

11 February 2020

Mr John Pierce  
Chairman  
Australian Energy Market Commission  
Sydney South NSW 1235

10 Eagle Street  
Brisbane QLD 4122  
T 07 3347 3100

By online submission

Dear Mr Pierce

### **Review of consumer protections in an evolving market (RPR0013) – AEMO submission**

The Australian Energy Market Operator (AEMO) welcomes the Australian Energy Market Commission's (AEMC) review of consumer protections in an evolving market (the Review).

Energy systems in Australia are undergoing fundamental transformation, with technologies, consumer preferences, and products and service offerings changing rapidly. Effective protections are key to ensuring that consumers are able to confidently take advantage of new opportunities offered – for example, making investments in distributed energy resources (DER) – while retaining appropriate safeguards in relation to the supply of essential energy services.

AEMO agrees with the AEMC's characterisation of the changing energy landscape and the need to consider the issue of consumer protections at this time. While AEMO has not sought to respond at all of the consultation questions identified in the two Issues Papers that the Commission has released, our submission provides high-level comments with respect to the context for the Review, as well as some brief comments on specific elements of the two Issues Papers.

We welcome the opportunity to provide further input as the Review progresses. Should you wish to discuss any of the matters raised in this submission, please contact Kevin Ly, Group Manager Regulation on [kevin.ly@aemo.com.au](mailto:kevin.ly@aemo.com.au).

Yours sincerely



Peter Geers  
**Chief Strategy and Markets Officer**

## ATTACHMENT 1:

### REVIEW OF CONSUMER PROTECTIONS IN AN EVOLVING MARKET (RPR0013) – AEMO SUBMISSION

#### 1. Context for the Review

The Review is being conducted as part of the AEMC's 2020 retail energy competition review. In the final report of its 2019 Retail Energy Competition Review, the AEMC mapped the consumer protections afforded to electricity consumers in the national electricity market (NEM) under the National Energy Customer Framework (NECF) (or the Essential Service Commission of Victoria's (ESCV) retail energy codes in that state) and the Australian Consumer Law (ACL). The AEMC concluded that "the NECF generally complement[s] the ACL in protecting energy consumers from harm".<sup>1</sup> However, the AEMC noted the need for further analysis in two areas:

- An assessment of whether (and what) consumer protections should apply to the increasing range of non-traditional energy related services being offered to consumers – the subject of Issues Paper 1 for the 2020 Review.<sup>2</sup>
- An assessment of whether the prescriptive requirements in the NECF related to information provision are a barrier to innovation, including issues such as digital communications and cooling-off periods for new retail contracts – the subject of Issues Paper 2 for the 2020 Review.<sup>3</sup>

AEMO welcomes the AEMC's focus on consumer protection issues, and is supportive of the timing and scope of this review, particularly as the boundary between the traditional sale of energy and new energy products and services is becoming increasingly blurred; the increasing digitalisation of our energy markets; and the significant amount of energy reform and industry activity currently underway of importance to end-consumers.

Promoting the long-term interests of consumers is at the heart of the regulatory frameworks governing the production, transportation and sale of energy, as expressed in the National Electricity, Gas and Energy Retail Objectives.<sup>4</sup> As stated in AEMO's Corporate Plan, our activities are directed towards the pursuit of these objectives<sup>5</sup>. Effective protections are also important to maintaining consumer confidence, which in turn supports greater participation from consumers in retail energy markets (both traditional and emerging).

---

<sup>1</sup> AEMC, *Consumer protections in and evolving market: Information Sheet*, December 2019, 1. Available at <https://www.aemc.gov.au/market-reviews-advice/consumer-protections-evolving-market>

<sup>2</sup> AEMC, *Consumer Protections in an evolving market – Issues paper 1 – New energy products and services*, December 2019. Available at above URL.

<sup>3</sup> AEMC, *Consumer Protections in an evolving market – Issues paper 2 – Traditional sale of energy*, December 2019. Available at above URL.

<sup>4</sup> As stated in National Electricity Law, National Gas Law and National Energy Retail Law.

<sup>5</sup> AEMO, *Corporate Plan 2020-23*, August 2019, 6. available at <https://www.aemo.com.au/about/corporate-governance/corporate-plan>.

## 1.1. Considering the impact of change to the NECF on all retail markets

The NECF applies to the retail sale of both electricity and gas. AEMO notes the importance of ensuring that the potential impact of any changes to the NECF on retail gas markets is considered, not just on retail electricity markets. The gas market is not experiencing the same transformation as the electricity market – consumers cannot, for example, invest in infrastructure to produce their own gas. This may mean there is a future divergence between the regulatory requirements for the respective retail markets supporting these two energy sources.

AEMO also notes while the NECF was intended to be ‘national’ (that is, in operation across the National Electricity Market (NEM)), it does not apply in Victoria. In this context, AEMO supports consistency between the consumer protection principles which exist within the NECF and the ESCV’s retail codes, which govern the retail sale of energy in that state, wherever possible.

## 2. Comments on Issues Paper 1 – *Consumer protections in an evolving market: New energy products and services*

### 2.1. Categories of non-traditional products and services

The fundamental changes occurring in both electricity supply and demand are now widely accepted. Significant challenges and opportunities face all stakeholders in the Australian energy ecosystem, including consumers, energy service providers (both traditional and non-traditional), energy market institutions and policy makers.

Issues Paper 1 outlines three broad categories of non-traditional market products and services.<sup>6</sup> These are:

- Existing technologies that allow electricity distribution network services providers (DNSPs) to control the operation of household appliances – While this technology has been widely deployed for many years, some DNSPs are increasingly entering into contracts with households that allows direct control of consumer appliances, such as air conditioners, hot-water systems and pool pumps, as a means of managing network constraints at peak times and deferring the need for network augmentation investment.
- Solar photovoltaic (PV) and battery storage systems – A number of factors, including government subsidies and feed-in tariffs, frequent and sustained increases in the price of grid-supplied electricity, falling PV system prices and a desire for greater control over energy costs have seen Australians install these systems at world-leading rates. By the end of 2019, 3.47 million small-scale systems had been installed across Australia<sup>7</sup>. As the AEMC notes, this uptake is not expected to slow in coming years. AEMO forecasts that by 2030, DER will represent 10-14% of installed generation capacity.<sup>8</sup> Investments in DER, accompanied by the latest monitoring and control technologies, offer small consumers the potential to become much more active in both their consumption of electricity and

---

<sup>6</sup> As above n 2, 11.

<sup>7</sup> Clean Energy Regulator, *Postcode data for small-scale installations*, accessed 30 January 2020, available at: <http://www.cleanenergyregulator.gov.au/RET/Forms-and-resources/Postcode-data-for-small-scale-installations>

<sup>8</sup> As above n 5, 9.

in offering to supply electricity (and potentially other system support services) to the grid.

- Electric vehicles (EVs) – The uptake of which is expected to increase dramatically over coming decades. As noted in Issues Paper 1, AEMO’s 2019 Electricity Statement of Opportunities (ESOO) forecasts EV uptake in Australia of around two million by 2035 and more than eight million by 2050.<sup>9</sup>

AEMO agrees with the AEMC’s characterisation of these three categories of new products and services, as well as the new business models that are emerging as identified in the Issues Paper.

AEMO is currently working on multiple initiatives to ensure these new technologies can be incorporated into the NEM in a way that delivers maximum benefit to all consumers. AEMO’s 2020-23 Corporate Plan outlines a number of objectives to be completed as a matter of priority, including:

- the development and submission of a rule change on the integration of energy storage into wholesale electricity markets. This rule change proposal was lodged with the AEMC in August 2019.<sup>10</sup>
- continuing trials of new technologies (including Virtual Power Plants) for frequency control ancillary services (FCAS)<sup>11</sup>
- gaining stakeholder agreement on key data, services and products required to optimise DER integration at scale<sup>12</sup>
- the development of coordinated Western Australia and National Electricity Market (NEM) blueprints for seamless and efficient integration of DER into wholesale markets, and progressing the development a distributed market model<sup>13</sup>
- trialling and enabling markets to manage and optimise consumer DER.<sup>14</sup>

## 2.2. Assessment principles

Section 3.4 of Issues Paper 1 outlines the three assessment principles that the AEMC will use when considering improvements to the energy consumer protection framework. The principles are:

- *Regulatory simplicity* – clear obligations and rights for participants promotes supplier and consumer confidence. Regulators must be clear, especially when taking enforcement action.
- *Regulatory harmonisation/integration* – harmonisation delivers major efficiencies, seek to minimise over-regulation and avoid overlap, duplication and inconsistency.

<sup>9</sup> Under the central ESOO scenario. Above n 2, 15.

<sup>10</sup> As above n 5, 26. Also see AEMC rule change ERC0280, *Initiating energy storage systems into the NEM* (pending), <https://www.aemc.gov.au/rule-changes/integrating-energy-storage-systems-nem>

<sup>11</sup> Above n 5, 13.

<sup>12</sup> Ibid, 27.

<sup>13</sup> Ibid.

<sup>14</sup> Ibid 19.

- *Regulatory flexibility* – regulation must support innovation, the level of regulation must “be appropriate to the type of energy services and products offered”.<sup>15</sup>

AEMO is supportive of these assessment principles. Regarding the principle of regulatory flexibility, AEMO also emphasises the importance of *proportionality*. As the AEMC recognises, it is vital that regulations are proportionate to the broad type of service offering or market structure. Given innovation often begins at a small scale, and regulatory and other impediments can be most difficult to overcome at an early stage, consumer protections must strike a balance between encouraging all parties to participate in the opportunities that the energy transition provides while avoiding consumer harm or disadvantage.

### 2.3. Point of application of consumer protections

In AEMO’s view, energy-specific consumer protections should continue to apply at the point of sale of energy. It is likely that as new business models, products and services emerge, consumer protection obligations may fall on different or additional market participants (such as new aggregators or other intermediaries). The application of customer protections might be made simpler if the categories of registered participant engaged in trading in the market under agreement with the consumer was simplified, as is being explored by the AEMC and AEMO through work on two-sided markets. The consumer protections and overall market frameworks therefore needs to be flexible enough to accommodate these developments.

## 3. Comments on Issues Paper 2 – *Consumer protections in an evolving market: Traditional sale of energy*

As stated above, given the increasing digitalisation of our energy markets, AEMO is supportive of the Review, including consideration of whether the information related provisions in the NECF are too prescriptive or may discourage innovation.

The concepts discussed in Issues Paper 2, especially those related to information on retail energy bills, are the responsibility of retailers and DNSP’s. At this stage, it is unclear whether any changes in these areas would directly impact AEMO’s operations or systems. Should specific proposals for reform be developed as part of the Review, AEMO will further consider any potential impact on our Business to Business (B2B), Business to Market (B2M) and Metering Settlement and Transfer Solution (MSATS) systems and processes.

AEMO’s main comment in relation to Issues Paper 2 at this stage relates to cooling-off periods for new retail energy contracts.

### 3.1. Cooling-off periods

AEMO is in the process of making changes to procedures, related to the final rule determination made by the AEMC on 19 December 2019 regarding timeframes enabling a customer to switch electricity retailers.<sup>16,17</sup> As part of these changes, AEMO is also improving the cooling-off

---

<sup>15</sup> As above n 2, 35.

<sup>16</sup> AEMC, *Reducing customer switching times* – Final determination, December 2019, (RRC0031). Available at <https://www.aemc.gov.au/rule-changes/reducing-customers-switching-times-retail>.

<sup>17</sup> The changes in the NEM are not reflected in changes to gas markets for which the NERR also applies.

functionality within MSATS. The new feature will resolve any potential delays to the delivery of services to a customer by enabling retailers to sell electricity to a consumer immediately on request, or potentially from a point in the recent past.

While these changes are currently in train, AEMO notes that any changes to AEMO's MSATS system require a three-month consultation phase, followed by an implementation phase (usually a minimum of six months). AEMO notes that any further changes to cooling-off periods (or other requirements impacting AEMO's procedures or systems) that may be developed as part of the Review would be subject to such consultation and implementation processes and timeframes.

AEMO welcomes the opportunity to provide further input as the Review progresses.