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Submission to Generator Three-year Notice of Closure – Draft Determination (ERC0239)

AGL Energy (**AGL**) welcomes the opportunity to comment on the Australian Energy Market Commission's (**AEMC**) Generator Three-year Notice of Closure Draft Determination (**Draft Determination**).

AGL is one of Australia's leading integrated energy companies and the largest ASX listed owner, operator and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy and provides energy solutions to over 3.5 million customers in New South Wales, Victoria, Queensland, Western Australia and South Australia.

The Draft Determination

AGL supports the draft rule change in principle. Ensuring that the market is provided with accurate information on generation capacity and availability is a key element in making the correct investment decisions required during the present transitional period in the NEM.

Specifically, AGL supports:

- Applying the requirements to scheduled and semi-scheduled generators and therefore capturing generating units with a capacity above 30MW, or below 30MW if multiple generating units at a connection point have a combined capacity above 30MW. This captures generators whose closure may have an impact on reliability and using registration categories as the threshold provides administrative simplicity.
- The three-year notice of closure period. As noted in our previous submission, AGL provided 7 years' notice of closure for the Liddell Power Station and 5 years' notice of closure for the Loy Yang A Power Station. Providing the market with sufficient notice of the intended closure dates of large generators will help to minimise pricing and reliability impacts of these closures. We consider a three-year notice period to be sufficient for providing signals for the market to invest in new generation capacity.
- The inclusion of rule 2.10.1(c3) allowing for early closure where the generator is subject to an unforeseen event beyond the reasonable control of the generator. However, we do not consider that the proposed rules requiring notice of closure should be subject to a civil penalty. This is discussed below.



- Providing generators with six months from commencement of a new rule to provide AEMO with the expected closure years of generating units and closure dates of generating units to be closed within 3 years (**Transitional Arrangements**). AGL considers this to be sufficient time to comply with the new requirements.

AGL would like to make the following comments on specific aspects of the draft rule:

Amending the closure date

The Draft Determination reads that “Closure dates may be amended, and if amended, must still provide at least three years notice commencing from the date the first notice of closure is provided by the scheduled or semi-scheduled generator.”

AGL considers the draft rule could express this intention more clearly, and proposes the following amendment to draft clause 2.10.1(c2):

“The closure date or any amended closure date must, in respect of a Scheduled Generator or Semi-Scheduled Generator, be a date no earlier than the date that is three years from the date of the **first** notice given under paragraph (a)(2).”

This will clarify that a generator may amend its closure date without having to provide another full three years notice.

Civil penalties

Clarification is sought on whether draft clause 2.10.1(c2) is proposed to be a civil penalty. There appears to be an inconsistency between the draft determination (paragraph 4 of the executive summary and section 3.5.3), which does not recommend that it be a civil penalty, and the draft rule which does.

AGL does not consider draft clause 2.10.1(c2) should be a civil penalty. There are uncertain interactions between draft clause 2.10.1(c2) and the exception in draft clause 2.10.1(c3) (which allows a generator to provide less than three years notice of closure where there is an unforeseen event beyond its reasonable control). This assessment is problematic for generators as they cannot be certain that an incident will be found in their favour by the regulator. Making clause 2.10.1(c2) a civil penalty further increases risk and may deter certain types of investment.

For example, in our previous submission we mentioned the issue that some generators are based on more complex ownership structures. While the Draft Determination noted that decisions made by separate owners of a generator may fall within the exception, this cannot be certain. To flesh out an example that demonstrates the complexities, an operator of a generator may become aware or begin to reasonably suspect that a closure is possible. However it is unable to provide AEMO with a closure date until the owner of the generator makes the formal decision that closure is to proceed. If this occurs within the three-year notice period, it appears that the operator of the generator would be in breach of the rule and liable for the civil penalty.

Another situation in which the civil penalty may result in inefficient outcomes is where a generating unit is being “run to failure”. In this case the generating unit is maintained for safety, but no work is completed to extend its life (as this would be inefficient). Under the draft rule the generator would provide its best conservative expected closure date, but there is no way to ensure that the generating unit does not fail before this. The civil penalty may result in generating units closing much earlier than they might otherwise close to avoid the risk of not meeting the stated closure date.



Transitional Arrangements

As described in the Draft Determination, scheduled and semi-scheduled generators would have a period of six months from commencement of the new rule to notify AEMO of closure dates for generating units. Generators may provide a closure date within three years of the end of the six-month period without having to satisfy draft clause 2.10.1(c3).

On 6 June 2017 AGL announced a progressive schedule to mothball the aging Torrens A generating units, starting from 2019. This is linked with the commissioning of the 210MW Barker Inlet Power Station (BIPS) currently being developed adjacent to the existing generating units. As part of the Development Application for BIPS, AGL is required to progressively mothball the Torrens A generating units as follows:

- Two units mothballed upon commencement of Stage 1 BIPS operation.
- Third unit mothballed no later than 12 months from the commencement of Stage 1 BIPS operation.
- Final unit mothballed no later than 24 months from the commencement of Stage 1 BIPS operation.

Given these generating units will likely fall under the transitional arrangements in the rule change, AGL is seeking clarification that generators that are already transitioning to closure may amend the closure date, similar to generators that provide a full three years notice of closure under draft clause 2.10.1(c2).

AGL suggests that the final rule explicitly allow generators that provide less than three years notice of closure under the transitional rules to amend the closure date to a later date (but not an earlier date).

If you have any queries about this submission, please contact Jenessa Rabone on (02) 9921 2323 or JRabone@agl.com.au.

Yours sincerely,

Chris Streets

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