

20 November 2013



positive energy

Mr John Pierce
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

**Consultation Paper: Governance of Retail Market Procedures
(ERC0162)**

Energex Limited (Energex) appreciates the opportunity to provide a submission on the Australian Energy Market Operator's (AEMO's) rule change proposal relating to governance of retail market procedures.

Energex's responses to the questions raised in the AEMC's consultation paper are provided in **Attachment 1**.

Energex supports AEMO's proposal to amend Chapter 7 of the National Electricity Rules to facilitate the implementation of a single, consistent governance framework for all electricity retail market procedures. The proposed rule addresses issues associated with the current separation of accountability for B2B procedures from other Chapter 7 procedures by establishing clear lines of accountability and flexibility to adapt procedure development and consultative processes to effectively respond to emerging energy market needs.

Should you have any enquiries regarding this report please contact Neil Andersen, Group Manager Revenue Strategy, on (07) 3664 4009.

Yours sincerely

Kevin Kehl
Executive General Manager
Customer and Corporate Relations

Enquiries
Neil Andersen
Telephone
(07) 3664 4009
Facsimile
(07) 3664 9818
Email
neilandersen
@energex.com.au

Corporate Office
26 Reddacliff Street
Newstead Qld 4006
GPO Box 1461
Brisbane Qld 4001
Telephone (07) 3664 4000
Facsimile (07) 3025 8301
www.energex.com.au

Energex Limited
ABN 40 078 849 055

Issues for Consultation	Energex Response
Question 1: The assessment framework	
(a) Is the assessment framework outlined in section 4 appropriate for the consideration of this rule change request?	Energex supports the AEMC’s proposed assessment framework.
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?	<p>The current governance arrangement which formally separates accountability for development of B2B procedures from other Chapter 7 procedures has in practice become increasingly less divergent over time. This is evidenced by the fact that the two groups involved in the ongoing development and change process for B2B and non-B2B procedures, namely the Information Exchange Committee (IEC) and AEMO’s Retail Market Executive Committee (RMEC), while under two heads of power, have merged to form one group (the IEC/RMEC) under a common chair. This arrangement reduces duplication and complexity and better manages the issue of overlapping of procedural areas. However, while the two groups have merged to operate jointly, concerns remain regarding:</p> <ul style="list-style-type: none"> • clarity of accountability due to separate governance arrangements; and • the need for more flexibility in the procedure development and consultative framework to accommodate changes in the retail market in a timely manner. <p>Energex therefore supports AEMO’s proposal to move to a single, consistent governance framework for all Chapter 7 procedures, with clear lines of accountability and flexibility to adapt procedure development and consultative processes to effectively respond to emerging needs.</p>
(b) Could market developments in the future affect the appropriateness of governance arrangements? If so, how?	Energex agrees with AEMO’s assertion that the separation of procedures into B2B and non-B2B streams with different governance arrangements may prove to be inadequate to meet the rapidly changing requirements of a developing energy retail market and a correspondingly broader range of stakeholders. The emergence of new technologies such as smart meters, which effectively requires

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	<p>a new procedure category and a new head of power, has highlighted issues with the current arrangements. It is anticipated that similar procedural issues and new stakeholder groups may emerge as a result of developments associated with, for example, Power of Choice, electric vehicles and contestability of meter provision. In order to respond to these future challenges in a timely manner, Energex considers it would be more efficient and expedient to have a single governance framework as proposed by AEMO.</p>
<p>Question 3: Flexibility and responsiveness</p>	
<p>(a) Do you think that the governance arrangements for chapter 7 procedures have been sufficiently flexible to date?</p>	<p>As noted in AEMO’s submission, the current IEC/RMEC arrangement has evolved over time to deal with inefficiencies inherent in the two stream arrangement and has functioned satisfactorily to date. However, the concern is that the current governance arrangement may not be sufficiently flexible to respond to the requirements of future market developments in a timely manner.</p>
<p>(b) Have any participants been excluded by how the B2B governance framework, including the IEC, has been structured under the rules? In what way?</p>	<p>Under the current governance arrangement membership of the IEC and participation in the development of B2B procedures is restricted to a limited number of industry representatives, primarily retailers and distributors. Energex understands there have been concerns raised with regard to breadth of representation and access to meetings. As noted above, there may also be a requirement for inclusion of a broader range of participants in the consultation process as a result of future market developments.</p>
<p>Question 4: Uniformity of process</p>	
<p>(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?</p>	<p>Yes, as noted in Energex’s response to question 2(b) above, there is a likelihood that ongoing market development and the emergence of new technologies and initiatives will result in increased cross-over of procedural areas. This is in addition to current market procedures that cross over multiple procedures, such as the Retailer of Last Resort procedure.</p>

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(b) Is there justification for a continuation of greater industry control over B2B procedures than other chapter 7 procedures?	<p>B2B systems and processes are fundamental to conducting retail market operations which are currently almost exclusively the province of retailers and distributors. Retailers and distributors are therefore primary stakeholders directly affected by changes to the B2B procedures and as such must continue to play a prominent role in the development and change process.</p> <p>However, while Energex understands the rationale for the establishment of the IEC under the NER as an independent body when the initial governance arrangements were set up, for reasons detailed elsewhere and as B2B systems and processes are well-established and functioning effectively, we do not now see any justification for the continuation of greater control by the industry over the ongoing management of B2B procedures than there are over other Chapter 7 procedures.</p>
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?	Energex agrees with AEMO’s assertion that accountability for B2B procedures has become unclear over time largely due to the fact that in practice the process for overseeing all Chapter 7 procedures (both B2B and non-B2B) has converged. Energex therefore supports the proposal to have one framework with clear accountabilities for all Chapter 7 procedures.
(b) Which body should be making decisions on B2B matters?	As noted above, it is important that industry continues to play a prominent and influential role in the development of all NEM retail market procedures. However, Energex supports AEMO’s proposal for a single body to manage the decision-making process.
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?	As already noted, Energex agrees that there is a need to introduce more flexibility into the governance framework for Chapter 7 procedures but also understands the AEMC’s concerns that moving the governance framework from the NER into AEMO procedures may lead to less certainty for market participants.

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	<p>As the AEMC has noted in its consultation paper, there are a number of options, including:</p> <ul style="list-style-type: none"> • Moving the governance framework from the NER into AEMO procedures; • Splitting the governance framework between the NER and AEMO procedures; or • Locating the governance framework primarily in AEMO procedures and introducing guiding principles to the rules. <p>Energex supports AEMO’s proposal to move the governance framework from the NER into AEMO procedures, but would also support the introduction of guiding principles in the NER to address concerns with regard to ensuring a greater balance between flexibility and certainty.</p>
<p>(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?</p>	<p>AEMO is a membership-based organisation whose role is to support the energy industry in delivering an integrated, secure and cost effective national energy supply. Consequently, AEMO must ensure that the NEM market processes for which it is responsible are working efficiently and correctly. Energex is therefore supportive of AEMO’s proposal to determine and change its own process for making Chapter 7 procedures, subject to the Rules consultation procedures. However, as noted above, Energex would also support the introduction of guiding principles (similar to the B2B objective and principles that currently apply to the IEC) to which AEMO must have regard in exercising its decision-making powers.</p>
<p>(c) Would there be any difference in the impacts on participants if the governance framework was located outside of the NER in AEMO procedures?</p>	<p>Along with other distributors, Energex has actively participated in the IEC/RMEC and AEMO forums and working groups. Energex expects to continue to play a prominent role in the procedure-making processes for both B2B and non-B2B procedures and does not envisage that there would be any adverse impacts on the rights and obligations of participants or any significant financial implications for participants if the governance framework was located outside of the NER.</p>
<p>Question 7: Compliance and enforcement</p>	
<p>(a) Should civil penalties be available for breaches of any or all of the chapter 7 procedures or for none? Why?</p>	<p>No comment.</p>

Issues for Consultation	Energex Response
Question 8: Opt out provisions	
(a) Is it appropriate that the opt out provision be retained in the B2B procedures? Why?	Yes, Energex considers that the opt-out provisions should be retained. AEMO’s proposal is to establish a consistent process for the ongoing management and development of all Chapter 7 procedures as a whole. While overall consistency is important, it is also necessary to ensure that there is sufficient flexibility to allow individual parties to bilaterally agree to alternative arrangements where necessary provided those arrangements do not impact on other participants.
Question 8: Evolving technologies and processes	
(a) Do you think that this additional power, for AEMO to authorise new and evolving technologies through procedures, is necessary or desirable?	The ability for AEMO to authorise new and evolving technologies is necessary in order for it to respond to changes in the retail market in a timely manner.
Question 9: Other proposed changes	
(a) Do stakeholders have any comments on these additional changes, or their possible impacts?	No comment.