

MINISTERIAL COUNCIL ON ENERGY

Communiqué

Melbourne, 25 May 2007

Australian Government, State and Territory Energy Ministers met in Melbourne on 25 May 2007 for the 13th Meeting of the Ministerial Council on Energy. The meeting was chaired by the Hon Ian Macfarlane MP, Australian Government Minister for Industry, Tourism and Resources. The Council comprises Australian Government, State and Territory Ministers with responsibility for national policy and governance of the Australian energy market.

Drought Impact on the National Electricity Market

The impact of the drought on bulk electricity supplies in Eastern Australia and the operation of the National Electricity Market was discussed. Ministers recognised the potential impact of drought on the generating capacity of both hydro and coal-fired plant, and hence the potential impact on the national electricity market in terms of system security and prices. Ministers considered the findings of an analysis of these impacts, conducted by the National Electricity Market Management Company (NEMMCO) following a request in late 2006 from the MCE Standing Committee of Officials (SCO).

Mr Les Hosking, NEMMCO Managing Director, advised MCE that in regard to security of generation capacity (bulk supply) in the NEM jurisdictions (all jurisdictions excluding WA and NT):

- "With average rainfall and normal demand, there is expected to be continued reliable supply, despite the drought-related capacity restrictions.
- With low rainfall and extreme events, the reserve margins will be reduced and there may be a need for additional action to maintain reliability of the system."

Ministers noted that there is always a possibility that extreme events, such as a heat wave combined with significant generator breakdowns or bushfires, may result in load shedding.

Mr Hosking advised Ministers that more recent data and the additional response measures taken by individual jurisdictions will improve the report. MCE has requested NEMMCO to update its first report on the 'Potential Drought Impacts on Electricity Supplies in the NEM' for consideration by the MCE in August 2007.

Ministers noted the upward pressure on spot and forward market prices as a result of generator capacity and energy restrictions due to the drought. These price outcomes were discussed with Mr Steve Edwell, Chair, Australian Energy Regulator (AER), who advised Ministers that "AER's market surveillance team has not identified any improper market activity and assured MCE that close market monitoring will continue".

Ministers reiterated their confidence in the market as the primary mechanism for dealing with supply, demand and energy constraint issues.

Ministers recognised the market's reliance on timely information to deliver efficient outcomes. Accordingly the MCE decided to:

- Publish the NEMMCO drought study;

- Request the MCE SCO to work, in conjunction with NEMMCO, to develop specific actions to ensure the timely provision of relevant information to industry, including information related to supply limitations; and
- Request the Australian Energy Market Commission (AEMC) Reliability Panel to review and advise on the effectiveness of current market arrangements in managing limitations due to input constraints.

These actions, will enable the market to respond with the best information available to it. Ministers noted also that a range of specific measures were also being developed and implemented in a number of jurisdictions.

Energy Market Reform Legislative Packages

Economic Regulatory Package

MCE Ministers noted that the economic regulatory package is in its final consultation stage, and thanked stakeholders for their comprehensive submissions and contribution to the consultation process.

Finalisation of this package will complete the transfer of economic regulation of transmission and distribution in the electricity and gas sectors to the new national governance arrangements through the introduction of the National Gas Law and Rules, and the amended National Electricity Law and Rules. The package will also include the *Australian Energy Market Commission Establishment (Consumer Advocacy Panel) Amendment Bill 2007*, addressing advocacy, and will also deal with Rule change issues.

Ministers noted that addressing the issues raised in submissions has required significant policy and drafting work, with the consequent effect of delaying the finalisation of the package. It is anticipated the primary legislation will be passed through the South Australian Parliament by late 2007 and the National Electricity Law and Rule amendments will commence soon after passage in South Australia. Concurrently, jurisdictions will progress individual gas application acts and the gas legislative package will commence with the passage of enabling legislation in the last jurisdiction - expected in December 2007.

Ministers acknowledged that the delayed introduction of the economic regulatory package will mean that the new national arrangements will not be in place in time to enable NSW and ACT distribution businesses and the AER to prepare for upcoming regulatory resets, due to commence on 1 July 2009, to be undertaken under the new Rules. Therefore, transitional arrangements will be put in place for the NSW and ACT determinations. Officials will continue to work closely with the AER, NSW and ACT distribution businesses, and other affected stakeholders, in finalising the transitional arrangements for NSW and ACT.

Retail Framework

The MCE also noted progress on the retail legislative package that will give effect to the transfer of regulation of distribution (non-economic) and retail (non-price) functions to the AER and the AEMC.

Stakeholders have been closely engaged in the development of five working papers on detailed terms and conditions for national regulation of non-economic aspects of distribution and retail services for the Law and initial Rules. A composite paper reflecting initial submissions to the five working papers will be released for a second round of consultation. The drafting of the Law and initial Rules is expected to commence in August 2007 and will involve consultation with stakeholders throughout the drafting process.

Delayed finalisation of the economic regulatory package and the complex range of state and territory legislative and regulatory instruments that need to be synthesised into an efficient and effective national package for the non-economic aspects of distribution and retail services has required rescheduling of the latter legislative package for a 1 July 2008 commencement.

MCE considers that these changes in the timetable for the legislative packages will enable the benefits of the consultation process to be fully realised and has unanimously agreed to adjust the relevant dates in the Australian Energy Market Agreement – refer Attachment A.

Gas and Electricity Retail Market Competition Reviews

Ministers directed the AEMC to commence its review on the effectiveness of retail competition. The AEMC will conduct sequential assessments commencing with Victoria in 2007, followed by South Australian in 2008, NSW in 2009 and ACT (if required) in 2010. Other jurisdictions are expected to be assessed once full retail competition is established.

Further Energy Market Reforms

At its meeting on 13 April 2007, COAG agreed to a range of further energy market reforms that will be implemented by MCE. Ministers noted that these decisions would have a significant impact on the MCE's future work program up to at least 2009. The MCE tasked SCO to develop a work program to implement the following initiatives:

- the creation of a National Energy Market Operator (NEMO);
- the formation of a National Transmission Planner (NTP) and development of a national framework for transmission network reliability standards;
- a review of all remaining derogations from the national framework;
- a national review of energy Community Service Obligations with a view to developing a consistent national framework;
- the development of options for the integration of spot and forward contract markets (through AEMC, NEMMCO and the ASX);
- annual progress reports to COAG on energy market reforms; and
- action to address network support contracts, wholesale trading and settlement residue auctions to complement current work being undertaken by the AEMC on transmission related tasks.

MCE agreed to direct the AEMC to immediately develop a detailed implementation plan for the establishment of a national electricity transmission planning function, and undertake a review of transmission planning reliability standards with a view to developing a consistent national framework for network security and reliability.

Smart Meters

Ministers noted progress and a forward plan for implementation of a staged approach for the national mandated roll out of electricity smart meters to areas where benefits outweigh costs, as indicated by the results of the cost-benefit analysis which will take account of different market circumstances in each state and territory and the circumstances of different groups of consumers. MCE noted that a national minimum functionality for smart meters, determined following a first-stage cost-benefit analysis (and including open communication protocols to support competition and replacement criteria for existing meters), will be released for consultation by September 2007. It is expected that the full cost-benefit analysis of a smart meter roll-out will be completed by the end of 2007.

National Electricity Rule Change Proposal - Technical Standards

In September 2006, the AEMC finalised its Review into Enforcement of and Compliance with Technical Standards, making a number of recommendations about compliance with, and enforcement of, technical standards relating to electricity generators.

Ministers noted the valuable work of the National Generators Forum (NGF) in consultation with the AER and NEMMCO, in developing rule changes relating to generator technical standards. Ministers noted that it was appropriate and consistent with the overall market governance model for the NGF, in consultation with NEMMCO and the AER, to initiate a rule change proposal based on the AEMC recommendations through the rule change process.

To ensure that the proposed rule changes work consistently with the governance principles under the NEL, it is proposed that the NEL will be amended to include compliance programs as a factor for a Court to consider when determining a penalty level. In addition, a provision will be inserted into the NEL providing that the AER may publish guidelines specifying matters to which it will have regard in deciding whether to issue an infringement notice or institute proceedings with respect to a breach of the NEL or Rules. These amendments to the NEL, relating to compliance and breaches of technical standards, will be progressed by the MCE Standing Committee of Officials.

Gas Bulletin Board and Short Term Trading Market

Ministers noted progress by the Gas Market Leaders Group (GMLG) on the gas market Bulletin Board (BB) and Short Term Trading Market (STTM), to support gas market transparency and gas emergency management. The GMLG is working towards the BB being operational by the first half of 2008. Ministers noted that further work would be needed to give effect to legal obligations necessary to make the BB operational, including insertion of a high level rule-making power in the National Gas Law. SCO Officials will consider options to empower the operation of the BB.

National Gas Emergency Response

The MCE noted the gas emergency simulation exercise that will take place on 29 May 2007. Ministers welcomed this exercise as an important step in testing the National Gas Emergency Response Protocol and relevant communications protocols, and look forward to receiving the National Gas Emergency Response Advisory Committee's report on the outcomes of the exercise.

Australian Security Risk Assessments for Oil, Gas and Electricity Systems

In the context of energy security matters, the MCE noted the National Counter Terrorism Committee's development and dissemination of the Risk Context Statements to industry as an unclassified resource, setting out the current security environment for oil, gas and electricity systems in Australia.

Long Term Domestic Gas Supply

The MCE is working with the Ministerial Council on Mineral and Petroleum Resources to investigate options for securing domestic gas reserves to guarantee long term energy security for all Australian jurisdictions and to capitalise on unprecedented global demand for liquefied natural gas (LNG). Ministers noted the progress of this group and the broad stakeholder

consultation scheduled to take place from late June. Ministers look forward to receiving the Joint Working Group's report later this year.

National Framework for Energy Efficiency

The MCE's National Framework for Energy Efficiency (NFEE) has been in operation since 2004 to achieve a sustained, measurable improvement in Australia's energy efficiency. Ministers noted the significant impact that energy efficiency measures can have in terms of contributing to improved economic and environmental performance, and delivering benefits to households, small business and industry.

The focus of NFEE Stage I was a combination of regulatory measures, particularly in relation to appliance and building efficiency and encouraging industry to identify energy efficiency opportunities; the development of tools for the promotion of energy user awareness of energy efficiency and its benefits; and reduction of obstacles to the take-up of energy efficiency measures.

The MCE noted the significant progress in delivery of NFEE Stage I. Key objectives originally set for this first stage have now been achieved, including:

- agreement to new and enhanced minimum energy performance standards (MEPS) for a range of products, with a further 30 products under consideration;
- inclusion of minimum energy performance standards for all new building types in the Building Code of Australia; and
- commencement of the Energy Efficiency Opportunities Program to identify cost-effective energy efficiency options in large energy-using firms.

Together, these measures are projected to deliver more than \$380 million of economic benefits, 42 petajoules of energy savings and 7.8 million tonnes of greenhouse gas abatement per annum by 2015.

The MCE will continue to work in 2007/08 on the development of other key elements of NFEE Stage I, which are now well under way, including provision of appropriate energy use benchmarks on energy bills and mandatory disclosure of energy performance of residential and commercial buildings, subject to the outcome of Regulatory Impact Statements.

The MCE is developing a future direction for NFEE to develop integrated strategies to focus on key opportunities for energy efficiency improvements across the residential, commercial and industrial sectors, including residential hot water; residential and commercial buildings and fittings; commercial heating ventilation and air conditioning; and industrial key technologies, in addition to a continuing focus on appliance and building efficiency. Addressing these issues effectively will require flexibility and cooperation with other Ministerial Councils, as well as with industry, to ensure effective implementation. The Council will be consulting with industry before finalising implementation plans later in 2007.

COAG Climate Change Agenda

MCE noted that COAG has agreed to establish a mandatory national greenhouse gas emissions and energy reporting system, with the detailed design to be settled after the Prime Minister's Task Group on Emissions Trading reports at the end of May 2007.

MCE also noted the COAG decision to develop four technology roadmaps to support:

- the development of coal gasification for electricity production (Qld/Vic to lead);

- the development of geothermal energy production in Australia (Australian Government to lead);
- the development of hydrogen energy in Australia (Australian Government to lead); and
- the development of solar thermal energy technologies (NSW/Vic to lead).

Ministers agreed that their next meeting will be in Perth in November 2007.

End

AEMA Clauses to be amended

| CLAUSE | REQUIREMENT | ORIGINAL AEMA 2004 | AMENDED AEMA June 2006 | ADJUSTED August 2006¹ | PROPOSED DATE |
|---------------|--|-----------------------------------|---------------------------------------|---|---------------------------------|
| 8.1(b) | Transfer to AEMC transmission and distribution gas rule making functions | 30 June 2005 | 1 January 2007 | 1 July 2007 | 31 December 2007 |
| 9.1(b) | Transfer to AER economic regulation of gas transmission and distribution networks | 30 June 2005 | 1 January 2007 | 1 July 2007 | 31 December 2007 |
| 12.2 | Implementation of revised merits review regime | N/A | 1 January 2007 | 1 July 2007 | 31 December 2007 |
| 13.4 | Coordinated and concurrent applications for certification of NEM access regime and the gas access regime | N/A | 1 January 2007 | NEM 1 January 2007, Gas 1 July 2007 | 31 March 2008 |
| 13.10 | Reporting on progress with certification of access regimes | 1 January 2008 | 1 January 2008 | N/A | 31 December 2008 |
| 14.1 | Enabling legislation to transfer national distribution and retail regulatory functions to AEMC and AER | 31 December 2006 | 1 January 2007 | 1 July 2007 | 31 December 2007 |
| 14.2(c) | Completion of rules for retail and distribution framework | 1 January 2008 | 1 January 2008 | N/A | 1 July 2008 |
| 14.3 | Framework set for transfer of economic regulation of distribution networks to AER. | 31 December 2006 | 1 January 2007 | 1 July 2007 | 31 December 2007 |

¹ SCO Bulletin No. 69 issued 23 August 2006 announcing revised dates