

10 August 2023

Ms Anna Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

By electronic submission

Dear Ms Collyer,

Submission - National Electricity Amendment (Minor Changes 1) Rule 2023

AEMO thanks the AEMC for its proposal to clarify the application of the transitional provisions for the efficient reactive current access standard rule, as part of the AEMC's current 'minor changes' rule proposal. The AEMC's prompt attention to this issue is appreciated.

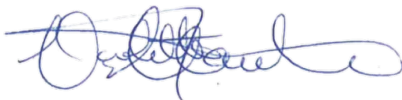
Together with the statements in the AEMC rule proposal confirming the policy intention of the efficient reactive current access standard rule, the proposed replacement for rule 11.159 appears sufficient to resolve existing confusion about the application of the new system strength provisions¹ to pre-existing connection applications in conjunction with the amended minimum access standard for clause S5.2.5.5. As such, AEMO supports the amendment.

We would, however, like to propose alternative drafting that could more clearly resolve the interpretation issues arising from the transitional provision in clause 11.159.4(b)(2), which deems existing connection applications to have been made under 'new Chapter 5' (as of 27 April 2023).

AEMO provides two alternative drafting proposals which are attached for the AEMC's consideration, with an explanation of the issues it intends to address. AEMO's preference is for alternative drafting proposal 2.

If you would like to discuss AEMO's submission, please contact Louise Thomson, Principal Corporate Lawyer at louise.thomson@aemo.com.au.

Yours sincerely,



Violette Mouchaileh

Executive General Manager – Reform Delivery

Attachment: Alternative drafting proposal for rule 11.159 and 11.143

¹ Effective from 15 March 2023 under the *National Electricity Amendment (Efficient management of system strength) Rule 2021*

Attachment - Submission on National Electricity Amendment (Minor Changes 1) Rule 2023: Alternative drafting proposals for rule 11.159 and 11.143

Background

1. Need for correction

Clause 11.159.4(b)(2) states that connection applications made before the effective date of the efficient reactive current access standard rule (27 April 2023) are treated as having been made under 'new Chapter 5', defined as 'Chapter 5 as in force on and from the effective date'. This creates a potential conflict for applications that remain in progress on the effective date, but were submitted before the commencement date of the efficient management of system strength rule (15 March 2023).

The system strength rule changed the framework for managing reductions in system strength caused by new connections, incorporating a revised assessment process supported by two new access standards. The transitional provisions for connection applications under the system strength rule (rule 11.143) were intended to allow pre-15 March 2023 connection applications to progress under former Chapter 5 unless the applicant elected to apply the new system strength assessment framework. Clause 11.159.4(b)(2), in its current form, applies new Chapter 5 in its entirety to all existing applicants, even if they did not elect to apply the new system strength framework. As the AEMC indicates in its rule proposal, this would contradict the policy intention of the efficient reactive current access standard rule.

There was also a drafting error in the transitional provisions for the system strength rule. The separate provisions in clause 11.143.9 relating to the new access standards and the treatment of existing applications were inconsistent. Paragraph (b)(1) correctly specified that 'former' Chapter 5 applied for the purpose of determining the applicable access standards, but (b)(2) mistakenly stated that existing applications were taken to be made under 'new' Chapter 5. This was an obvious error, as it directly contradicts the AEMC's final determination and is also inconsistent with paragraphs (c) and (d).

2. Concerns with rule proposal drafting for rule 11.159

The proposed replacement rule 11.159 seeks to address the issue by giving priority to clause 11.143.9(b)(1) [former Chapter 5 applies for the purposes of determining the access standards] over clause 11.159.4(b)(2) [connection applications continue to be processed² under new Chapter 5], but subject to the application of new clause S5.2.5.5.

This leaves some residual ambiguity - notwithstanding the proposed new clause 11.159.4(b1) - because both sets of transitional provisions distinguish between the application of the access standards and the application of Chapter 5 as a whole. Clauses 11.159.4(b)(2) and 11.143(b)(1) are not parallel clauses; the latter only covers the access standards, whereas the former applies to all of Chapter 5. In order for the solution in the proposed rule to be fully effective, AEMO considers it would need to be made subject to clause 11.143.9(b)(2), having first corrected the drafting error in that clause.

Alternative proposals

3. Correction to clause 11.143.9

AEMO is proposing two alternative drafting solutions to the proposed rule, which it considers would more fully resolve inconsistencies and remove any residual potential for unintended application of the two underlying rules.

² 'Continue to process' is a change from the current wording under which an existing application is taken to be made under new Chapter 5. The reason for this change is not clear.

AEMO's first alternative drafting proposal retains the structure of the AEMC's proposed rule, but corrects clause 11.143.9(b)(2) and references it in the replacement clause 11.159.4. Under this proposal, clause 11.143.9(b)(2) would be amended as follows:

- (2) the Existing Application To Connect will be taken to be an *application to connect* under ~~the new~~ former Chapter 5 with respect to the proposed *plant*; and

The second alternative drafting proposal would remove the inadvertent link between the two sets of transitional requirements altogether. This means the objective of the transitional provisions for the efficient reactive current access standard could be achieved without needing to correct clause 11.143.9(b)(2), if the AEMC prefers not to do so.

4. Alternative drafting proposal 1 for rule 11.159 – using proposed rule structure

AEMO suggests the following marked changes from the current proposed rule, in clauses 11.159.4(b)(2) and (b1):

- (b) On and from the effective date:
 - (1) new clause S5.2.5.5 applies for the purposes of determining the *access standards* that apply to the *plant* that the *Connection Applicant* proposes to *connect*;
 - (2) subject to clause 11.143.9(b)(1)(2) as modified by subparagraph (1), the *Network Service Provider* must continue to process the existing application to connect under new Chapter 5; and
 - (3) the *Network Service Provider* must:
 - (i) within 10 *business days* after the effective date, use its reasonable endeavours to provide written notification to a *Connection Applicant* to which this clause applies that the existing application to connect will be treated as an *application to connect* under new Chapter 5; and
 - (ii) within 20 *business days* after providing the written notification in subparagraph (3)(i), in consultation with *AEMO* and where necessary, provide each *Connection Applicant* notified under subparagraph (3)(i) (with a copy to be provided to *AEMO*) with:
 - (A) any further information required under clause 5.3.3 or clause 5.3A.5 of new Chapter 5 relevant to the proposed *plant*, including for each technical requirement, written details of the *automatic access standards*, *minimum access standards* and *negotiated access standards* that are *AEMO advisory matters*; and
 - (B) written notice of any further information to be provided by the *Connection Applicant* (which may include information required to be provided under clauses 5.2.5(d) and (e), clauses 5.2.5A(d) and (e) and Schedule 5.5),

necessary for the *Network Service Provider* to prepare an offer to *connect* in accordance with new Chapter 5 with respect to the proposed *plant*.

- (b1) For an existing application to connect that is also an Existing Application To Connect as defined in clause 11.143.9(a), new clause S5.2.5.5 applies for the purposes of determining the *access standards* that apply to the *plant* that the *Connection Applicant* proposes to *connect* but otherwise, clause 11.143.9(b)(1) continues to apply for those purposes that purpose.

5. Alternative drafting proposal 2 for rule 11.159 – removing interaction with rule 11.143

The only part of Chapter 5 amended by the efficient reactive current access standard rule was clause S5.2.5.5 itself. The application of new clause S5.2.5.5 is effectively and comprehensively addressed in clause 11.159.4(b)(1) and corresponding provisions in other clauses. The ‘deeming’ provisions in rule 11.159 for existing connection enquiries or applications therefore appear to have been unnecessary, because the primary rule does not change the process for assessing those enquiries or applications.

Removing these unnecessary provisions from clauses 11.159.3 and 11.159.4 would remove any interaction between the transitional provisions for both rules, so that the effective reactive current standard applies without impacting any other aspect of an ongoing connection process. The necessary amendments could be drafted as follows:

- Amendments to current clause 11.159.3(b) (existing connection enquiries) – for consistency:
 - (b) On and from the effective date:
 - (1) new clause S5.2.5.5 applies for the purposes of determining the *access standards* that apply to the *plant* that the *Connection Applicant* proposes to *connect*; and
 - (2) ~~[deleted] the existing connection enquiry will be taken to be a connection enquiry under the new Chapter 5 with respect to the proposed plant; and~~
 - (3) the *Network Service Provider* must:
 - (i) within 10 *business days* after the effective date, use its reasonable endeavours to provide written notification to a *Connection Applicant* to which this clause applies that new clause S5.2.5.5 applies in accordance with paragraph (a); the existing connection enquiry will be treated as a connection enquiry under new Chapter 5; and
 - (ii) within 20 *business days* after providing the written notification in subparagraph (3)(i), in consultation with *AEMO* and where necessary, provide each *Connection Applicant* notified under subparagraph (3)(i) with:
 - (A) any further information required under clause 5.3.3 ~~of new Chapter 5~~ relevant to the proposed *plant*; and
 - (B) written notice of any further information or data to be provided by the *Connection Applicant* to the *Network Service Provider*,
to enable the *Connection Applicant* to submit an *application to connect* taking account of new clause S5.2.5.5 in accordance with new Chapter 5 with respect to the proposed *plant*.
- Amendments to current clause 11.159.4(b), (c) and (d) (existing connection applications):
 - (b) On and from the effective date:
 - (1) new clause S5.2.5.5 applies for the purposes of determining the *access standards* that apply to the *plant* that the *Connection Applicant* proposes to *connect*; and
 - (2) ~~[deleted] the existing application to connect will be taken to be an application to connect under new Chapter 5 with respect to the proposed plant; and~~
 - (3) the *Network Service Provider* must:
 - (i) within 10 *business days* after the effective date, use its reasonable endeavours to provide written notification to a *Connection Applicant* to which this clause applies that new clause S5.2.5.5 applies in accordance with paragraph (a); the existing application to connect will be treated as an application to connect under new Chapter 5; and

- (ii) within 20 *business days* after providing the written notification in subparagraph (3)(i), in consultation with *AEMO* and where necessary, provide each *Connection Applicant* notified under subparagraph (3)(i) (with a copy to be provided to *AEMO*) with:
 - (A) any further information required under clause 5.3.3 or clause 5.3A.5 ~~of new Chapter 5~~ relevant to the proposed *plant*, including for each technical requirement, written details of the *automatic access standards*, *minimum access standards* and *negotiated access standards* that are *AEMO advisory matters*; and
 - (B) written notice of any further information to be provided by the *Connection Applicant* (which may include information required to be provided under clauses 5.2.5(d) and (e), clauses 5.2.5A(d) and (e) and Schedule 5.5),
 necessary for the *Network Service Provider* to prepare an offer to *connect* ~~in accordance with new Chapter 5~~ with respect to the proposed *plant* that takes account of new clause S5.2.5.5.
- (c) Where the *Network Service Provider* has charged the *Connection Applicant* any fees or charges with respect to the existing application to connect, the *Network Service Provider* must not charge the *Connection Applicant* any additional fees or charges on or from the effective date with respect to such existing application to connect, except to the extent necessary to cover the reasonable costs of work required for the *Network Service Provider* to prepare an offer to connect that takes account of new clause S5.2.5.5, in accordance with new Chapter 5, including the requirements to notify the *Connection Applicant* and provide any relevant information under subparagraph (b)(3).
- (d) A *Network Service Provider* to which this clause applies may extend the period referred to in clause 5.3.6(a) to reasonably allow for any additional time taken in excess of the period allowed in the preliminary program that is necessary to take account of new clause S5.2.5.5. ~~the differences in access standards between old Chapter 5 and new Chapter 5.~~