



# DRAFT ADVICE ON THE IMPLEMENTATION OF THE SHARED MARKET PROTOCOL: AEMO SUBMISSION



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## 1. INTRODUCTION

AEMO welcomes the opportunity to respond to the AEMC's draft advice on the implementation of the shared market protocol.

AEMO considers that the development and operation of a shared market protocol has the potential to facilitate an efficient implementation of the contestable framework for competition in metering and related services, and support competition by reducing barriers to entry for new parties in the National Electricity Market (NEM).

However, if not supported by a robust governance framework, there is a material risk that the objectives of the shared market protocol will not be met. The initial and future development of the B2B e-hub will not be as efficient as it could be, and as a result the shared market protocol may not adequately support competition in the provision of metering services.

AEMO has a number of concerns with the expanded Information Exchange Committee (IEC) governance arrangements proposed in the AEMC draft advice. To inform our response on governance issues, we engaged Anthony Seyfort, Partner at HWL Ebsworth, to provide independent review and analysis of the AEMC's proposed governance arrangements against generally accepted good governance principles. Mr Seyfort is a fellow and former State Chairman of the Governance Institute of Australia. His advice is provided with this submission.

Other than governance issues, AEMO questions the proposed voluntary nature of the shared market protocol, in the absence of clear incentives for larger retailers and service providers to use it. The shared market protocol is only likely to lower barriers to entry and promote efficient transactions if it is the default transaction mechanism and widely used by participants. We also make a number of observations on the proposals for B2B Participant accreditation, cost recovery and implementation timing.

## 2. GOVERNANCE

As recognised in the draft advice, the proposed shared market protocol means it is necessary to re-examine the governance arrangements for an expanded B2B hub, including the role of the IEC. The current B2B arrangements were established primarily to support the regulated provision of metering services in a very different context and level of market maturity.

The scope of the B2B arrangements is now moving from regulated provision of metering services to competitive service provision.

Governance of a shared market protocol which services a contestable market needs to be inclusive rather than exclusive. The value of a shared market protocol will be diminished if the governance arrangements are not reflective of an agile, competitive market, where the number and nature of users will be constantly evolving, potentially in ways not yet contemplated. Decision-making in the implementation and development of the shared market protocol needs to be similarly agile and able to adapt to new participants. This requires clear accountability and a process that ensures the interests of all users and beneficiaries are taken into account but the ultimate decision is, and is seen to be, independent of undue influence by any of those interests.

AEMO acknowledges the intent of the AEMC's recommendations to make the IEC a more representative body, but does not consider that the proposed governance framework for the shared market protocol can meet these requirements.

## 2.1 Assessment criteria

The draft advice provides the principles on which the AEMC has based its recommendations for governance of the shared market protocol. AEMO considers that these underlying principles are reasonable, if the scope of the shared market protocol is to be restricted to transactions between parties for services.

AEMO's second advice paper on the shared market protocol, submitted to the COAG Energy Council in May 2015, considered opportunities to leverage the shared market protocol beyond the initial consideration of transactions for services, to provide additional services and efficiencies in the energy market. The principles applied by the AEMC are not broad enough to consider how the shared market protocol could be leveraged in ways that are broader than the delivery of transactional services.

## 2.2 IEC arrangements

AEMO considers that the rule change for competition in metering and related services will allow for full metering and service contestability, encouraging the entry, over time, of new market players of various types and sizes who will be actively competing for business. In this environment, AEMO has a number of concerns with the proposed composition of the IEC and its continued role in the development and modification of the B2B e-hub through the B2B Procedures:

- A pre-determined and elected governance group could not at any time be fully representative of the parties interested in the shared market protocol. The nomination of discretionary representatives does not resolve this concern, but instead has the potential to imbalance it further still.
- A nominated representative who is employed or associated with an industry participant cannot reasonably represent their competitors' interests at all times; the individual interests of members of provider groups are more likely to diverge with greater development and innovation in the market for different types of service.
- Organisations that do not have the capacity to provide nominated representatives to an elected governance group are unlikely to have their interests adequately represented.
- As the shared market protocol and MSATS will be operating under distinctly separate governance arrangements, the ability to access potential benefits to the future development of items such as "Behind the Meter Data" as described in the second AEMO advice paper to COAG Energy Council will be limited.
- A greater number of interests represented on the IEC may result in consensus decision-making at the lowest common denominator, or in more frequent failure to make any decision, with potential improvements not realised. This creates a risk that the shared market protocol will be limited to only providing established, or minimum services rather than supporting innovation and reducing barriers in the long term. The development of new, cutting edge services will most likely occur outside of the

shared market protocol with competitive parties unlikely to divulge information on new service design to their competitors under the IEC model.

- AEMO considers the IEC recommendation and AEMO nominal decision-making process for the B2B Procedures to be flawed due to the potential divergence of objectives and the fact that AEMO (whose decisions are subject to judicial review) is essentially bound to endorse the IEC's recommendations (which are not). The extremely limited nature of AEMO's veto right does not provide scope for 'more preferable' decisions to be made.
- We acknowledge that some recommendations in the draft advice aim to harmonise the objectives of the IEC and AEMO to some extent, and formalise AEMO input into IEC processes. But there remains a tension between the interests of industry in determining 'what it wants and is willing to pay for' and the long term interests of consumers. Other potential conflicts may arise, for example where confidentiality is asserted over information.
- AEMO's concerns about the effectiveness of the current IEC governance arrangements have been previously articulated in AEMO's rule change proposal submitted on 20 June 2013 on retail market governance. The recommendations in the draft advice do not necessarily address those concerns and, as indicated above, some may further weaken the governance framework for the shared market protocol.

### 3. VOLUNTARY USE OF THE SHARED MARKET PROTOCOL

AEMO considers that the requirement to use or provide services through the shared market protocol is key in determining whether the shared market protocol will deliver value.

The use of the shared market protocol is voluntary providing that parties have agreed another method of communication. No party has to use or provide services through the shared market protocol.

The draft determination for competition in metering and related services places no obligations on parties to provide new services from advanced metering installations and considers that the price and other terms related to these services can be negotiated between providers and their customers. Therefore a service would only be delivered through the shared market protocol when a provider of services and their customer had elected to utilise the shared market protocol.

AEMO considers that such an arrangement would act as a disincentive for larger retailers and service providers to use and support the operation of the shared market protocol which would have the potential to lower the barriers of entry for their competitors.

### 4. ACCREDITATION OF B2B PARTICIPANTS

The draft advice proposes that a new role of B2B Participant be established and all parties wishing to use the shared market protocol would need to be accredited by AEMO as a B2B Participant.



Accreditation, in the context of the NEM, is typically related to an organisation's ability to present and demonstrate competency and credibility in the provision of services and requires ongoing monitoring and assessment.

The B2B Participant role appears to be more suited to a registered participant role. It appears reasonable to consider that a party who is already a registered participant or accredited provider could request registration as a simple extension to their status, rather than having to go through a separate process and expense to become accredited as a B2B Participant and to maintain that accreditation.

## 5. COST RECOVERY

The costs for development and maintenance of the IT infrastructure and systems required to support the shared market protocol are proposed to be borne by AEMO and recovered from parties that nominate themselves in the role of B2B Participant, rather than via participant fees as is currently the case for the B2B Hub.

AEMO has concerns on the practicality of being able to recover all costs, whilst not being discriminatory in charging B2B Participants, when AEMO will not be in control of the costs themselves. Further, the number and nature of B2B Participants could vary significantly over time; as there is no requirement for any party to use the shared market protocol, there is a risk that costs would be unrecoverable.

An arrangement based on the principle of the user paying may in itself act as a disincentive for parties to become B2B Participants and incentivise larger organisations to work outside the shared market protocol.

## 6. TIMING

AEMO agrees with the AEMC's assessment that it is not vital for the shared market protocol to be provided before the competition in metering rule commences. While it may be ideal to have the two proposed changes aligned, AEMO considers the development of governance materials, procedures and systems to support the shared market protocol to be a substantial body of work and the timeframe for implementation should be considered independently from the timeframe for the implementation of the competition in metering rule.