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Manager, MCE Secretariat,
Department of Industry, Tourism and Resources,
GPO Box 9839
Canberra ACT 2601

By email: mcemarketreform@industry.gov.au

Dear Sir,

2006 Legislative Package – Exposure draft of AEMC Act changes re Advocacy

AGL Energy Limited¹ (AGL) has concerns with the current drafting of the AEMC Act changes to implement Advocacy support arrangements in the energy industry. AGL supports the commitment by the Australian Governments to support appropriate avenues for customers to comment on energy market reforms and to understand the industry. We are, however, concerned that the approach being adopted will not efficiently achieve this aim. We are also concerned that the funding of the arrangements is being levied on NEMMCO (to be recovered through participant fees) rather than being funded by the jurisdictions.

AGL is aware that some of the detail of the Advocacy Regime will be implemented through Regulations and Rule changes. The fact that this information is not available makes comment difficult. AGL, along with many other respondents to previous MCE consultations, have commented on this matter before and we consider that the MCE should be publishing the entire package for comment prior to its introduction into parliament.

Efficiency of the arrangements

AGL has previously noted its concern with the role of the Advocacy Panel and the need for explicit direction that it not duplicate current mechanisms for consumer comment in the energy sector.

AGL maintains that the AEMC and AER would more efficiently gain customer views (and participant views) by the establishment of specific standing reference groups that could examine issues as they arose. The discussions between the two bodies and their reference group would specifically build knowledge on both sides – the bodies would develop an understanding of key concerns of the customers and the customer advocates would be exposed to the breadth of issues in the energy markets. The relevant groups could commission specific research on issues of the day and be funded by the relevant bodies.

¹ AGL is Australia's largest retailer of gas and electricity with 2.8 million customers in New South Wales, Victoria, South Australia and Queensland. We also have an additional 0.8 million customers in the Australian Capital Territory and Western Australia through joint ventures with ActewAGL and AlintaAGL. AGL has significant investments in upstream energy markets. We own and operate 645 MW of hydroelectric power generation assets and the Somerton and Hallett gas-fired power stations. AGL also has a 32.5% equity investment in the Loy Yang A power station.

Given the MCE has decided on this approach, AGL considers that the panel needs clear guidelines for its operations to the effect that:

- Funding is provided to build capacity in advocacy organisations not to provide personnel to act as advocates. If consumer organisations cannot gain support from their constituencies they should not be funded, otherwise the MCE will simply be setting up an “advocacy industry” where the purpose of applications will be gaining advocacy funds as a means of employment;
- Funding should not be provided in areas where other government or funded agencies are already providing community consultation or advocacy. The NEM jurisdictions and all jurisdictional regulators already have customer consultation mechanisms for their areas of interest. These areas should be explicitly carved out from advocacy funding.
- Network pricing determinations are excluded from advocacy funding in line with earlier policy decisions of the MCE. This decision has already been implemented in the current National Electricity Rules.

AGL is also concerned that the current arrangements are timed to fall away and that the NEM does not have duplicated or incorrect provisions in the Rules when the new regime comes into force. Advice from the AEMC in this regard is that they have had no direction in this matter, although we understand the jurisdictions have intended to provide a Rule change proposal. The proposed change needs to be consulted with the market immediately to be in place in time.

AGL has previously sought the reasoning for the panel members to be independent of the industry. We note the current provisions contain specific reference to conflicts of interests and how they will be handled. It is not therefore obvious that industry members need to be excluded from the panel and, in fact, it may be beneficial to ensure some members have extensive industry knowledge to prevent wasteful research.

Funding of the Advocacy Panel

AGL notes that the jurisdictions have decided to fund the Advocacy Panel via a levy on participants via NEMMCO. It is not clear why the jurisdictions have chosen to depart from the agreed funding arrangements for the AEMC and more detail needs to be provided on how it is proposed that NEMMCO recover the monies from participants.

Please contact Alex Cruickshank on (03) 8633 6026 or acruicks@agl.com.au if you require further information on this submission.

Yours sincerely

Sean Kelly
General Manager Energy Regulation