

DEFAULT & DEREGISTRATION PROCEDURE

METERING PROVIDERS, METERING DATA PROVIDERS,
EMBEDDED NETWORK MANAGERS & METERING COORDINATORS

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CONTENTS

1.	INTRODUCTION	4
1.1	Purpose and Scope	4
1.2	Definitions and Interpretation	4
1.3	Related AEMO Documents	4
2.	BREACH OF THE NER OR PROCEDURES UNDER THE NER	4
3.	DEFAULT PROCESS	4
3.1	Issue of Breach Notice	4
3.2	Review of Capability for Ongoing Compliance	5
3.3	Determination of Type of Breach	6
3.4	AEMO action following Review	6
4.	EXERCISE OF AEMO DISCRETION	7
4.1	Relevant Considerations	7
4.2	Constraints	8
5.	CONSEQUENCES OF AEMO ACTION	8
5.1	MP, MDP or ENM	8
5.2	MC	9
5.3	Other Impacts	9
6.	VOLUNTARY DEREGISTRATION	9
6.1	Application	9
6.2	Process	9
	APPENDIX A. NOTICE OF BREACH	11
	APPENDIX B. METERING COORDINATOR DEFAULT NOTICE	12
	APPENDIX C. NOTICE TO APPOINTERS	13
	APPENDIX D. OUTCOME OF REVIEW	14
	APPENDIX E. NOTICE TO AFFECTED PARTIES	15

1. INTRODUCTION

1.1 Purpose and Scope

This Default and Deregistration Procedure - Metering Providers, Metering Data Providers, Embedded Network Managers & Metering Coordinators (Procedure) is made in accordance with clauses 7.4.4(a), 7.4.4(a1) and 7.7.3(a) of the NER.

This Procedure has effect only for the purposes set out in the NER. The NER and the *National Electricity Law* prevail over this Procedure to the extent of any inconsistency.

1.2 Definitions and Interpretation

The Retail Electricity Market Procedures – Glossary and Framework:

- (a) is incorporated into and forms part of this Procedure; and
- (b) should be read with this Procedure.

1.3 Related AEMO Documents

Title	Location
Retail Electricity Market Procedures – Glossary and Framework	http://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Retail-and-metering/Glossary-and-Framework
Service Level Procedure (MDP)	http://www.aemo.com.au/Electricity/Retail-and-Metering/Metering-Services
Service Level Procedure (MP)	http://www.aemo.com.au/Electricity/Retail-and-Metering/Metering-Services
Service Level Procedure (ENM)	http://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Retail-and-metering/Metering-procedures-guidelines-and-processes
Metrology Procedure: Part A	http://www.aemo.com.au/Electricity/Policies-and-Procedures/Metrology-Procedures-and-Unmetered-Loads
Metrology Procedure: Part B	http://www.aemo.com.au/Electricity/Policies-and-Procedures/Metrology-Procedures-and-Unmetered-Loads
CATS Procedures	http://www.aemo.com.au/Electricity/Policies-and-Procedures/Market-Settlement-and-Transfer-Solutions
WIGS Procedures	http://www.aemo.com.au/Electricity/Policies-and-Procedures/Market-Settlement-and-Transfer-Solutions
NEM RoLR Processes	http://www.aemo.com.au/Electricity/Policies-and-Procedures/B2B/NEM-RoLR-Processes

2. BREACH OF THE NER OR PROCEDURES UNDER THE NER

This Procedure details how AEMO will address the failure of an MP, MDP, ENM or MC to comply with the NER or any applicable procedures under the NER, or a failure to meet a condition of accreditation.

The failure of an MP, MDP, ENM or MC to comply with the NER or any applicable procedures under the NER, or a failure to meet a condition of accreditation, (**Breach**) may come to AEMO's attention following compliance audits of MPs, MDPs, ENMs or MCs, information in AEMO systems and records, complaints from affected Participants or End Users, notifications from other regulatory bodies or through self-reporting.

3. DEFAULT PROCESS

3.1 Issue of Breach Notice

If AEMO reasonably determines that a Breach exists, AEMO will issue a notice to the relevant MP, MDP or ENM under clause 7.4.4(c)(1) of the NER, or MC under clause 7.7.3(c)(1) (**Notice of Breach**).

A Notice of Breach will be issued substantially in the form contained in **Appendix A**.

3.2 Review of Capability for Ongoing Compliance

If an MP, MDP, ENM or MC has not remedied the breach referred to in the Notice of Breach within 7 days after the issue of the notice, AEMO will conduct a review to assess the relevant MP, MDP, ENM or MC's capability for ongoing compliance with the NER or applicable procedures under the NER as required by clause 7.4.4(c)(2) of the NER, or clause 7.7.3(c)(2) (**Review**).

The matters that AEMO may take into consideration while conducting this Review include the following:

3.2.1 Remediation Plan

If an MP, MDP, ENM or MC in receipt of a Notice of Breach provides AEMO with a remediation plan regarding the Breach, AEMO may take the remediation plan into account, provided that the remediation plan includes, as a minimum:

- (a) a demonstrated understanding of the Breach and its impact on AEMO, other Participants or End Users;
- (b) a demonstrated understanding of the causes of the Breach;
- (c) the actions, resources and systems required to remediate the Breach;
- (d) communications and co-ordination with affected Participants where remediation activities require it;
- (e) a commitment to remediate the Breach by a specified date;
- (f) actions, resources or systems that have been, or are to be, deployed to mitigate the effects of the Breach prior to its remediation; and
- (g) regular reporting to, and meetings with, AEMO detailing progress of the remediation activities. The reporting and meeting frequency must be agreed by AEMO.

3.2.2 Past Conduct

AEMO may review the past conduct of the relevant MP, MDP, ENM or MC, including:

- (a) any previous Breach;
- (b) the level of any previous warning issued to the relevant MP, MDP, ENM or MC;
- (c) information provided by affected Participants or End Users;
- (d) the findings of any audit undertaken by AEMO and the actions taken by the relevant MP, MDP, ENM or MC regarding those findings; and
- (e) any warnings, actions or penalties issued by regulatory bodies.

3.2.3 Organisation Structure

AEMO may review the organisation structure of the relevant MP, MDP, ENM or MC to evaluate the organisation's capacity and capability to remediate the Breach and prevent further Breaches, including:

- (a) the design, implementation and operation of self-regulation and compliance systems;
- (b) the design, implementation and operation of quality systems; and
- (c) availability of appropriately skilled and knowledgeable personnel.

3.2.4 Other Relevant Considerations

AEMO may take any other relevant matters into consideration, such as whether the Breach was reported by the relevant MP, MDP, ENM or MC who committed the Breach, the extent to which another Participant or other person might have contributed to the Breach, the conduct of the relevant MP, MDP, ENM or MC after receiving the Notice of Breach, including the level of co-operation and assistance provided to AEMO during its Review.

3.3 Determination of Type of Breach

AEMO must determine what type of Breach has been committed by the relevant MP, MDP, ENM or MC.

There are three types of Breach:

3.3.1 Immaterial Breach

An Immaterial Breach is a Breach that does not have a material adverse effect on either or both of the following:

- (a) AEMO's ability to perform its functions or comply with its obligations.
- (b) Participants' ability to perform their services, conduct their business operations, or fulfil their regulatory obligations.

3.3.2 Significant Breach

A Significant Breach includes a Breach, or a series of Breaches taken together, that if not remedied, is, or are, likely to have a material adverse effect on either or both of the following:

- (a) AEMO's ability to perform its functions or comply with its obligations.
- (b) Participants' ability to perform their services, conduct their business operations, or fulfil their regulatory obligations.

3.3.3 Material Breach

A Material Breach includes one or more of the following:

- (a) A Breach, or a series of Breaches taken together, that has, or have, a material adverse effect on either or both of the following:
 - (i) AEMO's ability to perform its functions or comply with its obligations.
 - (ii) Participants' ability to perform their services, conduct their business operations, or fulfil their regulatory obligations;
- (b) a breach of the NER or procedures under the NER that have resulted in the MP, MDP, ENM or MC incurring civil penalties or other sanction under the NEL;
- (c) a breach of a Jurisdictional requirement in the *metrology procedure*;
- (d) the cessation of any activity the relevant MP, MDP, ENM or MC has been appointed to perform, other than as strictly required by the NER or in applicable procedures under the NER.
- (e) any act that AEMO reasonably considers to be unethical.

3.4 AEMO action following Review

If, at the conclusion of the Review, the Breach has not been remedied, AEMO must determine whether it can be demonstrated that a Material Breach has occurred and then determine what action to take.

3.4.1 Material Breach

If AEMO determines that the Breach is a Material Breach, the action AEMO will take will vary in the case of an MC, from that taken against an MP, MDP or ENM.

(a) **MP, MDP or ENM**

In the case of an MP, MDP or ENM, AEMO may:

- (i) deregister the relevant MP, MDP or ENM from a date specified by AEMO;
- (ii) suspend the relevant MP, MDP or ENM from one or more categories of registration;
- (iii) allow the relevant MP, MDP or ENM to operate under constraints; or
- (iv) any combination of sub-paragraph (i) and (ii).

(b) **MC**

In the case of an MC, AEMO:

- (i) may issue a *Metering Coordinator default notice* to the relevant MC that will be substantially in the form contained in **Appendix B**.
- (ii) must, if a notice has been issued in accordance with sub-paragraph (i), also issue a notice to the FRMP and 'relevant person' (as that term is used in clause 7.7.3(d) of the NER¹ (**Appointers**) for each affected *connection point* specifying:
 - A. the affected MC; and
 - B. that a *Metering Coordinator default event* under paragraph (d) of the definition of *Metering Coordinator default event* has occurred.
- (i) The notice to the Appointers will be substantially in the form contained in **Appendix C**.

3.4.2 Immaterial or Significant Breach

(a) **Actions taken by AEMO**

If the Breach is an Immaterial Breach, or Significant Breach, the types of action AEMO could take include:

- (i) apply close monitoring of the relevant MP, MDP, ENM or MC's performance for a limited or indefinite time;
- (ii) request regular reporting from the relevant MP, MDP, ENM or MC;
- (iii) request regular reporting against progress in completing a remediation plan from the relevant MP, MDP, ENM or MC to AEMO and affected Participants;
- (iv) impose additional requirements, provided that they do not restrict the relevant MP, MDP, ENM or MC's provision of services in accordance with their accreditation and registration; or
- (v) any combination of the above.

3.4.3 Warnings

If the Breach is an Immaterial Breach, or Significant Breach, AEMO must issue a low level warning or a high level warning. The level of warning may be taken into consideration during a Review of a subsequent Breach by the same Participant. The matters that AEMO may take into consideration in deciding whether to issue a low level warning or a high level warning include the following:

- (a) the type of Breach;
- (b) the type, level and number of previous Breaches;
- (c) the effect of the Breach on AEMO and other Participants; and
- (d) other matters considered relevant by AEMO.

3.4.4 Escalation

AEMO may escalate the severity of the Breach from an Immaterial Breach or Significant Breach to a Material Breach upon receipt of additional information that AEMO reasonably considers supports such an escalation, in which case AEMO will issue a new Notice of Breach to the affected MP, MDP, ENM or MC in accordance with section 3.1.

4. EXERCISE OF AEMO DISCRETION

4.1 Relevant Considerations

When determining what action to take under section 3.4.1 or 3.4.2, AEMO will take into consideration the following matters, as a minimum:

¹ AEMO interprets this to be a reference to the 'relevant person' referred to in clause 7.7.1(a)(2) of the NER, namely specified parties other than the FRMP entitled to appoint an MC under clause 7.6.2.

- (a) the extent of the failure of an MP, MDP, ENM or MC's self-regulation, compliance or quality system and whether AEMO is confident that the MP, MDP, ENM or MC could reasonably operate on an ongoing basis, and in what capacity;
- (b) the extent of the failure by the relevant MP, MDP, ENM or MC to demonstrate its capability and capacity to operate in the relevant role;
- (c) whether the nature and effect of the Breach has been contained so that it will not spread;
- (d) the financial or operational impact of the Breach on AEMO or other Participants;
- (e) whether any services have been unreasonably withdrawn; and
- (f) whether the Breach is likely to be repeated.

4.2 Constraints

AEMO also has discretion in imposing constraints under section 3.4.1(a) or other action under section 3.4.2. Indicative types of constraints that could be imposed include the following:

- (a) limiting the volume of activity (such as *meters* that can be installed);
- (b) limiting the types of activities that can be undertaken under an accreditation category (such as only being able to install single phase *metering* rather than three-phase, or only being able to read *metering installations* that have a single Datastream);
- (c) only operating in a specific geographical area, or Jurisdiction; and
- (d) cessation of any extension of accreditation, or rejection of applications for extension of accreditation.

5. CONSEQUENCES OF AEMO ACTION

5.1 MP, MDP or ENM

5.1.1 Material Breach

(a) Issue of Notice to MP, MDP or ENM

Should AEMO determine that a Material Breach has occurred, AEMO will issue a notice confirming the outcome of the Review and action taken by AEMO to the relevant MP, MDP or ENM in accordance with clause 7.4.4(d) of the NER.

The notice will be substantially in the form contained in **Appendix D**.

(b) Notice Conditions

The MP, MDP or ENM (as applicable) must comply with any requirements and conditions provided in the notice.

If AEMO determines to deregister an MP, MDP or ENM, the date of deregistration specified by AEMO will be no less than:

- (i) 2 *business days* from the date of the notice where the deregistration will affect End Users with *metering installation* types 1-3; and
- (ii) 10 *business days* from the date of the notice where the deregistration will affect End Users with all other *metering installation* types.

(c) Notice to Affected Parties

AEMO will also issue a notice to the *AER*, the affected MCs, FRMPs, LNSPs and, in the case of ENMs only, the relevant EENSPs, substantially in the form contained in **Appendix E**.

5.1.2 Immaterial or Significant Breach

(a) Issue of Notice to MP, MDP or ENM

Should AEMO determine that the Breach is not an Immaterial Breach or Significant Breach, AEMO will issue a notice confirming the outcome of the Review to the relevant MP, MDP or ENM, including the action taken in accordance with section 3.4.2.

(b) Notice Conditions

The MP, MDP or ENM (as applicable) must comply with any requirements and conditions provided in the notice.

5.2 MC

- (a) Where AEMO has issued a notice to the FRMP under section 3.4.1(b), the FRMP for each affected *connection point* must appoint a new MC under clause 7.7.1(a) of the NER.
- (b) Where AEMO has issued a notice under section 3.4.1(b) to a person other than the FRMP, that person must appoint a new MC within two *business days* of receiving the notice, otherwise the FRMP must appoint the new MC.

5.3 Other Impacts

Any action taken by AEMO in accordance with this Procedure does not preclude or prejudice any compliance review or subsequent action by the *AER*, or any legal or other action taken by any affected Participant against the relevant MP, MDP, ENM or MC, in respect of the Breach.

6. VOLUNTARY DEREGISTRATION**6.1 Application****6.1.1 Embedded Network Managers**

Clause 7.4.4(a1)(1) of the NER permits ENMs to seek a voluntary deregistration.

6.1.2 Metering Providers and Metering Data Providers

Although there is no explicit right in the NER enabling MDPs and MPs to seek deregistration, there is nothing preventing them from doing so.

6.1.3 Metering Coordinators

MCs seeking deregistration should refer to AEMO's Registration Desk for further information.

6.2 Process**6.2.1 Form of Application**

An ENM, MDP or MP seeking to deregister must send a letter to AEMO on formal letterhead, signed by a duly authorised officer, and provide the following information:

- Their full name and ABN.
- Participant ID.
- A preferred date for deregistration.
- Details of the services the ENM, MDP or MP is providing as at the date of the application and how those will be addressed with a view to minimising the impact of the deregistration on other Participants and End Users.
- Confirmation that all necessary documents, plans or other data required by AEMO or any other person has been provided to them for the purpose of fulfilling their obligations under the NER or procedures under the NER in respect of those services, *metering installations*, *metering data* or *embedded networks*, as applicable.

6.2.2 AEMO Review of Application

AEMO will review the application for deregistration and, where necessary, conduct further inquiries before determining whether to grant the deregistration.

Provided an application is received at least 30 *days* prior to a proposed date of deregistration and there will be no disruption to the operations of other Participants and no foreseeable impact on End Users, AEMO will endeavour to accommodate the preferred date of deregistration.

APPENDIX A. NOTICE OF BREACH

Notice Type:		Notice of Breach
NER reference:		Clause 7.4.4(c)(1) of the NER (if MP, MDP or ENM) or Clause 7.7.3(c)(1) of the NER (if MC) delete as applicable
Notice ID:		(insert unique reference ID)
Date of issue of notice:		
Notice issued to:	Name:	(insert name of entity)
	Address:	(insert address of entity)
	Attention:	(insert appropriate contact)
	Participant ID:	(insert Participant ID)
Substance of breach:		(insert the substance of the breach and appropriate NER or procedure reference in detail)
Date by which breach to be remedied:		(insert the date that is 7 days after the date of issue of notice)
Consequences if Breach not remedied:		AEMO will conduct a Review in accordance with AEMO's Default and Deregistration Procedure to assess your capability for ongoing compliance with the NER or applicable procedures under the NER as required by clause (insert NER reference: for MP, MDP or ENM, 7.4.4(c)(2); for MC, 7.7.3(c)(2) – delete as applicable) of the NER.
Date by which AEMO will advise you of outcome of Review:		(insert date)
Queries about this notice to be directed to:		(insert name of contact] at ✉ (insert email address] or ☎ (insert contact number]

Capitalised terms are defined in AEMO's Default and Deregistration Procedure.

APPENDIX B. METERING COORDINATOR DEFAULT NOTICE

(Addressee – party in breach)

(Date of issue)

Metering Coordinator Default Notice under clause 7.7.3(c)(3) of the National Electricity Rules (NER)

AEMO has reasonably determined that (party in breach) is in breach of (insert the substance of the breach and appropriate NER or procedure reference in detail) and forwarded a Notice of Breach to (party in breach) on [insert date].

More than 7 days have passed since the Notice of Breach was issued to (party in breach) and AEMO has concluded its review under clause 7.7.3(c)(2) of the NER and determined that (party in breach) has committed a Material Breach (as that term is defined in the Default and Deregistration Procedure).

Accordingly, AEMO issues this Metering Coordinator Default Notice under clause 7.7.3(c)(3) of the NER to (party in breach).

AEMO will proceed to notify the FRMP and each other relevant person for each connection point for which (party in breach) has been appointed as the Metering Coordinator.

Any queries should be directed to [insert contact] at ✉ [insert email address] or ☎ [insert contact number].

APPENDIX C. NOTICE TO APPOINTERS

(Addressee)

(Date of issue)

Notice of Metering Coordinator Default - (insert MC's name)

The Australian Energy Market Operator (**AEMO**) is responsible for registering Metering Coordinators in the National Electricity Market (**NEM**). In accordance with clause 7.7.3 of the National Electricity Rules (**NER**), AEMO is also responsible for monitoring their compliance with the NER.

AEMO's records indicate that you appointed (insert MC's name) as the Metering Coordinator for a number of connection points.

On (insert date of review) AEMO completed a review of (insert MC's name) performance and compliance with the NER and applicable procedures under the NER.

AEMO provides the findings of that review to you in accordance with clause 7.7.3(d) of the NER, which are as follows:

(Insert review findings)

As a result of the review, AEMO has taken the following action:

(Insert AEMO actions resulting from the breach)

As a consequence, as required by clause 7.7.1(a) of the NER, you are required (insert only for non-FRMP addressee – within two business days) to appoint a new Metering Coordinator for those connection points that (insert MC's name) was hitherto the Metering Coordinator.

Any queries should be directed to (insert contact) at ✉ (insert email address) or ☎ (insert contact number).

APPENDIX D. OUTCOME OF REVIEW

(Addressee – party in breach)

(Date of issue)

Outcome of Review following Notice of Breach

AEMO issued a Notice of Breach to (party in breach) on [insert date].

AEMO has subsequently completed a review to assess (party in breach) capability for ongoing compliance with the NER or applicable procedures under the NER in accordance with clause 7.4.4(c)(2) of the National Electricity Rules (NER).

The findings of AEMO's review are as follows:

- (insert the substance of the breach and appropriate NER or procedure reference in detail)
- (party in breach) has committed a Material Breach (as that term is defined in the Default and Deregistration Procedure).

Having determined that (party in breach) has committed a Material Breach, AEMO has also given consideration to the action that AEMO will take, as contemplated by clause 7.4.4(d) and in accordance with section 3.4.1(a) of the Default and Deregistration Procedure.

After considering all the evidence presented to AEMO and the matters referred to in section 4 of the Default and Deregistration Procedure, AEMO has determined to [insert action and any conditions].

AEMO will notify affected Metering Coordinators and FRMPs [and insert EENSPs if the party in breach is an ENM] of AEMO's determination.

Any queries should be directed to [insert contact] at [insert email address] or [insert contact number].

APPENDIX E. NOTICE TO AFFECTED PARTIES

(Addressee)

(Date of issue)

Deregistration of/Suspension of/Constraints to apply to/ (party in breach) [delete as appropriate]

AEMO issued a Notice of Breach to (party in breach) on [insert date].

AEMO has subsequently completed a review to assess (party in breach) capability for ongoing compliance with the NER or applicable procedures under the NER in accordance with clause 7.4.4(c)(2) of the National Electricity Rules (NER).

Having determined that (party in breach) has committed a Material Breach (as that term is defined in the Default and Deregistration Procedure), AEMO has also determined to [insert action and any conditions] (party in breach).

Any queries should be directed to [insert contact] at ✉ [insert email address] or ☎ [insert contact number].