



24 July 2023

Patrick Loughrey
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

Submitted Electronically

RE: GRC0067 - Gas Compensation and Dispute Resolution Frameworks

About Shell Energy in Australia

Shell Energy is Shell's renewables and energy solutions business in Australia, helping its customers to decarbonise and reduce their environmental footprint.

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As the second largest electricity provider to commercial and industrial businesses in Australia¹, Shell Energy offers integrated solutions and market-leading² customer satisfaction, built on industry expertise and personalised relationships. The company's generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and the 120 megawatt Gangarri solar energy development in Queensland.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website [here](#).

General comments

Shell Energy welcomes the opportunity to provide input to the Commission's deliberations on gas compensation and dispute resolution frameworks (Frameworks). The key points we would like to highlight in this submission include:

- The National Electricity Rules (NER) provide a useful template for the design of the gas Frameworks
- The Dispute Resolution Panel should not be the first stop for administering compensation claims, the NER approach would be more efficient
- Support for the proposal to incentivise response to market interventions by allowing recovery of direct and opportunity costs but note that a simpler, margin-based approach may be more efficient
- Recovery of costs primarily from a small number of very large users should be avoided

¹By load, based on Shell Energy analysis of publicly available data.

² Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.



Comparison with National Electricity Rules Compensation Provision

Shell Energy considers that both the gas market compensation and dispute resolution frameworks could be improved by adopting much of the compensation frameworks in the NER into the National Gas Rules (NGR). A good example is where the NER leaves the Dispute Resolution Panel (DRP) to consider genuine disputes between parties, including decisions arising from the application of the compensation framework and AEMO errors. Use of the DRP to determine compensation claims for AEMO market intervention is an inefficient use of the DRP. It is not clear that implementing the changes proposed in the consultation paper will result in a meaningful improvement to the current compensation framework.

The compensation frameworks in the NER see AEMO administering claims during a period of market suspension (NER clauses 3.14.5A and 3.14.5B) and where AEMO has issued a direction (NER clauses 3.15.7, 3.15.7A and 3.15.7B). AEMO may refer the issue to an independent expert under circumstances set out in the Rules, one of which is exceedance of a total costs threshold for an individual claim. The compensation frameworks in the case of NER Clauses 3.14.6 which apply to compensation provisions during a period of administered pricing are administered by the AEMC.

The Disputes Resolution Panel (DRP) is not initially involved in the administration of any of the compensation frameworks in the National Electricity Market (NEM). To date referral to the DRP has been limited to instances of scheduling or other process calculation errors which had a significant impact on market outcomes.

Shell Energy also considers that the NER compensation framework could be adopted to entities captured by the East Coast Gas Market Reforms as well as existing market participants as these captured entities would normally be directed by AEMO to take actions to support reliability in one of the east coast facilitated markets or the Victoria DWGM.

View on Proposed Solutions

Shell Energy supports the proposal to incentivise response to market intervention by allowing recovery of costs above calculated direct costs such as through the inclusion of opportunity costs. However, we note that calculation of opportunity costs is difficult and subject to indistinct or ambiguous input assumptions which are likely to lead to dispute. It may be simpler and preferable to implement a direct costs plus reasonable (pre-defined) margin to incentivise participant response. As each intervention by AEMO will be different and impose a range of costs on participants, we do not support the application of any cap on compensable costs for AEMO intervention. To do so would reduce the incentive for response.

Shell Energy is also supportive of the proposal to allow parties seeking compensation less than \$5,000 to join an existing claim but question the efficiency of allowing a claim for less than \$5,000 to initiate any claim process.

We also consider that the recovery of costs associated with the administration of any claim for compensation should be recovered in a similar manner to that specified in the NER. That is, 50% paid for by the claimant(s) and 50% paid for by AEMO.

Implementation

Shell Energy considers that the same compensation and disputes resolution frameworks should apply to all facilitated gas markets covered by the NGR including the Victoria DWGM, as well as all facilities which may be subject to the East Coast Gas Market Reforms requirements. We consider that adopting a compensation framework matching that in the NER could be implemented prior to March 2024 as the process is well understood by market participants.



Recovery of Compensation Costs

Shell Energy supports an approach to cost recovery that is similar to the recovery of compensation costs in the NEM. We believe it should be based on gas consumption in the facilitated markets for each gas trading day on which the market intervention applies and settled on a settlement week basis within a defined time period. Importantly, the approach should be applied on a beneficiary or causer pays calculation methodology. Adopting this approach would help avoid always imposing a large share of the costs on a small number of very large gas consumers. A beneficiary or causer pays approach would also align with the most recent DRP decision in this area of compensation recovery following AEMO market intervention³. We do not support use of the current cost recovery framework.

Shell Energy considers that the methodology for recovery of compensation costs should be specified in the NGR as opposed to an AEMO procedure to provide greater certainty for market participants and stronger governance.

Clarification of participants eligible for compensation

Shell Energy considers that the NGR would be improved by clarification as to which participants or facilities would be eligible for compensation. This may include payment of compensation to a participant or entity affected by AEMO's market intervention similar to the payment of affected participant compensation under NER Clause 3.12.2.

For more detail on this submission, please contact Peter Wormald, Policy Advisor (peter.wormald@shellenergy.com.au).

Yours sincerely,

Libby Hawker
GM Regulatory Affairs and Compliance

³ [Publication Version 2022 11 28 DRP determination and reasons \(aer.gov.au\)](#) – pages 11 and 12