

21 April 2022

Antonia Flowers
Australian Energy Market Commission
Submitted online

Dear Ms Flowers,

Consultation Paper (ERC0340) – AER reporting on market outcomes

This letter constitutes AEMO’s submission to the AEMC consultation, “AEMC, AER Reporting on Market Outcomes, Consultation paper”, published on 24 March 2022.

The AER has submitted a proposed amendment to clause 3.13.7 of the National Electricity Rules (NER), altering its obligations to report on electricity prices. The AER considers these requirements overly prescriptive and no longer fit for purpose. This may be the case for clauses 3.13.7(a) and (b), but may not be so for clause 3.13.7(d). Whilst the AER may be correct in questioning the existing NER clause 3.13.7, these reasons do not immediately support the proposed amendments for clauses 3.13.7 and 3.13.7A.

Of the proposed amendments, proposed clause 3.13.7(a) and (b) seem to replicate, to some extent, the current requirements to report on high prices, especially current clause 3.13.7(d). The AER’s proposed clause 3.13.7(c) seems to replicate Part 3, Division 1A of the National Electricity Law (NEL). Unlike existing clause 3.13.7(d), there is no requirement to report on each price incident, instead the AER’s proposed clause 3.13.7(a) is to monitor and report on significant price outcomes each calendar quarter.

The AER’s proposal to remove current clause 3.13.7(d) may stop a Spot Trader “thinking twice” when making an offer or rebid over \$5,000/MWh. The current 3.13.7(d) provision makes the Spot Traders take NER compliance seriously in the knowledge the AER may scrutinise their offers. The prescription is not really directed to the AER, but Spot Traders. It is important for Spot Traders to know the AER will scrutinise behaviour. An updated status quo could be to replace the current 3.13.7(d) 30-minute prices over \$5,000/MWh, with an updated threshold of \$7,500/MWh over 30-minutes to reflect Maximum Price Cap escalations since 2010.

The need to report quarterly, as required by proposed clause 3.13.7(a) appears unnecessary. This is because the AER already reports weekly and quarterly. For example, the AER publishes the “Wholesale Markets Quarterly”. Further, these existing reports suggest proposed clause 3.13.7(c),(i)



is superfluous, because the AER is already able to report on “broader and ongoing market trends that may be contributing to high price events” without need for a formal NER obligation.

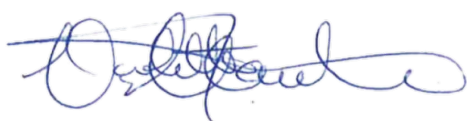
The inclusion of 3.13.7(c),(ii),(d) may be unnecessary, largely because assessments of competition and functioning of the market are already accounted for in 18C (2) (a) of the NEL. Aside from the NER requiring the AER to report on matters specified in the NEL, an obvious problem may be the immediacy of preparing a quarterly report. For example, if a report is produced shortly after the quarter, can a report produced this quickly allow due consideration of events and behaviours that may be detrimental to effective competition?

18C (3) of the NEL requires the formal, biennial report (Wholesale electricity market performance monitoring report (“WEMPR”)) to span 5 years and 18B defines effective competition and has reference to “long-term” basis when determining if prices are above underlying costs due to market power. Despite the proposed AER clause 3.13.7(c) being only a “may”, there is a risk “aggrieved” Participants expect, or the AER itself expects, assessments of effective competition must be made every quarter.

To summarise, AEMO considers only an updated clause 3.13.7(d) should remain in the NER, because this will require the AER to report factually on high prices, retaining the spotlight on Spot Traders. This should result in Spot Traders better complying with clauses such as NER 3.8.22 and 3.8.22A and encourage the AER to monitor compliance. If the AER wants to report on broader market trends, events and behaviours detrimental to effective competition and the efficient operation of the market, it seems to already be able to do this without a NER amendment. This could form part of the AER’s general duties, including reporting under Part 3, Division 1A of the NEL, with reports produced in proper context, rather than confused with routine reporting under the NER.

Any enquiries to this submission can be directed to Kevin Ly, Group Manager - Reform Development & Insights at kevin.ly@aemo.com.au.

Yours sincerely,



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