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20 December 2024

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY, NSW, 2001

Dear Ms Collyer

Re: SA Derogation – Interim Reliability Reserve - Consultation paper

The Australian Energy Regulator (**AER**) welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) consultation paper on the proposed National Electricity Amendment (South Australian jurisdictional derogation - Interim reliability reserve eligibility) Rule.

The AER supports the proposed derogation to manage reliability risks by allowing the contracting of required interim reliability reserves (**IRR**) in this limited instance. This is subject to the derogation being limited to assisting the Australian Energy Market Operator (**AEMO**) to address the reliability shortfall in South Australia in January and February 2025 only.

Background

AEMO may enter into a reserve contract for IRR for a region if there is a forecast interim reliability exceedance as determined in AEMO's Electricity Statement of Opportunities. Reserve contracts under the IRR require a full and fixed commitment of reserves and impose strict performance requirements and testing conditions on the generator. These conditions include a requirement to be fully available on a firm basis for the duration of the agreement.¹ Generators are paid for this availability.

¹ <https://aemo.com.au/en/energy-systems/electricity/emergency-management/reliability-and-emergency-reserve-trader-rert/rert-tendering>.

In relation to the forecast interim reliability exceedance for SA 2024/25, the AER understands AEMO issued a request to tender for IRR to parties that have “out of market” load reduction or generation capacity. Market generation units are only eligible to contract with AEMO if they have been “out of market” for at least 12 months as per clauses 3.20.3(g) and (h) of the National Electricity Rules (**out of market requirements**).

AEMO is currently considering offers for 120 MW of reserves in SA, which the AER notes is lower than the forecast exceedance (200 MW). We understand that, to address the forecast exceedance, AEMO is also considering procuring IRR from ENGIE in relation to certain generating units at Snuggery and Port Lincoln Power Stations (the **relevant generating units**). However, the relevant generating units were last dispatched on 1 July 2024 and therefore do not (and will not) meet the out of market requirements during the SA 2024/25 exceedance period.

The SA Minister’s urgent rule change request to the AEMC seeks a jurisdictional derogation in SA to allow AEMO to enter into an IRR contract with ENGIE in relation to the relevant generating units. The proposed derogation would only relate to the relevant generating units, and for a period of no longer than 2 years, by disapplying the out of market requirements for those units.

Benefits and risks of allowing derogation from clauses 3.20.3(g) and (h)

The AER has considered the potential consequences of compliance with clauses 3.20.3(g) and (h), which would prevent contracting with ENGIE with respect to capacity from the relevant generating units. This may increase the risk of load shedding occurring in SA this summer. The AER considers this would be a suboptimal outcome for consumers, particularly if this risk coincides with extreme weather as the SA Government and AEMC have identified.²

We note that entering into a contract for IRR with ENGIE could result in high costs for AEMO, which would ultimately be passed on to consumers. However, we consider that there are adequate checks and balances in this regard:

- Rule 3.20 (as applied by rule 11.128) sets out the applicable requirements, principles and guidelines AEMO must act in accordance with when negotiating and entering into contracts to secure the availability of IRR. One of the principles is that the average amount payable by AEMO under reserve contracts for each MWh of reserves for a region should not exceed the estimated average value of customer reliability for that region.
- AEMO must be transparent with the market by reporting on IRR usage post-activation, including total estimated average payments for reserves dispatched or activated under IRR contracts.
- Clause 3.20.3(j) requires that if AEMO seeks to enter into a reserve contract with a Registered Participant (e.g. ENGIE) then the Registered Participant must negotiate with AEMO in good faith as to the terms and conditions of the contract.

The main purpose of rule 3.20 is to deter Registered Participants from physically withdrawing generating units from the market for the purpose of creating a shortage and

² SA Minister for Energy and Mining, rule change request, p.5; AEMC, South Australian jurisdictional derogation – interim reliability reserve eligibility, Consultation paper, 28 November 2024, p.1.

subsequently entering into short-term reserve contracts at higher prices than in the spot market. It is possible that creating a derogation on this occasion may incentivise this behaviour.

These risks can be mitigated by ensuring the derogation excludes similar arrangements beyond the 2024/25 interim reliability exceedance period in SA, and ensuring that participants are aware that this is a one-off, time-limited interim solution. In this regard, we recommend the duration of the proposed derogation (31 March 2026) be shortened to 31 March 2025. ENGIE would meet the out of market requirements from 1 July 2025 and would be able to compete with other potential reserve providers without the need for a derogation, if similar reliability risks arise ahead of the 2025/26 summer. The AER also notes that the reliability exceedance may be less likely to recur following the implementation of Project EnergyConnect.

Conclusion

If the rule change is made, the AER will monitor AEMO's and ENGIE's compliance with all applicable non-derogated obligations set out in rule 3.20. The AER considers the potential benefit of minimising the risk of load shedding through the proposed derogation from clauses 3.20.3(g) and (h) outweighs the potential, mitigable harm in this limited situation. The AER is satisfied that this option best meets the National Electricity Objective by, among other things, achieving an appropriate balance between price and system reliability for consumers.

The AER appreciates the opportunity to provide feedback on the consultation paper and its recommendations, and we look forward to continued engagement as the AEMC progresses this rule change.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R Park', is positioned below the text 'Yours sincerely'.

Rowena Park
Executive General Manager (a/g)
Compliance, Enforcement and Surveillance Division

Sent by email on 20.12.2024