



Draft Guideline

Guideline on the imposition of additional or more onerous requirements, procedures or standards under clause 8.7.2(g) of the National Electricity Rules

November 2010

© Commonwealth of Australia 2010

This work is copyright. Apart from any use permitted by the Copyright Act 1968, no part may be reproduced without permission of the Australian Competition and Consumer Commission. Requests and inquiries concerning reproduction and rights should be addressed to the Director Publishing, Australian Competition and Consumer Commission, GPO Box 3131, Canberra ACT 2601.

Inquiries about the currency of these guidelines should be addressed to:

Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Tel: (03) 9290 1444
Fax: (03) 9290 1457
Email: AERInquiry@aer.gov.au

Amendment record

Version and Record Number	Date
----------------------------------	-------------

Pages

Contents

Shortened forms	2
1 Guideline	3
1.1 Relevant powers of the AER.....	3
1.2 Form of request.....	3
1.3 Exercise of the AER's powers	4
1.4 Consultation	5
1.5 Allocating costs.....	5

Shortened forms

Shortened Form	Extended Form
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
NER	National Electricity Rules
Registered Participant	has the meaning given in Chapter 10 of the National Electricity Rules
Reporting Guideline	Guideline regarding additional or more onerous requirements, procedures and standards

1 Guideline

The purpose of the Guideline regarding additional or more onerous requirements, procedures and standards (Reporting Guideline) is to set out those matters the Australian Energy Regulator (AER) has to consider before it decides on the allocation of costs of any additional or more onerous requirements, procedures or standards under clause 8.7.2(g).

1.1 Relevant powers of the AER

Clause 8.7.2(g) of the National Electricity Rules (NER) provides that:

- Any Registered Participant or the Australian Energy Market Operator (AEMO) may ask the AER to impose additional or more onerous requirements, procedures or standards on a Registered Participant¹ in order to monitor or assess compliance with the NER by that Registered Participant.
- When such a request is made, the AER may but is not required to impose the additional or more onerous requirements, procedures or standards.
- If the AER decides to impose additional or more onerous requirements, procedures or standards on a Registered Participant, the AER may determine the allocation of costs of any additional compliance monitoring undertaken between the relevant Registered Participant(s) and/or AEMO (as the case may be).

1.2 Form of request

Where a Registered Participant or AEMO requests that additional or more onerous requirements, procedures or standards be imposed on a Registered Participant, the requesting party should provide the following in writing:

- the name and contact details of the entity on whom the applicant seeks additional or more onerous requirements, procedures or standards to be imposed (relevant party), including, where available, details of a contact person;
- reference to the relevant NER clauses of which monitoring or compliance will be facilitated by the additional or more onerous requirements, procedures or standards sought by the applicant;
- specifics of the additional or more onerous requirements, procedures or standards that the applicant seeks to be imposed on the relevant party, including, where possible, the cost and the basis on which the cost is determined;

¹ This has the meaning given in Chapter 10 of the NER.

- the reason(s) why additional or more onerous requirements, procedures or standards are necessary and appropriate in the given circumstances, having due regard to the matters set out in clause 8.7.1(c) of the NER²;
- the actual or potential consequences that have or are reasonably likely to arise or occur if additional or more onerous requirements, procedures or standards are not imposed on the relevant party; and
- particulars of the evidence attached in support of the request, whereby all evidence reasonably available to the applicant should be provided. If the applicant believes that the AER can obtain further evidence from a third party, a statement providing all relevant details should be included.

1.3 Exercise of the AER's powers

The AER can exercise its powers under cl. 8.7.2(d) of the NER to impose additional or more onerous requirements, procedures or standards under cl. 8.7.2(g) of the NER in response to a request by a Registered Participant or AEMO.

When exercising its powers to impose additional or more onerous requirements, procedures or standards, the AER must have regard to whether:

- the Registered Participant's or AEMO's request is in writing and provides the information outlined in section 1.2 above;
- it is reasonably necessary to impose additional or more onerous requirements, procedures or standards to monitor or assess a Registered Participant's compliance with the NER;
- the information sought by imposing additional or more onerous requirements, procedures or standards cannot reasonably be obtained by more cost effective means;
- it is not more appropriate to impose the requirements, procedures or standards on all or particular categories of Registered Participants pursuant to 8.7.2(a)(1)³ of the NER; and
- the relevant party has had an opportunity to explain why the additional or more onerous requirements, procedures or standards should not be imposed.

² NER, cl. 8.7.1(c) provides:

'The AER must ensure that, to the extent practicable in light of the matters set out in clause 8.7.1(b), the monitoring processes which it implements under this rule 8.7:

- (1) are consistent over time;
- (2) do not discriminate unnecessarily between Registered Participants;
- (3) are cost effective to both the AER, all Registered Participants and AEMO; and
- (4) subject to confidentiality obligations, are publicised or available to the public.'

³ Clause 8.7.1(a) of the NER concerns general reporting requirements. It provides:

'For the purpose of performing its monitoring functions, the AER must establish:

- (1) reporting requirements which apply to all or particular categories of Registered Participants in relation to matter relevant to the *Rules*'.

1.4 Consultation

When imposing additional or more onerous requirements or procedures and standards that do not apply to all or a particular category of Registered Participants, the AER will consult with those Registered Participants to whom these additional or more onerous requirements or procedures and standards apply.⁴

1.5 Allocating costs

If the AER decides to impose additional or more onerous requirements, procedures or standards at the request of another Registered Participant and/or the AEMO:

- It will determine whether an allocation of costs of additional compliance monitoring undertaken between any relevant Registered Participant and/or AEMO is appropriate, having regard to the following matters:
 - the nature of the additional or more onerous requirement, procedure or standard being imposed;
 - the fair and equitable distribution of costs; and
 - the efficient allocation of costs.

If the AER does not make an allocation of costs, the costs associated with complying with the requirements, procedures or standards will be borne by the Registered Participant which is subject to the additional or more onerous requirements.⁵

⁴ See NER, cl. 8.7.2(d).

⁵ NER, cl. 8.7.2(g).