

28 August 2013

Ms Jacqui Thorpe
General Manager – Retail Markets
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

By email: AERInquiry@aer.gov.au

Dear Ms Thorpe

AER Stakeholder Engagement Framework

The Major Energy Users (MEU) welcomes the opportunity to provide its comments regarding the draft AER Stakeholder Engagement Framework.

The MEU also notes that the issue of such a framework replicates a similar requirement on the AER that the guideline on consumer engagement imposes on NSPs. The fact that the AER has recognised a need to improve and formalise its relationships with stakeholders is extremely heartening.

The MEU has had a long relationship with the AER over time. The MEU considers that it has had a good relationship with the AER and would want this to continue. In dialogue with the AER, the MEU considers the AER has reacted well to requests by the MEU to meet and discuss issues of concern raised by its members, both in group and individually. This is not to say that the MEU and its members have always agreed with the outcomes of such dialogue.

The MEU strongly supports the formalisation of the AER approach to stakeholder engagement. The MEU is of the view that any improvement in stakeholder participation will benefit consumers and therefore the initiative is to be welcomed.

However the MEU considers there are aspects where the framework could be improved to recognise some of the shortcomings that the MEU has noted over time, viz:

- The AER has in the past held public forums to address network revenue resets. The actual performance of these public forums has not provided an opportunity for informed debate on issues. For example, in the case of revenue resets, the current approach to these forums has been for networks and AER to expound rather than use them as an opportunity to initiate sensible debate of the issues.

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This is in contrast to similar forums held by the predecessors of the AER (ACCC and state regulators) where forums provided an opportunity for debate on issues and for the regulator to observe dialogue between NSPs and other stakeholders. The MEU considers that future public forums should be structured so that debate and exchange of ideas and thoughts is encouraged rather than deliberately excluded as currently applies.

- The MEU notes with that the processes used by the AER during the Better Regulation process where stakeholders (consumers, NSPs and others) debated issues on aspects initiated by the AER in open forum basis under AER control worked extremely well. This allowed the AER to benefit from the dialogue encouraged by the debate that occurred between consumers and supply side. The MEU considers that future AER forums would benefit from implementing similar arrangements.
- The MEU has observed that there is a filtering of ideas, thoughts and concepts raised by stakeholders through the AER processes. Whilst some filtering is inevitable, what is concerning is that such filtering can prevent AER decision makers (especially the AER Board) from being made aware of concerns and concepts that, with greater investigation, might provide a better outcome for all. The MEU considers that the AER processes must ensure that such filtering does not deny the decision makers being made aware of these.
- The MEU has noted over time that some officers of the AER are better at engaging with stakeholders than others. The MEU considers that the AER should provide training to its staff to ensure that the all AER officers are aware of the benefits that flow from better engagement and how such better engagement can be implemented.
- The AER frequently has its decisions appealed to the Competition Tribunal. The MEU considers that the formalising of stakeholder engagement should be beneficial when the AER is involved in an appeal against an AER decision. The AER should ensure that its framework provides it with the maximum benefit in relation to merits reviews.

We note the request for feedback on specific issues. Our response to these is as follows:

Question	MEU response
Does the Framework cover the appropriate range of AER activities and stakeholders affected by the AER's activities and decisions?	Yes, in part. See comments above. The MEU also considers that the approach has value in providing guidance to NSPs and others that improved engagement adds value. It will provide a lead to NSPs that better engagement is a worthwhile exercise.
Are the proposed principles relevant and appropriate to the AER's activities, in particular given the considerable complexity of many of the regulatory	Yes.

and economic issues that make up the AER's work? Are there additional or alternative principles that should be included?	The MEU considers the proposed principles provide a sound basis, but considers that the principles should be readdressed in the review in three years to see if they need to be augmented or otherwise modified.
Are the commitments included under each principle relevant and appropriate? Are there additional actions we could undertake that would assist us to embody the principles in our engagement activities?	Yes, in part. See comments above Yes, see comments above
Are there additional engagement 'tools' we could include in the engagement spectrum?	See comments above
We propose to review the Framework after three years' Is this an appropriate timeframe?	Yes, unless the operation of the framework indicates that the framework is not delivering the outcomes sought.
What measures could the AER use to evaluate our engagement?	The AER should conduct formal surveys but should also seek anecdotal feedback from those stakeholders with whom it has direct contact. A key measure will be the extent to which the framework results in greater involvement in AER activities by stakeholders and the extent to which they actively participate in AER deliberations.
Are there any other issues we should consider?	The MEU considers that this framework is a good start and any improvement in stakeholder engagement is welcome. The actual implementation will provide a better view on the adequacy of the framework.

Should you wish to discuss the MEU views expressed in this response in more detail please contact the undersigned at davidheadberry@bigpond.com or on (03) 5962 3225

Yours faithfully



David Headberry
Public Officer