

# National electricity market objective: an explanation

## Introduction

The Standing Committee of Officials (SCO) has taken a policy position that a single efficiency-focused overarching objective is appropriate for the National Electricity Market (NEM). To test this policy position, a panel of experts was engaged by SCO to provide feedback on this and related matters.

This paper is provided to further inform interested parties of the foundation for that policy position. The focus on a single NEM objective has been based on the following assumptions:

- the Code is to be transformed from an industry code of conduct with certain aspects to be elevated to the NEL (such as Market Objectives) and the balance converted into the Rules;
- the definition of the NEM, the market objectives and the criteria for rulemaking are interrelated and should be developed cognisant of the nature and role of the AEMC; and
- the AEMC has both rule-making and market-development functions, the framework for which should be transparent and unambiguous.

## Discussion

The Productivity Commission, in its Review of the Gas Access Regime, reported that a recent survey of the objectives of competition policy in member countries of the OECD, found that:

The inclusion of multiple objectives, however, increases the risks of conflicts and inconsistent application of competition policy. The interests of different stakeholders may severely constrain the independence of competition policy authorities, lead to political intervention and compromise and adversely affect one of the major benefits of the competitive process, namely economic efficiency.<sup>1</sup>

The Productivity Commission concluded that a single overarching objective is appropriate, and that it should be focussed on economic efficiency. The same considerations would apply to the NEM as to the gas access regime.

The national electricity market objective under the new NEL and Rules is to promote efficient investment in, and use of, electricity services for the long

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<sup>1</sup> Productivity Commission 2004, p.162 and Organisation for Economic Cooperation and Development, (OECD), 'The objectives of competition law and policy' (2003) *OECD Journal of Competition Law and Policy*, vol 5, no. 1, pp.8–29 at p.9.

term interests of consumers of electricity with respect to price, quality, reliability, safety and security.<sup>2</sup>

The significance of this statement of the national electricity market objective is that it will provide clear guidance in the following areas:

- the AEMC may only make Rules which will or are likely to contribute to the achievement of the national electricity market objective, and must make a Rule if it will or is likely to contribute to that achievement;<sup>3</sup>
- the AEMC must have regard to the national electricity market objective when performing its functions;<sup>4</sup> and
- the MCE statements of policy principles must be consistent with the national electricity market objective.<sup>5</sup>

The national electricity market objective under the new NEL replaces the list of “Market objectives” and “Code objectives” under the current Code.<sup>6</sup> This change reflects the policy position agreed to by Commonwealth, State and Territory governments that reform should be made to promote the “long term interests of consumers”.<sup>7</sup>

“A single objective that comprehends a number of specific components or elements has the advantage of conveying the message that the long term interests of consumers will be served through a *composite* of efficient investment in, and efficient use of, infrastructure and capabilities having regard to price, quality, reliability, safety and security of electricity services. Such a composite definition encapsulates all of the components of the more detailed version currently in clause 1.3 of the current Code.”<sup>8</sup>

The alternative approach “of listing a series of sub-objectives (such as those from clause 1.3 of the current Code) was considered but not adopted. The current Market Objectives are a product of committee considerations in the early 1990s at a time when the national electricity market and its various institutions did not exist. The national electricity market and its institutions have developed and evolved to a degree that detailed prescription of sub-objectives is not only unnecessary but also potentially counter-productive.”<sup>9</sup>

Accordingly, the generalised single national electricity market objective in the new NEL provides a more legally robust and economically testable statement of the national electricity market objective for the purpose of Rule making than the specific objectives listed in the original formulation of the current Code.

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<sup>2</sup> New NEL, s.6.

<sup>3</sup> New NEL, ss.87(1) and (3).

<sup>4</sup> New NEL, s.33.

<sup>5</sup> New NEL, s.7(2).

<sup>6</sup> See current Code, cll.1.3, and 1.4.

<sup>7</sup> See AEMA, cl.2.1(a).

<sup>8</sup> Paper provided to SCO by commissioned panel of experts: 14 October 2004.

<sup>9</sup> Ibid.

It is agreed that “safety is an appropriate component of the Market Objective for the NEM. While State safety and electrical regulators are responsible for the management of safety, particularly from an employee and end-customer perspective, it is appropriate for the NEM institutions to have regard to safety issues in their decision-making. For example, the framework by which the revenues of network service providers are regulated should allow for safe systems and outcomes. In regard to NEMMCO and its obligations for safety this can be defined as appropriate in NEMMCO’s objectives.”<sup>10</sup>

Significant examples of the use of a single or overarching objective referring to long term consumer interests in a regulatory context include certain Australian jurisdictional economic regulators and telecommunications regulation in Australia<sup>11</sup> and New Zealand.<sup>12</sup>

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<sup>10</sup> Ibid.

<sup>11</sup> Part XIC of the *Trade Practices Act 1974*.

<sup>12</sup> New Zealand’s *Telecommunications Act 2001*, s 18.