2 November 2023

Craig Oakeshott
Australian Energy Market Commission
Level 15, 60 Castlereagh St
Sydney NSW 2000

Dear Mr Oakeshott

RE: Review of the RRO

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Review of the Retailer Reliability Obligation (RRO) Draft Report.

About Shell Energy in Australia

Shell Energy is Shell's renewables and energy solutions business in Australia, helping its customers to decarbonise and reduce their environmental footprint.

Shell Energy delivers business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers, while our residential energy retailing business Powershop, acquired in 2022, serves households and small business customers in Australia.

As the second largest electricity provider to commercial and industrial businesses in Australia[1], Shell Energy offers integrated solutions and market-leading[2] customer satisfaction, built on industry expertise and personalised relationships. The company's generation assets include 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and the 120 megawatt Gangarri solar energy development in Queensland.

Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy, while Powershop Australia Pty Ltd trades as Powershop. Further information about Shell Energy and our operations can be found on our website here.

General comments

Shell Energy considers the AEMC's draft report contains some positive changes to the RRO, which may help to improve outcomes to consumers if implemented. We recognise that many of the changes will require either the Australian Energy Regulator (AER) or Australian Energy Market Operator (AEMO) to implement them through reviews and changes to guidelines. Further, we understand that where changes to the National Electricity Law (NEL) are required, state energy ministers would have to agree to implement the changes. Changes to the National Electricity Rules (NER) would also be required through the conventional rule change process. We

[1] By load, based on Shell Energy analysis of publicly available data.
[2] Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2021.

encourage all parties to work together to ensure that the AEMC's recommendations can be implemented to deliver benefits to customers in the form of increased retail competition and lower costs.

Recommendation 1

Shell Energy strongly supports the AEMC's proposal to move the net contract position reporting date to the start of the gap period rather than one year in advance. We recognise that the intention of the RRO was to drive retailers to contract in advance to ensure that sufficient supply was available. In practice, with the experience of preparing net contract position reports for South Australia's T-1 period in January-March 2024, having the contract position day one year in advance of the gap period created several poor outcomes for consumers.

Firstly, Shell Energy observed increases in contract markets prices in the lead up to the contract position day followed by a sudden decline after the contract position day had passed. This was because retailers cannot use contracts acquired after the contract position day for RRO compliance purposes, except in limited circumstances when approved by the AER.

Secondly, retailers may be less likely to make offers to consumers following the contract position day at T-1 because they may incur penalties under the RRO if they are insufficiently contracted. While the RRO drives retailers to contract well in advance of ordinary behaviour, consumers' contracting behaviour is not driven by the RRO. It is fundamentally an issue of price and preference. Although retailers may request to re-open their net contract position if certain consumption thresholds are met, this requires a retailer to take the risk that the AER will approve their request after signing up additional customers. Yet, if the AER does not approve the request, the retailer may be at risk of penalties if RRO compliance is tested.

The AEMC's propose approach deals with these risks effectively, while maintaining the incentives on retailers to contract during a declared gap period. The proposed change allows retailers to continue to contract for load progressively in the most cost-efficient manner, as they tend to do now, without the risks involved in either signing up more customers than can be supported by efficient contracting, and ideally avoiding a significant uplift in contract prices in advance of the contract position day. Implementing this recommendation is also likely to increase retail competition in the 12 months immediately prior to the gap period compared to current arrangements.

Recommendation 2

In principle, Shell Energy understands the purpose of the AEMC's recommendation to extend the timeframes for AEMO to call for a T-3 gap period to cover additional months without having to undertake analysis and publication of an updated reliability forecast. In considering the AEMC's observations, we have identified that there is a degree of complexity in the National Electricity Rules (NER) and National Electricity Law (NEL) that govern the timing of the RRO.

The AEMC's explanation does not appear to clarify the issues sufficiently. We presume that the AEMC's intention is to change clause 4A.C.3 (b)(3) of the NER, but this is not explicitly stated. Again, we assume that the revised clause 4A.C.3 (b)(3) would read:

> *"only make the request if the reliability forecast (including an update of it under clause 3.13.3A(b)) published in the ~~6~~ 12 months immediately preceding the T-3 cut-off day identifies that forecast reliability gap;"*

However, Clause 4A.A.2 aligns a reliability forecast, the determination of any exceedance of the defined reliability threshold[3] and declaration of a reliability gap with a 1 July to 30 June financial year. Extending the

[3] Reliability Standard or Interim Reliability Measure

period in clause 4A.C.3(b)(3) to 12 months could therefore result in a reliability gap being extended a different financial year of the reliability assessment and thus potentially include a fourth year of the reliability assessment even where there is no exceedance of the defined reliability threshold in that year. Given the requirements of clause 4A.A.2 and 4A.B.1, and the nominated publication date of the annual reliability forecast, from a Rules consistency perspective, it may be possible to only extend 4A.C.3(b)(3) to ten months.

Shell Energy considers that improved clarity is required in this area and the AEMC should publish the proposed rules as soon as is feasible – ideally prior to the release of the Final Report – to better allow stakeholders to consider the potential impacts.

Recommendations 3 and 4

The AEMC recommends giving AEMO limited powers to request the AER cancel a T-1 instrument following an Electricity Statement of Opportunities (ESOO) reliability forecast or update to a reliability forecast between T-1 and T which shows a reliability gap has closed. In theory, we support this move, however, without clear drafting of the NER clauses that allow for this to occur, it is difficult to give firm support.

Shell Energy is interested to understand whether AEMO would be required to request the AER cancel a T-1 instrument if the reliability gap has closed, or whether it would have discretion to. For instance, if there was a T-1 instrument in place in South Australia for January to March 2026, if the 2025 ESOO showed that the gap had closed, would AEMO be compelled to request its cancellation, or would the Rules allow AEMO discretion to choose whether to do so? In our view, AEMO may feel justified in not asking for a T-1 instrument's removal because the presence of one gives the impression that AEMO are managing reliability risks. However, the impact to consumers of such an outcome would likely be through higher costs, but in both cases, it is difficult to prove what impact the RRO T-1 reliability instrument declaration has. In practical terms, a T-1 reliability instrument would make little if any difference to whether load-shedding or reliability and emergency reserve trader (RERT) dispatch was required during a gap period. However, it may increase the value of both the level of RERT procured as well as its costs, particularly in the event long-notice or multi-year RERT contracts are procured with fixed availability costs. Similarly, it is difficult to assess what the impact on consumer costs might be if there were no T-1 reliability instrument in the first place.

In Recommendation 4, the AEMC proposes no changes to the AER's role in assessing reliability instrument gap requests. The AER has a narrow scope with which to consider a request for a reliability instrument. In practice, the AER may only consider if:

- there are material errors in calculations or forecast data;
- there are inaccurate forecast data which have a material impact on unserved energy outcomes, and
- that AEMO has used reasonable endeavours to prepare the reliability forecast in accordance with the Forecasting Best Practice Guidelines.

In our view, these are relatively high hurdles to overturn a reliability instrument request. We have previously argued that the AER should be able to consider other issues. In particular, we suggested that the AER should be able to request that AEMO consider changed inputs in their modelling.

We note that the AER conducts a transparency review of the inputs, assumptions and scenarios report (IASR), which feed into the reliability forecasts. Should the AER recommend further explanations from AEMO, there is no impact on the inputs used in the reliability forecasting modelling. AEMO is merely required to provide further explanations and to consult on these issues in the following IASR. In our view this is insufficient for the RRO. We consider that should the AER identify concerns with the modelling inputs following feedback from its own transparency review of the IASR or issues raised by stakeholders in submissions to a reliability instrument request the AER should be able to request AEMO repeat the modelling with the changed inputs for the financial year

relevant to either the T-1 or T-3 the gap period. We consider this would provide a stronger degree of oversight, without placing significant extra burden on the AER or AEMO.

Recommendation 5

Shell Energy agrees with the AEMC's rationale for recommending that the Market Liquidity Obligation (MLO) be amended from a 15 per cent threshold for MLO groups to 10 per cent threshold to ensure that the MLO continues to support market liquidity.

The MLO is an important design element of the RRO to address the challenge that while retailers must contract, generators may contract. The MLO place no requirement on generators to sell or buy contracts, only to make bids and offers available in the market for a required number of days and volume of MW. We recognise there is a compliance burden on those generators covered by the MLO and that this may extend to other generators.

On balance though, the MLO will remain an important tool as the energy market transitions away from large thermal generators to a system more dominated by wind and solar energy.

Recommendations 7-10

Shell Energy supports the AEMC's recommendations to expand the potential for demand side response to contribute to liable entities' net contract position. We recognise the AEMC has recommended the AER and AEMO conduct their own reviews on this. While we would prefer a stronger commitment to change, we understand the limitations on what the AEMC can recommend.

In particular, we support an AEMO review into the timeframes for the AEMO demand portal to be open as only contracts entered into the portal can be included in a participant's NCP report. With the portal only being opened for one month per year, this reduces the scope for participants to enter into demand response arrangements with customers over time and include this in the NCP. We understand AEMO is currently consulting on a change in this area.[4]

Should the contract reporting day shift to T rather than T-1 as the AEMC recommends, having the ability to enter into demand response contracts with customers up until T could form an important part of a liable entity's net contract position. Without the ability to enter contracts into the Demand Side Participation Information Portal over the course of a year, liable entities would have less scope to include these contracts in the NCP, meaning other contracting approaches would be necessary, potentially increasing costs to consumers.

Similarly, we agree the AER should review expanding eligible demand-side management contract types. This would have a similar effect to the above if implemented, increase the pool of eligible contracts and potentially reducing costs.

Shell Energy also supports the AEMC's recommendation that the AER review the contracts and firmness guidelines to expand eligibility of qualifying contracts with a firmness of 1 to include caps above 5% of the Market Price Cap. We have previously argued that with changing fuel costs, new products are emerging in markets like FEX with strike prices beyond the typical $300/MWh mark. We also consider that as part of this review, the AER should also consider applying a firmness rating of 1 to demand-based option contracts which 'knock-in' when demand meets a threshold below the one-in-two year peak demand forecast.

[4] AEMO | Demand Side Participation (DSP) Forecasting Methodology and DSP Information Guidelines Consultation

Recommendation 14

Finally, Shell Energy supports the AEMC's recommendation to simplify compliance arrangements through an AER review of the compliance guidelines. Any reduction in the reporting burden involved in preparing and submitting an NCP report would be welcome. One specific area of improvement we recommend is that there should be a default firmness methodology available for wind and solar projects in each state, without having to require an auditor's sign off. The Interim Contracts and Firmness guidelines already provides a default value of sorts, stating that three years of historical data for the power generator during the gap period times and dates is sufficient, however, a more explicit default value would remove uncertainty in this area. We consider that where liable entities wish to use this approach, it should be accepted without the need for auditor sign off. Where three years of data is unavailable, or historical performance may not be appropriate, for example due to a previous outage, then we recognise an alternative approach with auditor sign off may be necessary.

Conclusion

Shell Energy is keen to continue engaging with the AEMC, AER and AEMO to ensure the RRO can be improved to reduce the cost impacts on consumers who ultimately pay for this scheme. Shifting the T-1 contract position day to the start of the gap period, increasing the scope of eligible contracts and simplifying compliance arrangements can all help to ensure that consumers are ultimately better off.

We encourage all parties who will have a role in implementing the AEMC's recommendations, including the AER, AEMO and state and territory energy ministers to work together to ensure that any final recommendations are implemented efficiently and without undue delay.

For more detail on this submission please contact Ben Pryor, Regulatory Affairs Policy Adviser (0437 305 547 or ben.pryor@shellenergy.com.au)

Yours sincerely

[signed]

Libby Hawker
General Manager, Regulatory Affairs and Compliance