



EASTERN ALLIANCE FOR  
GREENHOUSE ACTION  
Maroondah City Council  
Braeside Ave  
Ringwood VIC 3134  
www.eaga.com.au  
03 9298 4250

Dr Michael Vertigan AC  
The Review Panel (Chair)  
C/- COAG Energy Council Secretariat  
GPO Box 9839  
Canberra ACT 2601

By email: [energygovrev@industry.gov.au](mailto:energygovrev@industry.gov.au)

24<sup>th</sup> August 2015

Dear Dr Vertigan,

**Re: Review of the Governance Arrangements for Australian Energy Markets (Aug 2015)**

The Eastern Alliance for Greenhouse Action (EAGA) welcomes the opportunity to respond to the *Review of the Governance Arrangements for Australian Energy Markets*. EAGA is a formal Alliance of seven councils in Melbourne's East, including:

- City of Boroondara
- Knox City Council
- Maroondah City Council
- City of Monash
- City of Stonnington
- City of Whitehorse
- Yarra Ranges Council

EAGA is committed to delivering mitigation and adaptation projects and advocating for initiatives that support sustainable, low carbon communities. Our project work is complimented by targeted advocacy on issues that have a direct impact on the ability of our communities to take action on climate change. EAGA acknowledges there are a number of systemic issues within the national electricity market (NEM), which prevent national, state and local action to reduce greenhouse gas emissions. We therefore support swift and effective energy market reforms that facilitate a rapid transition to more sustainable, intelligent networks that support consumer access to clean, safe and affordable energy services.

We urge the government and the Review Panel to consider the following responses to each section of the draft report:

### ***Setting strategy and determining priorities***

The National Electricity Objective (NEO) is no longer appropriate to the current and future Australian energy market. The NEO currently does not recognise the interests of the community at large and confines consumer interests mainly to economic interest:

*“to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:*

- a) price, quality, safety, reliability and security of supply of electricity; and*
- b) the reliability, safety and security of the national electricity system”*

The focus on ‘price’ rather the ‘total cost’ is often at odds with the ‘long term interest of consumers’ with respect to environmental and social sustainability in the context of climate change. It has driven short term decision-making throughout the market’s various institutions. The interpretation of ‘efficient investment’ has resulted in unbalanced rule-making and a market bias that supports centralised infrastructure rather than demand management or other non-network solutions.

EAGA therefore recommends that the NEO should be redrawn to better reflect broader consumer interests, including explicit environmental (i.e. emission reductions) and social outcomes, as in comparable international jurisdictions.

### ***Rules and rule making***

The scale and speed of the transformation currently taking place with Australia’s energy networks necessitates a fresh approach to rule-making. Failure to streamline rule-making and harmonise it with the rapid advancements in technologies and their underpinning business models will translate to substantial losses in economic productivity. The slow pace of Australian Energy Market Commission (AEMC) reform was recently highlighted by the Productivity Commission which described the AEMC as ‘a graveyard for reform proposals’.<sup>1</sup>

The separation of the role of rule-making (AEMC) and regulation (Australian Energy Regulator) under different legislation and different accountabilities has resulted in unnecessary fragmentation and incoherent processes resulting in stifling complexity. There is no international precedent for these related functions to reside in different institutions.

EAGA recommends consolidating the rule making and regulation (including generation regulation) in the one institution. This arrangement would be more efficient, more effective, provide greater transparency and is more likely to operate in consumers’ interests.

### ***Regulatory decision-making***

Ensuring that regulatory decision-making reflects the current context of the transitioning energy market is central to the long-term interest of consumers. Local Government’s Response to the Victorian Electricity

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<sup>1</sup> Productivity Commission 2013, Electricity Network Regulatory Frameworks, Report No. 62, Canberra

Distribution Price Review (EDPR) 2016-20 highlighted a number key concerns councils share in relation to the role of the AER in this process<sup>2</sup>. These concerns include (but are not limited to):

- the lack of support for demand management initiatives within determination processes; and
- the small allowances provided to network businesses to pilot and trial projects to fully assess the costs and benefits of network innovations (particularly through a stringent caps on the Demand Management Incentive Scheme which acts to stifle innovation).

Again, the time-lag with implementing rule changes provides another barrier to reform. The recent rule change to the DMIS scheme and the manner in which the AER and the AEMC seek to stall its implementation until 2020, rather than establishing transitional arrangements, is another prime example of a failure in meeting the needs of a dynamic market, resulting in productivity loss.

EAGA recommends that the capacity and capability of the AER be enhanced to appropriately consider demand management and innovation in its determination processes. This includes more active and broad engagement with consumers on decisions that don't rely on the exclusive input of a few specialists within complex consultation mechanisms.

### ***Market operation***

The Australian Energy Market Operator (AEMO) operates under the National Electricity Act that states that the NEO is to be achieved with respect to *"firstly, price, quality, safety, reliability, and security of supply of electricity and secondly the reliability, safety and security of the national electricity system."* In the absence of a NEO that recognises the need to reduce greenhouse gas emissions, incumbent fossil fuel generators, gen-tailers and network businesses have consistently used these current objectives to protect and advance their own interests and disproportionately influence regulatory reform.

Advocates for renewable energy, demand management and innovation have had to argue within this framing of the NEO, leading to limited success against incumbents arguing about threats to reliability and security of supply. This can be seen in the recent methodologies used to calculate feed-in tariffs, where the terms are narrow and the environmental and social benefits are largely ignored and externalised.

Arguments against greater deployment of distributed renewable energy are often framed using the NEO requirements of accessibility, reliability and affordability. Consistently, detractors (mostly incumbents) argue that such technology is expensive, benefits the wealthy at the expense of the poor, and that increased uptake threatens the electricity network (the death spiral argument), without taking into account any impact on emissions. This is demonstrated where some incumbent distribution businesses are refusing to connect new solar PV supply once the penetration of PV in a neighbourhood reaches 30%.

If instead there were a clear reflection in the NEO of the need to reduce emissions, then all players in the electricity market would premise their arguments on alternatives that reduce emissions to an equivalent or greater degree<sup>3</sup>. Moreover, this would deliver a greater sense of common purpose between different stakeholders, and hopefully lead to better co-designed outcomes for all consumers. For example, a common objective to reduce greenhouse gas emissions could lead to greater collaboration between local

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<sup>2</sup> Local Government's Response to the Victorian Electricity Distribution Price Review (EDPR) 2016-20 ([link](#))

<sup>3</sup> Haines, F. and McConnell, D. (2013) Green Electricity Markets? Constructed realities, Prosumerism and Solar PV. Climate and Environmental Governance Network Working Paper, No. 20, Regulatory Institutions Network, ANU.

councils and network businesses in the design and implementation of demand management programs or better coordination of the location and design of distributed renewable energy projects.

### ***Governance processes***


The key to effective reform in the governance arrangements of the NEM relies on actively engaging communities in designing the energy future they want. This means enhancing consumer representation at the COAG Energy Council and across all energy market institutions. Whilst the establishment of Energy Consumers Australia (ECA) is a step in the right direction, consumers are disenfranchised in almost every aspect of the Australian energy market and have no representation in decision-making processes in the NEM. EAGA recommends the following changes to empower consumers to inform policy and decision-making:

- establish a Consumer Advisory Committee for COAG Energy Council in consultation with ECA
- require consumer representatives to sign off on rule changes
- require energy market institutions to have capability and capacity to ensure greater consumer protection and more robust consideration of demand management and emerging technologies
- consider approaches that enhance formal representation of consumers in network determinations

EAGA also recommends that transparency and accountabilities are improved through making agendas and work plans for the COAG Energy Council publicly available.

Should you have queries or questions relating to this submission, please contact Scott McKenry, EAGA Regional Coordinator on [scott.mckenry@maroonodah.vic.gov.au](mailto:scott.mckenry@maroonodah.vic.gov.au) or 03 9298 4250.

Kind regards,



Cr Bill Bennett  
Executive Committee Chair  
Eastern Alliance for Greenhouse Action  
Councillor, Whitehorse City Council



*This submission has been approved through EAGA's formal governance structure as described in the EAGA Memorandum of Understanding 2012-16. The submission may not have been considered and upheld by a majority councillor vote within individual member councils.*