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Ms Kristen Palmer
Manager, MCE Secretariat
Department of Resources, Energy and Tourism
GPO Box 1564
CANBERRA ACT 2601

Level 12
15 William Street
Melbourne VIC 3000

Postal Address:
GPO Box 2008
Melbourne VIC 3001

T 03 9648 8777
F 03 9648 8778

Via Email: MCEMarketReform@ret.gov.au

Dear Ms Palmer

Submission on NECF 2nd exposure package

AEMO welcomes the opportunity to provide the following submission to the National Energy Customer Framework (NECF), 2nd exposure package. AEMO is supportive of the objectives of the NECF and provides comments on the package in the following areas: AEMO role and functions, RoLR Regime, National Energy Retail Market Procedures, Consumption Thresholds and Retailer Authorisations.

AEMO would also welcome the opportunity to discuss these matters further with the Retail Policy Working Group and/or provide further technical detail as required.

AEMO looks forward to working with the RPWG and industry to assist where possible in the development and implementation of the NECF.

If you require any further details or wish to discuss AEMO's submission, please do not hesitate to contact me on 03 8664 6610.

Yours sincerely



Terry Grimwade
Executive General Manager, Market Development

Attachments:

AEMO Submission National Energy Customer Framework 2nd Exposure Package

AEMO Submission National Energy Customer Framework 2nd Exposure Package

On 27 November 2009, the Ministerial Energy Council Standing Committee of Officials released the National Energy Customer Framework (NECF) 2nd Exposure Package for consultation. AEMO welcomes the opportunity to provide the following submission to the NECF 2nd exposure package.

1. AEMO role and functions

The NECF does not explicitly identify AEMO's role under the NECF and does not explicitly provide AEMO with powers or immunities to perform its role. AEMO notes that its role under the NECF is limited compared to its roles under the National Gas and Electricity Laws however, under the NECF, AEMO has functions related to customer transfer under the RoLR arrangements and is responsible for developing the RoLR Procedures, the NECF also anticipates that AEMO may receive confidential information.

AEMO therefore proposes the inclusion of provisions similar to Chapter 2 Part 6 of the NGL and Part 5 of the NEL providing for:

- AEMO's role under the NECF;
- Appropriate immunity for AEMO while performing its functions;
- The handling of confidential information; and
- The determination and collection of participant fees.

2. RoLR

AEMO supports the adoption of a consistent approach to RoLR obligations across markets in all jurisdictions in order to maximise the scheme's effectiveness and minimise costs.

AEMO notes that the NECF creates new roles for the AER, notably registering RoLRs and declaring that a RoLR event has occurred through the issue of a RoLR notice. When the AER believes that a RoLR event has occurred, the AER may designate one of the registered RoLRs to perform the role in respect of each of the customers of a failed retailer, the AER then informs the relevant parties of the identity of the RoLR via a "RoLR Notice," and the transfer date upon which the RoLR is deemed to have taken over the customers of the failed retailer.

Under the current exposure draft AEMO cannot transfer customers to the RoLR until it receives a RoLR Notice from the AER. Pending receipt of the Notice, it appears that liabilities will continue to accrue against the failed retailer. If AEMO suspends a retailer from trading in the NEM or one of the regulated gas markets due to defaulting on settlement payments the AER may issue a RoLR Notice (clause 612). If the AER chooses not to do this, or there is a material delay, there is potential for a substantial liability to accrue as a result of non-payment by the failed retailer. AEMO is then obliged to pass this cost on to participants in the relevant market. This could create serious shortfalls in the relevant market, particularly if extreme pricing events occurred at the same time as the RoLR event.

To avoid unnecessary risks of uncapped liabilities following a RoLR event, AEMO believes there is value in considering:

- a) Making suspension of a participant an automatic trigger for a RoLR event without the need for the AER to issue a Notice; and

- b) In other circumstances clarifying the process and timing for the AER to issue a RoLR Notice.

2.1 Consumer Risk

Customers transferred to the RoLR will probably be exposed to different contractual arrangements as a result of the transfer. AEMO considers that it is important for customers to be fully informed of the new arrangements at the earliest possible time so that they have an opportunity to consider their new position and consider changing their contractual arrangements or supplier. This is particularly important if large customers are not effectively managed in a timely manner, can generate very large market exposures and legal disputes.

AEMO notes the inclusion of the proposed NERL Clause 652 which covers this matter for small customers by requiring the retailer to disclose the RoLR arrangements when entering into a contract. AEMO believes consideration should be given to obliging retailers to advise all customers of RoLR implications that apply to them in the interests of avoiding later surprises or risks.

2.2 Credit Support

AEMO is concerned that if not designed appropriately the RoLR arrangements could conceivably contribute to a domino effect through cascading retail business failures. AEMO is particularly concerned that:

- a) The RoLR may not be able to source the credit support that AEMO would seek following transfer of consumer loads; and
- b) The RoLR might not have had the opportunity to arrange contracts with Generators and Gas Producers for their loads, exposing them to the Pool price at a time when prices are likely to be high thus leaving them unable to purchase gas.

Either of these difficulties, or a combination of both, could lead to the RoLR defaulting. To reduce the risk of this occurring, AEMO believes there is merit in considering the inclusion of well defined transition arrangements to support the uptake of new load by RoLRs. Options for consideration include:

- a) Transitional credit support arrangements for RoLRs such as additional time to arrange credit support or additional short term options for the provision of credit support; and
- b) Imposition of a time limited administered price cap on spot market outcomes following a RoLR event of greater than a pre-defined size. This arrangement is in place in the Victorian gas market and will be introduced into the Short Term Trading Market.

2.3 RoLR Transfer on estimates

Under normal market conditions consumer transfers are required to be made on the basis of an actual meter reading, however for practical reasons, transfers that are made as a result of a RoLR event have, in the past, been allowed to be based on estimated meter reads.

AEMO recommends amending NERR clause 1108(1)(c) to allow the transfer of customers on an estimated meter reading following a RoLR event.

2.4 Metering Services

The provision of Meter Data Agent (MDA), Meter Data Provider (MDP) services is contestable at some sites, notably those with interval meters. In many cases these services will be provided by the retailer or their agent. AEMO is concerned that the NECF currently does not deal with how these services will be provided following a RoLR event.

AEMO recommends amending NERR clause 1108(1)(c) to allow AEMO to make Procedures covering this matter.

2.5 Designating a RoLR

Under the exposure draft, NERL clause 603(2) states that the AER may register a retailer as a RoLR in respect of particular areas, particular customers or classes of customers or a combination of areas, customers or classes of customers. AEMO questions the appropriateness of some of these mechanisms for designating RoLRs as some are not easily achievable due to system and data constraints.

AEMO recommends that a single RoLR should be assigned to each discrete network area and notes that other arrangements could result in AEMO incurring substantial costs to alter its systems.

3 National Energy Retail Market Procedures

3.1 Existing Procedures

AEMO observes the inclusion of the following market procedures definition referenced in the NECF package.

National Energy Retail Market Procedures means procedures under the NER or NGR relating to the operation of the retail markets, including—

- (a) in the case of electricity—the B2B Procedures, the Market Settlement and Transfer Solution (MSATS) Procedures and the metrology procedure and other procedures or instruments made under the NER; and
- (b) in the case of gas—the relevant Retail Market Procedures within the meaning of the NGL and made under the NGR;

References to National Energy Retail Market Procedures should clarify that these relate to existing AEMO Procedures and that no new Procedures (other than RoLR), will be developed as part of the NECF. The explanatory material indicates that there will be changes to the framework governing AEMO's current electricity Procedures made under the NER. AEMO seeks clarity regarding these proposed changes and any transitional arrangements that could have an impact on the management of the current Procedures, including some AEMO Procedures unrelated to NECF such as those concerning settlement residue auctions.

AEMO also notes the separate governance arrangements in electricity assigned to the Information Exchange Committee (IEC) for the ongoing management of the B2B Procedures in the NEM and seeks clarity on any proposed changes to these arrangements.

3.2 Enforcement

AEMO notes the proposed NECF clause 1217 changes the enforcement regime applying to the National Energy Retail Market Procedures by making non-compliance with the Procedures a civil penalty. AEMO questions why this approach has been adopted in the NECF as the regime for enforcing the gas Procedures was only introduced into the NGL in July 2009. AEMO questions the appropriateness of allowing a civil penalty to be imposed for all breaches of the Procedures when this cannot be done for all breaches of the Rules particularly as many elements of the Procedures are minor and procedural.

AEMO recommends removing the current clause 1217.

4 Consumption Thresholds

The NECF proposes changes to the consumption thresholds used to identify different classifications of customers. This will have an impact on AEMO's market system processes which are based on the current jurisdictional consumption thresholds. Possible impacts include:

- a) Changes to existing storage and use of consumption thresholds;
- b) Changed parameters in application of market transactions, application of time frames and transfer rules;
- c) Transfer requests may need to be altered for 'business' customers as currently change requests are classified as just small or large;
- d) Transfer initiation rules for many Transfer Change Requests would require a review as they are dependent on customer classification;
- e) Redefinition of codes applied for the validation may require system changes; and
- f) Changes to existing NMIs in MSATS would have to be redefined to ensure they are correctly categorised.

The changes mentioned above would require changes to Procedures as well as AEMO's systems. These changes will take significant time to implement and will involve a cost to Participants. AEMO would welcome the opportunity to discuss these matters further with the RPWG and provide further technical detail as required.

5 Retailer Authorisations

AEMO notes the introduction of retailer authorisations to replace jurisdictional licenses; AEMO understands that these provisions allow an authorisation to be granted across multiple markets and dual fuels. AEMO is concerned that the provisions are not clear about whether an authorisation granted across multiple markets and both fuels may be revoked or surrendered for some of the markets or one of the fuels while the remaining parts stay in force.

AEMO considers that these provisions should be clarified to allow an authorisation to be partially surrendered or revoked while remaining in place for other markets or fuels.

6 Minor comments

AEMO has also identified a number of minor issues that it considers should be addressed in the final draft and these are set out in the attached table.

NECF2 SECTION & CLAUSE	MARKET / FUEL	NECF2 DESCRIPTION / POSITION	ISSUE	AEMO PROPOSAL
NERL				
NERL 503	Both	Retailer Authorisations	The NECF appears to envisage that requests for authorisations will be processed at the same time as requests for registration in the relevant markets. AEMO is concerned that this could lead to confusion as a person may be registered to participate in a market before they have obtained an authorisation.	Suggest retaining the requirement that a participant must obtain an authorisation before they can be registered to participate in a market.
NERL 634	Both	ROLR RIOs and RINs	Under 634 AER may withhold financial information, collected under a RRIO or RRIN about participants from AEMO.	Suggest this provision be deleted and rely on the AER and AEMO's general information sharing regimes.
NERL 905	Both	AEMC must have regard to MCE statements of policy principles in relation to Rule making and reviews (cf NEL s33; NGL s73)	Alignment across markets needs to be preserved in relation to future rule changes.	May be achieved by assigning appropriate controls to the AEMC to ensure alignment is maintained.
NERL 1001	Gas	Urgent Rule	The gas half of the definition of "urgent rule" is different from the one in the NGL. The current definition doesn't allow urgent rules to be made when it is necessary for the operation of a retail market or the STTM.	The NGL definition of "urgent rule" was changed by the STTM amendments, for consistency this should be picked up in the NERL.
NERL	NEM	Electricity Procedures	Confidentiality	In gas the Procedures may classify information as protected and authorise it to be disclosed (NGL s91G(1)(b)), this should be replicated in NEL 54A(2) and in

NECF2 SECTION & CLAUSE	MARKET / FUEL	NECF2 DESCRIPTION / POSITION	ISSUE	AEMO PROPOSAL
				the NERL if information provisions are inserted for AEMO.
NERL	Both	ROLR Procedures	No equivalent to NGL 91BN, obligation to comply with the procedures	Unclear why there is a difference, suggest amending to make consistent.
NERR				
NERR 1110	NEM / Gas	Approved Process.	AEMO is required to consult to develop an approved process	The transitionals should ensure that there is an initial approved process. Note one currently exists under NGR 135EC.
NERR 1110	NEM	Impact and implementation report	Development of the initial RoLR Procedures	Transitionals will be required to ensure there is an initial set of RoLR Procedures
Other				
NER 6B.6.5(2)	Both	Credit support	Provision talks about credit support provided to AEMO under “these rules”	Should this be a reference to the NER and NGR?
Explanatory document – Attachment B - table 1	NEM	Objection to customer transfer	Currently Retailers are able to object to a transfer for debt or contract for a change of retailer; however it is dependent on jurisdiction and the type of Change Request used.	For those jurisdictions that allow objection to a customer transfer on the grounds of debt, existing procedures and systems will need to be changed if the decision made that a retailer will not be able to object for debt reasons. MSATS, NEM B2B procedures and other system transactions will need to be changed

NECF2 SECTION & CLAUSE	MARKET / FUEL	NECF2 DESCRIPTION / POSITION	ISSUE	AEMO PROPOSAL
				<p>(through further consultation with participants).</p> <p>Some consideration should also be given to current gas network operators (SA and NSW/ACT) being able to object to transactions on the basis of existing contractual arrangements.</p>