21 November 2024

11 Newton Street
Cremorne
VIC 3121

Ms Anna Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

Reference: ERC0403

National Electricity Amendment (Allowing AEMO to accept cash as credit support) Rule 2024 – Consultation Paper

Dear Ms Collyer and colleagues

Energy Locals Pty Ltd (ACN 606 408 879) (**Energy Locals**) welcomes the opportunity to provide a submission to the Australian Energy Market Commission (**AEMC**) in relation to the rule change request from Delta Electricity that seeks to allow the Australian Energy Market Operator (**AEMO**) to accept cash as credit support and the AEMC Consultation Paper (**Consultation Paper**).

Energy Locals is an authorised electricity and gas retailer that supports customers directly as well as via partnerships with newcomers to the energy retail sector, such as RACV, Indigo Power, IO Energy, Tesla, and others.

Energy Locals is supportive of this rule change. We share Delta Electricity's concerns that it can be difficult to obtain credit support from financial institutions and the process to obtain a new cash-backed bank guarantee is lengthy and administratively tortuous. For these reasons, we fully support AEMC's approach of expediting the process for this rule change.

In our submission, we have responded to the consultation questions listed in the Consultation Paper. Where we have not listed a question, we do not have a position or comment

Question 1: Do the current available options for credit support create problems in the NEM?

Yes, we consider that current options for credit support do create challenges in the National Energy Market (**NEM**).

When a participant is required to increase the security provided to AEMO, it currently needs to navigate a slow and paperwork intensive process with its selected bank. Despite having the cash available to meet AEMO's demand, AEMO will currently not accept this and instead requires retailers to spend around four weeks sending paperwork back and forth to their bank.

Even cash backed guarantees also attract unreasonable fees from banks despite the bank taking no credit risk. This cost is not factored into the Default Market Offer or Victorian Default Offer.

This process is also a distraction from the core business, which is the part that customers see and care about.

- *Could the current options for credit support create risks to the supply of electricity? Are these short-term risks or longer-term risks to the broader NEM?*

Any administrative delay risks the entity being classed as non-compliant by AEMO, despite having the cash available to hand over. This could lead to disruptions across the market if a participant is suspended by AEMO for not having the appropriate form of credit, despite being willing and able to provide the equivalent cash to AEMO. This, in turn, could affect competition, pricing, and consumer choice, potentially leading to higher prices for end users.

In terms of future difficulties in obtaining bank guarantees or letters of credit, we consider the risks are heightened by market volatility. There is a risk that financial institutions may further tighten their credit support or bank guarantee processes in response to such volatility, which could add further delays to the process. This could have a significant impact on competition. If market participants are unable to secure credit support, it could lead to market exits or insolvencies, which might disrupt supply and increase market concentration.

Over the long term, a lack of accessible and flexible credit support could discourage new entrants and reduce competition.

Question 2: What are the potential benefits of allowing cash to be provided as credit support?

Energy Locals considers there to be a number of benefits of allowing cash to be provided as credit support.

Smaller retailers in particular will benefit from improved liquidity. Cash or cash-equivalent collateral is often easier to manage and access compared to bank guarantees.

We also consider the financial burden on retailers to be lower. Bank guarantees typically require significant upfront capital to be put into a term deposit, which is then tied up for a defined period. This means funds can often remain inaccessible even after AEMO reduces its credit requirement, which often changes seasonally or as market volatility increases or decreases.

The flexibility of being able to provide cash would significantly simplify and speed up the process of securing our market obligations, reducing delays and market risk. This flexibility would be particularly beneficial for smaller retailers with limited access to traditional forms of credit.

Finally, bank guarantees carry expensive fees which are often an unbudgeted operating cost burden to retailers despite the guarantees being cash backed.

Question 3: What are the potential costs of allowing cash to be provided as credit support?

If cash is allowed, rather than required, to be provided as credit support then we see no additional cost. This means that if a participant has access to another form of credit support that’s acceptable to AEMO – such as a parent guarantee – it will be able to continue to use them. If an entity is currently required to provide a cash backed bank guarantee instead of cash, it will reduce direct bank costs as well as internal overheads (noting that these costs are not contemplated in the DMO).

Question 4: Are there any provisions that could enable AEMO to sufficiently manage insolvency risks when accepting cash as credit support?

We believe that participants that need to provide cash-backed guarantees will present a lower insolvency risk to AEMO by providing cash directly, due to the restrictive nature of accessing guarantees even after the time that AEMO requires them.

- *If cash is accepted as a form of credit support, do insolvency risks to AEMO and the market need to be managed? If so, could risks be satisfactorily managed by socialising costs from cash clawbacks among market participants, instead of AEMO bearing the costs?*

We believe that AEMO should bear the costs, and that insolvency risk could be better managed upstream through the use of stringent financial and risk management checks at the point of a participant applying for market access. We understand that the Australian Energy Regulator has tightened this review process since the issues in 2022. Furthermore, we consider that socialising the costs may disproportionately burden smaller participants, who may be less financially resilient. Larger, more stable participants might be less affected, leading to market distortion and a less competitive environment.

Given these challenges, our view is that socialising costs from cash clawbacks would not be a suitable way of managing insolvency risk.

Question 5: Would transitional rules be needed?

Energy Locals agrees with Delta Electricity's suggestion that the proposed change is "simple, non-controversial, and relatively urgent for the continued safe, secure and reliable operation of the power system"[1].

We believe that this change is simple and one that could be implemented in full without the complexity of transitional arrangements.

Summary of Energy Locals' position

In summary, we are supportive of the proposal to allow AEMO to accept cash as credit support. We consider this to be a sensible change which will reduce the administrative burden and market risk for smaller market participants.

We support this rule change being expedited.

Energy Locals thanks the AEMC for the opportunity to provide our feedback in this consultation.

We are very happy to discuss any aspect of our submission at any time.

Yours faithfully,

Adrian Merrick
Chief Executive Officer
Energy Locals Pty Ltd

[1] Rule Change Proposal – Allowing AEMO to accept cash as credit support, Delta dated 1 October 2024.