



Negotiated transmission service criteria for AEMO Transmission Determination

**Regulatory control period
2022–2027**

Call for submissions

August 2021

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Call for submissions

Under the National Electricity Law (NEL) and the National Electricity Rules (NER), the Australian Energy Regulator (AER) is responsible for the economic regulation of transmission network service providers (TNSP) in the National Electricity Market (NEM). In accordance with this role, we are required to make a transmission determination applying to the Australian Energy Market Operator (AEMO) in its function as a Victorian TNSP for its next regulatory control period commencing from 1 July 2022.

By virtue of clause 11.98.8 of the NER, the provisions for negotiated transmission services in version 109 of the NER continues to apply in Victoria.¹ For the purposes of this document, all references to the NER are to version 109 of the NER, unless otherwise indicated.

Under clause 6A.2.2(3) and schedule 6A.4.2(c) of the NER we must, as part of our transmission determination, make a decision on the Negotiated Transmission Service Criteria (NTSC) to apply to AEMO. The NTSC sets out the criteria that are to be applied by AEMO in negotiating terms and conditions of access for its negotiated transmission services. It will also be used by an arbitrator in resolving any access dispute about any of the terms and conditions of access, as required under clause 6A.30.4(b) of the NER.²

We are required to specify the NTSC for Victoria only. For other jurisdictions in the NEM, the Australian Energy Market Commission's 2017 rule change enshrined these criteria into version 110 (and subsequent versions) of the NER.³

The AEMC stated the framework under which connections to the transmission network in Victoria occur is fundamentally different to the processes and principles underlying the connection framework used in the rest of the NEM.⁴ This is because AEMO is authorised to exercise declared network functions in Victoria. AEMO is responsible for the provision of shared transmission services in Victoria.

As we were preparing our draft decision, we identified that version 109 of the NER applies to AEMO with respect to the NTSC. Clause 6A.11.3 of the NER requires us to publish a proposed NTSC, together with an invitation for written submissions, simultaneously with the publication of AEMO's regulatory proposal. We are publishing

¹ Version 109 of the Rules can be accessed on the AEMC website: <https://www.aemc.gov.au/energy-rules/national-electricity-rules/national-electricity-rules-version-109>

² Clause 11.98.8 preserves chapter 6A from version 109 of the NER for Victoria.

³ National Electricity Amendment (Transmission Connection and Planning Arrangements) Rule 2017 No. 4.

⁴ Australian Energy Market Commission, Rule Determination, National Electricity Amendment (Transmission Connection and Planning Arrangements) Rule 2017, 23 May 2017, p. v.

this proposed NTSC now for consideration in our draft decision and final decision for the AEMO 2022–27 transmission determination.

We are seeking submissions from interested parties in relation to the proposed NTSC to apply to AEMO. These submissions are due by close of business 7 October 2021, but earlier submissions would be preferable.

Submission should have regard to clause 6A.9.4(b) of the NER which states that the NTSC must give effect to and be consistent with the Negotiated Transmission Service Principles set out in clause 6A.9.1 of the NER.

We will seek further submissions from interested parties in response to our draft decision. We will take into consideration all submissions on the NTSC in making our final decision for AEMO's transmission determination.

We prefer that all written submissions be publicly available to facilitate an informed and transparent consultative process. Submissions will be treated as public documents unless otherwise requested. Parties wishing to submit confidential information are asked to provide both confidential and non-confidential versions of their submission. All non-confidential submissions will be placed on our website www.aer.gov.au.

We will treat all information and documents provided to us as part of this process in accordance with the ACCC/AER's Information Policy (June 2014), which is available on our website.

In line with the recently released [Statement of Expectations](#), the AER would like to acknowledge the changing operating environment and the potential for this to impact on AEMO's transmission determination. We propose to adopt a greater degree of flexibility in our approach to requesting and receiving information (from all stakeholders) as well as the way we consider the extenuating circumstances in our analysis.

Submissions can be sent electronically to AEMO2021@aer.gov.au.

Alternatively, they can be sent to:

Mr Warwick Anderson
General Manager
Network Pricing
Australian Energy Regulator
GPO Box 520
Canberra ACT 2601

Proposed Negotiated Transmission Service Criteria

National Electricity Objective

1. The terms and conditions of access for a negotiated transmission service, including the price that is to be charged for the provision of that service and any access charges, should promote the achievement of the National Electricity Objective.

Criteria for terms and conditions of access

Terms and conditions of access

2. The terms and conditions of access for a negotiated transmission service must be fair, reasonable, and consistent with the safe and reliable operation of the power system in accordance with the NER.
3. The terms and conditions of access for negotiated transmission services, particularly any exclusions and limitations of liability and indemnities, must not be unreasonably onerous. Relevant considerations include the allocation of risk between the TNSP and the other party, the price for the negotiated transmission service and the cost to the TNSP of providing the negotiated service.
4. The terms and conditions of access for a negotiated transmission service must take into account the need for the service to be provided in a manner that does not adversely affect the safe and reliable operation of the power system in accordance with the NER.

Price of services

5. The price of a negotiated transmission service must reflect the cost that the TNSP has incurred or incurs in providing that service, and must be determined in accordance with the principles and policies set out in the Cost Allocation Methodology.
6. Subject to criteria 7 and 8, the price for a negotiated transmission service must be at least equal to the avoided cost of providing that service but no more than the cost of providing it on a stand-alone basis.
7. If the negotiated transmission service is a shared transmission service that:
 - (a) exceeds any network performance requirements which it is required to meet under any relevant electricity legislation; or
 - (b) exceeds the network performance requirements set out in schedule 5.1a and 5.1 of the NER

then the difference between the price for that service and the price for the shared transmission service which meets network performance requirements must reflect the TNSP's incremental cost of providing that service (as appropriate).

8. For shared transmission services, the difference in price between a negotiated transmission service that does not meet or exceed network performance requirements and a service that meets those requirements should reflect the TNSP's avoided costs. Schedule 5.1a and 5.1 of the NER or any relevant electricity legislation must be considered in determining whether any network service performance requirements have not been met or exceeded.
9. The price for a negotiated transmission service must be the same for all Transmission Network Users. The exception is if there is a material difference in the costs of providing the negotiated transmission service to different Transmission Network Users or classes of Transmission Network Users.
10. The price for a negotiated transmission service must be subject to adjustment over time to the extent that the assets used to provide that service are subsequently used to provide services to another person. In such cases the adjustment must reflect the extent to which the costs of that asset are being recovered through charges to that other person.
11. The price for a negotiated transmission service must be such as to enable the TNSP to recover the efficient costs of complying with all regulatory obligations associated with the provision of the negotiated transmission service.

Criteria for access charges

Access charges

12. Any access charges must be based on the costs reasonably incurred by the TNSP in providing Transmission Network User access. This includes the compensation for foregone revenue referred to in clause 5.4A(h) to (j) of the NER and the costs that are likely to be incurred by a person referred to in clause 5.4A(h) to (j) of the NER (as appropriate).