

Manager – Energy Market Reform Team
National Energy Market Branch
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601

23 December 2004



LEVEL 3
TOURISM HOUSE
40 BLACKALL STREET
BARTON ACT 2600
AUSTRALIA

RE: PROPOSED NATIONAL ELECTRICITY LAW AND NATIONAL ELECTRICITY RULES

A3P – Australian Plantation Products and Paper Industry Council appreciates the opportunity to make a submission on the Information Paper: *National Electricity Law and National Electricity Rules*. A3P's membership includes significant energy users involved in the manufacture of paper products, reconstituted wood products and sawntimber. The combined energy use of the industry is approximately 2.0% of the total Australian energy consumption of both gas and electricity.

A3P is a member of the Energy Users Association of Australia and supports their submission. This letter outlines some issues of particular significance to A3P members.

T +61 2 6273 8111
F +61 2 6273 8011
W www.a3p.asn.au

Summary

A3P believes the National Electricity Law and the translation of the National Electricity Code into the National Electricity Rules is a significant and beneficial step in the Energy Market Reform process.

The national electricity market objective is a fundamental part of the NEL and the rule change process. The version released in this Information Paper is poorer than the version previously released in the Consultation Paper. This submission highlights some of the deficiencies of the proposed objective and offers some alternatives.

The objective should be given greater prominence in draft and final determinations by the Australian Energy Market Commission.

This submission also seeks clarification on the status of industry associations and representative groups in the rule change process.

Background

The plantation products and paper industry produces and sells more than \$12 billion of product each year. It employs 50 000 people in plantation operations, sawmills and paper manufacturing plants, mainly in rural and regional areas. The industry produces 15 million tonnes of wood annually, and processes this wood into products including 3 million tonnes of paper and 3 million cubic metres of sawn timber.

The industry is heavily trade exposed, depending on competitively priced energy to maintain a commercial edge and is unable to readily pass added costs through to customers. Energy supply and pricing is critical in the formula that determines industry growth and investment.

A3P supports the completion of the Council of Australian Governments' program to make energy markets truly efficient, delivering reliable energy supplies at prices that enable energy-intensive industries to remain internationally competitive. We welcome the opportunity to provide comment on the draft National Electricity Law given its importance in establishing the objective of the market, defining the rule-change process, and establishing both the rule maker and the regulator.

A3P has maintained an active and constructive role in the energy market reform program on behalf of its members. We believe the maximum benefit will be achieved if the policy and regulatory processes effectively integrate end users and facilitate more constructive engagement between energy users and energy suppliers.

General Comments

Scope of the new NEL and Rules (Section 1.3, page 8)

A3P notes the statement in the information paper that the new NEL and Rules "do not deal with social equity or environmental policy issues" as these are more appropriately dealt with through separate policy instruments. A3P welcomes this approach and agrees that the NEL and Rules must be technical in nature and govern the efficient operation of the market.

Any attempt to broaden the objective of the rules will reduce the achievement of the primary objective, the long term interests of consumers, and therefore represents a cost to consumers of electricity.

National electricity market objective (Section 2.2, page 9)

The objective of the national electricity market has changed, for the poorer, since the version released in the Consultation Paper of August 2004. The proposed new objective is:

To promote efficient investment in, and use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability, safety and security.

The objective previously proposed in the Consultation Paper was:

To promote the long term interest of consumers of electricity with respect to price, quality and reliability of electricity services, and economically efficient investment and innovation.

'Efficient investment' has shifted from being a means of meeting the long term interests of consumers to virtually supplanting the interests of consumers. This change is a worrying sign for large energy users who are expectant of a more genuine electricity market through the reforms. While the change may appear minor, A3P believes it is significant, particularly given that the objective is also the rule making test and will drive the operation of virtually all aspects of the market.

The proposed objective creates a number of problems:

1. It presupposes that investment is the highest priority. While investment in infrastructure is clearly a crucial issue, the market objective should not assume that this is true in all cases, or at all times.
2. It implies that the judgment of what is in the best long term interests of consumers can be made by those interested in investing in infrastructure. This is not an efficient way for any market to operate and works against the stated objective of involving end-users in the electricity market.
3. It ignores the drivers and incentives for demand side management. The objective as presented seeks to encourage 'investment in and use of' electricity. Recent initiatives have led to a common view that demand side management will be a crucial part of the future electricity market, yet the proposed objective provides no basis or motivation to develop the capability.

To resolve these deficiencies, it would be preferable to use a slightly modified version of the objective released in the Consultation Paper, as follows:

*To promote the long term interest of consumers of electricity with respect to price, quality and reliability of electricity services, **including through** economically efficient investment and innovation.*

The Information Paper notes that "A single objective that comprehends a number of specific components or elements has the advantage of conveying the message that the long term interests of consumers will be served through a composite of...". The objective proposed above captures the purpose of the market, "long term interests of consumers", and allows the broadest possible composite of measures, including demand side management and investment.

Any person (Section 7.4.1, page 16) and Any person aggrieved (Section 9, page 22)

A3P notes the intention to encourage participation of energy users in markets by allowing "any person" to initiate a rule change process and "any person aggrieved" to apply for judicial review of a decision. While it has been stated, during the briefings that these terms include representative groups and associations, it would be appropriate to make this unambiguous. Most issues of significance in the electricity market impact on a number of users, or groups of users. It is therefore likely that any participation in the rule change process will be done

through representative groups such as industry associations or the Energy Users Association of Australia.

Rule Making Test (Section 7.3, page 16)

The clarity and simplicity created by using the market objective as the rule making test is a welcome initiative and is supported by A3P. However, this further emphasises the importance of wording the objective correctly. The market must be driven by the genuine needs of consumers not the needs of consumers as interpreted by parties wishing to invest in infrastructure.

AEMC Draft Determinations (Section 7.4.3, page 20) and Final Determinations (Section 7.4.4, page 21)

The primacy of the market objective in determining the rules and assessing any proposed rule changes could be further strengthened if both the draft and final determinations of the AEMC on a rule change proposal included an explicit statement on how it assists in meeting the market objective.

In the case of decisions approving proposed rule changes, this would be a statement of how the long term interests of consumers will be enhanced as a result of the rule change. In the case of decisions rejecting proposed rule changes, it would be a statement of why the proposed change does not enhance the long term interests of consumers.

Once again, thank you for the opportunity to comment on the Information Paper. If you have any queries please contact me at the address above or e-mail miles.prosser@a3p.asn.au .

Yours sincerely

MILES PROSSER
SENIOR POLICY ANALYST