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Select Committee on Energy Planning and Regulation in Australia
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Parliament House
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Submitted via email: epra.sen@aph.gov.au

Select Committee on Energy Planning and Regulation in Australia

The Australian Financial Markets Association (AFMA) is pleased to provide our submission to the Select Committee on Energy Planning and Regulation in Australia.

AFMA is the leading financial markets industry association promoting efficiency, integrity, and professionalism in Australia's financial markets, including the capital, credit, derivatives, foreign exchange, electricity, gas, environmental, carbon, and other specialist markets. Our membership base is comprised of over 130 of Australia's leading financial market participants, including the key participants in the Australian energy market.

Key points

- Stable medium and long – term policy settings are required to support the energy transition.
- Regulatory burden has increased which is hindering the market's functioning and capacity to meet transitional challenges.
- Legislative and regulatory frameworks require formalised reviews.
- The NEM 2030 review should present a clear direction of future policy and regulation.

1. Role of financial markets in Australian energy

Energy financial markets are critical to the operation of the underlying physical markets and they play an important role in allowing participants to manage energy price volatility. Financial markets allocate capital to where it is needed most, reducing costs to consumers and ensuring supply. The financial market therefore, plays a central role in energy affordability and availability. However, AFMA is concerned that the financial market has been regularly overlooked when designing regulations and policy; and we consider that policy makers and regulators should more meaningfully consider the financial market impact of proposed reforms.

2. Current state of the market

AFMA notes the timeliness of this inquiry and welcomes the Committee's intent to unpack the form and function of the Australian energy market. With the sector going through unprecedented change, AFMA believes that scrutiny of the current and the future proposed regulatory environment underpinning the sector is crucial to navigating the transition, boosting market efficacy, increasing investment certainty, and ensuring adequate supply of energy at reasonable prices.

It is AFMA's view that many of the challenges we are experiencing in energy regulation stems from policy gaps rather than existing legislation or operation and governance of regulators. While shorter-

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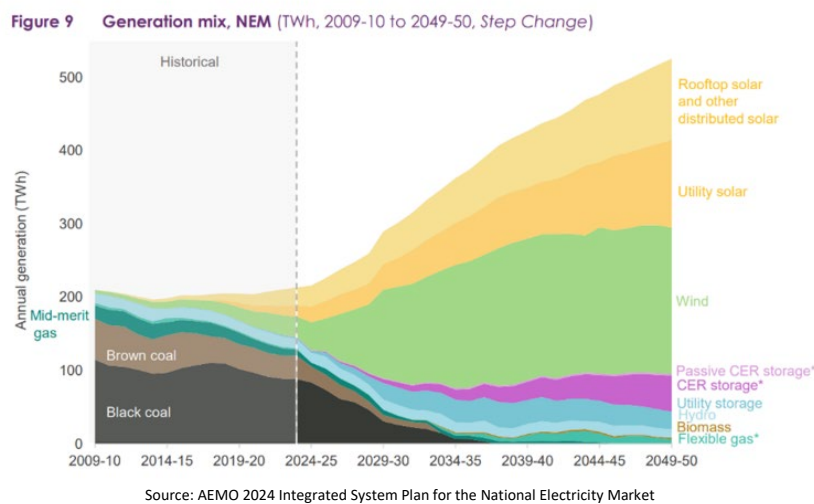
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term policy and regulatory initiatives such as the Capacity Investment Scheme are incentivising construction of new generation, we are concerned about the lack of regulatory and policy focus on medium and longer-term planning to ensure adequate firming capacity is available to support increased uptake of renewables, and the orderly closure of existing coal generation.

AFMA considers that while there are some inefficiencies within existing regulation and the regulatory framework, which are addressed below, the greatest regulatory challenge remains a lack of clear policy intent over the medium and longer-term resulting in a lack of clear market signals to participants.

As indicated in the chart below, AEMO’s 2024 Integrated System Plan indicates that the market is at an inflection point where variable renewable generation, such as wind and solar, will increasingly displace coal-fired generation as the main source of supply. As a result, dispatchable assets that can firm renewables, including batteries, hydro and gas, will become increasingly important.



AFMA supports addressing planning and regulatory challenges as part of this inquiry, but we believe the greatest change must come from policy direction and goals.

3. Current regulatory and policy challenges

While AFMA acknowledges the continued efforts of regulators to engage and work with industry on policy challenges, the recent volume of regulation is leading to an inefficient regulatory structure with duplicative reporting requirements and overlapping policy interventions. AFMA considers that there is an opportunity to reduce costs to consumers by streamlining these obligations.

Recently there has also been a proliferation of market bodies undertaking an array of, often overlapping, policy and regulatory work. AFMA considers that the challenges of the energy market transition require clear and coordinated policy making and encourages this Committee to consider how the Commonwealth can contribute to providing certainty to the market.

3.1. Overlapping reporting requirements

There has been a major increase in regulatory reporting obligations in the energy market with AEMO, the AER, and the ACCC all gaining new data collection powers. While AFMA acknowledges the value of well-informed regulators, each body’s information powers were developed separately with little consideration of how they would interact with each other. This has resulted in significant overlap between their functions which increases costs for market participants and ultimately

consumers. We particularly want to highlight that there is significant overlap between the AER's new Wholesale Market Monitoring function and the ACCC's continuing gas inquiry. These overlaps are costly and burdensome for industry while diverting unnecessary regulatory resources and creating inefficiencies. As part of this inquiry, AFMA would encourage the committee to closely consider overlapping functions amongst regulators and look to streamline them where possible.

3.2. Overlapping policy initiatives

Governments have rightly explored a range of policy initiatives to facilitate the energy market transition. Some initiatives have been successful while others appear to have fallen short of their objectives; but unfortunately, unsuccessful policy initiatives are rarely repealed.

An example of this are the current state – led initiatives to establish Renewable Energy Zones (REZ). The industry is broadly supportive of REZs as an efficient mechanism to ensure coordination of the location of generation and the construction of transmission infrastructure. But REZ's were not the first initiative to try to do this. In 2011, the AEMC amended the National Electricity Rules (NER) to introduce Scale Efficient Network Extensions,¹ which were intended to serve a similar role to REZs. The changes added five additional pages of rules to the NER, but to AFMA's knowledge, these rules have never been used to facilitate a network expansion and, with the introduction of REZs, it seems unlikely that they ever will be. Despite this, the provisions have remained in the NER.

While the Scale Efficient Network Extensions rules just add unnecessary bulk to the NER, other policy shortcomings result in substantial costs to the market. The most prominent ineffective initiative is the Retailer Reliability Obligation (RRO) which was introduced in 2019 and was intended to solve issues related to an inadequate supply of firming generation in the physical electricity market by introducing financial market contracting obligations for retailers.

AFMA's members were critical of the RRO when it was introduced, and we consider that the continued policy focus on providing firming capacity indicates that it has fallen short of achieving its objectives. Despite this, it imposes real ongoing costs on market participants while we see no evidence of it delivering clear benefit for consumers.

Therefore, AFMA believes there is a strong basis for introducing formalised post-implementation reviews (PIR) for major reforms in the energy market. AFMA notes the required use of PIR as per the Office of Impact Analysis guidance, across other policy areas, but are concerned that the NER may have become a blindspot as the requirement for PIRs does not apply to AEMC rule changes.

AFMA believes there is a valuable opportunity for PIRs across major policy changes in the NER to allow government, regulators and industry, to collaboratively assess and measure benefits delivered. Additionally, the post-implementation could consider how the actual costs of successful projects compare to the estimates that were used to justify them. For example, the introduction of 5 Minute Settlement significantly exceeded its estimated cost of implementation of \$10-15m upfront and with another \$2-7m in annual ongoing costs.² AEMO's annual costs are now around \$40m and its total costs since 2021-22 have been more than \$150m.³ In addition, the industry as a whole has incurred further costs which the Australian Energy Council estimating the sector's costs would be \$150m in

¹ <https://www.aemc.gov.au/rule-changes/scale-efficient-network-extensions>

² <https://www.aemc.gov.au/sites/default/files/content/76db4236-c0d1-4f2a-88d5-bd301abe412a/36-RuleChange-Submission-ERC0201-AEMO-170525.pdf>

³ AEMO Budget and Fees, 2021-22, 2022-23, 2023-24, 2024-25

upfront costs, with another \$7m in annual costs.⁴ AFMA believes that there is not always a net benefit for policy makers and or industry in fixing an issue or creating rules, and policy makers should consider the cost of the regulatory process itself, for both regulators and industry alike, as well as the cost of implementation.

Consistent PIRs in the NER and other governing energy market rules would also enhance the opportunity for Parliamentary scrutiny and oversight, as well as highlight any policy gaps that required attention. AFMA would urge the committee to support a mechanism for PIRs. We believe major reforms or changes with a substantial cost should be subject to a PIR within five years of implementation which would allow several years of data to assess the impact.

3.3. Inefficient legislative framework

As noted above, it is AFMA's experience that the energy regulatory framework contain inefficiencies, overlap and redundant elements. It is AFMA's view that the root cause of this lies in the legislative framework itself. The collective rules governing the markets have grown substantially over the past ten years and currently come to just under 3000 pages with the NER coming to over 1900 pages. The growth of the rules has led to substantial duplication and resulted in unnecessary bulk and complexity. With the very form and function of Australian energy market undergoing significant change, AFMA believes it imperative that the governing legislation be simplified and fit for purpose.

Ineffective legislative frameworks create a burden and productivity loss for both industry and regulators asked to uphold the legislation, as well as hampering market efficiency. AFMA has been a strong supporter of the Australian Law Reform Commission's work to review and recommend an efficient path forward on the complex and inefficient Corporations Act 2001 (Corps Act) which governs corporations and the financial services sector and considers that a similar review of the energy rules, should be undertaken.

4. NEM 2030 review

AFMA believes that the proposed NEM 2030 review has the opportunity to consider and address the industry's many challenges and present a clear direction of future policy and regulation. AFMA would urge the committee to ensure that the NEM 2030 review is informed by lessons learned from prior, less effective policy initiatives and provides practical, implementable recommendations to facilitate the energy transition.

AFMA would welcome the opportunity to discuss this submission further and would be pleased to provide further information or clarity as required. Please contact me via myoung@afma.com.au or 02 9776 7917.

Yours sincerely,

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⁴ <https://www.aemc.gov.au/sites/default/files/content/ef348de3-3f5b-4a7e-8992-4158120fd93a/31-RuleChange-Submission-ERC0201-Australian-Energy-Council-170523-consultant-report.PDF>