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Attn: Mr Steve Rodgers  
Governance and Institutions Section  
National Energy Market Branch  
Department of Resources, Energy and Tourism  
GPO Box 1564  
Canberra ACT 2601

Email: [AEMO\\_ISC@ret.gov.au](mailto:AEMO_ISC@ret.gov.au)

Dear Mr Rodgers

**Release of Exposure Drafts of amendments to the National Electricity Law and National Electricity Rules**

United Energy Distribution (UED) is pleased to submit to the MCE's Implementation Steering Committee (ISC) on the exposure draft amendments to the National Electricity Law and Rules (NEL and NER) to establish the Australian Energy Market Operator (AEMO).

In September 2008, UED made an extensive submission to the ISC on the Statement of Proposed Approach (SOPA) consultation paper (August 2008). UED note the ISC's comment that the exposure draft legislation has been guided by that paper and the ISC's detailed response to stakeholder submissions.

UED supports the Energy Network Association's submission on the exposure drafts and provides three key concerns:

- **Cost recovery framework.** AEMO has been made more accountable in the way it recovers its costs from participants, however UED still consider that greater efficiency measures are needed.
- **Information gathering.** Through the use of Market Information Orders (MIOs) and Market Information Notices (MINs), AEMO will have information gathering powers similar to the AER's. As a planning body, AEMO does not need such extensive powers—particularly when their use lacks enough guidance and/or legal constraint.
- **Confidential information.** In principle, UED does not support the ISC's position that AEMO can share confidential information with third parties.

Each concern is discussed below.

## 1. Cost recovery framework

As a public body, AEMO should follow an explicit efficiency discipline, including budgeting, independent oversight, consultation and dispute resolution.

The ISC has made positive steps towards making AEMO more accountable for its revenue needs.

UED propose two other necessary measures:

- Greater participant involvement in the annual budget process; and
- Participant consultation and involvement in the AEMO's review of its fee structure after three years, greater ISC clarification of the terms of that review.

## 2. Information gathering

UED is concerned with the proposed strong information gathering powers of AEMO, which are like the AER's powers but remain largely unfettered—a view shared by many stakeholders and propose that:

- AEMO does not need MIOs and MINs;
- Any specific AEMO information needs are detailed in the Law and Rules.

### *Discussion*

Setting the bounds of AEMO's information gathering powers presents a continuum of options available to policy makers. At one end of that continuum, AEMO is given extreme powers to demand all and any information. At the other end, AEMO is given minimal powers which may not be enough to meet its mandate.

UED believe that AEMO can meet this mandate through a cooperative model where participants supply timely and complete information for each planning function, without the need for heavy-handed tools such as MIOs and MINs—tools not needed by either NEMMCO or the jurisdictional market operators. Supporting this cooperative model, we propose using the Law and Rules to specify the kinds of information that AEMO can reasonably require for each function.

UED recognise the ISC's move (in the exposure draft) to moderate AEMO's powers somewhat by:

- Requiring AEMO to consult with parties and consider their reasonable costs before using MIOs and MINs;
- Limiting AEMO's use of MIOs and MINs to its planning functions;
- Prescribing AEMO's information powers in the Law; and
- Giving parties a right of judicial review.

However UED still see MIOs and MINs as excessive and unnecessary for AEMO as a planning body, especially as AEMO has wide discretion to use these powers when it is “reasonably necessary for the exercise of a relevant function” (Section 53(1) of the proposed NEL).

### **3. Confidential information**


The exposure draft proposes letting AEMO share confidential information with third parties. UED does not support such powers in principle and propose that AEMO should not have the power to give confidential information to third parties. Such parties should be required to demonstrate (after public consultation and debate) that they need confidential information of the type given to AEMO. A decision should then be made whether to expand these information powers to third parties.

### **4. Final words**

UED look forward to further development of the legal framework for AEMO.

Should you have any questions about this submission, please contact Verity Watson, Manager Market Regulation on (03) 8544 9447.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Hugh Gleeson', with a large, stylized flourish at the end.

**Hugh Gleeson**  
Chief Executive Officer