

Australian Energy Market Operator
GPO Box 2008
MELBOURNE VIC 3001

28th August 2020

Submitted via e-mail to stakeholderrelations@aemo.com.au

Dear Sir/Madam,

AEMO's Proposed Engagement Model

The Australian Energy Council (the “**Energy Council**”) welcomes the opportunity to make a submission in response to the Australian Energy Market Operator’s (“**AEMO’s**”) *Renewing AEMO’s Engagement Model Proposal Paper*.

The Energy Council is the industry body representing 22 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia, sell gas and electricity to over ten million homes and businesses, and are major investors in renewable energy generation.

Introduction

The Energy Council appreciates the efforts AEMO is undertaking to improve its stakeholder engagement, and believes that the paper is a good starting point for further discussion. It provides a basis for AEMO to rationalise the proliferation of fora and working groups, allowing consultation and dissemination of information to be more targeted. However narrowing the focus must ensure that opportunities for organisational transparency are not reduced, and the Energy Council suggests that limiting the composition of some consultative groups, while it may make numbers of attendees more manageable, will reduce the ability to consider views from all interested stakeholders.

The Energy Council therefore believes that the consultation options suggested can be improved to ensure that divergent points of view are considered properly. Ways to achieve this are discussed below.

Structure and Governance

Option 1 – Uplift Business as Usual

The Energy Council agrees with this occurring as a minimum, and supports the rationalisation of working groups, but with a view to maintaining transparency, and ensuring that consultation and information sharing can occur as efficiently as possible. The Energy Council’s comments on working groups, expressed below, are relevant to this option also.

Option 2 – Uplift and Realign Business as Usual

AEMO has proposed replacing the current working group approach, divided by technology and market, with a more integrated alignment of working groups and fora.

The Energy Council is interested in any evidence to justify the proposed changes to the subject matter streams. Certainly at the strategic level it may make sense to combine electricity & gas, wholesale & retail, but the Energy Council notes that many of its members retain separation of responsibilities across existing energy and market lines, therefore it appears that the proposed subject matter streams are to align better with AEMO’s own organisation, rather than those of its members.

At senior levels it would be expected that companies' management will have knowledge of matters outside their direct responsibilities, and will be able to canvass their internal subject matter experts to ensure that they can contribute meaningfully to any debate. However at lower levels within organisations there is increasing speciality, and the proposed subject matter streams and working group tiers lose their value, with the likelihood that the structure proposed will have little additional utility. It will be important for any reconstituted working groups to be targeted, to ensure that content is relevant to the attendees – both their specialisation and their seniority.

Option 3 – Uplift and Realign, with Co-chaired Strategic Oversight

The Energy Council notes with some concerns AEMO's proposal to establish a CEO Roundtable and co-chaired Executive Advisory Panels. The System/Market operator's role is to operate the market in compliance with the market's rules, and to provide technical input to strategic considerations ultimately determined by others. Options 1 and 2 appear to align well with AEMO's statutory role.

There is a risk, however, that in developing these Panels under Option 3, AEMO will move beyond its role and confuse the market design process, which, upon expiry of the Energy Security Board, will revert to the responsibility of the Australian Energy Market Commission ("**AEMC**"). These Panels could be beneficial for market engagement, but would more appropriately sit under the AEMC. At a minimum, the Energy Council believes that the AEMC, the Australian Energy Regulator and the Energy Security Board should be invited to participate in the proposed panels.

CEO Roundtable

This is the most problematic panel with respect to confusion of function, and the Energy Council recommends against it going ahead as a part of AEMO's new engagement model. Use of such a panel can only be justified for short-term, extraordinary events, such as responding to a crisis, e.g. the COVID-19 pandemic.

If it is to go ahead, the Energy Council opposes membership in the Roundtable being limited by invitation, as this will result in the loss of industry confidence in the panel's impartiality, and whether it reasonably represents the true range of views in industry. Instead the Energy Council recommends:

- Whilst it may reasonably require senior representation, membership not being restricted to a particular job title;
- Thought being given to whether it can be made an open invitation, for example one position available to each registered AEMO member and consumer representative group. While it is acknowledged that a large number of participants is unwieldy, at such a key forum it is important for all interested parties to be heard, to retain a perception of equality of access; and
- If it is necessary to restrict numbers, then AEMO should consider that the best expression of suitability of representation is through peer endorsement. Accordingly there should be a specific number of seats allocated to various parts of the industry and consumers, and the relevant association should be approached to nominate individuals. AEMO's own Settlement Residue Committee provides a useful model to follow.¹

Co-chaired Executive Panels

These Panels could be useful if they are given Terms of Reference that sit clearly within AEMO's existing operational and planning functions.

¹ <https://www.aemo.com.au/energy-systems/electricity/national-electricity-market-nem/market-operations/settlements-and-payments/settlements/settlements-residue-auction/settlement-residue-committee>

However it is unclear the value to be had from industry sharing the chairing duties with AEMO, and the possible competition issues such an arrangement may elicit. Although time-limited to 18 months, this will be an additional burden on a market participant, with the disadvantage of not having sufficient tenure to see projects and consultations through to their fruition.

The Energy Council considers that industry and consumer representative organisations are the appropriate sole mechanism to determine participation in such groups. Nominations from industry associations are frequently used by the market bodies as they:

- provide confidence that nominees have developed respect in their abilities from their peers;
- require nominees to speak on behalf of the broader membership of the organisation, whilst also drawing from their own individual experience;
- provide confidence that the nominees will feed back and consult with the broader membership of the organisation, thereby improving transparency and interest in the Panel;
- provide confidence that the nominees genuinely speak for the members and are not selected due to their alignment to AEMO; and
- streamline the selection process for AEMO.

In this regard AEMO is encouraged to consider the selection processes of Standards Australia, which require explicit endorsement from industry associations.²

Fortunately the overwhelming majority of registered participants or businesses with a stake in AEMO's operations are members of at least one of the following organisations:

- the Australian Energy Council;
- the Clean Energy Council; or
- Energy Networks Australia.

It would be most unusual that an industry nominee outside these memberships could confidently speak on behalf of an industry segment. Therefore, AEMO should have no concerns about relying on industry nominations from these groups in all but the most exceptional circumstances. To the extent that this remains a concern, some groups, such as the AEMC's Reliability Panel, provide a very limited number of positions open for direct selection outside of the associations, for the occasion when there exists valuable expertise outside the memberships.³

AEMO should then not impose any additional constraints or vetting upon nominees from relevant organisations. It is common for members of industry associations to put forward employees of the association's secretariat, or unaffiliated consultants, as that can be more convenient and/or more broadly trusted by competing members.

In that regard the Energy Council fails to understand and opposes the paper's suggestion that "[s]ince not all market participants are members of industry associations, AEMO would not accept nominations for employees of industry associations."⁴

Industry associations are often staffed with subject matter experts who have had significant experience in a breadth of roles at a number of different market participants, and the Energy Council believes it is important not to exclude a valuable source of expertise for AEMO's strategic

² See the Nominating Organisation Guide, available at <https://www.standards.org.au/standards-development/developing-standards/participate>

³ <https://www.aemc.gov.au/about-us/reliability-panel>

⁴ p.10

committees. In fact, AEMO's most senior existing committee responsible for operational matters, the NEM Operations Committee, reserves a seat for representatives of each of the above organisations.⁵

Utilising industry associations in the way described means that the proposed election process can be discarded. The Energy Council also suggests that the proposed tenure of 18 months is too brief for individuals to have material impact, and to consider projects and market design issues which have timeframes expressed in years, rather than months.

Working Groups

Continuing to have working groups will be helpful in progressing implementation and design options, but also in ensuring that AEMO's thinking is tested with stakeholders, and refined before implementation. Working groups also perform an important information transparency role, and the Energy Council has reservations that they should operate for a "defined period". While this may be appropriate for specific project-oriented working groups, there is also utility in maintaining working groups with a broad remit, so that stakeholders, and AEMO, can deal with a number of related matters all at the one time.

It is therefore apparent that working groups fall into two camps. Some will be highly technical in nature and membership will need to be limited to ensure discourse is manageable and focused. Others will have broad appeal, and there is no need for the number of attendees to be restricted, particularly since technology allows interested parties to participate remotely.

Ensuring agendas are notified well in advance, and the scheduled times for agenda items adhered to, will provide the opportunity for those with a specialised interest to participate in the relevant parts of meetings with a broad agenda. The Energy Council therefore supports the continuation of broadly-based working groups.

With respect to nominees to specialised technical working groups, the Energy Council supports industry association nomination in a similar way to that described above for the Co-chaired Executive Panel. This is, for example, the exclusive way nominations are made to the AEMC's technical working groups, and has proved extremely functional and straightforward. If AEMO is concerned that memberships of technical working groups may no longer be appropriate, a possible way to review that these memberships remain optimal is to require, after a set period of, say, three years' membership, that the nominee obtains explicit re-endorsement from a relevant industry association.

However there is no such need to limit nominees for broadly-based working groups, and the Energy Council disagrees that AEMO needs to review the existing membership of such groups. It cautions that just because organisations, or perhaps individuals, are not active contributors to the discussions of a particular working group, doesn't mean that they are not seeing value in their participation. Often the awareness of current issues and the dissemination of information throughout an organisation is an important reason for an organisation's participation in a working group, and it is imperative that organisations are not excluded from attendance due to an assessment of their worth from AEMO's sole perspective.

The Energy Council therefore believes that membership of working groups should be available as widely as possible. Transparency and functionality is fostered by having market participants self-select for working groups.

⁵ See NEMOC Participation, available at https://aemo.com.au/-/media/files/stakeholder_consultation/working_groups/other_meetings/nemoc/national-electricity-market-operations-committee-nemoc-terms-of-referenceupdated-april-2018.pdf?la=en

Member and Stakeholder Information Updates

The Energy Council supports AEMO providing information to members and stakeholders via regular updates, and suggests that they be held more regularly than quarterly, depending on the speed at which changes occur in the topic being considered. In addition, it will be important for AEMO to respond to questions at such updates, and it may be necessary for AEMO to consider gathering queries in advance of updates, to ensure all relevant matters are covered.

To supplement the information dissemination, the Energy Council also recommends recordings of updates and their presentation materials being made available shortly after the event for those unable to attend, and to serve as a public record.

Further Suggestions for Improvement

In addition to the broad recommendations discussed above, the Energy Council has some detailed suggestions for improving AEMO's engagement with its stakeholders:

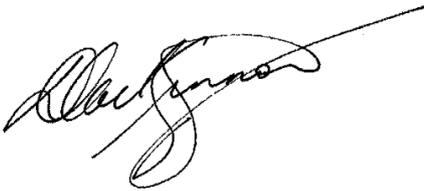
1. To the extent possible, seek opportunities to coordinate meetings with those of the Australian Energy Market Commission, Australian Energy Regulator, Energy Security Board and industry peak bodies, to ensure schedule clashes affecting common attendees are minimised;
2. Ensure that meeting dates are published at least six months ahead, to increase attendees' likelihood of participating;
3. Advise organisations annually of the objects and representation of AEMO committees and working groups, and organisations' attendees on same, to foster rationalisation within organisations and ensure representation is appropriate;
4. Seek feedback on each committee and working group's value and operations by a survey of participants annually;
5. Ensure meetings are scheduled regularly and committees and working groups aren't rendered dormant without proper notification to participants;
6. Improve notice of planned and current consultations, and ensure that the AEMO website allows filtering of consultations to allow interested parties to identify matters of interest, and the due dates for submission; and
7. Ensure meeting papers are distributed at least two clear business days before each meeting is scheduled.

Conclusion

The Energy Council lauds AEMO for reviewing its engagement model, but suggests that more detail is required to ensure that transparency is maintained, and the consultation occurs with the right people within organisations. The difficulty in ensuring adequate representation, while keeping attendee numbers manageable is acknowledged, and the Energy Council believes that industry associations can perform a valuable role in sourcing the appropriate candidates to participate in working groups. Finally, to the extent possible, the Energy Council encourages AEMO not to limit attendees, noting that while they may not actively contribute to the debates, they perform a very valuable role in disseminating information to the right people in their organisations, and beyond.

Any questions about this submission should be addressed by e-mail to Duncan.MacKinnon@energycouncil.com.au or by telephone on (03) 9205 3103.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Duncan MacKinnon', with a long, sweeping horizontal line extending to the right.

Duncan MacKinnon
Wholesale Policy Manager
Australian Energy Council