



21 October 2022

Attn: Energy Ministers Secretariat

By electronic lodgment: gas@industry.gov.au

Consultation - Extension of AEMO Functions and Powers to manage supply adequacy in the East Coast gas market

Alinta Energy welcomes the opportunity to provide a submission on the consultation paper, draft regulations, and the initial set of 'Minister initiated' rules.

The recent unprecedented disruptions in electricity and gas markets have highlighted the need to review regulatory arrangements to ensure they remain fit for purpose. As such, Alinta Energy shares the commitment of Energy Ministers to deliver a regulatory framework which leads to a more secure, resilient and flexible east coast market with adequate gas supply.

Given the integrated nature of the east coast energy markets, Alinta Energy generally supports developments which:

- Improve liquidity in domestic gas markets; and
- Facilitate long term planning on gas supply and demand needs.

However, in noting this support, Alinta Energy considers that such reform should:

- Provide meaningful benefits to end users.
- Be carefully assessed to ensure that the solution does not cause more harm than the problem it is seeking to fix, and is commensurate with the size of the problem being addressed
- Be low cost (in terms of both compliance and financial costs on participants); and
- Have consideration to the current level of regulatory change and implementation currently occurring across electricity and gas markets.

Alinta Energy does not consider the proposal meets these objectives and represents an over-reaction to recent market events. In our view, the reforms will lead to additional, unnecessary costs for participants and ultimately increased costs for end users. Specifically, we:

- Have significant concerns about the potential impact of AEMO's trading function on the energy market and the operation of the proposed information powers.
- Perceive a risk that information requirements could create an information asymmetry, which could lead to electricity market participants extracting a benefit at the expense of participants with gas-fired plant, potentially undermining market efficiency. Consider that the directions and compensation frameworks require additional thought and structure.

The proposed reforms come at a time when the industry is facing significant cost pressures. Implementation of all measures as currently proposed would impose undue regulatory risks and

burdens on participants and may perversely impact competition due to increased complexity of operating in the market, potentially placing further costs on the end-user.

Alinta Energy considers that the proposed reform's objectives could be achieved through the implementation of a subset of the measures outlined in the consultation paper, or through modifications to them, as recommended in attachment 1 of this submission.

Thank you for your consideration of Alinta Energy's submission. If you would like to discuss this further, please contact me at jacinda.papps@alintaenergy.com.au or on 0417 065 955.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Jacinda Papps', written in a cursive style.

Jacinda Papps

Manager, National Wholesale Regulation

Attachment 1: Alinta Energy commentary on the consultation paper

Overarching functions and rules

Question	
1. Do stakeholders have any comments on the scope of AEMO's new reliability and supply adequacy functions and the related rule-making powers as outlined in the draft Bill?	<p>Alinta Energy considers this reform is unnecessary in its full form, onerous for market participants operating in a competitive market and misidentifies the issues causing recent market circumstances.</p> <p>The desired outcome could be achieved by implementing a subset of, and/or modification to, the measures as outlined in this submission.</p>
2. Does the definition of east coast gas system exclude anything that should come within scope of the new function?	N/a

Question

3. Do stakeholders consider any additional requirements should be specified in the rules in relation to the manner in which AEMO exercises its functions?

Alinta Energy considers that there are insufficient details around the scope of the proposal, with a significant amount of detail to be defined in the procedures. Given the implications of this reform, Alinta Energy considers additional prescription is required in the rules:

- The addition of specific thresholds and triggers for the exercise of these powers.
- Following each major activation of AEMO's new powers, the AER should be required to: review the relevant provisions in the NGR with regard to the NEO; undertake a public consultation process in respect of the outcome of the review; and propose any rule amendments which are required to ensure that the regime best meets the NEO.
- Noting that we consider that the proposed arrangements for the trading fund will result in unnecessary costs to the industry and may not provide AEMO with adequate funds to address a supply shortfall, if this proposal were to progress, Alinta Energy is concerned that there is limited guidance in the rules regarding the operation of the trading fund. The rules simply outline the process for establishing and financing the fund but do not provide any guidance for when AEMO may trade. At the very least, the rules should:
 - Outline that the trading fund is a last resort power that will only be used at a point where the market is no longer functioning.
 - Contain a detailed framework setting out how AEMO can use these powers, including very specific criteria when AEMO may use these powers.
 - Require an AEMO trading function to be ring-fenced from the AEMO operations (who holds the whole of market information which could lead to perverse market competition outcomes). Overall, we have concerns regarding the amount of detail that is being pushed into AEMO procedures and the limited time allowed for quality and robust consultation.

Question

4. Do stakeholders consider that AEMO should develop any specific procedures or guidelines for its new functions?

While Alinta Energy does not agree that the reform should proceed in its current form, if it does, we support the current requirements for guidelines and procedures covering:

- The process and form for AEMO giving directions;
- The activation of gas reliability and supply adequacy conferences;
- The provision of information to AEMO in relation to its east coast gas system reliability and supply adequacy functions;
- Determination and payment of compensation claims; and
- Establishing and administering the trading fund.

However, we do not support rules 135EE and 135EF overriding the requirements for consultation on AEMO's initial procedures. Similar to other regulatory regimes, if procedures are required without sufficient time for the consultation process prior to implementation, there needs to be a requirement on AEMO to undertake consultation as soon as practicable. Alinta Energy considers that the rules should include the following:

- AEMO, when developing the procedures or guidelines, may abridge or dispense with consultation to the extent it judges appropriate, and publish an interim procedure or guideline; but
- if so, AEMO must as soon as practicable after publishing the interim procedure, undertake the consultation which would otherwise have been required by these rules in respect of its development, and must thereafter publish a procedure to replace the interim procedure.

5. Do you think a review of this regulatory package after three years is appropriate?

Alinta Energy considers that the regime should be reviewed annually as well as after each activation.

Transparency and proposed information powers

Alinta Energy notes that access to information generally allows for more efficient decision making. However, it should also be noted that in most cases quality information provides greater benefits compared to simply increasing the quantity of information. Alinta Energy is concerned that:

- Much of the additional reporting requirements (across all participant categories) are onerous and may lead to undue administrative, compliance and governance costs; and
- This information may not provide AEMO what it requires to be able to perform its proposed functions of identifying and responding to actual or potential threats in the most cost effective and efficient manner possible.

There are several, significant, reforms in progress but not yet commenced which will increase the transparency of gas related information; for example, Gas Bulletin Board Transparency, Gas Pipeline reforms and the enhancements to the AER's wholesale market monitoring and reporting functions. Before implementing this package of reforms, Alinta Energy strongly considers that a gap-analysis of all gas transparency requirements should be undertaken to ensure that:

- There is no overlap of reporting requirements;
- The administrative and compliance burden is minimised; and
- AEMO receives information in a manner and form that would be useful to assist it in performing its functions.

Finally, for information transparency to be effective, the information needs to be symmetric. Asymmetry of information can lead to the ability of one party to make a commercial gain at the expense of others.

The publication of this information produces information asymmetries between the NEM gas and electricity industries. Specifically, we note that equivalent consumption data is not available relating to other fuel type users in the NEM, and as such gas-fired operators will not be able to conduct the same analysis of competitors' fuel use. This may allow operators of competing generation types, for example coal fired power plant, to make a commercial gain at the expense of operators of gas fired plant, potentially undermining market efficiency.

Question	Feedback
<p>6. Do the proposed additional reporting requirements provide sufficient daily and monthly information to enable AEMO to monitor and signal potential threats to east coast gas system adequacy over a sufficient forecast period?</p>	<p>The proposed draft rules require the daily provision of a significant amount of data. Daily data provision is unlikely to be necessary to allow AEMO to perform its proposed functions and will impose unnecessary costs on the industry and AEMO.</p> <p>This reform appears to be based on an assumption that gas operates the same way as electricity (i.e. instantaneous). However, unlike electricity, gas is a slow-moving product, with supply issues unlikely to emerge over the very short term. Rather, ensuring adequate gas supply is likely to be required over two time horizons:</p> <ul style="list-style-type: none"> • Medium term to manage seasonal variations in demand (which requires high level information about anticipated supply and demand during expected peak periods); and • Short term to manage emergencies (which may require more timely data, potentially provided on an intraday basis). <p>Given this, daily data is not required for AEMO's functions and should be replaced by quarterly data provision to assist with medium term planning, with provision for AEMO to request additional information to manage emergencies (as and when required).</p> <p>Senior Officials should consider the WA GBB Emergency Management Facility (EMF) as an appropriate model.</p> <p>The EMF is a part of the GBB which is not available to the public to be activated during a gas supply disruption or emergency.</p> <p>AEMO will activate the EMF when it is instructed to do so by the Coordinator of Energy¹ (in the role of Hazard Management Agency for a gas supply disruption). Access to the EMF will be via the GBB, but access to the information published on the EMF will only be available to specified parties.</p> <p>Once the EMF has been deactivated, the user access rights are also deactivated. If the EMF is reactivated, the data uploaded during a previous activation will not be available.</p> <p>When the EMF is activated, the rules provide a list of information which must be provided by certain timeframes on the Gas Day as well as including an ability for AEMO to request any ad hoc information it requires. This additional data will be requested when the EMF is activated, and the manner and form of this data exchange, which may be different to that used for other GBB data, will be communicated to the relevant parties. Information provision is on a reasonable endeavours basis during an emergency.</p>

Question	Feedback
<p>7. Do stakeholders have any comments about the proposed additional information reporting and disclosure arrangements, and related transitional timeframe</p>	<p>The additional arrangements may duplicate reporting requirements of other regulatory regimes. For example, many of the requirements may overlap with the Gas Bulletin Board transparency reforms, gas pipeline reforms and the enhancements to the AER's wholesale market monitoring and reporting functions.</p> <p>Forecasting gas demand is fraught and relying on participants' forecasts is not a sound basis for market-wide decision making. Assumptions, methods, risk perceptions and commercial drivers to have quality forecasting systems will vary across participants. As a central, independent and expert body, AEMO is better placed to perform demand forecasts. This will give it more accurate insights into demand and will avoid the substantial cost of participants providing this data daily. We note that these costs could present a barrier to entry to smaller new entrants.</p> <p>Most of the information which would be required by participants will be commercially sensitive and therefore must be subject to appropriate controls to avoid misuse or creating information asymmetries, undermining efficiency. The proposed rule 683(1) does not provide appropriate control – instead it would permit AEMO to publish this information on the bulletin board. We question whether this is the intent and note that the NGL provides an instructive framework for the management of confidential information.</p> <p>The proposed implementation timeframe is not achievable, especially considering the concurrent February and March 2023 deadlines for the most recent gas transparency reforms, and that these reforms required delays. We recommend an implementation period of at least 6-months past these new requirements.</p>

¹ A statutory position responsible for the State's emergency management response to a gas supply disruption or emergency.

Question	Feedback
8. Should there be any specific limits on who should be captured by disclosure obligations or ways to minimise compliance obligations such as thresholds, reporting party definitions or links to other regulatory reporting requirements?	See response to question 7

Question	Feedback
<p>9. Regarding the further more granular information Senior Officials welcome views on: (a) The categories of information, and whether they are appropriate for real-time or hourly reporting? (b) What is the optimal approach to the collection of the categories of information listed above in the interests of minimising costs and ensuring efficient data transfer?</p>	<p>Except in an emergency, where more current reporting on gas supplies may be required to manage extremely restricted supply, Alinta Energy does not support the requirement for more granular information.</p> <p>As stated in response to question 3, we recommend that following each major activation of AEMO's new powers, the AER should be required to review the relevant provisions in the NGR with regard to the NEO, undertake a public consultation process in respect of the outcome of the review, and propose any rule amendments which are required to ensure that the regime best meets the NEO.</p>

Signaling

Question	Feedback
10. What are your views on formalising and extending AEMO's ability to hold Gas Supply Adequacy and Reliability Conferences?	Alinta Energy supports formalising and extending AEMO's ability to hold Gas Supply Adequacy and Reliability Conferences.

Directions Powers

Question	Feedback
11. Are there particular principles which should guide AEMO's expanded powers of direction?	Alinta Energy considers that the current powers should include a principle that directions need not be followed if doing so would endanger the safety of any person, damage equipment or breach any applicable law.
12. Are there any other approaches that could be undertaken to elicit market responses ahead of directions powers?	N/a
13. How should AEMO work with stakeholders in giving directions?	N/a
14. Are there technical matters that should be considered in the issuing of directions powers?	N/a
15. Are there any entities that should not be subject to directions or certain types of directions?	N/a

Cost recovery and compensation

Question	Feedback
16. Do the proposed changes to the cost recovery framework enable AEMO to appropriately recover costs in relation to its east coast gas market reliability and supply adequacy functions?	N/a
17. What costs should parties who must comply with directions be able to seek compensation for? (e.g. direct costs, opportunity costs)	<p>Alinta Energy does not support the minimum claim for compensation being set at \$20,000 and recommends the NEM threshold of \$5000 be adopted.</p> <p>Further, the rules need to clarify whether claims can be made on a series of directions or whether the minimum claim is based on each direction even if multiple directions were issued to a participant.</p> <p>Similar to the compensation mechanism in the NER, direct and opportunity costs should be allowed for, and that consideration should be given to the AEMC being involved in the process.</p>
18. How should the costs of compensation be apportioned and recovered from the market?	N/a
19. Should there be financial limits on individual claims, or on claims overall within a financial year?	No.

Proposed Trading function

Question	Feedback
20. Is the proposed \$35m initial trading allocation appropriate?	Insufficient information to provide any meaningful comments on this given there are no details on how AEMO would conduct its trading function in the market.

Question	Feedback
21. How should the trading function be funded)	We consider that rather than imposing this cost on industry, AEMO could use a commercial debt facility. This would mean the fund only incurs interest when withdrawals are required. This would be more efficient than funding this from participants, as, on aggregate, participants may have higher costs of capital. Under the proposed approach the money would effectively be withdrawn, even when this is not necessary. A commercial debt facility may also give AEMO access to more funds, whereas the current \$35 million may be insufficient to meaningfully ameliorate a supply shortfall.
22. What principles, if any, should guide AEMO's trading functions?	We are concerned with AEMO holding a trading function, noting that it has visibility of commercially sensitive information and information asymmetry. To manage this, we recommend the trading function be ring-fenced.

