



EnergyAustralia

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Mr Richard Khoe
Director
Australian Energy Market Commission
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By online lodgement: www.aemc.gov.au

Dear Mr Khoe

**Re: Ref. ERC0162 Consultation Paper – National Electricity Amendment
(Governance of retail market procedures) Rule 2014.**

1. Introduction

EnergyAustralia (EA) appreciates the opportunity to provide a submission on the National Electricity Amendment (governance of retail market procedures) consultation paper.

We are one of Australia's largest energy companies, providing electricity and gas to over 2.7 million household and business customers in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. We also own and operate a multi-billion dollar portfolio of energy generation and storage facilities across Australia, including coal, gas and wind assets with control of over 5,600MW of generation in the National Electricity Market.

It is understood that this amendment rule primarily relates to the governance framework of the retail market procedures, to amend the National Electricity Rules (NER or rules) such that the governance framework would be located almost entirely outside of the rules and placed in AEMO's procedures. Specifically, the proposal shifts the responsibility for the development of business to business (B2B) procedures and the making of decisions in relation to B2B procedures from the Information Exchange Committee (IEC), comprised of participants and independent members, to AEMO.

EnergyAustralia is supportive of improvements being made to the current process for the development of retail market procedures; however, believe this requires more than a rule change to the governance framework for these improvements to materialise. Rather, EnergyAustralia questions if this rule change as proposed will have the desired effect as a change to the governance framework in isolation will not address the current issues in relation to retail market procedure development. With consideration to the National Electricity Objective (NEO), in addition, EnergyAustralia would suggest improvements to the current performance of the administrative functions (currently undertaken by AEMO), a review of the strategic objectives of the market and an improved process for prioritisation and assessment of retail market changes is required. These improvements, coupled with an amended rule change to that which has been proposed (refer to response to question 2), would deliver a more efficient and inclusive process for retail market procedure development.

2. Consultation Paper Response

Please refer below for more detailed responses to the specific questions asked in the consultation paper:

Question 1 - The assessment framework

(a) Is the assessment framework outlined in section 4 appropriate for the consideration of this rule change request?

EnergyAustralia supports the proposed assessment framework in that the rule change request should, or be likely to, contribute to the achievement of the NEO, and in doing so, assess that the governance framework provides for accountability, independence, participation and transparency. In addition, that there is a balance between certainty and flexibility of process for participants and an improvement in administrative efficiency.

Question 2 - Is there a problem?

(a) Do you consider that the governance framework for the development of B2B and other chapter 7 procedures is appropriate or could it be improved? In what way?

(b) Could market developments in the future affect the appropriateness of governance arrangements? If so, how?

EnergyAustralia considers that the current governance framework for the development of B2B and other chapter 7 procedures is appropriate at this point in time, acknowledging that presently the B2B procedures are mainly of concern for retailers and distribution businesses and that as new technologies appear and need to be accommodated this may change.

A change to the governance framework in isolation will not address the current issues in relation to retail market procedure development. As previously stated an improvement to the current performance of the administrative functions undertaken by AEMO, a review of the strategic objectives of the market and an improved process for prioritisation and assessment of retail market changes is also required.

The rules currently require that AEMO must establish the IEC and prescribes the membership requirements. EnergyAustralia would like to propose that clause 7.2A.2(g) be amended to give the IEC the power to review its own membership which would provide flexibility to accommodate market developments and associated other parties that may become interested parties to the development of B2B procedures. Subsequent to this amendment, the membership requirements could be detailed in the IEC Operating Manual, thus eliminating the need for subsequent rule changes each time a change to the membership is proposed. Consideration would need to be given to agreed triggers for a membership review, criteria for membership eligibility and a reasonableness test against which membership acceptance/rejection could be measured.

Question 3 - Flexibility and responsiveness

(a) Do you think that the governance arrangements for chapter 7 procedures have been sufficiently flexible to date?

(b) Have any participants been excluded by how the B2B governance framework, including the IEC, has been structured under the rules? In what way?

EnergyAustralia believes the governance arrangements for chapter 7 procedures have been sufficiently flexible to date. However, as suggested above, amending the rules to allow the IEC to review its own membership would provide for greater flexibility moving forward.

The current arrangements allow for all participants to receive IEC correspondence as well as papers of the IEC working groups. This provides transparency in relation to the work program and the priorities that have been set. In terms of membership, the election procedure details the processes to be undertaken when members are nominated and ultimately elected to the IEC. Essentially, retailers and distribution business elect their respective representatives. Any industry participant in the class of retailer or distribution business is able to nominate for

election. There are also two places for which independent members can nominate. Members of the IEC are representing industry, not the interests of their own organisation, and are therefore expected to represent those that do not have direct representation on the IEC.

In relation to the making of procedures, any participant is able to raise an issue for consideration by the IEC working groups. In the development of procedures, there is a consultation process that is undertaken, during which any participant is entitled to submit comment on the changes being proposed. These submissions are reviewed by the working groups and taken into account when making determinations.

It is important to note that the current framework already allows for project working groups to be established as required, the membership of which is not limited necessarily to retailers and distribution businesses, thus providing a forum in which broader inputs can be provided and considered.

Therefore, EnergyAustralia believes the current governance framework provides ample opportunity for participants to be involved and engage, notwithstanding EnergyAustralia's suggestion of a rule change that allows the IEC to review its membership to allow for greater flexibility moving forward.

In addition to the rule change proposal, EnergyAustralia would be supportive of AEMO running forums during which all attendees are updated on the current program of work, what is coming up in the future and provides the opportunity for attendees to ask questions and raise issues for consideration. This would further assist in achieving an open, inclusive and transparent procedure development and change management process.

Question 4 - Uniformity of process

(a) Do you agree that there is increasing cross over, or likelihood of cross over, in different procedural areas occurring such that B2B procedures should no longer be treated separately from other chapter 7 procedures;

(b) Is there justification for a continuation of greater industry control over B2B procedures than other chapter 7 procedures?

EnergyAustralia does not believe there is increasing cross over in different procedural areas, rather should there be an increased cross over it would be an output of a sound prioritisation process and an agreed initiative of market participants. Should this occur, it is EnergyAustralia's view that given the magnitude of such a change, this work would be undertaken as a project rather than dealt with through the 'business as usual' working groups. It is important to note that the current framework already allows for project working groups to be established as required. In addition, should this initiative require a broader participation, the membership of project working groups is not limited necessarily to retailers and distribution businesses, thus providing a forum in which broader inputs can be provided and considered.

EnergyAustralia does note; however, under the current framework, if there is a crossover of different procedural areas, the working groups actively refer matters for consideration to other working groups with the appropriate expertise to provide advice.

EnergyAustralia supports the continuation of greater industry control over the B2B procedures. Participants impacted by the procedure development need to be able to manage the costs that come with this, noting that membership of the Committee and its working groups could be adjusted accordingly as those who become interested parties to the development of B2B changes due to emerging technologies or role changes.

Question 5 - Accountability

(a) Is there an accountability problem to be addressed in relation to B2B procedures where AEMO is required to make decisions based on recommendation of the IEC?

(b) Which body should be making decisions on B2B matters?

The B2B procedures are precisely that, business to business. They are the mechanism via which the industry participants communicate business to business matters as opposed to business to market matters. As such, EnergyAustralia believes there is a vital role for industry to play in the decision making and development of B2B procedures, and that decision making responsibility should remain with those most impacted by the procedures, the participants, in the form of the IEC. It is the participants that make significant investment in the systems which utilise B2B procedures that deliver the customer experience. Therefore, it is inappropriate for AEMO's procedure making responsibility to incorporate all chapter 7 procedures, including B2B.

Question 6 - Governance of procedure making process

(a) Should greater flexibility be introduced into the governance framework for chapter 7 procedures by moving it into AEMO procedures? Are there other ways of achieving this?

(b) Is it appropriate for AEMO to be able to determine and change its own process for making chapter 7 procedures, subject to the rules consultation procedures, or should there be greater or additional oversight of this process?

(c) Would there be any difference in the impacts on participants if the governance framework was located outside of the NER in AEMO procedures?

EnergyAustralia believes greater flexibility can be introduced into the governance framework through amending the rules and allowing for the IEC to review its own membership. As previously stated, this will allow for some flexibility in the membership as changes to the market take place.

As noted in the consultation paper; however, greater flexibility may not always be desirable, particularly when technology is changing rapidly. There are substantial changes anticipated due to the implementation of the Power of Choice recommendations, therefore, EnergyAustralia is supportive of greater oversight by market participants over how B2B procedures are designed and changed.

In order for participants to have certainty regarding the governance framework and the development of B2B procedures, EnergyAustralia believes the framework should remain in the NER, rather than in AEMO procedures, and that the issue of flexibility can be addressed through the IEC having the power to review its membership to accommodate changes in the market. As the consultation paper rightly states, to remove the governance framework from the NER "would result in less industry control over the development of B2B procedures, which might affect whether those procedures are designed in a way which best suits the requirements of the market participants affected by them." Given that the procedures impact market participants only, to lose control of the procedure development process is unacceptable.

Question 7 - Compliance and enforcement

Should civil penalties be available for breaches of any or all of the chapter 7 procedures or for none? Why?

EnergyAustralia believes that civil penalties should only apply to rules or the law not procedures. Procedures are not a rule, which provides flexibility so that they can be changed or amended more readily. EnergyAustralia believes it is appropriate for instances of non compliance to the procedures to be referred to AEMO for investigation as the market operator.

Question 8 - Opt-out provisions

Is it appropriate that the opt- out provision be retained in the B2B procedures? Why?

EnergyAustralia supports the opt-out provision being retained in the B2B procedures as it removes the barriers to entry. However, in order to reduce the impact on other market participants, it is essential that the requirement to have a bi-lateral agreement between impacted participants be retained. If there is no bi-lateral agreement, then compliance with the procedures should be mandatory.

Question 9 - Evolving technologies and processes

Do you think that this additional power, for AEMO to authorise new and evolving technologies through procedures, is necessary or desirable?

EnergyAustralia believes the current governance framework provides for the development of procedures for new and evolving technologies. In order to address the issue of new parties becoming interested parties to the development of B2B procedures, amending the rules to allow for the IEC to review its membership would allow for broader participation in that process.

Question 10 - Other proposed changes

Do stakeholders have any comments on these additional changes, or their possible impacts?

EnergyAustralia does not have further comment regarding the additional changes outlined in table 5.1 of the consultation paper.

3. Summary

EnergyAustralia is supportive of improvements being made to the current process for the development of retail market procedures, specifically B2B procedures; however, does not believe the rule change as proposed will achieve the desired outcome. Rather, an alternative option to the rule change as proposed is to amend the rules such that the IEC can review its own membership to address current issues of flexibility, coupled with improvements to the current performance of the administrative functions (currently undertaken by AEMO), a review of the strategic objectives of the market and an improved process for prioritisation and assessment of retail market changes is required.

Should you require further information regarding this submission please call Fiona Savage on 03 8628 1607.

Yours sincerely

[Signed]

Renee Garner

General Manager – Retail Regulation & Compliance