

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

This submission focuses on two issues:

- the level of engagement on the proposed budget has fallen well short of best practice
- we have no idea whether AEMO is a financially efficient organisation in the exercise of its obligations under the rules

So we can make not comment on whether the proposed budget should be supported or not. What we can say is having just a week to comment on the draft is a continuation of the lack of effective engagement over the last 12 months.

Level of Engagement has fallen well short of best practice

[AEMO](#) state that:

“Following an extensive stakeholder engagement and consultation program as part of the preparation of our 2022-23 Budget and Fees, AEMO welcomes any further comments prior to publishing in June 2022.”

The engagement with the EUAA has been a 20 minute agenda item at the April 2022 Consumer Forum. The presentation was a high level Financial Consultative Committee (FCC) update. The six slides were purely qualitative with no numbers (apart from the \$106m deficit), statistical trends or analysis of efficiency. This is the first time we became aware of the accruing deficit over the last few years – Consumer Forum meetings for the previous 18 months made no reference to the budget situation.

Detailed questions on these matters at the April 2022 meeting did not result in satisfactory answers. We were told to go to the FCC website for further information.

We were told (Slide 10) that:

“AEMO cannot continue to operate with an annual deficit.”

but not why losses were allowed to get to the enormous level they are now without any action from the Board for the previous 3 years. We were told that there were a ‘set of principles appropriate to a non-profit entity’ but were not given those principles (yes they are on the FCC website – we presume they are the ones set out on [Slide 11](#)).

We were told that applying these principles led to the decision on how to recover the accumulated losses of past years but no detail was provided on why a three year (rather than other option) recovery of the cost overrun was in consumers best interests.

The minutes of the April FCC say:

“Mr Tony Chappel, AEMO’s Executive General Manager Corporate Affairs stated that we are proposing to the AEMO Board consider a 3-year recovery pathway for the accumulated deficit but if any committee member had a different option on this time period to please let us know.”

However, assuming the EUAA were monitoring the FCC website, there was no detail provided on the analysis leading to the 3-year recovery pathway to enable us to comment to the ECA representative on the FCC on what an alternative pathway might be.

Other questions were not addressed in any comprehensive way and we took the overall response to be something like ‘it was the fault of people who are no longer part of AEMO and we now have to clean up the mess’. Best practice consumer engagement does not direct consumers to a website for much of the information that should be directly presented to consumers for their feedback. We simply do not have the resources to do this. Networks undertaking best practice engagement recognise this.

Subsequent to the Consumer Forum meeting, we became aware that much more comprehensive briefings with numbers, statistical trends and efficiency discussions were presented to members of other stakeholders represented on the FCC. While these other stakeholders initially bear AEMO’s costs, they are passing their share of costs onto end consumers who only receive a much shorter/lighter briefing. So we do not believe that claims about ‘extensive stakeholder engagement’ are borne out by the evidence.

We have a memory that the EUAA was invited to be a member of the FCC when it was originally formed. Given the demands on our time to respond across the wide range of energy market, the relatively small impact on consumers (being <1% of the total electricity bill), that we were unaware of the serious budget overrun and assumed the AEMO Board would have the appropriate governance in place, we declined the invitation. Also, given our limited resources, we tend not get involved in advisory bodies where any influence we might have is minimal.

The FCC [Terms of Reference](#) make no mention of where it sits on the IAP2 spectrum and that means we can only assume it is at the lower end with ‘inform’ and ‘consult’. All that we see is that:

“Feedback and comments from members of the FCC will form part of the AEMO Board papers relating to draft and final budget adoption.”

Consumers have one representative out of the ten non AEMO members [at the most recent meeting](#). Given the costs borne by ENA are simply passed on to consumers (as we are seeing in their current rule change – more on this below) and many CEC members do not bear any costs themselves, this may lessen their incentive to closely examine what an efficient cost level might be. At least the AEC members have to recover their AEMO fess in a competitive market rather than a simple pass through.

Nevertheless, given what has come to light in recent months, if there is an opportunity to join the FCC, the EUAA would be pleased to nominate a representative.

No idea if AEMO is a financially efficient organisation

The [study by CEPA](#) commissioned by the ENA and ECA and published in September 2020 highlighted a number of issues around AEMO governance and costs and made suggestions on where improvement could be made. The report concluded that (p.6):

“...we have found limited evidence of AEMO demonstrating accountability to its Members, or Members holding AEMO to account, through the formal governance channels. ... The formal arrangements to support accountability are weaker than those we observe in other jurisdictions.

Given AEMO’s crucial, and growing, role in the NEM, we suggest it is timely to revisit the existing governance framework. In particular, we consider that there is a case for reconsidering the strength of the accountability mechanisms that apply to AEMO, consistent with the level of scrutiny that is applied to system and market operators in other jurisdictions.”

We expect that the establishment of the FCC was designed, at least in part, to address these concerns. We are yet to see strong evidence that it makes a major contribution to supporting accountability or, indeed ‘improved transparency and rigor’ which is the objective set out in the Terms of Reference. This seems to have been confirmed by the BCG review commissioned by AEMO. While that concluded, according to [the slide deck for the FCC meeting on 29th April](#), that (Slide 7):

“AEMO total operating expenses at low end of peer range.”

the recommendations suggest a lot more needs to be done to (Slide 5):

- Re-align operating model for greater clarity and accountability
- Transform the way AEMO governs, funds, and executes reform delivery
- Build the basics in corporate support functions to improve effectiveness and modernise digital ‘run-the-business’ activities to redeploy cost
- Invest in models/tools and rewire processes to manage increased complexity in core activities.

Unfortunately, the original BCG report does not seem to be available on the FCC website so we can have a fully transparent and rigorous engagement on just how AEMO does benchmark against its peers.

The issue of how to ensure AEMO operates efficiently was a consideration in the [EUAA’s recent submission](#) to the AEMC on the ENA rule change on recovering AEMO participant fees. The EUAA did not support this rule change because it would mean costs that were previously incurred by TNSPs and hence subject to AER review to assess whether they were prudent and efficient, would simply be passed through to consumers. How can consumers have any confidence that these costs were efficient when AEMO manages to run over budget by over \$100m?

We proposed that these costs that are passed on to TNSPs should be subject to the same AER regulatory ‘prudent and efficient’ test that there were subject to when the functions were undertaken by TNSPs.

Our final comment on the apparent absence of AEMO considering consumer impacts of its budget can be seen in how it views this rule change. [Slide 30](#) in the last FCC slide pack is headed ‘Mitigating Fee Impacts’ and states that:

“**3** Networks: AEMO to support ENA rule change for recovery of TNSP fee component.”

So AEMO’s focus seems to be on how fees paid by TNSPs can be mitigated by TNSPs being able to pass those costs on to consumers. Does AEMO forget that there is an ECA representative on the FCC? Does AEMO forget about its obligation to further the NEO?

Incidentally that slide also says:

“**4** Large industrial users to be discussed separately.”

But there is no further reference to that in the slide pack.

Do not hesitate to be in contact should you have any questions.

Kind regards,

A handwritten signature in black ink, appearing to read 'A Richards', written in a cursive style.

Andrew Richards
Chief Executive Officer