

Appendix 1: suggested drafting changes

Section 6:

The national electricity market objective is to promote the economically efficient ~~investment operation of the national electricity market in, and use of, electricity services~~ for the long term interests of ~~consumers~~ end-users of electricity with respect to price, quality, reliability, safety and security.

Section 7(2):

~~Any~~ ~~Before issuing a~~ statement of policy principles issued by, the MCE must be ~~satisfied that the statement is~~ consistent with the national electricity market objective.

Section 15:

[First preference]

- (1) The AER must, in performing or exercising an AER economic regulatory function or power-
 - (a) ~~perform or exercise that function or power in a manner that promotes the long term interests of consumers of electricity~~ give effect to the national electricity market objective; ...
- (2) In giving effect to the national electricity market objective in accordance with ~~Without limiting~~ subsection 1(a), the AER, in making a transmission determination, must-
 - (a) provide an opportunity for a regulated transmission system operator to recover the economically efficient costs of complying with a regulatory obligation; and
 - (b) provide effective incentives to a regulated transmission system operator to promote economic efficiency in the provision, by it, of services that are regulated under the Rules, including-
 - (i) the making of economically efficient investments in the transmission system owned, controlled or operated by it; and
 - (ii) economically efficient provision of services by it; ...

[In the alternative]

- (1) The AER must, in performing or exercising an AER economic regulatory function or power-
 - (a) perform or exercise that function or power in a manner that promotes the long term interests of ~~consumers~~ end-users of electricity with respect to price, quality, reliability, safety and security; ...
- (2) Without limiting subsection 1(a), the AER, in making a transmission determination, must-
 - (a) provide an opportunity for a regulated transmission system operator to recover the economically efficient costs of complying with a regulatory obligation; and

-
- (b) *provide effective incentives to a regulated transmission system operator to promote economic efficiency in the provision, by it, of services that are regulated under the Rules, including-*
- (i) *the making of economically efficient investments in the transmission system owned, controlled or operated by it; and*
 - (ii) *economically efficient provision of services by it; ...*

Section 33:

In performing any function or exercising any power under this Law, the Regulations or the Rules, the AEMC must ~~have regard to~~ give effect to the national electricity market objective.

NEW Section 37(2a):

In performing any function or exercising any power under this Law, the Regulations or the Rules, the Reliability Panel must give effect to the national electricity market objective.

Section 68(2):

In this section -

*"**person aggrieved**" includes:*

- (a) _____ a person whose interests are adversely affected;*
- (b) a company or association of persons (whether or not incorporated) which has one or more objects and/ or purposes which are affected by the relevant decision; and*
- (c) _____ a person who is prescribed by the Regulations as representing the interests of end-users.*

Section 83:

- (1) *If the AER is given information from any person in relation to a breach or a possible breach of this Law, the Regulations or the Rules by a relevant participant but-*
 - (a) *decides not to investigate that breach or possible breach; or*
 - (b) *following an investigation, decides not to-*
 - (i) *bring any proceedings under section 60 of this Law or section 44AAG of the Trade Practices Act 1974 of the Commonwealth in respect of that breach or possible breach; or*
 - (ii) *serve an infringement notice in accordance with Division 5 in respect of that breach or possible breach-*

the AER must notify that person of that decision in writing.

...

(3) The AER must, preserving confidentiality to the extent necessary, publish a description of the conduct complained of and the reasons for its decision pursuant to subsection (1)(a) or (1)(b) (as the case may be) on its website within 14 days of making the decision.

Section 87:

(1) The AEMC may only make a Rule if ~~it is satisfied that the Rule will or is~~ consistent with likely to contribute to the achievement of the national electricity market objective.

...

(3) Subject to this Part, if ~~the AEMC is satisfied that a Rule~~ satisfies will or is likely to contribute to the achievement of the national electricity market objective, the AEMC must make the Rule.

Section 90(2):

Subject to section 91, the AEMC must not make a Rule on its own initiative unless it considers the Rule-

(a) is a non-controversial Rule~~corrects a minor error in the Rules;~~ or

(b) is an urgent Rule~~involves a non-material changes to the Rules;~~ or

(c) is in respect of any matter that is prescribed by the Regulations as a matter on which it may make a Rule on its own initiative.

Section 91(3):

The AEMC must not make a Rule for or with respect to any matter or thing specific in items 15 to 24 of Schedule 1 unless the Rule satisfies section 87. In applying the Rule-making test in section 87, the AEMC must also consider whether the Rule-

...

Section 94:

(1) As soon as practicable after receiving a request for the making of a Rule, the AEMC must consider whether-

(a) the request for the Rule appears to-

(i) contain the information prescribed by the Regulations; and

(ii) not be misconceived or lacking in substance; and

(iii) have the potential to be consistent with or to satisfy the national electricity market objective; and

(b) the AEMC would, if it were to make the Rule that is the subject of the request, be acting within the powers conferred on it under this Law.

...

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- (3) A decision under subsection (2) must-
- (a) set out the reasons for the decision; and
 - (b) be given to the person or body that made the request without delay; and
 - (c) be published on the AEMC's website within 14 days of the decision having been made.

Section 96:

- (1) Subject to this section, if the AEMC considers that -
- (a) an AEMC initiated Rule is a non-controversial Rule; or
 - (b) an AEMC initiated Rule is an urgent Rule; or
 - ~~(bc)~~ a request for a Rule is a request for a non-controversial Rule; or
 - ~~(ed)~~ a request for a Rule is a request for an urgent Rule-
- ...
- (2) Before making a Rule as set out in subsection (1), the AEMC must include in a notice under section 95:
- (a) the reasons why the AEMC considers the Rule to be non-controversial or urgent (as the case may be); and
 - (b) a statement to the effect that the AEMC may make the relevant Rule if the AEMC does not receive a written request, ~~and accompanied by~~ reasons, not to do so from any person or body within 2 weeks of publication of that notice.
- ...
- (4) If the AEMC is of the opinion that the reasons given by a person or body in a written request for it not to make the non-controversial Rule or urgent Rule are misconceived or lacking in substance, the AEMC must-
- (a) make a decision to that effect; and
 - (b) give the person or body its reasons, in writing, for that decision without delay; and
 - (c) publish the AEMC's reasons on its website within 7 days of the decision having been made.

Section 99(2):

A draft Rule determination must contain-

- (a) the reasons of the AEMC as to whether or not it should make the proposed Rule or another Rule, including the reasons of the AEMC as to whether it is considers satisfied that the proposed Rule or the other Rule (if any) is consistent with or

~~satisfies will or is likely to contribute to the achievement of~~ the national electricity market objective; ...

Section 102(2):

A final Rule determination must contain-

- (a) the reasons of the AEMC as to whether or not it should make a Rule, including the reasons of the AEMC as to whether it ~~is satisfied~~considers that the Rule is consistent with or satisfies will or is likely to contribute to the achievement of the national electricity market objective; ...

Appendix 2: apparent errata

Please note that the following sections appear to contain minor errors.

Section 83(1):

The word "of" should be inserted before "that breach or possible breach" in each of subsections (b)(i) and (b)(ii).

Section 96(3):

"The AEMC must not make a Rule in accordance with this section if, following publication of a notice under section 95 containing a statement to the effect set out in subsection (2~~3~~)..."