11 April 2024

Lisa Shrimpton
Australian Energy Market Commission
Level 15, 60 Castlereagh St
Sydney NSW 2000

Dear Ms Shrimpton

RE: Flexible Trading Arrangements

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft determination on the unlocking consumer energy resources (CER) benefits through flexible trading rule change.

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 remains unconvinced of the need for Flexible Trading Arrangements (FTA) in the National Electricity Market (NEM). We are concerned that the costs, which to date in our view have been insufficiently defined, will outweigh the benefits; while entering into flexible trading arrangements is a choice for customers, the market operator (AEMO) and retailers will be required to change systems to cater to the possibility one of their customers may choose to participant. As such, the benefits are highly uncertain, but significant costs will be imposed. Further, we consider that the proposed design imposes additional risks on primary FRMPs who are

[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.

responsible for levying all network tariffs to the customer, and that the secondary FRMP will have the ability to transfer spot market risks to the primary FRMP at will.

We recognise the AEMC's efforts in consulting with industry and attempting to design a mechanism that utilises the existing embedded network structures. With all of this in mind, Shell Energy makes the following recommendations to reduce risks to FRMPs as a whole, while still allowing for large customers to engage in FTA:

- Prohibit retrospective activation and deactivation of secondary NMIs
- Prohibit secondary FRMPs from deactivating and then re-activating a secondary NMI to manage spot price risk,
- Prohibit secondary FRMPs from deactivating a NMI during a Retailer Reliability Obligation T-1 gap period
- Defer the implementation by at least three months to avoid potentially coinciding with a T-1 gap period.
- Ensuring that meters used for FCAS purposes can also qualify as Type 8 or 9 meters.

We outline the reasoning behind these recommendations in the submission that follows.

For more detail on this submission please contact Ben Pryor, Regulatory Affairs Policy Adviser (ben.pryor@shellenergy.com.au [redacted]).

Yours sincerely

[signed]

Libby Hawker
GM Regulatory Affairs & Compliance

Proposed amendments

In the draft determination, the AEMC asserts that "the choice to switch and any risks posed by customer switching could be managed by contractual arrangements between the customer and FRMPs".[3] Shell Energy disagrees that contractual arrangements are a suitable safeguard against the risks that switching could impose. While contractual arrangements may provide some protection for actions taken by a customer to switch their resources between a primary or secondary FRMP, it relies on legal action to remediate any damages in the event of a breach. Further contractual arrangements between the primary FRMP and the customer may not be able to address the actions of the secondary FRMP as there would be no contractual arrangement between the two parties. As such, Shell Energy does not consider that deferring any risks of poor behaviour to contractual arrangements is suitable given the potential risks that can arise.

For example, a secondary FRMPs could force the primary FRMP into non-compliance with the Retailer Reliability Obligation through deactivating a NMI partway through a gap period, giving the primary FRMP no opportunity to adjust its net contract position. This could result in civil penalties ($1 million for a first breach, and up to $50 million for subsequent breaches) or procurer of last resort costs.

Shell Energy has therefore identified several areas we consider would largely (but not entirely) mitigate against the kinds of risk that come from allowing a secondary FRMP to activate and deactivate a meter at will.

Prohibiting retrospective activation and deactivation

Currently for embedded networks –the model being leveraged to enable FTA – the embedded network manager can raise a change request 5060 or 5061 to change the child NMI status to active or inactive. This can be done for dates up to 140 days in the past. The FRMP of the parent NMI has no opportunity to object. The change is effective overnight and related parties are notified via B2B. Were such arrangements allowed to continue under this rule change, the secondary FRMP could simply retrospectively deactivate the flexible trading arrangement on any day of high spot prices and pass spot price volatility risk onto the primary FRMP.

In our view, to reduce the risks of customers switching assets between primary and secondary FRMPs, Shell Energy urges the AEMC to explicitly state within the final rule that the primary FRMP must have the opportunity to object to the deactivation of a secondary NMI and that retrospective changes are not permitted. These minor changes would maintain the overall structure of the rule – customers could still engage multiple FRMPs at a site to better utilise flexible resources – while providing significant protections to address the kinds of risks that retailers have raised with the AEMC over the course of consultation.

We note that this is an issue that AEMO raised in its submission on the Directions Paper,[4] and that AEMO intends to address this issue through procedure changes. We also recognise that in the draft determination, the AEMC supports AEMO's comments on retrospective NMI activation and deactivation in the draft determination and suggests AEMO's procedures could prohibit retrospective NMI activation and deactivation under flexible trading. Yet, Shell Energy considers that a stronger signal is needed through including in the NER a prohibition on the retrospective NMI activation or deactivation for the purposes of Flexible Trading Arrangements.

Restricting FRMPs from reactivating a NMI after deactivation

On a similar note, we consider that a secondary NMI should not be able to be deactivated and reactivated by the same FRMP within 90 days. We propose this amendment due to the risk of secondary FRMPs choosing not to take on the risk of high spot prices due to forecasts of high prices. For example, a secondary FRMP may

[3] AEMC, Unlocking CER benefits through flexible trading – draft determination, p 19.

[4] AEMO, Submission to Unlocking CER Benefits Through Flexible Trading Directions Paper, pp 4-7

observe spot price or demand forecasts and decide not to continue to serve the customer's flexible load until spot prices or demand moderate. Shell Energy considers that the events of June and July 2022 provide an example of the kinds of events that may lead to a secondary FRMP choosing to deactivate a meter.

We consider that such a restriction would not impact competition, as a customer could still choose to engage another FRMP for its flexible resources. It would still allow FRMPs to deactivate a NMI if the contract has ended or it is choosing to step away from providing FTA. What it would do is to prevent a FRMP from passing on the risks of a period of high spot prices to the primary FRMP.

We see that this provision has parallels with the restrictions around Reliability and Emergency Reserve Trader (RERT) providers needing to be 'out of the market' for 12 months before participating in RERT (NER Clause 3.20.3(g) and (h)). The out of market RERT provisions are designed to preserve a signal to operate in market. In our view, it is reasonable to ensure a FRMP cannot simply deactivate a NMI due to high price forecasts for a short period. If it intends to take on a customer's load for a period, it should not be able to transfer price risks to the primary retailer at will.

Prohibiting deactivation during a T-1 gap period

As a subset of the above proposal, Shell Energy considers that a secondary FRMP should not be able to deactivate a NMI during an RRO gap period except if their contract with a customer has come to an end, or the secondary FRMP has been de-registered by AEMO. This would prevent a situation whereby a secondary FRMP seeks to absolve itself of any need to comply with the RRO for that customer, and instead transfer that risk to the primary FRMP. Indeed, if the purpose of flexible trading is to leverage 'controllable' resources, then a secondary FRMP should be in the best position to manage that resources to limit its exposure to the RRO.

While the 90-day restriction set out above may achieve the same goals, it does not address situations where a T-1 gap period could last longer than 90 days, or where a secondary FRMP wholly intends to not supply a secondary NMI during a gap period.

Alternative approach

Shell Energy has also considered an alternative or supplementary approach, where AEMO could facilitate the development of a deemed arrangement for multiple FRMPs at a single connection point, similar to the deemed use of system agreements between network service providers and retailers in some jurisdictions. A deemed agreement for FTA need not be comprehensive, but rather, could cover minimum deemed terms that cover critical areas of risk for the parties' settings such as the treatment of network tariffs and the timing of NMI activation and deactivation. The commercial interests of different FRMPs are unlikely to align, so a deemed arrangement would provide certainty for all participants. In turn, this may encourage activity in the FTA space and remove barriers to implementation for customers.

However, we note that developing deemed arrangement principles could be a relatively protracted process, and as such may not be ready for the implementation of the rule change. That said, taking the time to develop a deemed arrangement may avoid a lot of future issues and costs compared to participants developing separate approaches.

Implementation timeframes

The AEMC proposes a 2 February 2026 start date for these reforms. Shell Energy considers that there is already a significant volume of reform underway on the NEM and this rule change will add more system changes to those already underway. This rule change, despite the AEMC's belief that it largely leverages existing embedded network system, will require a number of significant systems changes for retailers, AEMO, distribution network service providers and metering coordinators.

In addition, Shell Energy observes that there are currently T-3 triggers for South Australia and New South Wales for Q1 2026, which means this reform could be implemented in the middle of a T-1 gap period. To minimise the risks of a retailer's demand levels changing unpredictably during a gap period, we recommend that the AEMC delay the implementation until after the notional end of the gap periods in these two states.

Subject to AEMO's resourcing, we consider that a delay to implementation until at least the November 2026 standard market systems release update would be prudent. This would provide more time for retailers, DNSPs and metering coordinators to update systems, and avoid potential unintended consequences involved in complying with the RRO.

Metering changes

We are concerned that the draft determination has currently underestimated the impact on metering and metering coordinators from the proposed rule change. In particular, where metering may be embedded in a device not under the control of a metering coordinator or metering is provided directly by an end use customer. We question how in these cases the metering coordinator could be responsible for the metering accuracy and metering data provision. Improved clarity in this area is required in the final determination.

Shell Energy has also identified that there could be ways to further streamline metering arrangements, particularly for existing FCAS compliant metering. Some participants in the market are currently using meters designed for participating in FCAS markets. As a general principle, we consider that allowing FCAS compliant metering to be used for flexible trading purposes, as either a Type 8 or 9 meter, would reduce costs and avoid the costs of further meter replacements.

We recommend that the AEMC include this principle in the final determination to provide guidance to AEMO and others who will be involved in classifying meters as Type 8 or 9 compliant.

Cost benefit analysis

The draft determination has in Shell Energy's view raised a number of cost-based issues with regards to systems and metering changes that to date in our view have not been reasonably revealed in the costs benefit analysis for this rule change. We expect that details regarding significant additional costs may be revealed in submissions to the draft determination. We urge the AEMC to consider a detailed feedback loop assessment as part of provision of the final determination to ensure the benefits of this proposed change outweigh its costs. In requesting this feedback loop, we note the significant costs increase above that originally estimated by AEMO and the AEMC's consultants for the implementation of the 5 minute settlement rule change. Historically in Shell Energy's view there appears to have been significant underestimation of the costs of a number of rule change proposals.

We would also urge the AEMC to consider a web-based survey process invitation to large and medium enterprise customers with a view to establishing the potential take-up of flexible trading relationships to more accurately assess benefits as to date there appears to be little if any interest from many customers to actively participate.

Power of Choice – Victorian region

Power of Choice is not currently applicable in the Victorian region of the NEM. Given the alignment of Power of Choice and FTA, we seek additional clarity in the final determination as to how the FTA would be applied in the Victorian region.