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Dear Mr. Ray

Re: AEMO Governance Review Consultation

The Australian Energy Regulator (AER) is pleased to provide this submission into the Australian Energy Market Operator (AEMO) Governance Review.

Since its establishment in 2009, AEMO has a substantial track record of achievement in delivering reliable and efficient electricity and natural gas systems to consumers. It has been instrumental in supporting a rapid and effective energy transition while keeping the lights on. We appreciate the constructive relationship we have with AEMO. They regularly provide helpful support and insights for our regulatory activity which enhances the quality of our decision making. However, with the evolution and broadening of AEMO's functions, it is timely to consider whether current governance arrangements best support the needs of consumers into the future.

Our role in the energy system intersects with AEMO's in several areas. For example, we develop and ensure compliance with guidelines that must be applied by AEMO in the system planning process. In doing so, we undertake transparency reviews of inputs to the planning process and review AEMO's approach to complying with our guidance. Although it has not yet been exercised, we have a role in resolving any disputes that may emerge with respect to the system planning process. We have monitoring, reporting and enforcement roles in both wholesale electricity and gas markets that require us to examine AEMO's actions in markets. Our knowledge and experience from this work have informed this submission.

We agree that the matters outlined in the Review of AEMO Governance – Discussion paper (Discussion Paper) capture the key issues for this review. We highlight the following as the key issues from the perspective of the AER:

- The tension between AEMO's expanding roles as an operator, planner and investor in the electricity system. This tension stems from the different purposes of these roles as articulated, appropriately, in the National Electricity Rules (NER) and related guidelines. For example, chapter 4 of the NER establishes the framework for AEMO interventions to maintain a secure and reliable system with a focus on short term requirements. Chapter 5, however, requires system planning to achieve reliability and security over at least a 20 year horizon in a way that contributes to achieving the national electricity objective (NEO). The NEO is premised on long term consumer outcomes being achieved through economic efficiency. That is, delivering services to those who value them most, doing so at lowest cost over the long run and maintaining this over time as circumstances change.
- Such tension is also a risk in the gas system. Emerging AEMO roles could see AEMO given last resort powers that extend its role beyond short term reliability and supply adequacy in the gas system. These could see AEMO making decisions in

supporting supply side investments that are aimed at addressing prolonged threats to the adequacy of supply.

- The need for the highest levels of accountability in system planning and investment to ensure public confidence in the system and the investments. These investments, which AEMO plans for and increasingly administers, shape the cost and performance of the energy system as a whole. They are paid for by energy consumers, and sometimes taxpayers, and have intergenerational impacts on the Australian economy and community welfare. Regardless of the approach taken to structuring AEMO's functions, the public and policy interest associated with AEMO's role and functions require a greater level of accountability and oversight. Our position on this is not a reflection on AEMO's actions or activities to date. It is, instead, informed by our view that accountability, scrutiny and transparency are key features of good governance for public sector entities that derive their funding from taxpayers and consumers.
- Appropriate levels of public oversight for AEMO across all its roles and functions including its decision-making, budget and the fees it charges market participants. With evolving responsibilities, the AEMO budget has almost tripled in the last 5 years. The review discussion paper notes AEMO's estimate that residential consumers now pay approximately \$16 for AEMO's services through their electricity bill annually. We acknowledge that AEMO does consult with stakeholders on its budget and fees and is responsible for a significant and expanding range of functions and services. AEMO performs functions that are bestowed upon it by law and are of a public nature. A reasonable approach to the determination of the fees of such an authority, to which there is no alternative provider, would be to subject its revenue and fees to appropriate and well-designed regulation. In advancing this proposal, we note that the Economic Regulation Authority of Western Australia already regulates AEMO's operations in that State. There is also precedence for such an approach internationally with the Office of Gas and Electricity Markets regulating the National Energy System Operator in Great Britain.
- The adequacy of current arrangements for parties to seek redress should they be affected by decisions of AEMO. Existing Chapter 8 arrangements were developed when AEMO had a narrower role and are likely well suited to AEMO's operational role. However, changes may be necessary to support fairness for those affected by longer-term planning decisions.

Carefully considered improvements could enhance AEMO's effectiveness, better achieve the National Energy Objectives and support public confidence in our energy system. The options raised in the Discussion Paper to transition AEMO to a Corporate Commonwealth Entity or another independent statutory body seem valuable in addressing concerns over the transparency and accountability of AEMO's decisions. Any new corporate structure would need to also ensure though the ongoing adequacy of resourcing to perform evolving functions in a complex operating environment.

We would be happy to discuss the issues raised in this submission in further detail.

Yours sincerely


Clare Savage
Chair