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18 September 2008

Manager MCE Secretariat,  
Department of Resources, Energy and Tourism  
GPO Box 1564  
Canberra ACT 2601

Email: [MCE@ret.gov.au](mailto:MCE@ret.gov.au)

### **AEMO Legislative Framework: Statement of Proposed Approach**

Dear Sir,

The NGF is broadly supportive of the proposed approach. We believe the legislative framework of the NEL works well and consequently we support the retention of this approach for AEMO. To the extent that they are relevant, we would encourage the MCE to make use of processes and principles which work well in the NEM in the development of a national gas regime (such as is proposed for the Dispute Resolution Process).

In framing the legislation, we believe that the MCE should frame it in terms of **enabling the AEMO Board** rather than constraining it to act in a specific way. An example of this would be the suggestion for multi year participant fee determinations. The NGF believes the legislation should allow this but not mandate it so the AEMO can choose this option if it meets members objectives. This may well change over time as the market develops and changes and any constraints in the legislation may well cause inefficiencies if they are prescriptive.

#### **Accountability Framework**

These recommendations are supported.

#### **Cost Recovery**

The recommendations are generally supported. The concept of having a three or five year rolling fee setting process is not recommended at this time. In a time of change, as we expect in a carbon constrained world, the flexibility of annual fee setting should be retained. The legislation should allow multi year participant fees but not mandate it. There is an additional issue of new participants and participants who leave the market during the period. This is accommodated easily over a year but could provide difficulties over 3 or more years.

While the overall fee setting proposal and consultation approach is supported, we believe that good governance requires that fee determinations by the AEMO board should be able to be disputed by participants or referred to the AER if a participant feels their submissions into the consultation process have not been adequately taken into account in AEMO fee

determination. Requiring that participants who lose such disputes have to pay the costs of both parties would create a strong barrier against vexatious disputes.

The other issue in cost recovery is the issue of the imposition of costs when a request to AEMO from a Minister or the MCE results in significant expenditure. NGF believes that such costs, where they are material, should be borne by the initiator of the request. A principle to this effect should be included.

### **Information Gathering Powers**

The NGF's view is that the current provision of information is satisfactory. We are concerned at the imposition of additional requirements on the industry. To our knowledge, information provision is currently not an issue to NEMMCO or regulators in relation to generators and we do not agree with any additional powers beyond those which operate today.

Similarly, the current confidentiality arrangements work well and are essential for the effective functioning of the market. It is imperative that commercially confidential information be safeguarded.

### **Immunity and Indemnity**

The NGF supports the continuance of the existing NEL liability arrangements at this time. Any change is a significant exercise and should be the subject of a separate review when issues are identified which need remedying.

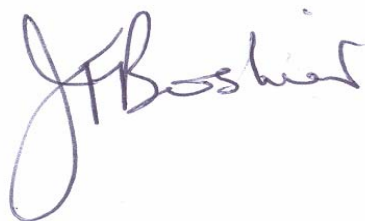
### **AEMO's Victorian Electricity Transmission System Functions**

The NGF supports the need for robust arrangements to be put in place by the AEMO board to manage potential conflicts of interest between the Victorian Transmission functions and other parts of AEMO. Successful implementation of such measures will be essential to ensuring market confidence in AEMO.

In addition we dispute the claim in the paper that AER oversight of the costs recovered by AEMO in managing its transmission function does not contribute to efficiency. While it is largely true in the case of costs related to assets procured through competitive tender, it is not the case for administrative costs incurred by AEMO in administering its transmission functions. The NGF believes that AER oversight of these costs is important to ensure that efficiency improvements related to these functions are pursued.

If you require any further information, please contact the undersigned on 0400 874 484

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'J Boshier', with a large loop at the end of the first name.

John Boshier  
Executive Director