

Australian Energy Market Commission
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Lodged online: www.aemc.gov.au

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ERC0323 – Improving Consultation Procedures in the Rules

The Australian Energy Council welcomes the opportunity to make a submission to the Australian Energy Market Commission's ('AEMC') *Improving Consultation Procedures in the Rules* Draft Determination (the 'Draft Determination').

The Australian Energy Council 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.

The AEC is broadly supportive of the approach taken by the AEMC in proposing its more preferable rule. Importantly, the more preferable rule retains two rounds of consultation for as standard for all material consultation procedures. The approach taken in the Draft Decision to enable greater flexibility to the consulting party where changes are non-material represents a good balance between expedience and good consultation principles.

The expedited and standard process

The AEC welcomes the clarity provided in the draft determination as to the steps a consulting party will be required to take in changing instruments under the rules consultation procedures. As noted in the AEC's response to the Consultation Paper, when the rules and procedures are changing both the consulting party and industry benefit from appropriate consultation procedures. Given this, the AEC strongly supports the approach taken in the draft determination to enable either the consulting party or other stakeholders to request an expedited process revert to the standard process. It is important that in considering these requests, consulting parties are not allowed to take an overly narrow view of *controversial* to ensure that all stakeholders can hold confidence in the appropriateness of a process. In practice, the AEC expects that where a stakeholder asserts a change will impact the NEM more broadly than the consulting party may have envisaged, this should only be challenged in the rarest circumstances, given the consulting party will still be able to progress the change, albeit using the standard process.

The AEC supports the timelines and processes noted in the Draft Determination with respect to both the expedited and standard processes, and considers that they will provide sufficient flexibility to both the consulting party and industry to undertake an efficient and effective consultation.

It remains the AEC's view that the standard process should remain the default approach to changing rules and procedures. One particular issue that the AEC considers should be clarified is whether a significant impact on one class of participant in the NEM should by definition be classified as of significant impact. As a principle, the AEC strongly considers that 'impacting the NEM' should not solely refer to matters that affect the interactions between multiple participants in the NEM.

The AEC further would not support the ability for a consulting party to reject a request to use the standard process that could otherwise be considered *controversial* simply because the consulting party still considered it appropriate to utilise the expedited process and was only required to publish its reasons. The AEC would be comfortable with the consulting party engaging with the requestor in instances where it considered that the standard process was not appropriate, including requesting

that the request be withdrawn, however ultimately, the AEC strongly considers that where a request is valid, there should be no ability for the consulting party to unilaterally impose an expedited process on the market.

Considering NERR specific issues in a separate process

The AEC supports the AEMC's suggestion that the retailer consultation procedures should be investigated in a separate process. As noted by the AER in its submission to the consultation paper, there is sufficient flexibility in these procedures to ensure that they are procedurally functional, however, the AEC is of the view that they could be improved in substance, including by increasing the prominence of issues such as cost benefit assessments, regulatory operation, and consumer testing into the AER's consultation obligations.

Any questions about this submission should be addressed to me directly, by email to ben.barnes@energycouncil.com.au or by telephone on (03) 9205 3115.

Yours sincerely,



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