliability effectively within the NEM, especially during this interim period before longer term solutions have been implemented. Allowing multi-year contracts to extend beyond the expiry of the rule allows AEMO a wider scope to procure options that are available if a large reliability gap is forecasted that could be most cost-effectively addressed through multi-year interim reliability reserve contracts. In addition, the ESB considers that the continuing safeguards of the interim reliability reserves will minimise the risk of over-procurement.

Accordingly, the ESB considers that these benefits outweigh the costs of the rule.

2.6 Assessment of recommendation

In line with requirements under section 90F, the ESB confirms that:

- the ESB's decision to make the recommendation outlined in this paper was unanimous,
- no member of the ESB was unable to participate in the decision due to a conflict of duty or interest.

²⁰ Under the interim reliability reserve framework, AEMO must have regard to whether a multi-year contract is a more cost-effective option, compared to procuring single year contracts over the same period.

Appendix A Information on how jurisdictional governments can utilise the Jurisdictional Strategic Reserve

Consistent with the ESB P2025 report recommendation for a JSR and the Minister’s acceptance of it, the ESB has set out the below information about how jurisdictions can support additional RERT resources, should a jurisdiction be interested in ensuring AEMO has access to additional out-of-market reserves in its region.

The JSR provides a way for jurisdictions to increase the amount of emergency backup supplies, over and above the out-of-market emergency reserves AEMO has been able to procure.

The below information explains how jurisdictions can leverage the existing short notice RERT panel to create a JSR in their region. EnergyAustralia noted that they supported this analysis.

1. Overview of the existing short notice RERT panel

The short notice RERT Panel is a crucial tool for AEMO in avoiding load shedding. It provides AEMO with access to out-of-market backup resources which are ready and waiting and can be activated if reliability issues arise within the short notice timeframe.²¹ This is defined as between 3 hours to 7 days’ notice of a projected reserve shortfall.

AEMO can set up a short notice RERT panel at any time so that resources are ready in case a reliability issue occurs in the short notice timeframe. This is important because under the RERT framework,²² AEMO can only enter into short notice RERT contracts where there is a forecast Lack of Reserve 2 condition (LOR2)²³ in the short notice timeframe of less than 7 days. To ensure the resources are ready to go in this short timeframe, AEMO establishes a pre-agreed set of terms and conditions with short notice RERT panel resources. When the LOR2 event is forecast within the 7 days, AEMO can then enter into the contracts with these resources more readily as the terms and conditions of their reserve contract have already been negotiated.

Resources on the short notice RERT panel are not paid availability charges (i.e. charges that pay them to be ‘available’ – there and ready) that would be recoverable from customers. Instead, they are only paid if and when they are “triggered” following a forecast LOR2 within the short notice timeframe. Once activated, short notice RERT panel resources are paid the pre-agreed activation and or usage

²¹ The NER requires the Reliability Panel to publish the RERT Guidelines, which enables AEMO to set up a short notice RERT panel.

²² AEMO may enter into a reserve contract under clause 3.20.3 to ensure the reliability standard is met if it has made a declaration under clause 4.8.4 of a LOR or a low reserve condition. Guidance is provided by the Reliability Standards Implementation Guidelines, made under clause 3.9.3D. Under the interim reliability measure, where the ESOO forecasts that the interim reliability measure will not be met, clause 11.128.4 of the NER allows AEMO to enter long-term contracts for up to three years up until March 2022, two years up until March 2023 and a maximum of one year for the final year the interim rules are in place (31 March 2024).

²³ A Lack of resource 2 (LOR2) is declared when reserve levels are lower than the single largest supply resource in a state. At this level, there is no impact to the power system, but supply could be disrupted if a large incident occurred. Once a forecast LOR 2 is declared, AEMO has the power to direct generators or activate the Reliability & Emergency Reserve Trader (RERT) mechanism to improve the supply-demand balance.

charges. These costs are then recovered from customers via the settlement arrangements specified under the Rules.²⁴

2. How jurisdictions can establish JSRs through the short notice RERT panel

The JSR approach recommended by the ESB and accepted by Ministers is voluntary, allowing jurisdictions to opt-in and out based on their unique understanding of reliability in their region and views on how to promote reliability to their customers.

1. Short notice RERT panel preparation & JSR resources

If jurisdictions are interested in supporting more resources for AEMO to use at short notice to address reliability issues, they can seek AEMO's advice on:

- the amount of capacity they wish to procure to address the reliability issue, and
- the type of resources the jurisdiction is looking to support and whether that would be suitable for the short notice panel, particularly in terms of lead times, responsiveness, and duration.

AEMO can provide this advice to jurisdictions as part of its existing advisory functions. AEMO is in regular discussions with jurisdictions on a range of matters including ongoing reliability and security issues, and views to inform this could be incorporated.

If after seeking AEMO's advice, jurisdictions are interested in supporting additional backup resources for the short notice panel, they can consider how those resources would be funded.

Any JSR resources, that is, resources that are owned or financially supported by jurisdictions, can then respond to AEMO's annual expressions of interest process for reserve capacity to sit on the short notice RERT panel.

In responding to AEMO's short notice RERT panel expression of interest,²⁵ jurisdictions would need to provide the following information:

- the location of the services and available capacity
- the duration over which the services will be continuously available
- the notice period required before activation or dispatch
- the price at which the service would be available
- confirm that the resource has not been in-market within the past 12 months
- how likely it is that the service would be available if they were advised of a requirement with less than seven days' notice.

2. Short notice RERT panel activation & JSR resources

AEMO can only dispatch RERT reserves, including JSR capacity made available by jurisdictions, when triggered by a declaration (following a forecast or actual LOR2 or LOR3 declaration).²⁶ If this trigger occurs, AEMO can enter into the pre-agreed short notice reserve contracts and activate the resources. AEMO must have regard to the RERT principles when exercising RERT (see Section 2.2.2).²⁷ These

²⁴ NER clause 3.15.9.

²⁵ Reliability Panel, Final RERT guidelines, 21 August 2020, p. 11.

²⁶ See NER clause 3.20.3(f) which requires AEMO to have made a declaration under clause 4.8.4 for that region and the Reliability Standard Implementation Guidelines.

²⁷ NER clause 3.20.2(b).

require AEMO to exercise the RERT powers in a way that minimises distortions to current short and long-term market incentives and to address the reliability issue at least cost to end-use consumers. JSR resources may be likely to be part of that mix as they are subsidised by the jurisdictions. This means they are likely to be able to respond for lower activation charges compared to other panel resources.

Resources on the panel are not usually under an obligation to respond to AEMO during a reliability event. They can decide whether it is in their commercial interests to be activated at the time of AEMO's request. As JSR resources are receiving financial support from jurisdictions, they will most likely have an obligation agreement with the jurisdictional government to respond to AEMO's request to activate. This may make JSR resources more "firm" or dependable in comparison to other reserves on the short notice panel.

3. Payment of JSR resources that are part of the short notice RERT resources

Fixed costs to support the availability of JSR resources to respond to reserve shortfalls will be paid for by jurisdictions. How jurisdictions determine to fund this is a matter for them. AEMO would pay the pre-agreed activation and or usage charges, where JSR resources are activated during a reliability event. These activation charges are recovered by AEMO from consumers, as per the settlement arrangements set out in the Rules.²⁸

This will ensure electricity consumers only pay for targeted interventions by the market operator to address reliability issues that may have otherwise led to load shedding.

3. There are checks and balances in the RERT framework that minimise the risks for consumers of using these resources

The RERT principles set out in the NER specify the matters AEMO must have regard to in exercising the RERT. These are:

- actions taken are to be those which AEMO reasonably expects to have the least distortionary effect on the operation of the market.
- actions taken should aim to maximise the effectiveness of reserve contracts at the least cost to end-use consumers of electricity.
- the average amount payable by AEMO under reserve contracts for each MWh of reserves for a region should not exceed the estimated average value of customer reliability (VCR) for that region.

These principles, along with detailed reporting requirements, provide important checks and balances for minimising market distortions and increased costs to consumers from use of RERT resources. These RERT principles will also apply to JSR resources that are on the short notice RERT panel; their effect on AEMO's decisions in relation to JSR resources are outlined below.

4. Principle about minimising market distortions

AEMO must have regard to both the impact of its decisions to exercise the RERT on the short-term impact on spot prices and the long-term impact on investment signals. In determining the action it should take, AEMO must consider how it seeks offers and contracts for reserves.

²⁸ NER clause 3.15.9.

Requiring AEMO to take these matters into account aims to reduce the distortionary impacts of AEMO interventions in the market to respond to a projected shortfall in reserves. It encourages a market response to projected shortfalls in the future which would ideally be a cheaper outcome for consumers.

The distortionary effect of the RERT on market signals is also minimised by other rule requirements on AEMO that require it to ensure:

- reserves do not participate in the RERT if they have been in the wholesale market in the 12 months preceding the execution date for the reserve contract.
- Unscheduled reserves do not participate in both the wholesale market and in the RERT for the trading intervals specified in their contracts.²⁹

The Rules further aim to maximise the transparency of using the RERT by requiring AEMO to report on the total estimated payments it will make under reserve contracts and the volume in MWh of reserves dispatched or activated under those contracts, within five business days of dispatching or activating reserves.³⁰

In the JSR context, these checks and balances will help safeguard market incentives that minimise the distortionary effect of additional reserve generation that may be available to AEMO for use to avoid load shedding.

5. Principle about least cost actions to end-use consumers of electricity

When activating RERT, AEMO needs to consider what is the most optimal combination of resources. This means the least-cost combination that will still avoid load shedding. As AEMO must have regard to this principle, resources with very high activation charges are unlikely to be included in the least-cost combinations. JSR resources, having been subsidised by jurisdictional governments, are likely to be selected to be included in that least-cost combination as the activation charges are likely to be lower than other resources that are not subsidised. The inclusion of JSR resources on the short notice panel could therefore assist in lowering the activation charges that AEMO recovers from NEM consumers.

6. Principle about RERT costs not exceeding the estimated average VCR for that region

To have regard to this principle, AEMO uses the average VCR as estimated by the AER for a particular region as the guide for RERT costs. AEMO has the flexibility to procure over and above the level indicated by the VCR in that region but in doing so it must specify and report on both how it has made the assessment to procure above that capacity and what would have happened if it had not done so. These reporting requirements and others are specified in more detail in the next section.

In relation to JSR resources that are part of the short notice RERT, the assessment of the VCR would only apply to the variable component. Given the JSR resources would be receiving financial support from jurisdictions, the activation charges are more likely to be lower than the VCR.

²⁹ NER clauses 3.20.2(g)-(i).

³⁰ NER clause 3.20.6(a).

7. Reporting requirements on AEMO to maintain market transparency when exercising the RERT (including any JSR resources that form part of the RERT)

The Rules place reporting requirements on AEMO in relation to the RERT.³¹ These requirements will also cover any JSR resources that are activated but would be limited to reporting on the costs borne by AEMO and not the fixed costs borne by the jurisdiction.

Where AEMO entered into contracts with JSR resources in the short notice timeframe, AEMO would need to report on:³²

- the basis on which AEMO had regard to the RERT principle regarding the estimated average VCR when entering into reserve contracts, and
- if the average amount paid exceeded the VCR in that region – why that occurred.

³¹ NER clause 3.20.6.

³² NER clause 3.20.6(d)(5).

Appendix B Summary of issues raised in submissions and the ESB’s response

Respondent	Comment	ESB Response
CS Energy	Does not consider it is appropriate for the interim reliability measure and interim reliability reserve to be effectively extended by this proposed rule change.	<p>The ESB agrees and confirms that the interim reliability reserves rule will expire on 31 March 2025 as planned.</p> <p>However for simplicity of interpretation and implementation and consistent with the intention of the interim reliability reserve to act as an interim option before longer term solutions can be implemented, the ESB considers interim reliability measure of 0.0006% to be appropriate as the trigger for all years in a multi-year contract entered into before the expiry of the rule.</p> <p>The “in practice” extension of the interim reliability measure is limited to multi-year contracts, where there is a forecast breach of interim reliability measure in two out of three years, including the first year. In addition, the ESB considers that the continuing safeguards of the interim reliability reserves will minimise the risk of over-procurement.</p>
CS Energy	An out of market reserve that decouples the reliability standard and its associated market setting is inconsistent with the market design philosophy of the NEM.	The ESB notes this comment. The changes considered in the recommended rule simply relate to multi-year contracting, rather than the existence or not of an out-of-market reserve.
CS Energy	The rule change should be reconsidered given recent changes in the energy policy space, most notably the recent Energy Ministers meeting on 8 June 2022 which agreed to advance the work on a capacity mechanism. Fast-tracking the capacity mechanism should deliver the enduring reliability mechanism sought by the ESB within the timeframe the proposed rule change is targeting. CS Energy considers that the proposed rule change has been superseded by recent changes in the energy policy landscape. If the rule change were to be reassessed, CS Energy suggests the outcomes of the Panel’s ongoing review of the	The ESB considers that the recommended rule aims to better utilise interim reliability reserves while the capacity mechanism is being developed. The recent high-level design consultation paper for a capacity mechanism notes that it should be operational by 1 July 2025. The changes recommended here would allow AEMO to enter into multi-year contracts up until March 2023. Therefore, the ESB considers that the amendment to the interim reliability reserve remains necessary as an immediate and short-term tool, while the capacity mechanism is progressed.

standard and settings be leveraged to ensure consistency across the key reliability mechanisms in the NEM.

CS Energy	Seeks clarification as to how the current rules 'unduly limit procurement options available to AEMO if a large reliability gap is forecast in the ESOO that could be most cost-effectively addressed through multi-year interim reliability reserve contracts'. It also seeks further clarification on the additional types and volumes of contracts the proposed rule change would allow AEMO to access, including quantification of these additional contracting opportunities.	<p>Under the current interim reliability reserve rules, AEMO may only enter into single-year contracting beyond March 2023. This effectively forces AEMO to seek annual contracts and foregoes the benefits in attracting lower cost and/or more suitable procurement options. It may also lead to higher costs as a result of increased administrative costs involved with annual contracting. The change to the interim reliability reserves allows AEMO to enter into multi-year contracts where it is cheaper to do so. This supports a balance between reliability and minimising costs for consumers.</p> <p>The rule change does not seek to change the types and volumes of contracts that AEMO can access. Volumes procured by AEMO are subject to extensive reporting requirements. This reporting is required under the NER and extends to both the procurement and activation of RERT. The reporting requirements are outlined in further detail in Appendix A.</p>
CS Energy	The proposed rule change implies a marked deterioration in reliability over the next five years that is not captured in the current ESOO and CS Energy seeks to undertake this projected deterioration in more detail.	The ESB considers that the amendment to the interim reliability reserve is not intended to imply that there is a forecasted deterioration in reliability within the next five years not captured in the current ESOO. The change to the interim reliability reserve is to allow for an additional tool to manage any forecast reliability shortfalls in a cost-effective manner, while the more enduring longer-term reforms are being implemented. The ESB considers this small change to better utilise the existing interim reliability reserve is important given the dynamic and evolving energy market – particularly in light of recent market events.
CS Energy; EnergyAustralia; Shell Energy	While the consultation paper states that the proposed rule change does not seek to extend the existence of the IRM, stakeholders query how procuring multi-year contracts that extend beyond the expiry of the rule on 31 March 2025 would not effectively do so. The ESB should clarify that the volume of reserves that can be procured beyond the expiry of the IRM is limited to that required to meet any forecast exceeds of the reliability standard in at least one of the two subsequent years (i.e. beyond 31 March 2025) to assure stakeholders	<p>The ESB agrees and confirms that the interim reliability reserves rule will expire on 31 March 2025 as planned.</p> <p>However for simplicity of interpretation and implementation and consistent with the intention of the interim reliability reserve to act as an interim option before longer term solutions can be implemented, the ESB considers interim reliability measure of 0.0002% to be appropriate as the trigger for all years in a multi-year contract entered into before the expiry of the rule.</p> <p>The "in practice" extension of the interim reliability measure is limited to multi-year contracts, where there is a forecast breach of interim reliability</p>

	that there will not be over procurement of reserve contracts.	measure in two out of three years, including the first year. In addition, the ESB considers that the continuing safeguards of the interim reliability reserves will minimise the risk of over-procurement.
EnergyAustralia	Support the Board's analysis of the existing short notice RERT Panel. This provides a transparent avenue for jurisdictions to fund any additional capacity they desire.	The ESB agrees with EnergyAustralia's comments.
EnergyAustralia	In principle, support the extension of multi-year contracts as well as the fact that this could only occur where at least two years of a contract period involve identified breaches of the interim reliability measure. Provided there is an identified need that spans multi years, it seems likely that forcing AEMO to contract annually would involve higher administrative costs, as well as potentially forego benefits in attracting cheaper or more suitable market services.	The ESB agrees with EnergyAustralia's comments.
EnergyAustralia	Seems prudent to consider any changes to AEMO's reserves procurement after the AEMC's scheduled review of the interim reliability measure and reserve later this year. The desired set of reserve arrangements, as well as potentially other short-term, measures may be informed in further discussions around a capacity mechanism. All these changes – including the Panel's work on the reliability standard – should be considered together if the objective is to give jurisdictions comfort around resource adequacy, in both the short and longer term.	<p>The AEMC must undertake a review of the interim reliability measure by 1 July 2023. The ESB agrees that this is an important review but does not consider amending the timing for multi-year contracts to supersede this review.</p> <p>The ESB has considered the interaction of the interim reliability reserves with the progression of the capacity mechanism. At this stage, the capacity mechanism plans to be operational by 1 July 2025. These changes would allow AEMO to enter into multi-year contracts up until March 2025. Any reserve contracts entered into after that time would be guided by the RERT framework and triggered by the Reliability Standard. The ESB considers that the current timeframe of the capacity mechanism removes any overlap with the interim reliability reserves.</p>
Shell Energy	Does not entirely disagree with the changes being proposed, but seeks clarification on the need for change given there is already a review of the reliability	The ESB has considered Shell Energy's comments but still considers that making this change to provide another tool or option to AEMO to manage any reliability gaps that may emerge is an important change to make prior

	standard in progress, no reliability shortfall identified, and the capacity mechanism is being progressed.	to the longer-term resource adequacy reforms being implemented. While there is no reliability shortfall identified, as recent events have shown, circumstances can change quickly. The ESB considers that as we move through this transition it is important for AEMO to have tools such as these at its disposal to manage the transition.
Shell Energy	Queries the need to make this change in advance of the Panel's RSSR report which is due by 30 August 2022. Suggest that the ESB wait until after the results of this review before proceeding with any amendments to the IRR.	The ESB considers that this change to the interim reliability measure can be progressed in parallel to the Panel's review on the reliability standard.
Snowy Hydro	Opposes the proposed amendments to the interim reliability reserve. They are not consistent with the NEO, placing short-term expediency over the long term interests of the markets and consumers. Increases to centrally procured capacity are neither a short nor long term solution to concerns regarding lack of reserve.	<p>The ESB acknowledges Snowy Hydro's concerns. However, the ESB does not consider that the change to the interim reliability reserves negates the interests of the markets and consumers, nor is it inconsistent with the NEO.</p> <p>The ESB considers that both the market and consumers are interested in maintaining reliability in the most cost-efficient way. The ESB considers this change supports reliability by providing the option for AEMO to procure a backup supply as insurance against load shedding as the market transitions.</p> <p>The ESB also considers that the rule recommendation is consistent with the NEO as it contributes to reliability while minimising costs to both consumers and the market. In addition, the rule recommendation is also considered a proportionate solution as it does not distort the operation of the market, given the Rule is temporary and existing RERT rules apply.</p>
Snowy Hydro	Justifying one reform (this rule) on the basis of another that is still under consideration (the capacity mechanism) is not a proper basis to implement the ESB's proposal. The ESB must also account for other reform processes now underway.	The ESB has considered how the interim reliability reserves rule change interacts with other reform processes currently progressing. The ESB considers there is no overlap with the capacity mechanism given that, at this stage, it is planned to be operational by 1 July 2025. To that end, the ESB considers that the change to interim reliability reserves is necessary to ensure reliability can be maintained in the near-future, while these more enduring reforms are progressed.
Snowy Hydro	Opposes the proposal that AEMO reporting requirements would include fixed costs paid to JSR resources by the relevant jurisdiction. Notes that	The ESB considers that these topics are matters for each jurisdictional government to consider depending on its own circumstances. given the

	<p>failing to report these costs would understate and create a misleading comparison of the true cost of JSR resources.</p>	<p>costs of any jurisdictionally funded resource would not be borne by electricity customers, it is not the focus of RERT reporting. .</p>
Snowy Hydro	<p>The RERT has been poor value for consumers, providing an expensive means of procuring capacity. Retailers cannot hedge these costs on behalf of consumers. Long-term costs need to be considered. In addition, not reporting availability costs in AEMO's reporting requirements would mislead the true costs of JSR resources.</p>	<p>The ESB considers that the RERT is available as a supplementary and emergency tool available to AEMO to maintain reliability and system security. It is intended to be a last resort mechanism that allows AEMO to pay for additional capacity to be on stand-by in case of emergencies when the demand and supply balance is tight.</p> <p>AEMO is subject to the extensive reporting requirements that apply to the procurement and activation of RERT under the NER to ensure there is transparency in the RERT process. The ESB considers that the reporting on information relating to jurisdictionally funded resources are matters for each jurisdictional government to consider depending on its own circumstances.</p>
Snowy Hydro	<p>Interim reliability reserves are not an efficient solution to capacity shortfalls and undermines the integrity of the energy-only market.</p>	<p>The ESB notes the energy market is going through a rapid pace of transition. The interim reliability reserve is an additional and optional tool available to AEMO if a forecast exceedance is identified in the near-future. Tools such as these enable AEMO to continue operating a secure and reliable market, before the implementation of more enduring reforms.</p>
Snowy Hydro	<p>Notes that the continued expansion of the out-of-market contracts is antithetical to the NEM's structure as an energy-only market. The lack of competitive tension in the contracting process makes it inherently more expensive than NEM-based capacity and therefore is not an efficient solution to capacity shortfalls.</p>	<p>The ESB considers that the RERT process is intended as a last resort for AEMO to maintain reliability at the lowest cost to consumers. It is employed only as an emergency backstop when there is a forecast breach of reliability identified. This rule does not seek to establish a new out-of-market reserve, instead it amends one component of an existing and time-limited out-of-market reserve.</p> <p>The ESB also notes that there are more longer-term reforms currently underway that are exploring the best approach to maintain reliability and system security as the NEM continues to transition to a new operating environment.</p>

Appendix C Feedback process

1. Legislative basis

The ESB is progressing this Rule change process in accordance with section 90F of the NEL. The ESB may recommend rules to the Energy Ministers if the following requirements are satisfied:

- the Rules are in connection with energy security and reliability of the NEM or long-term planning for the NEM
- the Rules are consistent with the national electricity objective, and
- there has been consultation on the Rules in accordance with any requirements determined by the Energy Ministers.

Any final Rules will be made by the South Australian Minister for Energy on the recommendation of the Energy Ministers.

2. ESB rule change process

1. The process outlined below relates to rule recommendations initiated by the Energy Ministers or within the ESB. Proponents of rule change requests are asked to submit their rule change proposal to the AEMC who is required to consider all rule changes proposed to it, subject to limited exceptions, under the national energy laws.
2. The ESB must notify the Energy Ministers that it intends to commence public consultation on a proposal to make a rule recommendation under the NEL which may include a forward notice of extended time for making the rule recommendation.
3. Within [10] business days following the date of the notification, the ESB must release a consultation paper that:
 - includes a draft of the proposed rule/s
 - describes the issues that the rule is intended to address and the rationale for the proposed solution
 - explains how the proposed rule is consistent with the NEO/NERO/NGO and with one or more of the high-level outcomes set out in the Strategic Energy plan
 - includes information on any other options considered, but not included for consultation together with an explanation of why there were not included
 - invites stakeholders to make written submissions on the proposal within the public consultation period.
4. The public consultation period should be for a minimum of four weeks from the date of release of the consultation paper.
5. The ESB may, but is not required to, undertake informal consultation during the consultation period, including stakeholder forums and meetings.
6. Following the close of the public consultation period the ESB must, in accordance with its terms of reference, vote on whether to make a rule recommendation to the Energy Ministers and on the form and contents of that recommendation.
7. Within [4] weeks following the close of the public consultation period, the ESB must:
 - make a rule recommendation to the Energy Ministers; or
 - notify the Energy Ministers that the ESB will not be making a rule recommendation in respect of the proposal; or
 - notify the Energy Ministers that it is extending the time for making a rule recommendation due to the complexity or extent of issues raised in submissions or a material change in circumstances. The extension of time must be no longer than [4] weeks unless the Chair of the Senior Committee of Officials otherwise agrees.

8. If the ESB makes a rule recommendation, the recommendation decision paper must include:
 - the final rule
 - details of the consultation conducted
 - an explanation of the issues that the rule is intended to address and the rationale for the proposed solution
 - information on the ESB's consideration of the costs and benefits associated with the proposed rule
 - a summary of submissions made and how those submissions have been taken into account in the final rule and supporting policy position
 - a description of how the proposed rule is consistent with the NEO/NERO/NGO and with one or more of the high-level outcomes set out in the Strategic Energy Plan
 - whether the ESB's decision to make the recommendation was unanimous
 - whether any member of the ESB was unable to participate in the decision due to a conflict of duty or interest
 - if the ESB's decision to make the recommendation was not unanimous then a brief statement of the member's reasons for not agreeing to the recommendation.
9. If the ESB decides to notify the Energy Ministers that it is not making a rule change recommendation in respect of a proposal that notice must include the ESB's reasons for that decision.

As soon as practicable after notifying the Energy Ministers under step 7 above, and with the agreement of the Chair of the Senior Committee of Officials, the ESB must publish the documents provided to the Energy Ministers on its website.

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