



# **Final Determination - Interim Reliability Instrument Guidelines Retailer Reliability Obligation**

July 2019

© Commonwealth of Australia 2019

This work is copyright. In addition to any use permitted under the Copyright Act 1968, all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence, with the exception of:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration, diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication. The details of the relevant licence conditions are available on the Creative Commons website, as is the full legal code for the CC BY 3.0 AU licence.

Requests and inquiries concerning reproduction and rights should be addressed to the Director, Corporate Communications,  
Australian Competition and Consumer Commission,  
GPO Box 3131,  
Canberra ACT 2601  
or [publishing.unit@acc.gov.au](mailto:publishing.unit@acc.gov.au).

Inquiries about this publication should be addressed to:

Australian Energy Regulator  
GPO Box 520  
Melbourne Vic 3001

Tel: 1300 585165

Email: [AERInquiry@aer.gov.au](mailto:AERInquiry@aer.gov.au)

AER Reference: D19/78579

#### Amendment Record

Version	Date	Pages
1	31 July 2019	6

# Contents

1	Background.....	1
2	Issues raised in submissions to the draft guideline.....	2
	2.1. Differing release dates of AER guidelines .....	2
	2.2. AER decision making criteria .....	3
	2.3. Test for materiality of reliability gap .....	4
	2.4. Interpretation of 'material' .....	4
	2.5. Presentation of reliability instrument request.....	5
	2.6. Stakeholder consultation .....	5
	2.7. AER course of action where decision making criteria not met.....	6

# 1 Background

The Australian Energy Regulator (AER) is responsible for a number of roles under the Retailer Reliability Obligation (RRO) under the National Electricity Rules (Rules). When the Australian Electricity Market Operator (AEMO) identifies a *forecast reliability gap* in its *reliability forecast*, it must request the AER to consider making a *reliability instrument* at least three months before a T-3/T-1 cut off day(s) for the relevant *forecast reliability gap*. The criteria which the AER must consider when making its decision to issue a *reliability instrument* are set out under Rule 4A.C.11 and 14K(3) of the National Electricity Law (NEL).

The interim Reliability Instrument Guidelines sets out how the AER will assess these criteria. It also details how the AER will consult with stakeholders on AEMO's *reliability instrument* request, as well as the manner and form of the information AEMO must provide the AER as part of its request.

This document sets out our reasons underpinning the decision on the interim Reliability Instrument Guidelines following the issues raised by stakeholder submissions through our consultation.

## 2 Issues raised in submissions to the draft guideline

### 2.1 Differing release dates of AER guidelines

Many submissions made comments on the timing of publishing the various Retailer Reliability Obligation (RRO) guidelines. Stakeholders were concerned that the staggered release of the guidelines prevented them from commenting on the scheme as a whole.

We appreciate that there would be benefit in reviewing all the interim guidelines at once, however we are bound by the Rules which prescribe the timelines for publication. Rule 11.116.2 requires the AER to publish interim Reliability Instrument Guidelines by 31 July 2019. The interim Reliability Instrument Guidelines are the first guidelines to be released to be ready for any *reliability instrument* request following the release of the 2019 ESOO by AEMO.

Submissions expressed concerns with the later release of the interim Forecasting Best Practice Guidelines and how this guideline would interact with the previously released interim Reliability Instrument Guidelines. Stakeholders wanted more clarity on how the interim Forecasting Best Practice Guidelines would inform the AER decision making criteria set out at rule 4A.C.11 for the purposes of any instrument request made in 2019. Stanwell stated that they had difficulty providing input on the decision making criteria listed in the interim Reliability Instrument Guidelines without first seeing the content of the interim Forecasting Best Practice Guidelines.

**Table 1 - RRO guidelines release timetable**

Guidelines	Interim	Final
Reliability Instrument	31 July 2019	31 July 2020
Market Liquidity Obligation	31 August 2019	31 December 2020
Contracts and firmness	31 August 2019	31 December 2020
Forecasting Best Practice	30 September 2019	30 November 2020
Opt-in	NA	30 June 2020
Reliability Compliance Procedures	NA	31 December 2020

As shown in Table 1 the interim Forecasting Best Practice Guidelines will not be in place in time to inform any 2019 *reliability instrument* request (which will be based on the 2019 ESOO to be published in August 2019). Reference to the interim Forecasting Best Practice Guidelines was included in the consultation to provide context on how the AER may consider this criteria when making a decision on a *reliability instrument* request for requests made from 2020 onwards.

As the interim Reliability Instrument Guidelines will only be in place for 12 months after publication on 31 July 2019, the final Reliability Instrument Guidelines (which will be created in line with the Rules consultation procedures) is the guideline in which the forecasting best practice decision making criteria will be considered.

References to the Forecasting Best Practice Guidelines have been removed from the interim Reliability Instrument Guidelines as they are not applicable. Until the final Reliability Instrument Guidelines are released the AER's decision on a *reliability instrument* request will be guided by the two remaining decision making criteria which is outlined in section 2.2 below and the interim Reliability Instrument Guidelines.

## 2.2 AER decision making criteria

Rule 4A.C.11 states that the AER, in considering whether it is appropriate in the circumstances to make a *reliability instrument*, must only have regard to the criteria as set out in the Rules. This includes whether:

- (a) there are material errors in AEMO's calculations or input data
- (b) AEMO has made any inaccurate assumptions that underpin its forecast data and which have had a material impact on *unserved energy* outcomes
- (c) AEMO has used reasonable endeavours to comply with the Forecasting Best Practice Guideline.<sup>1</sup>

The draft interim Reliability Instrument Guidelines stated that an assumption may be considered inaccurate if a contradicting view from a publicly available highly reputable external data source exists. Stanwell's submission was concerned with the criteria the AER will use for assessing assumptions in instances with multiple contradictory highly reputable external data sources.

There would need to be sufficient robust evidence to demonstrate that an assumption made by AEMO was not reasonable. If multiple contradicting views of an assumption exist, the AER will consider all available information regarding the disputed assumptions and objectively consider that evidence and the decision made by AEMO in reaching its position against the criteria in the Rules. The wording of the interim Reliability Instrument Guidelines have been amended to reflect this clarification and how we have considered the various evidence will be outlined in our decision on an instrument request.

Energy Users Association of Australia (EUAA) separately queried what the AER's role would be if there was a fundamental disagreement on a technical aspect between large stakeholders and AEMO which is unresolved through AEMO's consultation process.

There is no formal dispute resolution process provided for in the RRO. The AER can only base its decision of whether to make or not make a *reliability instrument* on the decision

---

<sup>1</sup> Transitional provision 11.116.3(d)(2) states the AER is not required to have regard to the Forecasting Best practice Guideline for the purposes of considering an instrument request made by AEMO based on the 2019 ES00, or any update to it.

making criteria set out in the Rules. The guideline states that disagreements on technical aspects of the *reliability forecast* will not be considered. However if a stakeholder can demonstrate that AEMO has made a material error in its *reliability forecast* it should provide evidence of this to the AER during the two week consultation period on a *reliability instrument* request.

## 2.3 Test for materiality of reliability gap

In accordance with rule 4A.C.1, if AEMO forecasts a *reliability gap*, it is required to request the AER (i.e it must) to consider making a *reliability instrument*. Following receipt of this request, the AER has two months to determine whether to make a *reliability instrument*, taking into consideration the criteria set out at rule 4A.C.11 and section 14K(3) of the NEL, and following a two week stakeholder consultation period.<sup>2</sup>

The AEC and Origin submitted that the AER should have the discretion to assess whether a breach of the reliability standard is material such that a *reliability instrument* is warranted. Origin further submitted that the AER should be able to refuse an instrument request where it falls within the margin of error of the forecasting process.

Rule 4A.C.11 explicitly limits the criteria that the AER is able to consider when assessing an instrument request. The Rules have set out that a *reliability gap* is to be considered material if the forecast regional annual expected *unserved energy* exceeds the reliability standard of 0.002%.<sup>3</sup>

## 2.4 Interpretation of 'material'

Rule 4A.C.11(a) states that the AER, in considering whether it is appropriate in the circumstances to make a *reliability instrument*, must have regard to whether there are material errors in AEMO's calculations or input data relating to the *reliability forecast*. Rule 4A.C.11(b) states that the AER must also have regard to whether AEMO has made any inaccurate assumptions that have had a material impact on unserved energy outcomes in the *reliability forecast*. Both of these criteria rely on the term 'material' in reference to an error or the impact of an inaccurate assumption.

The concept and application of 'materiality' was raised in several submissions. EUAA wanted guidance on what would be considered material to assist stakeholders in making submissions during the AER's decision making process. While they agreed with the AER using sensitivity analysis to determine materiality as highlighted in Section 5 of the draft interim Reliability Instrument Guidelines, it was suggested that the AER adopt a hard, numerical definition of materiality. Similarly Stanwell noted that the AER had not detailed how materiality would be interpreted and applied. The submission sought to clarify whether the AER would treat a material error or impact as one that is expected to change the magnitude of a *reliability gap*, or one that would eliminate the gap altogether.

---

<sup>2</sup> Under transitional provision 11.116.3(d)(2) the AER is not required to have regard to AEMO's compliance with the forecasting best practice guidelines when considering a request made by AEMO based on the 2019 statement of opportunities.

<sup>3</sup> Rule 4A.A.2

The AER will exercise discretion in applying the 'materiality' considerations required by rules 4A.C.11(a) and (b) within the context of making a decision on whether to make a *reliability instrument*. An error would be considered material, if in correcting for the error, the gap is eliminated or falls below the reliability standard. The AER is still likely to make a *reliability instrument* where an error or inaccurate assumption increases the size of the gap.

The Guidelines provide additional guidance on how the sensitivity analysis will be used to assist in considering the decision making criteria.

## 2.5 Presentation of reliability instrument request

Section 4 of the draft interim Reliability Instrument Guidelines sets out the AER's approach to the form and composition of the information AEMO need to provide to the AER as part of a *reliability instrument* request. The draft interim Reliability Instrument Guidelines stated that AEMO could provide the information in a request, or highlight where it is contained in the ESOO.

Energy Australia's submission suggested that all information related to a *reliability instrument* request from AEMO should be provided separately to the AER and not simply highlight where it is contained in the ESOO. The AER considers that this would assist with the review of a reliability forecast by providing additional transparency over the inputs and assumptions used by AEMO. The guidelines have been amended to reflect this change.

Separately, several submissions made by stakeholders related to the content of the ESOO including Ergon Energy's request that AEMO's forecasting methodologies and assumptions be made available for stakeholder consultation. Powershop further requested that 'AEMO's modelled assumptions should be presented in a way that easily demonstrates how the market solution is solving the supply/demand balance' and that AEMO provide information on how past ESOO forecasts have performed.

In response to these submissions, the Rules are prescriptive with the matters that the AER may consider when making a *reliability instrument*. This does not extend to performing a review of AEMO's ESOO forecasts or for the AER to instruct AEMO on how it should present the ESOO data. It is therefore incumbent on AEMO to conduct a thorough stakeholder consultation in developing the ESOO and to clearly set out how it has taken stakeholder views into consideration.

Stakeholder concerns relating to AEMO's consultation process or ESOO forecasting methodology should be communicated during the AER's Forecasting Best Practice Guidelines and AEMO's Reliability Forecast Guidelines consultation periods respectively.

## 2.6 Stakeholder consultation

Rule 4A.C.12(b)(1) states that the Reliability Instrument Guidelines must set out how the AER will provide for stakeholder consultation in deciding whether to make or not make a *reliability instrument*. This was set out in Section 6 of the draft interim Reliability Instrument Guidelines.

Energy Australia stated that it expects the AER will be involved throughout the ESOO consultation process so it can be aware of stakeholder concerns as they are being raised.



They suggested the AER should also consider submissions from stakeholders in AEMO's ESOO forecasting process when making a decision on a *reliability instrument* request.

Some stakeholder submissions went further to suggest additional methods and processes for stakeholder consultation. Specifically, the AEC suggested that the AER engage an independent consultant to take stakeholders' feedback and review AEMO's forecast to ensure that a *reliability instrument* request is justified. Stanwell's submission suggested an additional consultation period between AEMO publishing the ESOO and its submission of a *reliability instrument* request to the AER.

We agree, the AER will be actively involved in the ESOO consultation process and the interim Reliability Instrument Guidelines has been updated to explicitly reflect this position. However, as discussed above, the AER's decision making is limited to considering the criteria set out at rule 4A.C.11 for the purposes of making a *reliability instrument*. The AER's role does not extend to resolving disagreements between AEMO and participants on inputs or methodologies used for the *reliability forecast*. In response to Stanwell's submissions, the AER is bound by the Rules which do not allow for any additional consultation periods.

## 2.7 AER course of action where decision making criteria not met

The draft interim Reliability Instrument Guidelines state that, upon making its decision whether or not to issue a *reliability instrument*, the AER will publish the decision, the reasons for its decision, and if applicable, the *reliability instrument*. Section 6 of the Guidelines outline what will occur in the event that a *reliability instrument* is made.

Stanwell's submission noted that it was unclear as to what would occur if the AER makes a decision not to issue a *reliability instrument* following a request from AEMO. Specifically, the Guidelines do not detail whether a rejection of AEMO's instrument request requires AEMO to redo its forecast, or whether it simply causes the RRO process to cease.

If the AER makes a decision not to issue a *reliability instrument*, then the RRO process does not continue. AEMO may submit another instrument request, however all Rules that govern this process will apply anew.<sup>4</sup>

---

<sup>4</sup> Where the AER rejects an *instrument request*, AEMO may re-submit another instrument request if it is still three months before the T-3 cut-off day for the relevant *forecast reliability gap* in accordance with rule 4A.C.2.