LOCAL VOLTS

5 November 2024

The Australian Energy Market Commission

Subject: Submission to the consultation on *National Electricity Amendment (Allowing AEMO to accept cash as credit support) Rule 2024*

Reference: ERC0403

Madam/Sir,

Localvolts is an authorised electricity retailer operating a grid scale peer-to-peer electricity market in the NEM.

We thank the AEMC for the opportunity to respond to this consultation. We also thank Delta Electricity for identifying the problems associated with bank guarantees by making this rule change proposal.

Until now, the problems and challenges associated with procuring and submitting bank guarantees to meet AEMO's prudential requirements in a timely manner have been experienced mostly by retailers, and more so by the smaller retailers.

The key problem that Delta is now experiencing, and that we as a small retailer continually experience is that the major banks control the issuance of bank guarantees, which has given them **an effective veto on an organisation's existence and the country's energy policy.**

Delta is solvent and operates a legal business in Australia, but has run against the banks' internal policy on emissions. It is not the banks' job to drive Delta out of business, but the electricity rules have given them this power.

We, as a small and innovative retailer, remain at the mercy of the banks' policies and procedures around bank guarantees as well. Initially, all banks refused to provide us with the requisite guarantees to get us started – we had the cash, but weren't big enough to warrant an "enterprise" level service. AEMO's custom guarantees are only available for the banks' large customers.

Additionally, AEMO gives less us than a week to post additional guarantees when we experience strong or unexpected growth, but the bank requires

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multiple weeks to process an application for a guarantee. As a growing organisation, why must we be continually threatened with default from AEMO, when we have the ability to post cash?

The consultation has posed a number of questions, but the fundamental point is this – why have the banks been given veto powers on organisations' existence and in determining our national energy policy?

We unequivocally support the use of cash for credit support. Cash deals with the payment risk that AEMO is trying to manage. One always says that the Bank Guarantees must be "cash-like", so why not just accept cash? We are confident that AEMO can deal with the legal wrinkles discussed the consultation paper.

Our response to the specific questions in the consultation paper are provided in the attachment.

Yours truly,

Jitendra Tomar
Founder and Managing Director

LOCALVOLTS RESPONSE TO QUESTIONS ON CONSULTATION PAPER

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?*

Delta is facing problems because of the banks' policies around carbon emissions, but Delta conducts its business legally and is financially viable. The reality is that by requiring custom bank guarantees to meet one's prudential obligations, the electricity rules have given an operating veto to the banks in matters of our energy policy, and also given them a right to discriminate against individual business for any reason. So, yes, other organisations experience issues now, and will do so in the future.

- *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?*

Clearly, the banks' policies will disfavour emissions intensive generators, which will affect supply. The banks policies also disfavour small businesses, which affects innovation and the industry's competitive structure, which increases costs for the consumers.

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

Small participants also fall foul to banks' policies on providing custom guarantees. Specifically, AEMO's custom guarantees are only provided to large "enterprise" customers – small participants have to "work around and through the rules" to get their guarantees. Small, growing retailers are given very short time to post new guarantees by AEMO – less than a week, whereas the banks require multiple weeks to process the applications. This creates unacceptable pressure and risk of default to market participants. We as a small retailer have experienced and continue to experience these problems.

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?*

The current process is as follows: AEMO instructs a market participant that it needs to provides a bank guarantee to continue operating. The participant has to find a willing bank, deposit cash with the bank, pay fees, and then wait nervously to obtain the guarantee before AEMO's deadline, and then physically deliver the guarantee to AEMO.

The alternative is for the market participant to instantly provide cash to AEMO via electronic transfer.

- *If there are benefits, how material could they be?*

Procuring and delivering guarantees is an existential issue for market participants. There are no obligations on the banks to provide guarantees to marker participants, and to do so in a timely manner. And banks do without this service for certain participants, which affects our industry and the consumers.

The ability to deal in cash and removing the middleman is material.

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?*

This appears to be a procedural issue, which AEMO and the regulators should be able to fix.

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

We don't see any link between emissions and using cash for credit support. If we don't want emissions intensive generators to be operating in the market, then let us legislate it. It is not the role of intermediaries like banks to decide our energy and emissions policy.

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

The current guarantee has to be "cash-like" in its performance. There may be some additional administrative processes that AEMO will have to develop to manage cash, but AEMO already accepts cash for credit support in certain instances. Even if the cost to AEMO increases, the benefit to the industry would be material.

- *If there are costs, how material are they?*

See above.

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?*

This appears to be a technical matter, which we are confident the rule makers can solve.

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?

It is important that all market participants, including Delta, can use cash for credit support without delay.

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?

Let's take this opportunity to make things simple: cash will serve as credit support.

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?

This appears to be a procedural matter. We need to get to the cash solution quickly.