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12 February 2015

Ms Meredith Mayes  
Director  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW1235

By direct lodgement

Dear Ms Mayes

***Re: Consultation on the Implementation of the Shared Market Protocol (project number EMO0029)***

The Information Exchange Committee (IEC) would like to respond to the consultation on the implementation of the Shared Market Protocol (SMP), particularly the governance arrangements.

The consultation paper puts two options for governance on the table: AEMO decision making re SMP establishment and change, or industry decision making. While the IEC considers that the decision on which of the options presented in the consultation paper is one for the AEMC with input from the broader group of stakeholders, the IEC believes that the governance regime needs:

- clear objectives;
- balanced representation; and
- open and appropriate consultation.

The IEC notes two relevant matters:

1. The governance of changes to B2B, B2M, and metrology has been the subject of a rule change proposal by AEMO in 2013<sup>1</sup>. Although rejected by the AEMC the proposal did recognise the need for the structure of the group considering retail market process and procedure changes to have the capability and flexibility to be truly representative of the impacted stakeholders.
2. Retail market frameworks have also been recently examined by a working group, the Retail Markets Frameworks WG (RMFWG), established by AEMO at the behest of the industry<sup>2</sup>.

The IEC recommends that the AEMC reviews the various submissions by industry to the 2014 Rule change, and considers the final report of the RMFWG (currently being prepared by AEMO) during this consultation.

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<sup>1</sup> Governance of retail market procedures (ERC0162), determined in 2014.

<sup>2</sup> We note that the AEMC refers to the Rule change on page 7 of the consultation document but appears unaware of the work of the RMFWG.

## **Objectives**

The IEC notes that the consultation paper states that:

“The Commission will need to recommend governance arrangements for developing and maintaining the shared market protocol. This may include the development of an objective or principles to guide decision making.” - Page 4, AEMC Consultation Paper.

The IEC agrees, noting that the B2B objectives have been essential in ensuring appropriate governance of the current B2B procedures in the NEM. Expanding these objectives to cover all aspects of the SMP will be essential to guide the parties making and amending the protocols and associated procedures as well as assisting in interpreting them.

The current B2B objectives and the associated principles are focussed fairly narrowly on the impacts of the B2B processes and procedures on Retailers and Distributors and in particular on their related costs and benefits in delivering what are fundamentally regulated outcomes. The equivalent objectives and principles to be used as the basis of decision making for the SMP, will need to consider a broader range of users and will operate in a regime where the information exchange (at least for smart meter services) will mostly be to support commercially based arrangements.

Nevertheless the IEC considers this a vital aspect of the decision making on the SMP whether by AEMO or an industry group.

## **Representation**

The establishment and change process for B2B processes and procedures fundamentally involves the following key steps:

- i. Consideration of requirements and the development of processes and drafting of the procedures by the B2B and MSATS Reference Group (BMRG) working group and AEMO, and ultimately a decision by IEC for the resultant procedure(s) to be issued for consultation under the NER Rules Consultation Procedure.
- ii. Management of the Rules Consultation Procedure with public consultation open to any party.
- iii. Consideration of consultation responses and the finalisation of the procedures by the BMRG and AEMO, and ultimately a decision by the IEC to recommend the resultant procedure(s) are published.

It should be noted that there are **two** bodies which are critical to achieving the desired outcomes:

- The IEC is a representative body. Each member is elected by an energy segment (retailer or distributor) and is bound to consult with their constituents and present a broad view.
- The BMRG, where the actual process design and detailed drafting is carried out. Whilst the BMRG is not a representative group (ie each member provides their subject matter expertise but represents their own business) every effort is made for all currently involved parties to have the opportunity to be a member. Decision making is generally via consensus, with occasionally dissenting views identified to the IEC.

The consultation paper correctly notes that representation of various members of the industry (ie stakeholder segments) is required in the governance of the SMP.

The IEC considered this issue during the preparation of the 2014 Rule change proposal and noted that:

- An approach is required to enable the IEC membership to evolve as the stakeholders changed driven by anticipated broadening of the services and the user base,
- There was a need to have:
  - a balanced representation to ensure all stakeholder segments were involved, but also a requirement for,
  - a relatively stable and core group of representatives that would consider all of the changes to ensure that the processes were correctly followed and that all consultation requirements were fully considered.

These somewhat competing objectives are difficult to completely resolve. Fully achieving all these aims is impacted by:

- the anticipated rapid change to the industry
- the fact that many new entrants will be small and unable to commit to participating in the decision making process
- the potential lack of segment representative groups that can provide a basis of co-ordinated views from new segments.

The IEC therefore proposed an open meeting format. This means that any party can arrange with the chairman of the IEC to attend and participate in the meetings, presenting a point of view and hearing other views. This allows the IEC to be fully informed.

In addition, the continuing inclusion of independent members (one of which must be the chair) was seen to ensure that a wider view is taken during the decision making process.

The IEC retains its core members, who are committed to attend each meeting, so that decisions are taken in a timely manner. This core membership is defined in the Rules, including election processes. It is therefore possible to change the membership at any time by submitting a Rule change for AEMC consideration.<sup>3</sup> If the industry supports the change, the membership could be altered in as little as six months.

The combination of the open meeting format and the ability to use the Rule change process to amend the core membership of the group effectively mitigates the issues noted in the consultation paper with the industry led process.

Further as noted above, the BMRG working group is a key part of the change process and similar considerations of broad involvement and representation is also important in this more detailed level of change development and drafting.

Hence the IEC considers that the considerations of broad stakeholder representation, recognition of the evolving stakeholder base, and continuity of core stakeholder involvement at both the decision making and working group development and drafting level are key aspects of the governance structure whether the decision making on the SMP is by AEMO or an industry group.

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<sup>3</sup> This process was suggested by the AEMC during the consideration of the Rule change.

**Consultation**

The IEC assumes that the NEM Rules Consultation Procedure will apply to the development and ongoing change of the SMP.

This process provides the broad input to form the basis of the outcomes from the decision maker.

However, as outlined above the broader range of stakeholders expected to be involved in the SMP, and the issues in getting truly representative decisions from the working group level, as is largely achieved from the BMRG, will be difficult to realise. A mechanism to enable more balanced outcomes in this aspect of the development and change process, would be to recognise and potentially formalise the need for broader consultation outside the working group at critical milestone points. This would overcome issues in some recent market service change decisions (outside the B2B space), where outcomes which impacted broadly did not get tested widely and a number of players/segments felt un-empowered with respect to influencing the outcomes. Leaving this input to the Rules Consultation process is not in general an effective and efficient process as the need for rework is wasteful and can act as a barrier to achieving optimum outcomes.

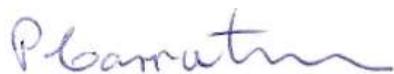
The IEC recommends that the governance of the SMP adopts the Rules Consultation Procedure, but that the governance structure also recognises that with the increased range of stakeholders, broader input on change development before the formal Rules consultation should be strongly considered.

**Summary**

The IEC considers that it is very important to the future effective and efficient handling of retail market services that the governance and decision structure arrangements carefully consider the broad industry interfacing processes and the SMP.

This IEC submission highlights a range of views based on experience in the current IEC B2B space. The IEC encourages the AEMC to seek further input from it on the governance and decision structure arrangements through a direct discussion/workshop.

Yours sincerely



**Peter Carruthers**  
Chair  
**Information Exchange Committee**