



**AGL Energy Limited**  
ABN: 74 115 061 375  
Level 24, 200 George St  
Sydney NSW 2000  
Locked Bag 1837  
St Leonards NSW 2065  
t: 02 9921 2999  
f: 02 9921 2552  
agl.com.au

---

**Mr John Pierce**

**Australian Energy Market Commission**

**PO Box A2449**

**Sydney South, NSW 1235**

**22 May 2019**

**Submission to the Transparency of New Projects Rule Change: Consultation Paper (ERC0257)**

AGL Energy (AGL) is one of Australia's leading integrated energy companies and the largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy and provides energy solutions to over 3.6 million customers in New South Wales, Victoria, Queensland, Western Australia and South Australia.

We welcome the opportunity to comment on the Australian Energy Market Commission's (**AEMC**) Transparency of New Projects consultation paper (consultation **paper**) which seeks to consolidate three rule change requests into one consultation process in a crucial and important attempt to enhance the transparency of new generation projects connecting to the National Electricity Market (NEM).

The NEM is currently undergoing a major transition with increasing amounts of variable renewable generation replacing traditional thermal synchronous generators. To help this transition, it is important that the proponents wanting to build, manage, develop, or operate have the necessary information required, to make informed decisions.

AGL understands the objectives of these rule change requests is to enable greater levels of market and information transparency. This, in part, aims to balance information asymmetry and address increasing levels of transmission congestion caused by generators seeking connection in areas of the network where there is, or expected to be, limited capacity to operate unimpeded.

AGL supports rational investment in new generation in the NEM, where long term energy forecasts and considered revenue feasibilities are carried out and therefore agrees that greater levels of information transparency will help support better investment decisions.

In principle, we support the policy intent of the AEMO, AEC and ENA rule change requests, that aim at improving information transparency in the connections process. We believe that enabling greater access and visibility to technical and project connection information will better support the investment decisions of developers, market participants and network businesses. However, we have concerns with several aspects of the proposals, in particular, some of the mechanics and governance arrangements proposed under AEMO's rule change request.



Key issues include:

- **Clearer ‘developer’ definitions** - A greater understanding of who the AEMO rule change is set out to support, and the magnitude of the problem is necessary, noting that AEMO’s proposal clearly articulated that the developer ‘never intends to register as a market participant’<sup>1</sup>.
- **Regulatory Safeguards** – It is unclear how any extensions of the regulatory framework would bind on developers as Intending Participants, including the application of confidentiality obligations, to ensure those seeking access to protected information remain incentivised beyond the ‘deregistration’ deterrent<sup>2</sup>.
- **Balancing accountability and transparency** – A costs and benefits assessment is necessary to ensure any reforms strike the right balance between imposing new obligations and their associated compliance costs.
- **Considerations of other existing mechanisms to enable transparency** – a further assessment is required to determine:
  - a. why the existing commercial models outlined in Appendix A of the consultation paper<sup>3</sup> are not satisfactory, noting that regulatory accountability is reflected in these models; and
  - b. the limitations of other alternative yet existing approaches for developers (not operating under one of the models outlined in point a. above), to seek access to market and technical data via third-party providers.

AGL encourages the AEMC to explore these issues as part of its assessment.

Additionally, AGL has responded to the various consultation questions below in Appendix 1. We welcome the opportunity to discuss these further with the AEMC.

If you have any queries about our submission, please contact Dan Mascarenhas on (03) 8633 7880 or [DMascare@agl.com.au](mailto:DMascare@agl.com.au).

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Elizabeth Molyneux'.

Elizabeth Molyneux

General Manager Energy Markets Regulation

<sup>1</sup> AEMC Transparency of New Projects consultation paper; pg. 1

<sup>2</sup> AGL notes, that this deterrent may be insufficient on its own because the developer, operating in the way described by AEMO, would likely deregister themselves from the Intending Participant category anyway.

<sup>3</sup> AEMC Transparency of New Projects consultation paper; p41



## Appendix 1

### Question 1 – Assessment Framework

---

**a. Do stakeholders agree with the proposed assessment framework? Alternatively, are there additional principles that the commission should take into account?**

AGL broadly supports the AEMC's proposed assessment. However, AGL considers that reform should only be progressed where there is a clear rationale for change, suitable drivers and incentives, competitive neutrality, and appropriate governance arrangements. Any reform must also balance the cost and benefits of a proposed change.

### Question 2 – Information Provision for Developers

---

**a. Do stakeholders consider that developers do not have access to information necessary to construct and connect generation assets or large loads?**

AGL acknowledges there may be a growing challenge in the market for specific developers with alternative business models during pre-registration. It is possible these developers may not have access to some of the essential data sets needed to enable application for registration and network connections, particularly if they are operating under a model not described in Appendix A of the consultation paper.

While AGL supports greater transparency of information and access to data to better enable investment decision making in the NEM, we also believe that this access must also reflect appropriate responsibilities and accountability to the regulatory framework, including adhering to confidentiality obligations.

**b. Should developers be allowed to register as intending participants? If so, what other considerations should be taken into account?**

AGL broadly supports the policy intent proposed by AEMO to increase transparency and information access to new market participants. We do not however, support the proposed mechanism to allow developers access, unless several regulatory concerns are suitably addressed.

We urge the AEMC to carefully consider the risks associated with an expansion to the 'Intending Participant' category. Below is an outline of concerns:

1. AGL notes that anyone can be a 'developer' – unless this term is clearly defined, access to the regulatory framework could have unforeseen consequences. While we understand AEMO will likely manage a registration process for developers seeking to become 'Intending Participants', we believe guidance from the AEMC is necessary to describe the intended 'beneficiary' of these rule changes.

Further, we understand AEMO's proposal is aimed at those developers specifically seeking to undertake a 'build and sell' model. AGL encourages the AEMC to consider all pre-operation developer models, including for example, those seeking to sell at financial close (i.e. Financial Investment Decision).



2. Additional quantitative and/or qualitative information from AEMO to support their proposal and demonstrate the specific magnitude of the problem is necessary. This information would allow further consideration on the key concerns and challenges presented, including the need for change. It would also assist in explaining why, for example, other known pathways such as the commercial models in Attachment A of the consultation paper, or subscription services to existing third party data providers<sup>4</sup>, do not address the problem.
  
3. AGL has a general concern regarding the application of the NER in respect of developers under the AEMO proposal. We contest that if the AEMC allows a 'developer' to become an 'Intending Participant', irrespective of the developer's intention to register or not, suitable consideration needs to be given to regulatory enforcement of the NER. This includes ensuring appropriate regulatory safeguards are in place to:
  - Maintain general compliance with the National Electricity Law (NEL), NER and its associated procedures and guidelines (as applicable);
  - Protect the datasets that are made available, both near and long term, to ensure the developer has the right intentions (i.e. doesn't misuse data, protects confidentiality, uses the data within the bounds of the regulatory framework while an intending participant etc.);
  - Limit the amount of data and information provided to the developer by clearly articulating the type of data sets provided, ensuring provision of high level aggregated data (i.e. locational) only, and setting a maximum term on access to the data; and
  - Maintain suitable accountability in this category of participant to ensure only serious developers seek access, for example by applying a financial penalty for NER non-compliance or setting an access/registration fee. AGL notes that deregistration alone will not provide a suitable disincentive to combat the risk of participant gaming in this category because the developer would deregister themselves anyway once their intended activity is completed.

**c. Do stakeholders have any views on the criteria outlined in AEMO's intending participant guidelines?**

AEMO should consult on the guiding principles to ensure that the intending participant category remains fit for purpose. In addition, incentives such as a suitable upfront payment, a holding bond, or backward facing payment as a condition of sale could be further explored as mechanisms to detract non-committed participants from seeking access.

Another option to incentivise continued project specific progress by developers is to encourage suitable explanations on progress delays through penalty fees, with deregistration if no suitable explanation of delayed progress is provided. AGL welcomes the AEMC's view on the most efficient and effective way to keep developers accountable under the NER.

---

## Question 6 – Notification of Project Changes

---

---

<sup>4</sup> AGL notes that a number of commercial businesses such as NEOmobile and NEMsight provide real time and historic subscription data services, which can provide developers with a cheaper, less intrusive mechanism. These services provide similar data sets necessary to undertake project modelling activities.



---

**a. What are stakeholders' views on imposing a requirement on intending participants to provide AEMO with revised information when their project changes? Is it feasible for participants to comply with such a requirement?**

Managing the balance between costs and benefits of additional reporting obligations needs to be carefully considered. The type of information, granularity, and frequency of reporting requirements on participants needs to be reflected in the outcome; i.e. to enable adequate, updated, accurate data yet not impose additional administration costs on market participants.

AGL believes that while increased transparency is important and beneficial to the market, it is only useful if it is accurate and consistent across platforms.

**b. The AEC proposes that AEMO is notified of any changes to projects within 10 business days – do stakeholders have any views on this timeframe?**

The proposed requirement set out by the AEC in their proposed solution<sup>5</sup> to provide updates to AEMO as soon as reasonably practicable, and no later than 10 business days requires further consideration by the AEMC. As above, a balance must be struck between the usefulness of the data, the costs of compliance and the administrative burden. AGL believes that the AEC proposal may result in the situation where market participants are forced to pay a penalty when non-compliant on small insignificant information changes, resulting in additional unnecessary costs for the market participants.

AGL recommends a more efficient compromised approach could be; to obligate 'Intending Participants' to update and provide the 'best available information' as reasonably practicable based on a materiality threshold assessed by developers themselves. This places the obligation and the risk on the developer to keep AEMO (and therefore the market) up to date on major changes. If the market is made aware of the information changes prior to the developer's report to AEMO, we believe AEMO should have discretion to apply a suitable penalty. We encourage the AEMC in its assessment to develop and consult on what should constitute an appropriate materiality threshold.

---

#### Question 7 – Publication of Data by TNSPS

---

**a. Do stakeholders have any views on the information that TNSPs are proposing to disclose? Should additional information be required to be disclosed? Is any of this information not relevant?**

AGL supports the provision of this information and acknowledges its advantages to existing and future market participants, by further supporting the *transparency of information* through consistent, accurate, aggregated and updated data.

However, AGL questions whether the reporting requirements to AEMO's generation information page and the publishing of information for the Transmission Annual Planning Report (TAPR) can be streamlined further to reduce duplication of information, ensuring reporting requirements do not become an administrative burden.

A possible solution may be to better align the frequencies of the reporting requirements and enable sharing of the specific and relevant information outlined in the consultation paper between the TNSP portal and AEMO's generation information portal.

---

<sup>5</sup> AEMC Transparency of New Projects consultation paper; pg. 18