



20 July 2023

Australian Energy Market Commission

By online submission

Compensation and dispute resolution frameworks

Alinta Energy welcomes the opportunity to provide a submission on the consultation paper. We make the following comments in respect of this matter:

Consequential costs should be covered for losses incurred in relation to AEMO's markets

The east coast gas system (ECGS) threat response process introduced as part of the stage 1 reforms relies on good faith and participants being open and forthcoming with relevant information that could assist AEMO in managing a gas emergency. Limiting compensation to the direct costs associated with the loss of gas could threaten the financial viability of participants who are subject to a direction. This risks creating perverse incentives and will likely lead to the process being adversarial.

As an example, in a circumstance similar to that which occurred in winter 2022, where there is a need to intervene in the east coast gas market that coincides simultaneously with a high price event in the NEM, a GPG of 500MW that is defending \$300 cap contracts in the NEM and which is directed off by AEMO could be exposed to losses of up to \$7.6m per hour (calculated simply as the difference between the price of the cap and VoLL, multiplied by the number of MW). This cost is not compensated for and risks undermining the ECGS framework. An additional unintended consequence of failing to remedy this issue could be GPGs being unable or unwilling to offer customers cap contracts at times of high risk which would lead to a decrease in liquidity in the financial markets and substantially increased costs to consumers.

Finally, we note that there is no requirement for AEMO to consider the real, economic cost of a direction. We recommend that this be addressed in NGR 700(1).

Timeliness of payments

Timeliness of compensation payments is key to ensure that a direction does not lead to unnecessary financial distress for a party that is the subject of a direction. The current timeframe for payment of compensation for direction is 145 business days when considering the timeframes set out in both the NGR and AEMO's procedures - assuming the Adviser does not extend the period for the dispute resolution panel to make its decision. A market participant could foreseeably be caused to breach its prudential limits or otherwise become insolvent due to a direction and the delay inherent in this process. Alinta Energy recommends that the AEMC consider the following:

1. The implementation of a default compensation rate that can be recovered and paid without the need for a dispute resolution panel. For example, AEMO could determine a 90th percentile equivalent benchmark price for gas that is the subject of a direction and make payment based on that amount within a much shorter timeframe and without the need for a claimant to file a claim. Conceivably, this could occur within the normal settlement timeframes of AEMO's related gas markets. A claimant could then follow the existing process in order to recover any additional costs in excess of the default amount.
2. If (1) is not implemented in some form, a streamlined process that avoids the need for a dispute resolution panel should apply for any compensation claim less than a certain threshold. AEMO could negotiate directly with a claimant on an accelerated timeframe. Under the current process, claims under around \$50k are not economically recoverable due to the expense involved in preparing and prosecuting a claim under the dispute resolution process.

Funding of dispute resolution process

The rationale of having costs be borne equally by parties to a dispute resolution process is to encourage parties to resolve matters efficiently between themselves, ideally prior to the dispute resolution process itself. Under the current framework, claimants have no choice but to go through the dispute resolution process in order to make a claim for compensation. Accordingly, Alinta Energy prefers the arrangement currently in place in the DWGM, where the entire cost is borne by AEMO. We note that our answer may be different in the event that some form of default payment or streamlined process was implemented as described above.

Cost allocation for compensation

Alinta Energy notes that the following may be better addressed directly by AEMO rather than via a rule change, however it is relevant to the broader discussion at hand:

Under clauses 4.4(c)-(d) of AEMO's ECGS Procedures, the claimant is not required to fund the cost of compensation as a liable relevant entity. This should be remedied, as it has the potential to severely distort the allocation of costs in a jurisdiction should a large retailer or large user fall within the broad definition of claimant. Claimants should be paid compensation net of their own proportional contribution towards the total costs of said compensation based on gas usage.

Limits on compensation

Alinta Energy does not support caps on compensation to parties who are the subject of a direction. It is preferable that losses arising due to a threat to gas supply adequacy, regardless of quantum, are spread in accordance with an appropriate cost allocation methodology rather than defaulting to a single party that has the misfortune of being the subject of a direction and who has no ability to manage such a risk.

To the extent that the AEMC is concerned about the total costs associated with a direction, we note that this may be better addressed by the ongoing DCCEEW consultation for ECGS stage 2, which is considering incorporating cost controls and additional guidance for AEMO's new powers, such as a gas reliability standard and a requirement to consider values of customer reliability.

Thankyou for your consideration of Alinta Energy's submission. If you would like to discuss this further, please contact me at hugh.ridgway@alintaenergy.com.au.

Yours sincerely,

Hugh Ridgway
Wholesale Regulation Manager