



19 September 2008

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

Dear Sir / Madam

Consultation on Legislative Framework for AEMO Establishment

SP AusNet is pleased to be able to provide comments on the suggestions and proposals of the Implementation Steering Committee for the key elements of the regulatory framework within which AEMO will operate.

SP AusNet is one of few Australian energy market participants with substantial network facilities in more than one energy sector category. The company owns the Victorian electricity transmission business, one of five electricity distribution businesses in Victoria, and one of three gas distribution businesses in Victoria. As such, SP AusNet is able to comment on the AEMO establishment proposals from a number of different perspectives.

Our detailed submission is attached. We look forward to being able to expand upon the concepts presented in our submission, to work with the ISC and other parties to ensure that the framework, particularly for electricity transmission in Victoria, will lead to clear and effective operating arrangements.

Please do not hesitate to contact us if we can assist you with any queries arising from our submission.

Yours Sincerely

Kelvin Gebert
MANAGER REGULATORY STRATEGY AND COMPLIANCE



Environmental
Endorsed
Company

AS/NZS ISO 14001 Lic. No.2479



OH&S
Endorsed
Company

AS/NZS 4801 Lic. No.2479

AEMO Establishment

MCE Consultation: Proposed Legislative Framework

1 INTRODUCTION

SP AusNet is pleased to be able to provide comments on the suggestions and proposals of the Implementation Steering Committee (ISC) for the key elements of the regulatory framework within which AEMO will operate.

SP AusNet is one of few Australian energy market participants with substantial network facilities in more than one energy sector category. The company owns the Victorian electricity transmission business, one of five electricity distribution businesses in Victoria, and one of three gas distribution businesses in Victoria. As such, SP AusNet is able to comment on the AEMO establishment proposals from a number of different perspectives.

SP AusNet is a key stakeholder in the transfer of VENCORP's electricity transmission functions into AEMO. The Victorian arrangements are unique and the framework needs to provide assurance that "transmission network service provider" responsibilities and accountabilities and regulatory oversight are appropriately and clearly assigned.

SP AusNet has an interest in aspects of the proposed approach for transfer of VENCORP's gas market operator functions to AEMO. This will occur alongside transfer of these functions from Queensland, New South Wales and South Australian market operators. There are issues surrounding the formation of a nationally consistent approach, given the current disparate jurisdictional arrangements.

We look forward to being able to expand upon the concepts presented in our submission, to work with the ISC and other parties to ensure that the framework, particularly for electricity transmission in Victoria, will lead to clear and effective operating arrangements.

2 VENCORP'S ELECTRICITY TRANSMISSION FUNCTIONS

SP AusNet is a key stakeholder in the future framework that will apply to the provision of network services in Victoria by AEMO, as a result of the transfer of VENCORP into AEMO. An SP AusNet company, SPI PowerNet, is the owner and operator of the Victorian electricity transmission network. The company is licensed to provide transmission services, and is registered as a Transmission Network Services Provider (TNSP) with NEMMCO. SPI PowerNet provides its shared network services in bulk to VENCORP, via a services agreement known as the Network Agreement. VENCORP plans, directs development and on-sells the shared network services to network users. The bulk of SPI PowerNet's electricity transmission services are prescribed services, subject to revenue cap regulation by the AER.

In this submission SPI PowerNet is referred to as SP AusNet.

The Victorian arrangements for delivering transmission services are unique, and to provide for these arrangements, the provisions of the National Electricity Rules are modified and

contextualised for application in Victoria, via derogations. These have been in place since the inception of the NEM and have worked reasonably well, although there are a number of areas where responsibility is poorly defined, and/or arrangements are not consistent with other jurisdictions. This has led to some confusion regarding the overall provision of transmission services in Victoria, and with the proposed change there is potential for this to increase. With the development of a new, National body assuming VENCorp's Victorian jurisdictional responsibilities it is necessary to ensure that the intent of Victorian policy is accurately captured in the instruments which establish these obligations. SP AusNet believes that it would also be prudent at this time to clarify some aspects of the arrangements to ensure that the arrangements are efficient and to clarify some of the areas which operational experience gained over the last 14 years has identified as warranting attention.

The following sections set out SP AusNet's views on these matters.

2.1 AEMO's Role as a TNSP

VENCorp's Electricity Responsibilities

As noted above VENCorp has the role of a TNSP in Victoria. Under Victorian legislation and licensing it is the sole provider of shared transmission network services. Its responsibilities include:

- provision of Use of System services – VENCorp on sells bulk transmission network services provided by asset-owning TNSPs, in particular SP AusNet, through contracts with transmission network users for access to the transmission network;
- network pricing – VENCorp is responsible for pricing of transmission network services in Victoria, through which, the charges for use of the transmission network are allocated to network users;
- network planning – VENCorp plans the Victorian shared transmission network, which includes the identification of potential constraints and projected solutions. VENCorp publishes an Annual Planning Report in accordance with the National Electricity Rules;
- network augmentation – VENCorp directs the augmentation of the shared network to ensure that performance satisfies the requisite standard, and meets network user requirements;
- electricity demand management – VENCorp's role is to consider mechanisms for overcoming problems that inhibit an effective demand side response to price signals in the wholesale market;
- electricity emergency coordination – VENCorp liaises between NEMMCO and the Victorian industry during emergencies, and has agreements with distributors and retailers for load shedding capability; and
- providing electricity industry information to government – VENCorp advises the Victorian government on electricity related issues.

Identifying VENCORP'S Obligations under the Rules

It is difficult to identify a subset of obligations on TNSPs under the Rules as representing the full extent of AEMO's TNSP obligations. The role of a TNSP under the Rules is a shared one in Victoria, such that the provision of an overall TNSP service depends on VENCORP SP AusNet and the Distributors. Therefore, significant interdependence exists between the parties in performing many (if not most) functions. Some specific functions are assigned to parties including VENCORP by derogations under Chapter 9 of the Rules, however, the vast majority of Rules obligations on TNSPs are not specifically assigned to a particular party.

SP AusNet is comfortable with the shared TNSP responsibilities approach in principle, but has significant concerns with its practical implementation. As noted, SP AusNet does not believe that the allocation of responsibilities established under the current derogation is complete in defining the role of VENCORP. There is, nevertheless, the danger that it can be perceived in this way as it can be viewed as operating satisfactorily to date. However, this has been a result of co-operation and good faith between SP AusNet and VENCORP in fulfilling the overall TNSP role in the face of the ambiguity in the Rules. This is in turn a function of a broad operating environment that has been conducive to co-operation, and a lack of circumstances arising which might challenge this approach, but which cannot be relied upon not to change in the future.

It may be beneficial to provide an example to illustrate the ambiguity in the assignment of responsibility for Rules obligations. The Rules require a TNSP to institute and maintain a compliance program to ensure that certain facilities that may impact system security, operate reliably and in accordance with the performance requirements of the Rules¹. The obligations are not specifically assigned to a TNSP in Victoria, however, close examination shows that both parties have a role. VENCORP should be responsible for identifying the facilities subject to the compliance program (that is, identify those that may affect power system security), confirm the applicable standards to apply, and confirm that SP AusNet's testing process will measure performance in accordance with VENCORP's specification. Possibly VENCORP should also report any non-compliance to NEMMCO, especially if this is inherent in the design performance for the network which is under VENCORP's control.

In this example, SP AusNet's primary responsibility is to ensure that the maintenance and test plan is established and implemented. Where SP AusNet's equipment does not comply with the performance requirements of the Rules and at the same time deviates from the specification agreed with VENCORP, then SP AusNet would also be responsible for reporting non-compliance. However, SP AusNet's experience is that stakeholders think the responsibility for the transmission network meeting the Rules performance requirements resides substantially with SP AusNet.

ISC Proposal for Assigning VENCORP'S Rules Obligations to AEMO

In transferring VENCORP's functions to AEMO, the ISC proposes that AEMO would not be required to register as a TNSP. A reason given for this proposal is that, if registered, AEMO may need to direct itself creating a situation that is circular, unnecessary and should be avoided².

¹ Refer Clause 5.7.4 a(2) of the NER

² Paragraph 268, Australian Energy Market Operator Establishment, Legislative Framework: Statement of Proposed Approach, MCE AEMO ISC, August 2008

The ISC's proposal is for the Rules to directly apply relevant VENCORP obligations on AEMO. The ISC paper observes:

Those obligations currently imposed on VENCORP by the NER because it is a Registered Participant and that are identified as appropriate to continue to apply to AEMO should be imposed directly on it. The simplest approach to maintaining the relevant obligations created through registration is to separately provide for those obligations in the NER (with necessary empowering provisions in the NEL³).

As a result of the significant inter-dependence in fulfilling the TNSP role, and the difficulty in separating the obligations between the TNSPs, SP AusNet does not believe that the ISC proposal can adequately assign TNSP responsibilities to AEMO. Responsibility for all TNSP functions not specifically assigned would automatically and incorrectly become the responsibility of registered TNSPs and in particular SP AusNet. This would continue to be a problem as the Rules develop and the obligations on TNSPs are amended. There is a likelihood that the allocation of responsibilities in Victoria would not be specifically addressed and the current level of ambiguity could increase.

In SP AusNet's view, the appropriate responsibilities can only be allocated to AEMO through AEMO being recognised as a TNSP, alongside SP AusNet and other registered TNSPs.

However, we recognise that this will only maintain the status quo, and not give greater certainty than is currently provided through the Victorian arrangements. Close co-operation between the parties, i.e. SP AusNet and the new AEMO, would continue to be required for the overall TNSP role to be fulfilled.

Designating AEMO as a TNSP

AEMO could become designated as a TNSP either by direct reference in the Rules or by registering, as is the case for other TNSPs. Either approach would appear to work. It is only necessary that AEMO is recognised as a TNSP, is accountable for TNSP obligations, and is subject to the AER's compliance monitoring regime.

2.2 Administrative Oversight of Victorian Transmission Arrangements

Through Victorian legislation and licensing, administrative oversight of transmission arrangements in Victoria is currently the responsibility of the ESC. This is the case even though revenue regulation for electricity transmission is the responsibility of the AER.

The Victorian electricity transmission arrangements are unique, and the transition of VENCORP into AEMO will not alter this situation. There will be a continued need for some administrative oversight of jurisdictional arrangements. The ISC consultation paper does not appear to discuss this need and how such oversight will be provided, although it does note that Victoria is considering which licence and system code obligations should be retained in the national framework⁴. SP AusNet believes there is a need for clarification of proposed transmission function oversight arrangements.

³ Paragraph 270, Australian Energy Market Operator Establishment, Legislative Framework: Statement of Proposed Approach, MCE AEMO ISC, August 2008

⁴ Paragraph 255, MCE AEMO ISC

An example of Victoria specific jurisdictional arrangements which exist external to the Rules are the Victorian codes and guidelines which are administered by the ESC, which place obligations on industry participants, including VENCORP. Two instruments of particular relevance are the Electricity System Code and Guideline No.18: Electricity Industry – Augmentation and Land Access. Potentially these instruments and any other administrative functions necessary to oversee specific Victorian arrangements could be transferred to the AER. Alternatively, for the Victorian System Code, relevant sections could be merged into the Rules.

Clarification on how instruments that are not national instruments can be made subject to AER oversight is necessary. In this regard it should be noted that Guideline No.18 was developed pursuant to provisions of the Electricity Industry Act 2000 and on-going administrative oversight will be necessary. Such oversight cannot be provided by AEMO, as it will itself be subject to the guideline.

A further example is the development and implementation of nationally consistent transmission reliability standards by the AEMC as requested by the MCE. The ISC discussion paper notes that VENCORP's approach to planning may be impacted by new national arrangements arising from this work (refer paragraph 290 and its footnote). Perhaps more importantly in consideration of implementation for Victoria, the AEMC's Reliability Panel has proposed principles for a nationally consistent framework for transmission reliability standards, which include the following governance principle:

Standards should be set by a body that is separate from the body that must apply the standard. That is, separate from the Transmission Asset owner⁵.

The Reliability Panel has also proposed an accountability principle, as follows:

Transmission Network Service Providers (TNSPs) should be accountable to the appropriate authority for meeting the transmission standards, as well as to the AER for meeting the resultant service standards, as this is an integral part of regulatory incentive regime. If standards were set by a jurisdictional authority, it would most likely follow that the TNSPs would be accountable to that jurisdictional authority⁶.

This example envisages some continuing jurisdictional oversight of planning standards, and of service conformance with those standards. Therefore, there is a need for the ISC to inform stakeholders on what oversight arrangements would apply to AEMO, should the foreshadowed reliability standards framework be implemented.

2.3 Transfer of Network Agreement to AEMO

The ISC discussion paper notes that legislation may be necessary to provide for novation of VENCORP's Network Agreement with SP AusNet to AEMO⁷. However, the discussion paper does not elaborate as to how legislation may facilitate the novation. SP AusNet is interested in obtaining a better understanding of the intended purpose. As the Network Agreement is a contractual arrangement, SP AusNet would expect that, as a party to the contract, it will be involved in the development of novation arrangements and its approval sought for the novation taking place.

⁵ Page xii, AEMC Reliability Panel, Towards a Nationally Consistent Framework For Transmission Reliability Standards, Review – Interim Report, 5 August 2008

⁶ AEMC Reliability Panel, Page xiii

⁷ Paragraph 23, MCE AEMO ISC

The Network Agreement is a key instrument in the Victorian arrangements, defining the services provided by SP AusNet and allocating accountabilities associated with provision of those services by SP AusNet and the use of those services by VENCORP. Therefore, in many respects the Network Agreement can, and in SP AusNet's view should, contribute to clarification of TNSP roles in Victoria.

The Network Agreement was prepared as an instrument to underpin the separation of transmission planning and ownership functions as part of the disaggregation of the former State Electricity Commission of Victoria in 1994. As noted in section 2.1 of this submission it is not easy to clearly distinguish the individual roles and obligations of VENCORP and SP AusNet.

It is, therefore, not surprising that the Network Agreement does not fully reflect the arrangements that operate between the parties in providing transmission services in Victoria. The course of conduct in implementing the Network Agreement relies on a degree of understanding of past history and co-operation between the parties to provide an integrated service (including non-enforcement of some dated provisions). SP AusNet recognises that co-operation between the parties to achieve intended outcomes is normal and desirable business practice, but we consider that as far as possible the contract should underpin these arrangements. We believe there are a number of important modifications required to the Network Agreement to achieve this outcome. The transition of VENCORP into AEMO provides an opportunity to make these modifications, and that the contractual arrangement should be as correctly aligned with the parties responsibilities when it is novated to AEMO.

2.4 Clarification of Victorian Arrangements

There are several aspects of transmission service provision where the Victorian practice under the Rules differs from that in other jurisdictions, even though the same Rules govern these services. SP AusNet is concerned that what are ostensibly national arrangements, can be interpreted and applied differently in one jurisdiction. SP AusNet considers that it would be prudent for a common understanding of the Rules provisions to be agreed and applied.

We think that it is preferable that these matters, which are issues for Victorian network businesses, should be clarified before VENCORP transfers into AEMO. The issues are current, are understood within the Victorian industry and should be settled in this environment. Clarification may require amendment to the derogations, and with the establishment of AEMO, and amendment being already necessary, the opportunity arises to make any further necessary clarifications.

Network augmentations are subject to the regulatory test in accordance with the Rules. Where a DNSP must make an investment decision to augment transmission connection assets to meet its network reliability obligations, there will often be options that involve shared transmission network augmentation. The DNSP's economic analysis for the investment will include the full costs of investment, including shared transmission network costs. In jurisdictions other than Victoria this analysis is conducted by the joint application of the Regulatory Test under the Rules (with either the DNSP or TNSP taking the lead role depending on the exact circumstances and jurisdictional arrangements). If the project that satisfies the Regulatory Test is a network solution then both the connection and associated shared network services will become prescribed. The recent RIT determination by the AEMC has clarified that the Regulatory Test is conducted across the distribution / transmission boundary.

However, in Victoria the hard split of planning functions, both between SP AusNet and VENCorp and between VENCorp (shared network) and the Distributors (connection) has meant joint planning processes have not been as integrated as in other jurisdictions. This means that VENCorp approaches the shared network investment decision in isolation as a technical assessment rather than a true planning assessment and the benefits to distribution network users arising from the transmission augmentation are not considered in the analysis.

Therefore, even though the distributor's cost/benefit analysis of alternative solutions shows that the total project satisfies the appropriate economic efficiency test VENCorp considers the shared transmission network portion of the overall investment will not be a prescribed service and treated as a funded augmentation outside of the regulated revenue and pricing arrangements set out in Chapter 6A of the Rules. SP AusNet and the Distributors certainly do not agree with this treatment and consider that it is illogical to conduct investment analysis in this way, where a project is split into two, and each component is independently required to achieve a benefit.

In SP AusNet's view, VENCorp's proposed approach has arisen through a narrow interpretation of Chapter 5 of the Rules on account of the specific Victorian arrangements established through the derogations. Under these derogations the distributors are not required to apply the Regulatory Test for distribution network investment until the end of 2010, and economic analysis is instead conducted under the ESC framework (but the economic assessment is nevertheless performed). At the same time, transmission network investment must be assessed subject to the Regulatory Test.

Our conclusion is that the investment decision making process in Victoria is out of step with the national arrangements and the opportunity now exists to rectify this situation.

Recently there has been tacit agreement between VENCorp and the distributors that joint planning in Victoria needs to be improved through greater planning coordination between the Distributors and VENCorp and the development of a joint regulatory test or economic analysis (depending on project size). The outcome of this should be that:

- economic analysis of investment proposals to primarily serve distribution needs should consider all costs, and therefore constitute a single test across the distribution and transmission networks where transmission network augmentation is required; and therefore,
- for a project consisting of both connection and shared network services that passes the joint regulatory test, the resulting services would be treated as prescribed services. That is, they would not be funded augmentations as defined under Chapter 5.

SP AusNet believes these improvements to Victoria's planning processes once formally agreed between the parties, should be reflected in the Derogation.

2.5 Perceived Conflicts of Interest

The ISC paper reports that some stakeholders perceive conflicts of interest between the various functions of AEMO, particularly resulting from the absorbing of VENCorp's TNSP responsibilities. The ISCs recognises that matters of conflict are a matter for the AEMO board and its proposal to treat the perceptions is for the AEMO board to establish governance arrangements which will deal with any issues, through consultation with stakeholders.

SP AusNet supports the proposal by the ISC. The ISC paper states that the ISC itself does not believe there are any conflict issues. SP AusNet agrees that there are no material conflict issues that should not be able to be managed effectively. Prior to the establishment of the NEM the predecessor to VENCORP, the Victorian Power Exchange, was both transmission service provider and market and system operator in Victoria. Nevertheless, we can see some potential areas which should be considered in the AEMO board's review, which may require specific ring-fencing arrangements, and we wish to note these here.

- Transmission project delivery – VENCORP contracts with SP AusNet for the provision of network augmentations. The commercial terms for project delivery may include various forms of financial penalty and/or incentive for timely completion. One significant factor in progressing network augmentations is the granting of network outages by NEMMCO.
- Network incident reporting – NEMMCO currently publishes reports into network incidents which affect system security and the market. The arrangements have a level of corroboration as investigations are also conducted by the TNSPs, in Victoria by both VENCORP and SP AusNet. The performance of the TNSP in appropriately planning and developing the transmission network is a key determinant in considering the impact of some transmission outages. Having absorbed VENCORP's transmission planning functions AEMO would have substantially reduced independence in conducting its investigations in relation to Victorian network incidents.
- Jurisdictional transmission planning – within AEMO the transmission planning role includes the National Transmission Planner function as well as the Victorian TNSP role. SP AusNet would be concerned if the development of AEMO's national role in any way impacted on the resourcing and approach to its conduct of its Victorian role, which might compromise transmission services in Victoria.

3 AEMO's Information Gathering Powers

The information gathering powers proposed in the ISC discussion paper are similar to those established for the AER, which are based on powers granted via the Trade Practices Act (1974) Cth. Whilst the proposed powers (via Market Information Notices and Market Information Orders) are intended to apply specifically for information gathering to support National Transmission Planner functions we note that there is a broader intention to develop a single set of provisions to cover all information gathering requirements of AEMO, and that the application of MINs and MIOs may therefore be extended.

SP AusNet is concerned that general application of this form of information gathering power for obtaining information by AEMO, in conducting system and market operations is disproportionate to the information gathering objectives and risk. There is no indication that system and market operators are in need of these powers to obtain the information they require from industry participants. SP AusNet considers that the ISC should clarify its policy intent to be that MINs and MIOs should be applied only after preliminary information gathering exercises have been exhausted. This should also be reflected in the legislation

4 RULES AND PROCEDURES FOR GAS RETAIL MARKET OPERATOR FUNCTIONS

4.1 Streamlined National Approach

The ISC discussion paper outlines proposals for the current Jurisdictional gas retail market regulatory arrangements to transition to application with a single market operator, i.e. AEMO. SP AusNet agrees that the ISC proposed approach of incorporating the substantive obligations and requirements from Jurisdictional gas retail market rules into the NGR, and creating AEMO Procedures on a Jurisdictional basis for the remaining content of the Jurisdictional rules is on the balance the preferred option.

However, we anticipate that the re-arrangement of provisions into new instruments will not be a straight-forward task. We anticipate that there will be a need for significant redrafting of the Victorian Gas Market Retail Rules (VicGas Rules) to separate the NGR and AEMO Procedure components. The Victorian Gas Market Retail Rules were only finalised after considerable VENCORP and industry interaction, including a number of interactions with the legal drafters. Given the very tight timeframe for finalisation of the AEMO framework, the same rigorous and co-operative approach between market operator, industry and legal drafters will not be possible for development of the new instruments and overall some of the structure and rigor of the existing Rules may be lost. The level of potential issues in this regard will be somewhat dependant on the amount of disaggregation of the existing Rules between the NGR and the AEMO Procedures.

In Victoria, the Retail Market Consultative Committee (RMCC) has discussed a proposed approach, presented by VENCORP, to allocation of the various components of the VicGas Rules to either the NGR or AEMO Procedures. Although the table that was made available would appear to have no official status, it provides a useful basis for consideration of the potential issues if the allocation and resulting drafting is not done carefully:

- Some of the terminology used does not correctly reflect the details of the processes involved. Whilst SP AusNet recognises that this table is at best very preliminary, it does indicate even at the high level within the table, that subject matter experts need to be involved as early as possible, and ongoing as drafting proceeds, to get this right
- Chapter 4 of the VicGas Rules would be “retained” in the NGR. This is inconsistent with the fundamental NGR or AEMO Procedure allocation approach outlined in the ISC paper. This chapter includes a significant level of detail re the transfer process which are not “substantive” but rather are process details. For example, we do not consider that matters such as “objection notice withdrawal periods” are those which require AEMO involvement but rather are details which AEMO can best handle. Further, the similar transfer process details in electricity are currently captured in the MSATS CATS Procedure and to build some level of consistency across fuels should appear at an AEMO Procedure level for gas. Whilst the substantive obligations and requirements should be in rules the process details from Chapter 4 of the VicGas Rules should be in an AEMO Procedure. This example illustrates the degree of consultation with and within industry that will be necessary to determine where obligations should reside, such that the framework structure can be easily comprehended.
- The table strongly implied a number of Procedures would be created with different aspects of the process in each. However, SP AusNet considers that at least initially, the details within the VicGas Rules which are not to be incorporated in the NGR should remain as a single AEMO Procedure for Victorian gas. One of the strengths of the

VicGas Rules is their integrated nature. NEMMCO and the electricity industry have recognised that the “siloes” nature of the various Procedures for electricity (CATS, Metrology, B2B, etc) has meant that to an extent, implementation has been fragmented, and end to end process efficiencies have been overlooked. Further a particular split of the VicGas Rules may not be consistent with achievable splits of other gas market rules, and hence will not necessarily promote, and may hinder, longer term moves to more common Procedures. Once again, this illustrates the importance of industry participation in the development of the re-arranged instruments.

SP AusNet considers that the ISC and the drafters of the new regulatory regime should utilise the established industry/MSO rules consultative committees (such as the RMCC in Victoria) and their support subject matter expert groups, to ensure that the retail market aspects of the NGR and the AEMO Procedures best support the ongoing operation of the gas markets. This “formal” involvement should be established at the outset. SP AusNet consider that it will ultimately prove to be less effective and efficient to draft the AEMO retail market Rules and Procedures in detail, and then seek input through formal consultation.

We also wish to comment on the co-ordination of the AEMO establishment work with the parallel work being undertaken to establish the National Energy Customer Framework (NECF). The MCE SCO policy response paper⁸ notes a number of activities which will be carried out via the AEMO establishment workstream. SP AusNet considers that the ISC discussion paper should recognise these activities and document a planned approach, including consideration of the NECF timetable, to ensure full coordination.

SP AusNet also notes some inconsistency between proposals outlined in the ISC paper, and the proposed approaches recommended for the NECF. SP AusNet’s understanding is that the NECF will incorporate in the National Retail Rules (NRR) the substantive obligation and requirements with respect to customer transfer and market data. The details of the electricity customer transfer and discovery process will remain in the CATS Procedure (an AEMO Procedure). Hence whilst the ISC paper is proposing that the substantive obligations and requirements with respect to customer transfer and market data will in the NGR, the NECF is proposing these same substantive obligations and requirements be in the NRR. Similar overlaps appear to arise for other aspects of the retail market framework. Given the tight timeframe for establishing the new arrangements SP AusNet considers that further work to ensure consistency across the workstreams and give confidence to stakeholders is urgently required.

4.2 Incorporation of Rules for Coastal System in Victoria

We also wish to draw the ISC’s attention to the fact that SP AusNet has a gas distribution system in Western Victoria (the Coastal System) for which the associated market arrangements are separate from those applying to those established VENCORP which apply to the rest of the state. These arrangements are nevertheless modelled on the VENCORP arrangements and are lodged with the ESC in accordance with the Victorian Gas Industry Act 2000.

Maintaining and managing these separate market rules is inefficient and out of step with the move to a national framework. SP AusNet’ considers that the establishment of AEMO and associated consideration fo the market rules regime provides a good opportunity to reconsider

⁸ MCE SCO, A National Framework for Regulating Electricity and Gas (Energy) Distribution and Retail Services to Customers, Policy Response Paper, June 2008

the need for separate Rules for the Coastal System. SP AusNet has commenced discussions with interested parties to consider this option.

5 GAS RETAIL MARKET PROCEDURE CHANGE PROCESS

In Principle SP AusNet supports the ISC proposal to develop a single process for the amendment of NGR Procedures.

The ISC paper states that the ISC consider that it is reasonable to base this single process on “elements” of the current gas retail change processes, and on the recently established Bulletin Board (BB) change process. SP AusNet considers that the VicGas Rules change process has served the Victorian industry well, however we are concerned that this process may not translate well into what could ultimately be a broader market with more participants and with AEMO having, by necessity as a result of their broader scope, a more formal and less “hands on” approach than currently followed by VENCORP. Further, we do not think the BB change process contains the necessary rigour to deal with the wider impacting, and more complicated, operational and IT changes likely to arise in managing the broader retail market rules.

SP AusNet therefore considers that a more rigorous NGR Procedure change process approach is warranted. This could be accomplished through the incorporation of some aspects of the NER Procedure change process. In our view the important features of a NGR Procedure (and ultimately energy Procedure) change process are:

- a stakeholder involvement approach which achieves both high level strategic direction and co-ordination, and also detailed workplan monitoring and input of specific expertise
- a formalised approach
- workable criteria for change consideration
- appropriate process variations for categories of change
- consultation rules which support properly considered input from stakeholders and rigorous outcomes

We have expanded on these desired aspects of the Procedure change process in the attachment to this submission.

ATTACHMENT

KEY FEATURES FOR THE GAS RETAIL PROCEDURE CHANGE PROCESS.

SP AusNet considers that the following are the important features which the ISC should consider when further defining the Procedure change process:

1 Executive Committee (EC)

To provide the high level change strategy and change co-ordination support and guidance to AEMO, SP AusNet considers a relatively high level oversight committee is required. Modelled on the electricity Retail Market Executive Committee and Information Exchange Committee, with elements also of the established industry/MSO rules consultative committees (such as the RMCC in Victoria), this EC would be a representative body which would enable AEMO to gain industry and other stakeholder input and endorsement of change planning and long term approach. Conversely, there would need to be some articulated commitment that EC recommendations would generally be applied by AEMO. This would particularly and specifically be the case for business to business processes as these are not directly supporting the market, but rather enabling interactions to support Distributor and Retailer obligations largely under the NECF framework.

SP AusNet would envisage the EC would be recognised in the Rules, and that AEMO's obligations with respect to the EC would include establishment and maintenance of the EC's terms of reference and the facilitation of the EC.

2 Industry working groups (IWGs)

To provide the detailed planning and co-ordination of AEMO/industry changes, i.e. to support the EC in its planning and change co-ordination role, and to provide the process, regulatory and IT expertise to review processes and draft requirements and changes to Procedures, industry SME involvement will be required. SP AusNet considers that this would come from working groups of industry subject matter experts. Initially these IWGs may be jurisdictionally based, although the aim would be to move to national forums where possible. Such IWGs are a key feature of the current procedure change processes for both fuels.

SP AusNet envisages that the establishment and monitoring of such IWGs would be done by AEMO and the EC. The need for such IWGs would need to be recognised in the change structure, maybe as part of the Change Procedure (refer 3 below).

SP AusNet does not support design for the "procedure change committee" as outlined in the ISC discussion paper. We consider that the concept of a pool of representatives with the committee changing for different Procedure changes will not achieve the major outcomes which would be envisaged from the SP AusNet proposed structure. A flexible pool of "experts" will not achieve the continuity of high level strategic view and purpose, nor the stability of process co-ordination, which is a key outcome of the EC we have proposed. Nor will it provide the detailed co-ordination, and the wide range process, regulatory and IT expertise, which would be available under our proposed lower level IWG structure.

3 Change Procedure

To ensure rigour of process SP AusNet considers that it is essential that the various aspects of the Procedure change process be drafted into a Procedure. It would be appropriate for AEMO have an obligation in the Rules to establish this Procedure in consultation with industry (and stakeholders) and to maintain this Procedure. This Procedure would define all elements of the change process including how AEMO handle and document change submissions and the basis of their decisions.

4 Change Criteria

Measuring the desirability of changes has proven problematic in current change processes, but is essential even if this is just to separate change options. The MSOR as quoted in the ISC paper has a reasonable statement of criteria, bringing in elements of broad market objectives, cost, feasibility and effectiveness. The Rules should contain a similar set of criteria, and the Change Procedure outline how these would be practically applied. What is quoted in the ISC consultation paper as a "similar test" for BB changes is not as focussed and hence would not provide as rigorous a basis for consideration of changes.

5 Categories of change

SP AusNet considers that it is appropriate that different categories of change be recognised with different change processes. The need for accelerated processes for urgent amendments and also simplified processes for minor errors is clear and agreed. SP AusNet is generally supportive of the concept that some changes will need shorter less intense industry consideration than others, and also support the view that AEMO with the EC would determine details of the consultation process based on assessment of the change. However, SP AusNet considers that the criteria of this assessment must be defined, and that there must be defined minimum standards for a change process including the key factors described below.

6 Consultation Rounds

Whereas the BB change process allows for only one round of consultation, SP AusNet considers that except for defined special circumstances, two rounds of consultation with an AEMO draft decision between rounds is essential. This enables the industry (and stakeholders) to correct AEMO misinterpretation of first round input, clarify AEMO draft decisions before they are locked in, and understand broader industry concerns which may have been overlooked by individual business' first considerations.

7 Consultation Periods

Changes to NGR Procedures could be multifaceted, possibly involving operational and IT system change, and sometimes multiple processes and systems. Hence the 15 business days allowed for submissions in the BB change process is not sufficient and consideration should be given to a minimum of 30 days as allowed for NER Procedure changes. Consideration should also be given to include the right for a Participant to request a meeting with AEMO as part of change process.