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18 November 2024

Ms Anne Collyer
Chair
Australian Energy Markets Commission
Level 15, 60 Castlereagh Street
SYDNEY NSW 2000

Submitted electronically via the AEMC website

Dear Ms Collyer,

RE: Consultation paper: National Electricity Amendment (Allowing AEMO to accept cash as credit support) Rule 2024 — ERC0403

GloBird Energy (**GloBird**) welcomes the opportunity to provide feedback on the AEMC's National Electricity Amendment (Allowing AEMO to accept cash as credit support) consultation paper (**consultation paper**).

GloBird commenced operations in 2015 and has steadily grown, currently retailing energy to over 200,000 residential and small business customers across Victoria, New South Wales, Queensland and South Australia. Our excellent value energy offerings, innovative products and a high-quality customer service are key drivers of our success in this highly competitive energy market.

GloBird strongly supports the rule change proposed by Delta Electricity to allow AEMO to accept cash as credit support in addition to the current method of a bank guarantee.

Benefits of allowing cash to be used for credit support

The cost of providing cash as credit support may be cheaper than bank guarantees if they are treated as a long term lodgement and interest is paid on the amount held by AEMO. We note that interest is not paid for short term cash deposits and prepayments but is normally paid for security deposits.

GloBird considers that this change will benefit energy consumers by:

- lowering the cost of market participation by providing alternatives to high priced bank guarantees and
- reducing administrative effort in the negotiation and management of bank guarantees.

If interest is payable, GloBird estimates that, if all prudential requirements can be met by cash, it will save approximately $1.00 per year for each residential customer.

The change would remove a systematic risk in the current market design, reduce AEMO's risk on participant default, benefit all participants and potentially:

- increase participation in the retail market with a commensurate increase in competition; and
- create opportunities for more creative retailing, expanding the options for customers.

Difficulty and risks with the requirement to provide bank guarantees

As noted in our rule change to shorten the settlement cycle, retailers are required to provide bank guarantees to the level required by AEMO to participate in the market and, when additional support is called for, retailers must be able to provide cash or credit support within 24 hours.

While retailers are required to provide bank guarantees to support their operations in the NEM, the bank guarantees can only be issued by the large financial institutions, such as the major banks. However, there is no obligation on the financial institutions to provide such service to any of the existing market participants, regardless of their credit rating and financial strength. This mismatch in obligations between the NEM market participants and the financial institutions, creates a major systematic risk to the NEM and all market participants. The risk is similar to what happened in 2022 when no financial institution would provide ASX

Energy clearing services to any small to medium sized market participants, and no financial institution would provide ASX Energy clearing services to any new customers, regardless of size, credit rating and financial strength.

Currently, GloBird is able to source guarantees from multiple financial institutions however:

- there is a degree of administration in obtaining a bank guarantee, typically involving multiple divisions within a financial institution (credit, legal, etc), each of which may not fully appreciate AEMO's specific requirements or urgency, and is susceptible to key staff absences and/or turnover;
- transferring cash to AEMO is comparatively simple, instantaneous and considerably lower risk; and
- as well as observing that financial institutions are pulling back from supporting generators who have exposure to fossil fuels, GloBird has also observed financial institutions become less likely to provide finance to smaller retail participants due to increased wholesale market volatility. GloBird is deeply concerned that it may not always be able to provide credit support in the form of Bank Guarantees in the future with the rising market price & volatility.

Treatment of clawbacks — risk to AEMO

The NEM was designed to minimise settlement risk to generators. To that end:

- AEMO collects funds from market participants that owe amounts for a settlement week.
- If a party defaults on the payment, AEMO attempts to recover as much as possible from that participant through settlement, guarantees and any cash deposits.
- Importantly, should AEMO not have sufficient funds to pay all of the market participants that are owed funds, the shortfall is shared between those market participants[1].

The consultation paper notes, in section 3.1.2, that the use of cash as a security deposit may create a settlement risk if the payments are not established correctly as a security deposit. The consultation paper proposes that the rule change includes necessary provisions to minimise the risk of a claw back. GloBird supports this proposal.

It may also be possible to adapt rule 3.15.22 or 3.15.23 of the National Electricity Rules (**NER**) to remove the clawback risk from AEMO.

Calls on all market participants to make up shortfalls due to clawbacks

The use of a general levy on market participants to redress a claw back due to cash being used as a guarantee is supported.

Generalised recovery of costs is used in a number of situations in the NEM, for example in some types of directions. This approach is also used in some overseas markets where the market operator is faced with a cost that is due to market failures, for example PJM in the USA.

GloBird will be pleased to meet with the AEMC to further discuss this proposed Rule change. Please contact Nabil Chemali via email: **nabil.chemali@globirdenergy.com.au**

Yours sincerely

Hal Zo
Chief Executive Officer
GloBird Energy Pty Ltd

1 National Electricity Rules, s. 3.15.21 Default procedures and following rules.

Appendix A Responses to questions in the consultation paper

GloBird Energy's responses to the specific questions in the consultation paper are provided below. Note that not all questions have been addressed.

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

How likely is it that other participants may face issues in the future obtaining bank guarantees or letters of credit, similar to the issues currently faced by Delta or otherwise?

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?

Are there any other issues faced by market participants due to the current options to provide credit support?

While government policy creates a risk for participants in the NEM, in this case the association with fossil fuels that are considered a climate change risk, there is potential for issues with support from financial institutions in general due to increased market price & volatility, and the mismatch in obligations on financial institutions to provide bank guarantees to any energy market participants. As a result, credit support options that are independent of financial institutions will be a benefit and are critical to the future market viability.

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

What benefits do you consider there to be from allowing cash to be provided as credit support?

If there are benefits, how material could they be?

There is potential for the additional option of lodging a cash security to lower participation costs, as well as time & effort required to provide the bank guarantee, which would in turn reduce AEMO's risk & exposure when managing the overall NEM pool pricing volatility as the turnaround time on AEMO's credit support requests can be met by the next business day. Assume the bank charges 2% to 2.5% on the Bank Guarantees issued, GloBird estimates that the saving would be around $1.00 per residential customer per year, the benefit is larger for SMEs due to their higher usage and higher wholesale exposure.

As noted in the rule change proposed by GloBird to shorten the settlement cycle, any reduction of cost to smaller market participants will:

- Reduce the costs to consumers
- Increase market participation and therefore competition
- Allow more creative market offers to be developed

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

What are your views on risks to AEMO and markets participants from insolvencies if cash is provided as credit support? Are these risks sufficiently material to outweigh any benefits of the proposal?

What do you consider would be the likely impact on emissions by allowing cash to be provided as credit support?

Are there any other potential costs from allowing cash to be provided as credit support?

If there are costs, how material are they?

GloBird considers that the risk to AEMO can be addressed by:

- Prudent actions to ensure that any cash guarantees are safeguarded from clawback
- Allowing AEMO to recover any shortfall from market participants, either by varying rule 3.15.23 of the NER or via a provision in the new rule.

GloBird does not consider that this rule change will impact emissions, given the public pressure and ESG obligations to reduce emissions already exist and are growing on the daily basis on the whole society in general include all financial institutions & investment communities, this applies to all businesses include the ones does not use any Bank Guarantees.

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

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?*
- *guidance to AEMO on conditions for which cash could be provided as credit support?*
- *AEMO registering a security interest in the cash on the Personal Property Securities Register?*

The consultation paper notes the approaches that could be used to manage any risks associated with accepting cash. The use of a levy, or a modified rule 3.15.23 of the NER, would minimise any risks to AEMO.

Question 5: Would transitional rules be needed?

We note that Delta's current bank guarantee facilities are expiring at the end of 2024.

If a rule was made to allow AEMO to accept cash as credit support, would transitional rules be needed to enable Delta or other participants to provide cash as credit support during an interim period? If so, what would be an appropriate form of transitional rules?

Rather than implement transitional rules, it would be preferable to ensure that the rule change came into force immediately. The structure of any transitional rule would need to mimic the eventual rule.

Question 6: Are there any additional variations or alternative options to Delta's proposal?

Do you have any additional variations or alternative options to Delta's proposal that may address problems associated with the available options for providing credit support in the NEM?

GloBird does not propose any additional options.

Question 7: Assessment framework

Do you agree with the proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant? What are stakeholders' views on the costs and benefits of the proposed solution or alternative options against these criteria?

GloBird considers that the emissions reduction criterion is unnecessary for the assessment of this rule change.