

19 June 2014

Mr Chris Spangaro  
Senior Director  
Australian Energy Market Commission  
Level 5, 201 Elizabeth Street,  
Sydney NSW 2000

Level 22  
530 Collins Street  
Melbourne VIC 3000

Postal Address:  
GPO Box 2008  
Melbourne VIC 3001

T 1300 858724  
F 03 9609 8080

Dear Mr Spangaro,

### **Governance of Retail Market Procedures**

As the rule proponent, AEMO appreciates the opportunity to respond to the AEMC National Electricity Amendment draft rule determination *Governance of Retail Market Procedures* released on 8 May 2014.

AEMO accepts the draft determination to not make the proposed rule changes at this time. AEMO considers that the expected market developments associated with the *Power of Choice* review, which have arisen since AEMO's original rule change submission, will provide a stronger base to consider future governance arrangements. These developments include:

- Expanding competition in metering and related service rule change request;
- Framework for open access and communication standards review; and
- The development of the Shared Market Protocol.

However, AEMO notes that the draft decision to retain the current *Information Exchange Committee* (IEC) governance arrangements creates a number of challenges which need to be recognised and addressed when considering the future governance arrangement of the Shared Market Protocol. The current challenges include:

- The IEC has the ability to make binding recommendations upon AEMO, in the form of *IEC Recommendations*, that AEMO, even though it is the decision maker, has little recourse but to accept under the current National Electricity Rules (the Rules). This is irrespective of any negative impacts or concerns that may be identified by AEMO regarding the recommended approach or outcome. The Rules explicitly prohibit AEMO from considering the manner in which the IEC considered the B2B Objective, the weight given by the IEC in considering the different B2B principles, or the merits of the IEC's recommendation. AEMO is also prohibited from conducting any further consultation on IEC recommendations. AEMO's role as the decision maker is not supported or realistic under the current arrangements.
- As the decision maker, AEMO may be liable for implementing the recommendations made by the IEC. AEMO would be party to any B2B decision dispute under the Rules and would almost certainly be involved in any other form of challenge to the B2B procedures.
- The IEC is not representative of the stakeholders affected or potentially affected by its recommendations. Its industry membership includes representatives from only three retailers and three distributors, yet its recommendations have financial and strategic impact on over 40 registered retailers and distributors in the NEM, together with

independent metering providers, meter data providers, other potential new market entrants, consumers, and AEMO.

- As the IEC develops and implements B2B Procedures (including determining its own work program), binding recommendations from the IEC could result in potentially anti-competitive outcomes, such as barriers to entry, or preservation of incumbent arrangements to the detriment of other participants or new entrants.
- The IEC's six person representative model for industry engagement creates risks regarding conflict of interest and representation which could be concerned with individual organisational interests, rather than the broader sector interests or others such as consumers or third party service providers such as independent metering providers.
- In contrast to the formal Rule arrangements for the IEC, all other retail procedure changes for electricity and gas, including gas B2B procedures, are made by AEMO in collaboration and consultation with all impacted stakeholders.
- The B2B system is a common market platform that facilitates participation in the electricity markets. The draft rule determination does not recognise the need for independence in facilitating the wholesale and retail energy markets. AEMO's independence and expertise in market systems and operations allows it to offer an open and transparent approach to managing common market platforms and enables a common set of protocols for all market participants.

As the current governance arrangements are not appropriate, in order to manage its accountability and potential liabilities under the Rules as they stand, AEMO sees no alternative but to operate the IEC in strict conformance with the Rules. It will therefore be necessary to split the current joint working arrangements of the IEC and the Retail Market Executive Committee (RMEC).

Participant reaction to this decision has not been positive. AEMO considers this is necessary to improve, as far is practical under the current Rules, the clarity of accountability for B2B and non-B2B decisions.

Going forward, AEMO is keen to establish good governance and an effective framework for change to enhance competition and customer service provision in the retail markets. AEMO sees strong collaboration with market participants and the AEMC as key to achieving this.

If you would like to discuss any matters in relation to this submission, please do not hesitate to contact Violette Mouchaileh, Group Manager Retail Markets and Metering on 03 9609 8551.

Yours sincerely



Joe Spurio  
**Chief Operating Officer (Acting)**