

A few
words.

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19 September 2008

AEMO Establishment — Legislative Framework: Statement of Proposed Approach

AGL wishes to acknowledge the MCE's invitation for submissions in relation to this consultation on the proposed legislative framework for transitioning to AEMO. We also wish to acknowledge the MCE for conducting an informative stakeholder forum at Melbourne Airport on 19 August 2008 as part of this consultation.

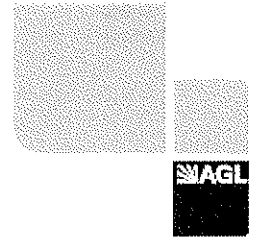
AGL understands that approaches to the regulation and governance of AEMO are at a high level thus far, and that details are being left to the drafting process to follow. We do support the minimum change principle that is being applied to gas as part of this transition.

AGL wishes to make the following observations under the subject headings adopted by the consultation paper.

Cost recovery

AGL is of the view that there is merit in applying a cost restraint objective on AEMO and that its budget/revenue requirement should be subject to review and approval by an independent body. Not only should the total revenue requirement

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be reviewed but consultation should extend to the fee structure as well. Public consultation would be an essential ingredient in this process.

An explicit cost efficiency "objectives clause" will reflect one of the primary justifications for the formation of AEMO. The opportunity for synergies from having a single market operator is one of the principal drivers in the formation of AEMO, and this needs to be fully reflected. Independent review and approval, coupled with public consultation, would provide greater market confidence that the new market operator is achieving best practise in its operations and governance.

Information gathering powers

The proposed use of Market Information Notices (MINs) and Market Information Orders (MIOs) does cause concern. Whilst seemingly analogous to the RIN/RIO functions of the AER, a crucial difference is that information gathering and seeking powers are being handed to a market operator, backed up by civil and criminal penalties.

A clear-cut principle is that a market operator should not be an enforcer. Whilst the MINs and MIOs are ostensibly to be used for the GSOO and NTP functions that AEMO will be required to fulfil, AGL is very much of the view that this is a move that creates a poor precedent and effectively blurs the distinction between market operation and enforcement.

The BB Operator also requires information from a range of industry participants. However, the BB Operator, whose role will merge into AEMO's operations, does not have these powers but relies on powers in the NGR, with the ultimate sanction of referral of non-compliance to the AER. The evidence to date is that there has been no issue with information provision by industry participants to the BB Operator.

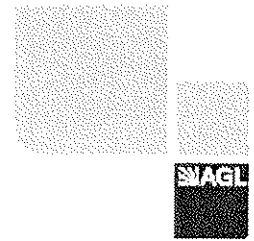
Emergency management

Any emergency management review committee to be formed needs to include representatives from industry. Industry participants were closely involved in the development of NGERAC and continue to be active in the operation of NGERAC. This has been a successful model and to exclude industry participation for the proposed emergency management review committee would be inappropriate.

Gas retail market rules and procedures

AGL fully endorses the ISC's recommendation that existing Retail Market Rules be appropriately separated into Rules (to capture "obligations") and Procedures (to capture items of a "technical" nature). Rule change would be overseen by the

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AEMC and Procedure changes would be conducted in a consultative framework by AEMO.

With respect to the issue of compliance, AGL is of the view that AEMO should retain the ability to initiate investigations into apparent breaches of Procedures. If its investigation of an apparent Procedure breach concludes that the breach is not material, AEMO could determine not to refer the issue to AER or to dispute resolution but to publish the detail of its investigation and reasons for its conclusion to all market participants (as GMC and REMCo currently do) and notify the AER. Any market participant who does not agree with AEMO's assessment of an apparent breach claim may raise the matter for further action. Preservation of this current approach to deal with breaches that turn out upon investigation to be minor in nature and non-material in consequence would ensure that undue resources are not committed to compliance.

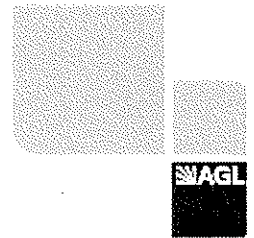
Gas retail market procedure change process

AGL understands that procedural change will be made through a Procedure change committee, recommending up to the AEMO Board. The Procedure change committee should also be able to advise on and develop changes with support from AEMO staff. Where there is not a unanimous endorsement of a proposed Procedure change, both majority and minority recommendations are to be provided to the AEMO Board. AGL supports an approach along the lines of the current Victorian Gas Market Consultative Committee (GMCC) for the review and maintenance of procedures, which does adopt the approach referred to in the previous sentence. This ensures participant input, and allows for appropriate consultation and transparency of process. Rather than mandating that AEMO chair the committee, an independent chair should be considered.

The AEMO Board should be required to give reasons for accepting or rejecting a Procedure change proposal and should not make changes to a proposal without it being referred back through the committee and consultation process. This will ensure that industry expertise is fully utilised in the development of any further changes or amendments suggested by the Board. By requiring the publication of reasons, the AEMO Board's decisions on proposed Procedure changes will be made transparent to the market, and this in turn will engender greater confidence in the process.

AGL does not favour the proposal for a single committee with a pool of people to work through and assess changes to Procedures on the principal ground that such expertise may not be readily available. A separate Procedure change committee for each market should be maintained, at least as a transitional measure, in order to retain the involvement of people from industry who have expertise and appropriate background in the relevant markets. The current Rule change committee in each market functions well and should be maintained to ensure stability of market development through the move to AEMO. AEMO may move at some point in the future to achieve some rationalisation of the change committees, but this needs to be done in consultation with industry.

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Victorian electricity transmission system functions

In order for VENCORP's current NSP functions to be appropriately implemented under AEMO, it is critical that robust governance and internal ring-fencing arrangements between VENCORP's Victorian electricity planning/procurement functions and other AEMO transmission functions be implemented. This will ensure that NTP and Victorian NSP activities remain appropriately separated and allay any concerns of potential conflict that may be expressed.

Should you have any queries, please contact George Foley on (03) 8633 6329.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Elizabeth Molyneux', is positioned above the printed name.

Elizabeth Molyneux

General Manager Energy Regulation

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