

7 June 2018

Mr John Pierce AO
Chair
Australian Energy Market Commission
Level 6, 201 Elizabeth Street
SYDNEY NSW 2000

By email: john.pierce@aemc.gov.au

Dear Mr Pierce

Submission in response to draft Amendment (Generator three year notice of closure) Rule 2018

The ACTU is the peak body for Australian unions who represent working Australians and their families all over the country. We thank the Australian Energy Market Commission for the opportunity to make a submission in relation to the Amendment (Generator three year notice of closure) Rule 2018.

Clearly workers are directly impacted by the regulatory framework that surrounds their workplaces and in the case of the three-year closure rule for generators, the impact could not be more acute.

We are aware that several of our affiliates have also made representations in response to the proposed rule change. We support those submissions and the recommendations contained within.

The three-year notice of closure rule change stems from Recommendation 3.2 of the Independent Review into the Future Security of the National Electricity Market¹ (Finkel Review), which in turn lead to the Chair of the Energy Security Board proposing a rule change to the AEMC on 6 March 2018 to give effect to Recommendation 3.2 of the Finkel Review.

1. Three Year Closure Draft Rule

While we have a level of in principle support for providing a requirement for at least three years notice of the closure of any scheduled, or semi scheduled NEM generator, we have several items of concern with the rule change as proposed.

¹ <https://www.energy.gov.au/government-priorities/energy-markets/independent-review-future-security-national-electricity-market>

1.1 Practical Application

We are concerned that in reality, the practical application of the three-year rule may not result in the desired result as contemplated by the rule change.

In our view it is possible that under the current draft a generator may be able to change a closure date, including multiple times. A generator could nominate closure date of three years, with the full expectation that it will operate beyond three years, but would technically meet the threshold of having notified as per the rules.

For example, a generator notifies an intended closure date of 3 years from today. Subsequent to this notification, at the end of year 2, the generator notifies new closure date of 1 year later (4 years from original notification). Arguably this would be compliant with the proposed rule change as the notification is greater than 3 years.

We submit that this needs to be clarified under the proposed rule change.

1.2 Exceptions

The rule change consultation paper states, *inter alia*:

“The expected closure date for Scheduled or Semi-Scheduled Generators is to be no earlier than three years from the date the notice is provided in writing to AEMO. The closure date can only be earlier because of an event beyond the reasonable control of the Generator, and where the occurrence of the event could not reasonably have been foreseen by the relevant Generator.”²

We would like to see a definition of ‘could not reasonably be foreseen’ included. For example, if that were meant to apply to a generator ceasing to function and closing due to a catastrophic weather event, act of war or similar, that would be very different to unforeseen changes in the financial circumstances of the generator owner or owners, as has occurred with Northern and Hazelwood power stations.

We submit that this needs to be clarified.

1.3 Types of Closure

As listed in Attachment ‘A’³ there are several types of potential generator closure including mothballing, seasonal shutdowns and temporary shutdowns. How the three-year rule will apply to each of these types of closures, in addition to a permanent closure, needs to be clarified.

² Consultation Paper, p5.

³ Consultation Paper, p20.

This is particularly important with respect to the scenario of mothballing. As you would be aware, Swanbank E Power Station closed in 2014 and was re-commissioned for operation in late 2017, after three years being mothballed. How the three-year closure rule applies in these types of circumstances, both prior to any mothballing or temporary closure, and afterwards must be clearly understood.

2. Absence of Just Transition

An absolute priority for Australian Unions is ensuring a just transition for affected workers and communities.

Australia has a number of regions – the Latrobe Valley, Hunter Valley / Lake Macquarie, Lithgow, Rockhampton/Gladstone and Collie – where the workforces associated with power generation and heavy industry are a significant part of the local economy and where their loss will have large adverse impacts.

The Australian Council of Trade Unions and its affiliates have strongly argued that enabling the major power system restructuring that is required to meet climate as well as energy goals will have adverse impacts on particular workforces, communities and regions notwithstanding that the overall benefits may be positive. Unions have argued for Just Transition programs to manage these impacts.⁴

The sudden closure of two foreign owned private generators in, Alinta's operations in Port Augusta's Northern power station in 2016 and Engie's Hazelwood power station in 2017, illustrate the inadequacy of an unplanned transition in this sector. Both were sudden and came with disruptive impacts on workers and their community.

While the three-year closure rule is predicated on improving energy security, it has an unintended consequence of providing a minimum notice period for the workforce at any generators that may be scheduled to close in the future.

We suggest that the proposed three-year rule, and broader public disclosure of the expected closure dates of scheduled and semi-scheduled generating units – coal-fired power stations in particular – will also be useful in enabling mitigation of the substantial employment impacts that will occur in regions significantly dependent on coal-fired power stations and associated energy-intensive industry.

⁴ ACTU (2016), Sharing the challenges and opportunities of a clean energy economy: a Just Transition for coal-fired electricity sector workers and communities, Melbourne. <https://www.actu.org.au/our-work/policy-issues/actu-policy-discussion-paper-a-just-transition-for-coal-fired-electricity-sector-workers-and-ommunities>

We understand and acknowledge that the three year rule is being developed with the intention that it will work not in isolation, but with a raft of other measures and policy mechanisms, including the accepted recommendations of the Finkel Report, but the fact is that there are no measures towards ensuring a Just Transition for the energy sector in the rule change or the wider suite of proposed policies that are connected to it.

Australia requires a multi-decadal program to manage not just price, security and reliability of energy under an emissions constraint, but also to manage the adverse consequences of the transition on particular workforces and their communities.

It is a major shortcoming of the current institutional arrangements that these adverse consequences are not being managed. Not only is this unjust and inequitable, it also threatens the achievability of the current narrow NEO goals. Impacts which are not managed have a tendency to become obstacles, of which there is ample evidence from the last 10-15 years of acrimony over climate and energy policy in this country.

We cannot, and will not, accept the absence of Just Transition policies given they are such a critical part of the required energy policy framework to achieve a truly successful and equitable national energy framework.

We would urge the AMEC to, in concert with other energy regulators and relevant government agencies, engage in urgent actions to start to plan to address just transition within the energy sector, and note that Finkel Review Recommendation 2.12 relating to ensuring by mid-2019 a national assessment of the future workforce requirements for the electricity sector to ensure a properly skilled workforce is available, would in addition to the three year notice of closure rule, be a sensible place to start.

Should you or your office wish to discuss further, please do not hesitate to contact Mr Lance McCallum, National Campaign Coordinator, of my office via 03 9664 7315 or lmccallum@actu.org.au

Yours sincerely



Sally McManus
Secretary