

20 July 2023

Anna Collyer
Chair and Commissioner
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

Ms Collyer

GRC0067 – gas compensation and dispute resolution frameworks

AEMO welcomes the opportunity to provide a submission to the AEMC’s consultation paper on *Gas Compensation and Dispute Resolution Frameworks*. Our submission relates to the governance and procedural arrangements under the east coast gas system (ECGS) compensation and dispute resolution frameworks and considers amendments to Part 27 of the National Gas Rules (NGR) for clarity and consistency.

Governance and the role of AEMO’s Procedures

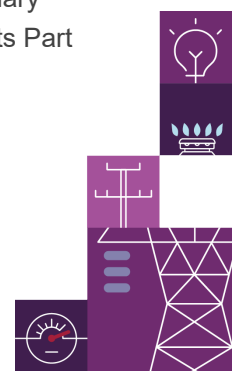
AEMO encourages a review of the governance arrangements for the Part 27 compensation framework as part of this rule change. This should be undertaken with a view to increase coordination between gas and electricity compensation frameworks, including consideration of whether the organisational roles under each compensation regime should be aligned.

Under the current Part 27 approach, AEMO’s Procedures perform three functions:

- 1) Outline the administrative requirements for a compensation claim e.g., timings and form of claims.
- 2) Set out the benchmark prices that the DRP must consider in assessing claims.
- 3) Determine the parties who fund compensation claims including the methodology for determining their payments.

AEMO considers that it would be preferable to have the role of the Procedures confined to administrative matters that relate to compensation claims. The current approach in the Procedures to determine the methodology and parties responsible for compensation claims raise several issues. Firstly, establishing a methodology ex ante, or in advance, presents challenges. Predicting and accounting for all possible scenarios and their associated costs is a complex task, as energy markets are subject to various unpredictable factors such as price fluctuations and supply disruptions. This makes it difficult to devise a comprehensive methodology ahead of time that accurately reflects the costs of compensation claims and attributes these appropriately to relevant entities. An alternative approach would be to have a body (such as the DRP), dynamically determine a compensation approach, particularly the liable parties based on the facts available at the time following a direction.

Additionally, establishing a robust and transparent process, separate from AEMO’s operational role, will enhance the independence, credibility and effectiveness of the compensation framework. AEMO’s primary role is to manage and operate the gas markets and support supply adequacy on the east coast under its Part



27 functions including issuing directions. AEMO's expertise lies in system and market operation and in determining the current approach to compensation claims AEMO relied on advice (that was made public) provided by economic consultants to develop its Procedures.

Finally, using the Procedures to determine the funding of compensation payments whilst ensuring that any methodology is equitable (as required by the Rules) raises issues since these determinations have more to do with policy considerations rather than administrative matters that are more typically dealt with in Procedures. Determining who should bear the costs of compensation claims requires a broader understanding of market dynamics, trade-offs and the economic implications for the energy industry. These types of matters are best addressed and assessed by policymakers (including the AEMC), to ensure that policy objectives are met. If the Procedures continue to serve as the primary document for establishing these matters, it becomes essential for the Rules to provide comprehensive policy guidance on the methodology, the parties responsible for funding, and any other relevant considerations related to compensation for directions. The Procedures can then be used to give effect to the policy intent as expressed in the Rules.

Role of the Adviser in Part 27 and Part 19 compensation

AEMO considers that the process for initiating a compensation claim could be streamlined. Currently, a claimant provides notice of a compensation claim to AEMO, which AEMO then forwards on to the Dispute Resolution Panel (DRP). It would be more efficient if a notice for compensation claims including details of the nature of the claim are submitted by the claimant directly to the Adviser for determination by the DRP). Further, the current ECGS framework should be extended to require the claimant to agree on the nature and scope of a compensation claim with the Adviser before the claim is provided to the DRP. This approach will maximise time efficiency when processing compensation claims. Additional time may need to be reflected in the current timeframes to allow the Adviser to discuss the nature and scope of the compensation claim with the claimant.

Threshold for entitlement to compensation

The AEMC's review of the gas compensation and dispute resolution frameworks should consider reviewing the minimum claim threshold of \$5,000, given the costs of the Adviser and the DRP for processing compensation claims. The cost to the market of multiple small compensations claims may outweigh the benefits although this should be considered against equitable outcomes for participants.

Part 27 rules clarifications

AEMO considers that the following amendments and additions should be made to Part 27 for consistency and clarity:

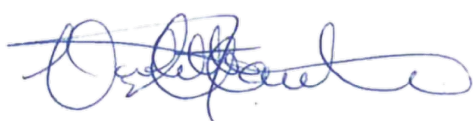
- Rule 707(1) requires the DRP to determine, in accordance with the Procedures, whether it is appropriate for compensation to be paid and the amount of compensation. Subrules 707(8)(a) and (b) do not currently allow for the Procedures to include principles or methodology on whether it is appropriate for compensation to be paid. In any event, consistent with AEMO's submission above, the principles and methodology to be used by the DRP to determine whether compensation should be paid should be included in the NGR, not the Procedures.
- For clarity, rule 707 should explicitly state that AEMO is entitled to recover the amount of compensation paid under this rule from relevant entities, in accordance with the determination of the DRP.

- Rule 707(6) provides for AEMO's ability to seek from relevant entities an amount that equals the sum of the amounts determined by the DRP under subrule (1)(b). This rule should be clarified to note that AEMO is able to recover costs of the Adviser and the DRP from the same relevant entities in addition to the compensation amount.

Next steps

If you have any queries relating to this submission, please contact Paddy Costigan at paddy.costigan@aemo.com.au.

Yours sincerely,



Violette Mouchaileh

Executive General Manager – Reform Delivery