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Energy Ministers Secretariat

Submitted via email: gas@industry.gov.au

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Dear Energy Ministers,

AGL appreciates the opportunity to provide feedback on the *Extension of AEMO Functions and Powers to manage supply adequacy in the East Coast Gas Market consultation paper* released by Energy Ministers on 26 September 2022 part two consultation. AGL supports the intent of the review proposed by Energy Ministers to examine what may be required to provide a more secure, resilient, and flexible east coast gas market.

However, AGL has significant concerns about a number of aspects including the limited time frames for stakeholder consultation, the absence of sufficient oversight and safeguards for the new proposed AEMO powers, and duplication of recent transparency reforms in the East Coast Gas Market (**ECGM**).

The consultation paper notes the recently introduced gas transparency measures by Energy Ministers. AGL considers the new measures should be given a chance to operate and their effectiveness measured, before additional measures are introduced. The proposed reforms, although touted as being emergency powers, extend further than emergency situations, and we question whether they exceed the objective of ensuring adequate gas supply in the ECGM. AGL has particular concerns about the shift in focus for AEMO as a market operator to a quasi-AER role with regard to monitoring market dynamics and retailer risk profiles. There is also a disconnect in the draft rules between the discretion afforded to AEMO to develop procedures and guidelines compared to the strict obligations on participants.

In addition, AGL has concerns with the likely inaccuracy of the requested forecasts, the use of a trading fund for a market operator body, the incomplete compensation regime, and the difficulty of implementation in a time of significant concurrent reform processes.

A further exploration of these issues is featured below:

Role of AER vs role of AEMO:

AEMO performs a unique role as the market operator, one that is focused on the physical supply of gas and electricity to match supply and demand. It is not a central planning authority nor is it concerned with the risk management strategies of its participants outside of mandated prudential requirements for market participation. The primary focus of AEMO is to ensure the adequate supply of gas to meet the demand of participants for the benefit of consumers.

It is therefore more appropriate for AEMO to perform its role based on the total supply and demand mix within the market, rather than determining supply adequacy from the contract positions of individual participants. If management of this level of participant contractual position is required, then it would be more appropriate for the AER to provide the information at an aggregate level to AEMO, should it be required in an emergency situation. This would be a more



appropriate use of information sharing powers and avoid duplication of effort on the part of participants.

Discrepancy in the requirements imposed on AEMO vs participants:

The discretion provided to AEMO to develop procedures (may vs. must), is at odds with the strict requirements on participants to comply with obligations imposed on them by and in those Procedures. The absence of market procedures developed through the use of the energy rules consultation procedure, presents significant uncertainty for participants. Procedures, developed in consultation with participants, provide participants with a degree of predictability regarding the actions AEMO is likely to take in performing its functions, as well as providing a framework for AEMO's decision making in the exercise of its powers. Accordingly, the draft rules should be amended so that where regulatory obligations are to be placed on participants, AEMO must develop the relevant procedures (i.e., 'may' becomes 'must'.)

Furthermore, Schedule 1 to the Rules, which references rules 135EE and 135EF, remove a layer of important consultation as AEMO will not be required to consult on its proposed Procedures in accordance with the energy rules consultation procedure. The expedited consultation process to date does not constitute adequate consideration and consultation of such broad powers, and therefore AEMO should not be excused from following the rules consultation procedure.

Transparency and reporting:

As we have seen, supply/demand issues in the gas market evolve over time and are rarely the result of an isolated shortage except for perhaps the Longford explosion in 1998. Consequently, AGL suggest that the requirement for daily reporting be changed to a quarterly reporting obligation and be supplemented by additional requests during an emergency. This will allow AEMO to have the visibility it requires in an emergency without being burdened by excess data that does not provide a proven benefit to its operation of the gas market(s).

In addition, AGL suggests that AEMO is best placed to provide 7-day demand forecasts based on the usage data that is provided to it in the gas retail market and the experience it has in forecasting supply/demand positions in the Declared Wholesale Gas Market (**DWGM**). AEMO will also be provided with additional supply information as a result of the recent Gas Market Transparency measures and AGL does not consider additional forecast reporting obligations on participants are required or necessary for the adequate functioning of the ECGM.

Trading Fund:

AGL considers that the creation of a permanent trading fund is unnecessary when the directions power(s) proposed are very broad and provide AEMO with various options to manage supply constraints within the ECGM. AEMO will also have access to all of the un-utilised capacity at the Dandenong LNG facility in Victoria to provide system security measures should they be required for winter 2023 and beyond. The trading fund would be a more expensive measure than if AEMO were to fund this activity through a debt facility like one that it currently uses to manage operating and capital expenses.

Compensation:

The proposed reforms provide little certainty as to when compensation may be payable. This contrasts with the compensation frameworks in the NER which provide that depending on the



intervention applied, there is a right to direct costs, loss and opportunity costs, and the role for AEMO and/or the AEMC to determine the appropriate quantum of compensation based on the evidence procured by the participant.

In addition, the rationale for the minimum claim for compensation being is \$20,000 is unclear especially considering the minimum claim for compensation in the NEM \$5,000. This proposed higher threshold will be likely to disadvantage smaller participants. Further consideration and drafting are required to illustrate as to whether the claim be made on a cumulative basis (i.e., on a series of directions that are considered part of a single 'event') or whether the minimum claim is based on each direction even if multiple directions were issued to a participant.

The proposed timing under rule 696 (3)(a) for the provision of the notice of claim for compensation is quite short and AGL suggests that entities will not necessarily have all the required information to provide a notice within that timeframe, given the complexity of bilateral arrangements and how these interface with facilitated markets. AGL suggest this be extended to 20 business days.

AGL considers that cost recovery in this compensation regime will be challenging because unlike electricity, every gigajoule of gas is not traded in a spot market. This aspect of the compensation regime must be further explored before the regime can be developed and implemented.

Implementation:

The proposed reforms will require participants to provide significant amounts of data to AEMO. As a result, participants will be required to determine how to provide this additional information while at the same time implementing the various NEM 2025 reforms that the Energy Security Board, Energy Ministers and the AEMC are developing. There is a limited pool of resources to implement these simultaneous reform projects. As a result, AGL suggests that at a minimum that Energy Ministers and AEMO should allow approximately 12 months for participants to implement these reforms should the requirement for daily data be codified.

If you have any questions about this paper, please contact Marika Suszko, Wholesale Market Regulation Manager at msuszko@agl.com.au.

Yours sincerely,

Chris Streets
General Manager (a/g)

Policy, Market Regulation and Sustainability