

A few
words.

25 November 2013

Mr Richard Khoe
Australian Energy Market Commission
Level 5 , 201 Elizabeth Street
Sydney NSW 2000

Lodged (online): <http://www.aemc.gov.au>



Dear Mr Khoe

AEMC 2014, National Electricity Amendment (Governance of retail market procedures) Rule 2014 (Reference ERC0162)

AGL Energy Limited (**AGL**) welcomes the opportunity to provide comment on the National Electricity Amendment (Governance of retail market procedures) Rule 2014 (**the Rule Change**).

AGL is very concerned that the Rule Change proposed by AEMO, removes the industry control over the management of key industry processes covered under chapter 7 of the National Electricity Rules (NER), including B2B procedures. This could potentially occur with limited or no consultation, as evidenced by recent changes proposed by AEMO.

Retail operating procedures (B2B procedures) are important to retail and distribution businesses as they impact both efficiency and costs, which ultimately impact customers. Because of the significance of this item to the industry, the NER currently provide for industry to control these procedures via the AEMC and we advocate that this remains in place.

We note that during the National Smart Metering Program a legal review identified the requirement for a Heads of Power to be provided to AEMO for the development of Smart Metering Procedures however the Rule Change significantly expands this concept. Through this proposal AEMO seek to take full authority on procedure changes and decision making in relation to emerging technologies and related roles and responsibilities.

AGL is one of the largest energy retailers in Australia and is therefore vitally interested in both the efficient operation of the national market and use of efficient procedures between industry participants. We are therefore concerned that AEMO is not addressing the key issues with these processes with this Rule Change.

In our view the existing problem is the lack of an efficient change process with adequate resourcing not the governance of the change process. While the merging of the two committees, and the ability for the new committee to cover all necessary areas, will assist in making the processes more efficient, we believe industry should be the drivers of any changes to industry procedures.

The Rule change

The main issues for AGL related to the Rule Change proposal is the lack of provisions that provides certainty to maintain participant rights and ensure AEMO is operating in accordance with the NEO in the overall decision making to protect participant investments and efficiencies in the market.

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AEMO's rationale for the proposed rule change is to "Maintaining concurrent frameworks for the development of different procedures provided for in the rules is inefficient and impractical. In addition, increasing flexibility in the procedures is required to meet future market and technological changes in a timely manner"¹.

AGL agrees that there is a need to improve market system change processes in order to meet the competing priorities of delivering on both government initiatives such as Power of Choice and industry initiated business as usual improvements.

Rather than a structural and responsibility issue, AGL believes that the industry change process delays are mainly caused by the withdrawal of AEMO resources from business as usual working groups and inefficient project management within AEMO. Furthermore, recent proposals by AEMO to further change the consultative processes are causing confusion and concern with industry participants due to the lack of transparency, engagement, meaningful consultation and communication.

AGL believes that more efficient allocation of resources within AEMO is required and that all changes to market procedures and systems need to be within an industry determined framework. This will allow the industry to better inform government changes, and to prioritise the changes that result from the industry, government/regulators and process improvements. Therefore AGL's support of any change to governance in the rules is dependant on AEMO clearly demonstrating the intent to maintain participant rights and transparency.

We would therefore recommend that:

- the merger of the two committees be allowed; but
- the composition of the committee, the matters to be addressed and the processes of the committee remain in the Rules to maintain industry control; and
- the AEMC convene a meeting of industry participants to ensure all relevant views are heard before moving to a draft decision.

AGL addresses the detailed questions raised by the AEMC below. If you have any questions in relation to our submission, please contact Stephanie Bashir on 03 8633 6836 or Alex Cruickshank on 03 8633 6026.

Yours sincerely,



Alex Cruickshank
Manager Metering Regulation and Market Interaction

¹ CONSULTATION PAPER National Electricity Amendment (Governance of retail market procedures) Rule 2014

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Question 1 The assessment framework: (a) Is the assessment framework outlined in section 4 appropriate for the consideration of this rule change request?

AGL supports AEMC's approach in assessing the rule change proposal against the NEO. Further, AGL also supports the contributing factors listed under section 4 as fundamental towards a governance framework that drives efficient and solid outcomes. AGL however is of the view that this does not require a change to the governance that has been proposed in the Rule Change to achieve these factors. It is our view that this can be achieved through the implementation of process governance within AEMO in managing and prioritising retail market changes.

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?

AGL believes that the governance framework is adequate except for the parallel committees. Merging the committees makes sense and should proceed but the resulting committee structure and relevant operational detail needs to remain in the rules consistent with the approach taken for the IEC now.

AGL believes that the issues in change development and implementation of B2B and other procedural changes referred to under chapter 7 of the NER, are related to change and project management processes and resources internally within AEMO.

The existing consultative process within industry is flexible enough to allow for special project working groups to be established under both the IEC and the RMEC arrangements to develop detailed requirements which are then drafted and consulted on in procedures through AEMO. AEMO as mentioned earlier in our response has had resource allocation issues that have directly impacted many industry projects that were in progress. AGL is of a strong belief that these process issues within AEMO need to be addressed regardless of the rule change proposal. In our view the root cause of the delays and inefficiencies in procedure development and implementation will not disappear with the Rule Change.

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?

Quick answers:

- (a) The governance arrangements have proved to be flexible but having two committees has created issues. Merging the two groups will assist.
 (b) Participants are able to nominate for the IEC and must be elected by their peers. Access to the working groups is open to all parties, although applicants must demonstrate that they can contribute to the groups.

Detail:

AGL does not believe that the existing consultation and membership process is exclusive. In fact, the working group structure under the governance of the IEC and AEMO are specifically related to address certain aspects of the NEM and therefore in some cases exclusions are appropriate. For example the Responsible Person Working group is an advisory group to AEMO on all items related to the role of RP and as a result membership consists of operating RP's in the NEM.

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The structure and running of the Working groups can be improved but we do not believe that change in governance arrangements in the Rule Change will address this issue. As suggested previously in our submission, this is addressed through better project management and resource allocation.

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;

Yes. But rather than remove industry control all procedures should be combined under an industry committee with AEMC having the ability to discuss implementation with that committee as explained in the rule change

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

Yes. The industry needs to retain control over B2B processes as they need to be completed in appropriate time frames and to industry specification. The issues facing the current committees relate to resourcing and change processes not structure and governance.

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?

Industry should be making decisions as we are ultimately making the capital investment in systems and resources to support customer products and services.

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?

AGL believes that the advantage of combining the B2B procedures and other chapter 7 procedures is an administrative simplicity. There are valid reasons as stated by the Commission in the consultation paper for preserving the distinction between the two types of procedures if they cannot be combined under industry management.

Question 7 Compliance and enforcement

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

Civil penalties currently exist in respect of breaches of certain provisions of the NER identified in the NEL and in the Regs as civil penalty provisions [NEL, s.58; Regs, cl.6 and sched. 1]. These penalties are not, however, always applicable. While, one way or the other, provisions in the NER require compliance with the Metrology Procedures, MSATS and B2B procedures, AGL considers that a full review of compliance with these sections and the correct application of civil penalties is required. This should be separate from this change.

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Question 8 Opt out provisions

(a) Is it appropriate that the opt out provision be retained in the B2B procedures? Why?

AGL supports the concept of national consistency of B2B procedures. National consistency provides a business that is operating in a national market the ability of operational efficiency in processes. The NER currently allow for parties to opt-out of adhering to the B2B procedures if there is a bilateral agreement in existence between both parties. We consider that this flexibility should be retained in the B2B Procedures as it does not prohibit small participants entering the Market.

Question 9 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?

AGL is in the view that existing governance provides for evolving technologies and therefore additional power and control is not generally necessary. There is potential for this approach to stifle innovation as any procedures would be developed based upon AEMO's system limitations within MSATs. It is our view that the recent works undertaken by AEMO on Demand Response Mechanism (DRM) was limited by the existing capabilities of MSATs.

We would support the committee, with the full support of industry, expanding its role but that the industry should be the final arbiter of the role of the committee.

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