

24 May 2011

John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235



Dear John

EUAA submission on AEMC Consultation Paper National Electricity Amendment (Potential Generator Market Power in the NEM) Rule 2011

Thank you for the opportunity to provide a submission in response to your consultation paper on a proposed rule change on the above submitted by the Major Energy Users Inc.

The EUAA's membership includes around 60 larger energy users and 100 members overall. Our members have faced significant electricity prices rises over the last five years, largely as a result of increased network charges. Further significant increases are expected as a result of rising energy production costs, network charges, renewable electricity subsidies and a carbon price (assuming this is legislated). These users are more concerned than ever to ensure that the National Electricity Market (NEM) is as competitive as possible, to place downward pressure on prices and to ensure diversity and quality in their electricity supply.

The EUAA and many of its members are concerned about the exercise of market power by generators in the NEM and have been for some time. This is a very complex issue and we have not yet completed the development our own in-depth analysis of this, which would be needed to support our own position on any action to correct any abuse of market power. However, we have several unanswered questions that are strongly suggestive of a problem:

- Why have electricity prices risen so strongly in Victoria over the last 18 months despite stable wholesale production and network prices, even allowing for the charges associated with the roll out o smart meters?
- Why is there apparently so little inter-regional contracting amongst generators and retailers?
- Why has there been so much regional integration of generators and retailers and with what effect?
- Why are there no examples of stand-alone new entrant generators or retailers in the NEM?

Energy Users Association of Australia
ABN 83 814 086 707

Suite 1, Level 2, 19-23 Prospect Street, Box Hill, Victoria, 3128
Phone: (03) 9898 3900 Fax: (03) 9898 7499 Email: euaa@euaa.com.au
www.euaa.com.au

Regional electricity markets are now dominated in all mainland jurisdictions in the NEM, by a small number of vertically-integrated participants. AGL Energy's dominant position in the South Australian market in both retail and generation is of great concern to many of our members with operations in South Australia, as is the lack of competition in Tasmanian generation to our members with interests in that State. Generally, it appears that throughout the NEM the barriers to entry to both generation and retail are now significantly higher than they were when the market began in the late 1990s.

We have considered the assessment framework set out in your consultation document, and would like to express our support for it. In particular, we would like to encourage the AEMC to adopt a comprehensive and rigorous implementation of this assessment. We suggest it would be most helpful if the MEU's application was used by the AEMC as an opportunity for a detailed examination of the possible existence of market power, and then of the best ways of addressing that. This appears to be the approach that the AEMC has adopted in the Consultation Paper and we would like to encourage the AEMC to see this through to its conclusion.

If the AEMC ultimately concludes that Rule changes are either not necessary or the preferred way of dealing with market power problems, we encourage the AEMC to consider other ways (as suggested on page 28 of the AEMC's Consultation Paper) to ensure that competitive rivalry is maximised in the wholesale market, and to actively promote the adoption of those other approaches.

Yours sincerely

A handwritten signature in black ink, appearing to read "Roman Domanski". The signature is fluid and cursive, with a prominent loop at the end.

Roman Domanski
EXECUTIVE DIRECTOR