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Submission: AEMO Governance Review

The Australian Pipelines and Gas Association (APGA) represents the owners, operators, designers, constructors and service providers of Australia's pipeline infrastructure. APGA members ensure safe and reliable delivery of over 1,500 PJpa of gas consumed in Australia alongside over 4,500 PJpa of gas for export.

APGA welcomes the opportunity to contribute to the Department of Climate Change, Energy, the Environment and Water's review of the governance arrangements of the Australian Energy Market Operator (AEMO). It is timely that these issues are considered at concurrent to a considerable proposed expansion to the role of AEMO, in the form of extended reliability and supply adequacy functions for the East Coast Gas System and the Long Term Reliability and Supply Adequacy (LT RSA) tool.

Governance framework

Since its inception in 2009, conglomerating the then-separate market bodies of NEMMCO, the Victorian Energy Networks Corporation, the South Australian Electricity Supply Industry Planning Council, and others, AEMO's roles and responsibilities have steadily expanded. These now encompass energy market and systems operator, market investor, integrated systems forecaster and planner, cybersecurity guidance, emergency gas trader, and clearinghouse for Australian energy market information.

AEMO's governance framework has not been updated to reflect the appreciable increase in responsibilities, including the fact that its specific role of National Transmission Planner now plays a central role in the energy sector, informing planning and investment decisions for major transmission projects as well as being used across a range of other processes. This expanded role, which is not necessarily supported by legislation, is reinforced by governments' use of the Integrated Systems Plan (ISP) as Australia's default energy market forecast.

AEMO's roles are continuing to expand

Could separating specific functions from AEMO – and establishing distinct governance arrangements – help address the matters raised, or what might be other non-structural ways to address them?

When considering changes to energy market operation, the temptation is for governments to heap more responsibilities onto AEMO, which is not subject to parliamentary scrutiny or

other checks and balances that would apply to more formal regulatory bodies like the Australian Energy Regulator. Whether or not AEMO is the suitable body for such functions is rarely part of the consultation on these processes, alongside whether those functions are even needed.

For example, the proposed LT RSA and related reforms would give AEMO the power to pick winners in gas infrastructure investments, even when those projects may be inefficient or otherwise uneconomic. This in effect would make AEMO a de facto government gas company, giving it the power to intervene and directly invest in what should be market-led projects – as well as being the body that plans and decides what projects need to be in place. On top of this, would then be responsible for ensuring a gas supply shortfall never occurs – making over investment highly likely. The conflicts of interest and uneconomic incentives involved in these arrangements would be substantial.

Considering this, while separating out AEMO's functions with separate and distinct governance arrangements may have merit at some point in the future, it is more important that AEMO's roles and responsibilities not be expanded well beyond its remit.

Membership structure and Board of Directors

Industry input

Is the current membership model and board composition fit for purpose to support AEMO in meeting the needs of industry and government, now and in a future market design?

APGA considers that the current membership model and board composition is probably not fit for purpose to support AEMO in meeting the needs of industry and government. Its current voting structure, with a 40% share allocated to industry, is not genuinely reflected in decisions regarding roles and functions.

The development of the ISP provides a ready example. AEMO must have regard to the National Energy Objectives which includes the achievement of targets set by participating jurisdictions for reducing Australia's greenhouse gas emissions. AEMO interprets this such that achievement of any legislated emissions reduction targets or policies is an input to the modelling, which then influence the modelling outputs including the generation mix. AEMO does not exercise discretion as to whether or not these targets are reasonable, or feasible; instead it assumes that all legislated targets are achieved on time.

This necessarily has implications for its transmission planning and can particularly risk inefficient overbuilding of infrastructure, with associated costs to industry – and ultimately consumers.

Industry would have a very different view as to how these targets and policies should be considered in the ISP. While AEMO does seek industry input on the development of the ISP, this doesn't extend to how it chooses to handle this issue – which has led to a rule change request via the Australian Energy Market Commission to clarify the issue in the Rules.

Director appointments

Could the current processes for managing board appointments and actual or perceived conflicts of interest be improved?

When it comes to Director appointments, the consultation paper notes a “Director is considered independent if they are not a member of management and are free of any business or other relationship that could materially interfere with their judgment or could reasonably be perceived to do so.” Recent Director appointments do not necessarily accord with this definition of independence.

It is not apparent that industry, despite being a 40% shareholder of AEMO, has any influence over the appointment of Directors. Consideration should be given as to how industry can endorse or challenge the Directors appointed by Government shareholders.

To discuss any of the above feedback further, please contact me on +61 409 489 814 or crafael@apga.org.au.

Yours sincerely,



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