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## **Australian Energy Market Operator Establishment Legislative Framework: Statement of Proposed Approach**

Grid Australia welcomes the opportunity to make this submission in response to the above paper prepared by the Australian Energy Market Operator (AEMO) Implementation Steering Committee (ISC). Grid Australia represents the owners of approximately \$12 billion of regulated electricity transmission network assets in Australia who are investing approximately \$2.2 billion in the networks each year.

### **Information Gathering Powers**

The ISC is proposing a regime of information gathering powers for the AEMO that is based on the existing power granted to the Australian Energy Regulator (AER) by the Trade Practices Act (1974) Cth. It is proposed that there be a single set of provisions that will cover all information gathering requirements to support the functions undertaken by AEMO. Grid Australia understands that while the proposal is envisaged to be initially operative to support the National Transmission Planner (NTP) functions of AEMO, it could also be extended to cover other functions of AEMO such as managing power system security and responding to emergency conditions.

Aspects of this matter were considered as part of the Australian Energy Market Commission (AEMC) Review of National Transmission Planning Arrangements. During that review, in response to both the AEMC Discussion Paper and Draft Report, Grid Australia submitted that the scope for the proposed National Transmission Network Development Plan (NTNDP) was such that the NTP's information powers would need to include information gathering from generators. This was considered necessary in order for the NTP to be able to develop transmission planning scenarios with soundly based information on generator forced outage rates, and capital and operating costs, and other matters that vary across various generation technologies. Grid Australia is therefore fully supportive of the ISC proposal to include generators as potential recipients of a Market Information Order (MIO) or Market Information Notice (MIN).

As to the operation of MIOs and MINs, Grid Australia considers the issuing of such instruments should be seen as a last resort. The ISC proposal is that AEMO would issue an MIO or MIN when it was considered “reasonably necessary” for the exercise of NTP functions and Powers. Grid Australia members already co-operate closely with NEMMCO in the production of the Statement of Opportunities (SOO) and the Annual National Transmission Statement (ANTS). Grid Australia is committed to continuing this co-operative approach with the NTP and submits that AEMO should only be empowered to issue MIOs or MINs in the event that requested information reasonably required has not been forthcoming from an overtly intransigent or obstructive party.

The Legislation should expressly give effect to the ‘last resort’ intention by stating this objective and including preliminary information gathering activities which must be undertaken by AEMO without success before the proposed new powers can be exercised.

### **Confidentiality Arrangements**

The ISC proposes that AEMO be permitted to freely exchange information, including confidential information, with a range of other regulatory third parties. This is similar to the provisions in the Trade Practices Act in respect of the AER. Grid Australia notes that the list of third parties identified by the ISC includes the ESIPC. The ESIPC has a number of regulatory roles, including being the Jurisdictional Planning Body (JPB) in respect of the South Australian jurisdiction. Grid Australia understands the proposal is directed to the role that ESIPC has in managing gas system emergencies. Nevertheless, the confidentiality arrangements should not result in information asymmetries between the various JPBs. This also includes AEMO who will be the JPB in respect of the Victorian jurisdiction.

Where an entity, such as ESIPC, receives confidential information as a result of having a specific regulatory role such as managing gas system emergencies, it should be prohibited from using that information in pursuit of its other roles, such as being a JPB.

Grid Australia would be pleased to discuss any aspects of this submission with the ISC. Please feel free to contact me on (08) 8404 7983.

Yours sincerely,



Rainer Korte  
**Chairman**  
**Regulatory Managers Group**