



Wholesale electricity market performance monitoring

Summary of submissions and responses

March 2018

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Introduction

Changes to the National Electricity Law (NEL) require the AER to monitor the wholesale market and report on its performance at least every two years.¹ We are required to identify and analyse whether:

- there is 'effective competition' within the relevant wholesale market, as defined in the NEL
- there are features of the market that may be detrimental to effective competition within the market
- there are features of the market that may be impacting detrimentally on the efficient functioning of the market and the achievement of the national electricity objective.

This monitoring and reporting role supports the efficient operation of the wholesale electricity market as it allows early detection of issues affecting market performance.

In preparation for this new role, we have been consulting with stakeholders to establish our approach to monitoring the performance of the market. This document summarises our consultation process to date. It also provides a summary of submissions received on our draft Statement of approach and draft 2018 Focus, and our responses to those submissions.

Consultation process

The history of our engagement with stakeholders to develop our approach is set out in Table 1.

Table 1 Timetable for development of Statement of approach

Milestone	Date
Consultation paper published	31 August 2017
Public discussion forum	6 October 2017
Written submissions on the discussion paper close	13 October 2017
Draft Statement of Approach & 2018 Focus published	20 December 2017
Written submissions on the draft documents close	2 February 2018
Statement of Approach & 2018 Focus final versions published	29 March 2018

¹ National Electricity Law, Part 3 Division 1A.

We published a discussion paper on 31 August 2017 that outlined options for defining effective competition and market efficiency, the products and markets to consider, the approaches to assessing market structure, participant conduct and market performance, and how information should be gathered and reported. We invited interested parties to respond to the issues raised in the discussion paper by providing us with written submissions. We also held a public forum on 6 October 2017 to listen to stakeholders' views on the issues raised in our discussion paper.

Based on the feedback received on the discussion paper, on 20 December 2017, we published a draft Statement of approach, and draft 2018 Focus, alongside an Update and consultation paper, for further consultation.

Stakeholder consultation on our draft approach

We asked interested parties to respond to the approach proposed in the draft papers by providing us with written submissions. We received nine submissions, with no confidential submissions. Of the submissions, three were from customer representative groups, and six were from generators. These submissions are available on [our website](#).

How to stay involved

We will post any further information and updates on this project on our website at www.aer.gov.au/wholesale-markets/market-guidelines-reviews.

We also invite stakeholders to register their interest in receiving specific updates on this project via [wholesaleperformance@aer.gov.au](mailto:wholesaleperformance@ aer.gov.au).

Summary of submissions and responses

Stakeholder	Issue	Response
General		
EnergyAustralia	The AER should ensure that the limitations and merits of each metric are clearly articulated, along with guidance on how to interpret results.	Agreed, we have updated our documents to reflect this intention. We understand different measures will have limitations and merits. The NEL requires us to publish the methodology we applied in our analysis.
MEU	The AER should assess known future changes to the market and highlight any potential competition concerns.	Our monitoring and reporting role supports the efficient and effective operation of the wholesale market as it allows early detection of issues affecting market performance. While our review focusses on past market performance, where appropriate we will comment on future changes or events.
MEU	The AER should ensure it refers potential illegal misuse of market power to the ACCC.	If our analysis suggests instances of potential misuse of market power, we would refer these to the ACCC, where appropriate. We have updated our documents to reflect this intention.
Origin	The definition of market power should distinguish between transient and enduring market power.	The NEL suggests a focus on examining the emergence of sustained market power, even though participants hold market power from time to time.
Snowy Hydro	The AER should focus its monitoring on the long term, rather than biennial reporting, as it replicates processes already in place.	The NEL requires us to monitor and review the market on a regular and systematic basis, including preparing a report at least once every two years. The NEL also requires our analysis cover a period of at least five years.
Origin	Individual price outcomes are not indicative of market well-being. A longer-term view, consistent with investment timeframes, provides a more robust basis for analysis.	We will retain flexibility and consider a range of metrics, with no single measure providing conclusions about performance. Our analysis will examine both short and long term

periods, depending on the issue.

Markets

Products

Origin	Assessment of Frequency Control Ancillary Services (FCAS) market structure/performance must recognise that FCAS market outcomes are not independent of energy market outcomes.	We will have regard to the interaction of these markets when undertaking our analysis.
Snowy Hydro	The AER should not focus on interregional settlement residues as it is reported on by the Australian Energy Market Operator (AEMO) and has been considered by the Australian Energy Market Commission (AEMC).	Where appropriate, we will consider the impact of interregional settlement residues on competition and efficiency.
Origin	The AER should ensure that derivative market is assessed in a meaningful way. Liquidity of derivatives markets alone does not provide conclusions regarding barriers to entry. Any analysis must be coupled with a broader assessment of alternative risk management options.	In understanding derivatives markets, we will take a range of factors into account.
Snowy Hydro EnergyAustralia	The AER should draw on the Australian Financial Markets Association (AFMA) restarting its survey of Over The Counter (OTC) electricity derivatives to assess OTC markets.	Noted. We will use public information in the first instance for our analysis. If the AFMA report is available and useful, we will utilise its information.

Structure

ENGIE	The AER should interpret structural metrics practically to account for the physical, economic and political realities of the NEM.	We will consider a range of factors and metrics, when assessing the structure of the market. We understand that different measures have different limitations and will give care to the interpretation and communication of any results.
Origin	Given limitations, caution should be exercised in interpreting structural metrics and in comparing outcomes to other markets	

Vertical integration

MEU	The AER should carry out a confidential survey of non-vertically integrated retailers to assess the impact of gentailers' vertical integration.	As part of our analysis, where relevant we intend to discuss issues with a range of stakeholders. For example, our Statement of Approach indicates our expectation to engage stakeholders regarding barriers to entry.
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Alinta Energy	The presence of vertical integration should not be an indication of market inefficiency. The extent of vertical integration should be assessed in the context of the effect on pricing, investment and liquidity of futures markets.	We intend to consider the impact of vertical integration on the market, including the extent to which it supports or hinders competitive outcomes in the NEM.
Origin	The AER should broaden its analysis to include examining how vertical integration may support effective competition.	

Barriers to entry

PIAC	The AER should also consider barriers and disincentives to efficient exit, as well as entry.	We will consider both barriers to entry, and barriers to efficient exit as part of our analysis. We have update the Statement of approach and Focus to reflect this.
Alinta Energy EnergyAustralia	The AER should give substantial consideration to the issue of regulatory barriers and increasing government intervention.	We will consider a range of factors when considering barriers to entry.

Conduct

Snowy Hydro	The AER's proposed examination of the relationship between bidding behaviour and market outcomes risks replicating work previously undertaken in implementing the Bidding in Good Faith rule.	We have an obligation to assess competition and efficiency. Examining participant conduct is an important input that will add value to our analysis.
ENGIE	The AER should closely engage examined participants to ensure it has a complete understanding of all factors affecting its conduct before drawing conclusions.	We are mindful that factors influencing participant conduct are complex. We will engage with the participants we examine where we consider it appropriate.

Performance

Underlying Costs

PIAC	The AER should consider other methods of benchmarking underlying costs than just Levelised Cost Of Electricity (LCOE). LCOE may not be the best metric given inherent limitations and common misuse or misinterpretation.	We acknowledge there are limitations with the LCOE analysis. In undertaking our assessment of the wholesale market, we will not rely on any one measure as indicative of overall market performance. Any potential indicators will form part of a larger whole.
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EUAA	The AER should provide further detailed advice on how it expects to calculate LCOE.	The NEL requires us to publish our methodology. We expect to provide additional information on our anticipated use of LCOE in the near future, for feedback. We will also explain our methodology in the performance report.
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MEU	The AER should consider developing a regional LCOE. If the LCOE of a region is below the average spot price, it could serve as an indicator for further investigation.	We agree. A range of factors can affect LCOE estimates at a regional level. We will calculate regional LCOE values for the 2018 performance report.
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ENGIE	The AER should apply a range of LCOE values for each technology, rather than establish a single value.	We will consider a range of factors when considering the performance of the wholesale markets.
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Origin	The AER should consider a range of approaches, be transparent in its methodology and not solely rely on the output of this analysis.	We will not rely on any one measure as indicative of overall market performance. In addition, our discussion paper examined alternative approaches to calculating underlying costs. In 2018, we will use LCOE estimates. We will also explain our methodology in the performance report.
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ENGIE	The AER should consider also using Long Run Marginal Cost (LRMC) to estimate costs, similar to the AEMC's process during the MEU rule change.	In 2018, we will use LCOE estimates. We considered the AEMC's approach in our Statement of Approach and will explore LRMC in future reports
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Efficiency

PIAC	The AER should identify whether issues adversely affecting efficiency are transient or sustained.	The NEL requires our analysis of market efficiency consider whether any inefficiencies are likely to impact detrimentally in the long term.
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Origin	In reality, market outcomes reflect a range of internal and external factors. The AER should ensure these factors are accounted for in its analysis.	We agree, and will give consideration to a range of factors when reporting on the market performance. Where appropriate we will acknowledge the limitations in our analysis.
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Information gathering

Alinta Energy	The AER should use its information gathering powers sparingly.	There is a range of public information we may rely on to
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Snowy Hydro

Origin

PIAC

The AER should not hesitate to use its information gathering powers.

EnergyAustralia

The AER should undertake further stakeholder engagement prior to compelling confidential data.

perform our functions in the first instance. If we identify an issue, we may use our information gathering powers to acquire non-public information to aid our analysis.

Our general approach to the use and disclosure of information is set out in the ACCC/AER Information Policy, which is available on our website.
