



3 February 2022

Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2000

Re: ERC0323: Consultation Paper – Improving consultation procedure in the Rules

CitiPower, Powercor and United Energy welcome the opportunity to respond to the Australian Energy Market Commission's (AEMC) consultation on possible amendments to the consultation procedures under the electricity, gas and retail rules following a rule change request from the Australian Energy Market Operator (AEMO).

We are concerned and do not support AEMO's proposed rule change of a new consultation framework for subordinate instruments established under the National Electricity Rules (NER), which includes reducing the default number of consultations required and removing the explicit ability for stakeholders to request individual meetings with decision-makers. Robust consultation, particularly in an industry undergoing such substantial transformation and change, is critical to the development of good policy and regulation. Decision-making must be supported by sound evidence and reasoning which is transparent and subject to consultation with industry and stakeholders. Especially in a regulatory environment with very limited checks and balances on regulatory discretion.

Reduced consultation will lead to less robust outcomes. AEMO's proposed safeguard, which involves developing a set of principles to guide decision-makers on where one round of consultation is appropriate, is not sufficient. Decision-makers and industry participants come from different perspectives in terms of measuring the impact of proposed policy and regulatory changes. There will inevitably be differing views on when additional consultation is required. This has been evidenced time and again with AEMO's focus being on the costs incurred by itself rather than those it is imposing on industry participants and ultimately customers. In addition, the extent of impact of amendments to policy and regulation can take time to unpick and apply to our business. As such, it is not always clear at the beginning of a consultation how complex an issue is.

Two rounds of consultation must be the minimum. Two rounds of consultation allows more robust consultation and scoping of issues. It allows stakeholders to raise issues before market bodies have narrowed their focus towards developed positions. Stakeholders are then offered the opportunity to comment on the proposed positions.

We have outlined our concerns with the rule change request and our recommendation on a way forward.

Reduced consultation and engagement establishes a poor precedent

This rule change will set a low bar of expectation for regulators that a single round of consultation is sufficient. Whilst we recognise this Rule change does not apply to all consultation, it sets a strong precedent that consultation is indeed token and regulators are able to operate insulated from having to talk to individual stakeholders. For example, we note under the *distribution consultation procedure* the AER is only required to consult with industry once, however for the most part, they have conducted an additional stage of consultation. This is important as for most Australian regulatory decisions, there is no right to review other than on administrative grounds.

Poor regulatory decisions cost customers

All regulatory reform should benefit customers. There are very few regulatory decisions that do not materially impact on the operation of the network and hence costs to customers. For example, a recent change in the

implementation date of AEMO's Market Settlement and Transfer Solutions (MSATS) review will cost our businesses more than \$1m in unnecessary costs, and these types of costly changes are very frequent.

We invest in our engagement with customers, rule makers and regulators to advocate for reform that is fit-for-purpose from a customer perspective. Reduced collaboration and engagement must lead to less understanding of the costs to be borne by customers, or over-zealous estimates of benefits, both of which in net terms add to the cost of network services.

The AER's Better Resets Handbook highlights the importance, and increasing need and expectation of, collaboration and focus on stakeholder and customer engagement. The AEMC, AEMO, AER and network businesses should be held to the same engagement and evidentiary standards to ensure the best decisions are being made for customers. It is therefore surprising the AER is endorsing this Rule change given its expectations on networks.

The potential cost savings of reducing consultation is dwarfed by the detriment

Amendments and changes to regulation and policy have material impacts on our business and customers. This is often misunderstood by regulators, especially AEMO, where minor changes to metrology or B2B procedures can run into millions of dollars in IT system changes. Further, these changes are often not uniform across the industry depending on where each business is in its technology journey. The proposed ban on individual engagement will create even further risk of wholesale underestimation of costs.

Benefits calculations are even more fraught with error. Regulators often generously calculate benefits to justify the costs incurred in a regulatory change or amendment. These decisions are never subject to post implementation reviews or alike hence it is important that are rigorously tested at the time a regulatory change is advocated. This cannot happen if consultation is reduced to a single consultation on what we imagine would be a draft decision.

The savings for AEMO and AER arising from this Rule we expect to be relatively minor, especially when considered in the context the cost/benefits of the regulatory changes they are seeking to implement. We would expect their cost saving to be insignificant compared to the system and process changes required to accommodate the implementation of their changes to 1.9 million customers across our networks. Further we would note that securing individual meetings with either the AEMO or AER has already become increasingly difficult hence we would argue that cost savings has already been realised in practice.

Our recommendation

We support a consultation framework for subordinate instruments based on **two rounds of consultation** as the default and no prohibition on individually requested meetings with decision-makers.

We note that if AEMO (and the AER) believe the rule change process needs to be more dynamic, we suggest a review of the structure or format of the consultation documents, rather than reducing the consultation.

Should you have any queries please do not hesitate to contact Ellen Lukin on 0428 824 858 or elukin@powercor.com.au.

Yours sincerely,



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