Benn Barr
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By Email benn.barr@aemc.gov.au

5 May 2023

Dear Benn,

AEMC Draft Rule Change and Review Priorities for 2023-24

Thank you for your correspondence dated 5 April 2023. The Australian Energy Council ('AEC') welcomes the opportunity to comment on the AEMC's draft rule change and review priorities for the coming financial year.

The AEC is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

It goes without saying that the AEC considers the AEMC's work of utmost importance to the industry, its customers, and its low-carbon transition. To perform effectively, regular reprioritisation is required and the AEMC's transparency in this regard is most welcome.

However, the AEC's greatest concern in the energy industry at present is what is not in the AEMC's official control – the level of jurisdictional involvement in the industry outside the Rules' and Markets' frameworks. In the areas of electricity generation investment and electricity transmission investment, jurisdictional activities are rendering much of the Rules irrelevant. For example, the bulk of transmission development is happening outside the Rules' national cost-benefit and regulatory asset base frameworks.

The AEC considers the greatest positive contribution the AEMC could make to the industry at this time would be to reconvince jurisdictions that an investment regime built on national rules and markets would be best placed to lead Australia towards a lowest cost net zero future. The AEC suggests that restoring jurisdictional commitment to the National Electricity Market could be listed as an AEMC priority.

Notwithstanding the above, the AEC broadly concurs with the five areas as described in the draft. The comments below should be seen as suggestions regarding:

- matters of emphasis,
- some phrasing that appears to pre-emptively indicate decisions,
- greater clarity and improved category allocation.

The AEC also recognises that the useful process of categorisation will always open nomenclature and boundary questions, and it is not productive to excessively focus upon them.

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Resilience
The AEC supports the concept of “financial resilience” being specifically identified as a category. In that regard, work on compensation regimes, which the 2022 winter crisis demonstrated as being seriously problematic, deserves to be an AEMC priority. The AEC suggests also identifying in this category work on the resilience of the Retailer of Last Resort framework.

The document however requires more explanation as to how the physical aspects of Category One, “Resilience”, differ from “Security” in Category Five, “Reliability & Security”. In the AEC’s mind, physical “resilience” means maintaining a secure system state – a clear and defined operating envelope. Its distinction here suggests the AEMC may see it as something different, which is potentially a concern if it becomes unclear what the AEMC is attempting to achieve, and if customer money is to be spent on “hardening” the physical system beyond the rules’ defined envelope.

Reforms essential to maintaining a secure state are the new Essential System Services, or “missing markets”, as identified by the Energy Security Board’s (ESB) Post 2025 review. An example of this is the AEC’s Inertia Market proposal. Whilst the undefined concept of “resilience” gains great prominence in Category One, the key mechanisms by which the AEMC delivers it seem to rely on six understated words in the second dot point of Category Five. Similarly, rule changes relating to connection technical standards noted in category one have the sole objective of maintaining a secure state.

The AEC suggests the physical matters mentioned in Category One, such as technical standards, should be transferred to Category Five, and given appropriate prominence there. The first category should then be relabeled to distinguish it as a focus on markets and their financial resilience rather than the physical energy networks.

Consumer Energy Resources
The AEC supports this category as a priority for work but is not comfortable with the wording in the dot points which seems to pre-empt a preference for introducing reforms yet to be tested against the NEO.

The AEC could agree with the first dot point “CER needs to be better integrated into the market to achieve (the) NEO”, were it written in a way that avoids the implication that existing arrangements are unsatisfactory.

The principles in the second dot point should include a cost/benefit justification – it clearly is not in the customers’ interest to gain a flexibility whose costs exceed its benefits.

The AEC also objects to the phrase “The priority will include work on Unlocking CER benefits through flexible trading…”. The case that CER benefits will arise through flexible trading is yet to be made.

Transmission Reform
Again, the AEC supports this being a category of work, but is concerned that the wording pre-empts outcomes. A net-zero future has major implications for transmission, but new builds must always be assessed for cost efficiency against their alternatives. For example, another legitimate pathway to net zero is one dominated by localized generation and storage sources, requiring negligible new transmission[1]. The current wording fails to recognize that a choice between pathways does exist, which should come down to an objective question of cost.

[1] Such a pathway was in fact recommended for the West Australian system in the Whole of System Plan, found here: https://www.wa.gov.au/government/document-collections/whole-of-system-plan

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Regardless of the above, eastern Australia is about to embark upon the largest transmission build period for at least four decades. Given the extraordinary cost of such a build that will burden consumers for many years to come it seems imperative that this category include recognition of the need to look for ways to restrain these costs and to ensure new transmission is thoroughly economically justified before being committed.

The regulatory model for its development is also critical in this expanding environment. A priority should be for the AEMC to consider how to introduce contestability as an alternative to regulated monopoly where it is likely to be efficient, such as in Renewable Energy Zones and large new interconnectors.

Another aspect worthy of including is clarity in the planning with respect to the impact of transmission build on market-based investments that they frequently displace. Transmission line build decisions that are not clearly justified, nor signalled well in advance by the Integrated System Plan and Annual Planning Reviews, have impacts on market investors, creating additional risks. This in turn adds to the cost of capital of market-based investment.

For clarity the category should be labelled "Electricity Transmission" as the AEC anticipates the AEMC did not intend it to include gas transmission.

Reliability, System Security and the future Wholesale market
Continuing from our earlier comments in relation to Resilience, this category could perhaps be unpacked more. In its present form it has the appearance of something of a "catch all".

System Security is critically important but is often overlooked in reform agendas. The AEC suggests calling it out as its own category and transferring to it the physical matters listed in the "Physical Resilience Category" which the AEC has proposed. Within this it is worth specifically identifying remaining "missing markets" such as Inertia.

Having done that, "Future Wholesale Market" could be combined with the financial matters in the Resilience category so that such reforms are clearly tackled for a resilience purpose.

With respect to reliability settings, a key question relates to the function of the Capacity Investment Scheme (CIS) by the Government and its integration with the NEM. Part of this priority should in fact be for the AEMC to participate in this design.

Any questions about this letter should be addressed to Ben Skinner, by email Ben.Skinner@energycouncil.com.au or 03 9605 3116.

Yours sincerely,

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Chief Executive

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