

# *Major Energy Users, Inc*

*The voice of energy consumers*

## **AEMO Consultation**

A report to the Community Sector  
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Presented by David Headberry, Public Officer, MEU



# AEMO – what is it?

- AEMO will be the Australian Energy Market Operator
- The ERIG report pointed out that
  - A national electricity transmission planning function was needed
  - The NEMMCo ownership structure was not the best option
- CoAG accepted these recommendations
- With the decision to have a gas market operator to run the proposed short term gas trading in NSW and SA, CoAG decided that a single energy operator was needed
- CoAG also decided that AEMO was to be funded by the gas and electricity industries (which will ultimately be paid by consumers)
- MCE SCO was tasked to develop a process to implement AEMO, including a timetable



# **AEMO – the timetable**

- **MCE requires AEMO operational by 1 July 2009**
- **SCO sees that to achieve this requires AEMO board in place by 1 July 2008**
- **SCO has already commenced a transition process with NEMMCo, VENC Corp, GMC (NSW gas) and REMCo (SA gas)**
- **SCO established market operator working group (MOWG) to develop a view of the governance of AEMO**



# MOWG membership

- Governments – C'wlth (Chair), Qld, NSW, ACT, Vic, Tas, SA and WA
- End Users – MEU and EUAA
- Operators – GMC (NSW gas), NEMMCo, REMCo (SA gas), VENCorp
- Supply side – gas transmission (APIA), Gas Market Leaders Group (GMLG), energy retailers (ERAA), ESAA, and electricity generators (NGF), plus attendance by gas and electricity distribution (ENA), and gas producers (APPEA)
- Initially decisions were made by a show of hands, giving a heavy bias to supply side attendee views
- Governments tended to be quiet
- MEU raised the matter that small end users were not involved and questioned the validity of the 'show of hand' as a reflection of majority views



# **AEMO – driving concerns**

- **AEMO must be independent and not subject to influence by any one part of the energy supply chain (eg government, supply side companies, end users) or sectoral differences**
- **The electricity and gas Laws and Rules would therefore define what AEMO must do in relation to the electricity and gas supply arrangements**
- **The governance arrangements for AEMO must maintain its independence**



# **AEMO – what is it to do (1)?**

**AEMO is to subsume the functions of**

- **NEMMCo (NEM system operator)**
- **National electricity transmission planning**
- **VENCorp (Vic gas market operator, Vic electricity transmission operator, Vic electricity and gas planning)**
- **GMC (NSW gas management)**
- **REMMCo (SA gas management)**
- **Gas market bulletin board**
- **Short term gas trading market**

**Other activities of NEMMCo, VENCorp and others include**

- **Support for gas emergency management**
- **Management and support for FRC in various states**



# **AEMO – what is it to do (2)?**

**Other functions which might be subsumed**

- **WA IMO**
- **SA ESIPC**

**Of concern are functions of**

- **Providing advice to governments**
- **Rule making (eg “fast track process”)**
- **Monitoring and compliance**
- **New activities**

**The consultation paper provides a detailed statement of the various functions of each energy operator (attachments D and E)**

**These functions need to be seen in context of how AEMO is structured**



# The AEMO Board – proposal

- There would be a Chair, 8 other directors and one CEO
- The nine directors would be nominally independent and be permitted a maximum of two three-year terms
- The CEO would be appointed by the nine other directors
- The nine directors would be selected by a “director selection panel” using a skills matrix as the basis for selection (see attachment F)
- The skills matrix requires (amongst many other skills traditionally associated with an energy market operator)
  - “Experience in and understanding of the usage and issues of the various classes of consumer of gas and electricity, including an ability to develop competing positions into a hierarchy of needs”
- The MCE would only be able to endorse the selection panel recommendations for directors



# The AEMO Board Selection Panel

- The purpose of the selection panel is to ensure the AEMO board has full independence from any one sector (government, supply side, end user).
- The selection panel would have five members – an independent chair appointed by government, 2 members appointed by government (how has not yet been defined) and two appointed by “industry”
- There is a suggestion that the Chair of AEMO should be ex officio on the selection panel to provide advice about the needs of the current board
- “Industry” is defined as including end users
- The “industry” selection panel members would be appointed by unanimous agreement of energy supply side and energy consumer associations
- Currently EUAA and MEU are nominated to represent consumers in this process



# AEMO accountability

- Four basic structures are assessed
    - Statutory authority
    - 100% ownership by government
    - 50% government and 50% 'industry'
    - 100% ownership by 'industry'
- } Corporations model
- Corporate ownership would use a company limited by guarantee as per NEMMCo
  - The report provides extensive discussion on accountability, prepared by the C'wlth gov't solicitor, covering a large number of issues
  - It is not seen that accountability will be significantly different under the various options canvassed



# Funding AEMO

- An estimate of the costs for AEMO operations (excluding WA IMO) is \$120m-\$140m pa
- The funds would initially be sourced from market participants, much as NEMMCo and VENCorp do now
- Ultimately the funds come from end users – large consumers see the amount they pay in their energy bills



# Ownership structure

Ownership of AEMO has been the most contentious issue

- The supply side wants 100% ownership by 'industry'
- MEU raised the issue of public interest militating against private ownership
- If "industry" includes end users, then there is less reason to oppose but caution is needed
- C'wlth saw that small consumer interests might be better managed by government ownership



# What does ownership give?

After considerable debate it was accepted that ownership of AEMO would only give the ability to

- Set remuneration of directors
- Remove directors (appointment is separate)
- Allow implementation of new activities
- Amend the constitution (although this would have to be proscribed to some extent by the obligations of AEMO as determined by the gas and electricity Laws and Rules)
- The supply side stated that they considered ownership would provide some influence to drive improved “commercial” performance



# **MOWG recommendation**

- **A statutory authority limits ownership to one government and so preference is for a company limited by guarantee**
- **MOWG is stated to prefer 100% 'industry' ownership. This was an outcome from the heavy bias to supply side representation**
- **This was not unanimous, as governments either did not comment or preferred some involvement, and MEU was outspoken in opposing this**
- **It was stated that government involvement gives representation to small consumers so no government, no small consumer representation**
- **A fall back is that ownership be 50/50 between governments and industry**



# Industry ownership

- Government ownership would be easy to implement as there are only eight governments to agree on the allocation of each one's share
- 'Industry' ownership is more complex – how to allocate shares, who is the actual share owner, do shares vary with the degree of involvement, what if you don't want to have a share but are entitled, should associations own the shares (some can't as they aren't incorporated), what is the value of each part owner's liability, etc.
- Government owned energy businesses can be represented by both government and industry ownership models giving them a greater share
- A suggestion made was that industry ownership be voluntary, be available to any person or company in the supply chain (ie from producer to end user), and be on a one share per entity regardless of the activity in the supply chain or size



# Specific concerns

- Is there sufficient emphasis on end user interests in the skills matrix
- Is unanimity possible amongst 'industry' for the director selection panel
- Should the industry groups able to participate in the selection panel process specifically include community sector groups and if so who
- Should MCE endorsement of directors nominated by the selection panel be sufficient or should MCE have greater powers (eg power of veto)
- Should the owners be able to remove directors (it would be difficult to stop this!)
- Should AEMO be allowed to expand its activities
- Is "industry" ownership too complex and do the powers held warrant this complexity
- Is the suggested "industry" ownership solution acceptable
- Should there be a fixed timetable for reviewing AEMO ownership
- Is AEMO a strategically important institution in the public interest mode



# MOWG issues specifically noted for comment (1)

## **DIRECTIONAL**

- *the desired scope of powers of direction for the MCE to request AEMO to undertake reviews.*
- *potential rules to govern the most appropriate allocation of costs particularly between governments and market participants including in circumstances where information is requested by government and is valuable and subsequently made available to the wider market*

## **SCOPE of OPERATIONS**

- *whether AEMO should be provided with the capacity to add additional functions beyond those described earlier*
- *whether or not AEMO should be able to extend its functions and, if so, what conditions should apply*

## **OPERATIONAL**

- *the different approaches to rule making between gas and electricity and whether a continuation of the current approach to gas rule making should be allowed, or whether the fast track process and categorisation of certain matters as procedures and guidelines provide adequate flexibility*
- *compliance and other quasi regulatory functions should be reviewed to determine whether they might be more appropriately undertaken by the AER as the energy market regulator*
- *the funding arrangements for AEMO.*



# MOWG issues specifically noted for comment (2)

## **APPOINTMENT of DIRECTORS**

- *the draft skills matrix to be used in the selection process for AEMO Board members*
- *any process that may be necessary to refine the skills matrix over time. It is suggested that this be done only with the approval of the members of AEMO and be affected through a defined and consultative process*
- *the proposed selection panel arrangements and on potential involvement of the AEMO Chair.*
- *any process that may be necessary to refine the skills matrix over time. It is suggested that this be done only with the approval of the members of AEMO and be affected through a defined and consultative process*
- *the proposed selection panel arrangements and on potential involvement of the AEMO Chair.*
- *the selection and appointment process and specifically what role, if any, MCE should play, including under different ownership models.*
- *the arrangements for the Market Operation Panel(s)*

## **OWNERSHIP of AEMO**

- *governance issues associated with ownership and the impact this has on market participants.*
- *the relative merits of the three different AEMO ownership models.*
- *the most appropriate way in which the AEMO ownership models might be configured.*
- *the proposed voting arrangements for an industry owned model.*
- *the various ownership and structural models and the merits and/or risks of a five year review*



# MEU Concerns

1. Industry Capture
2. AEMO Expanding Its Functions
3. AEMO Needs to Function in Public Interest
4. MEU/EUAA Differences
5. Consumers Split
6. MOWG Dominated By Supply Side.
  - MEU Difficulties with Aspects of Drafting

