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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodge AEMC submission – Code ERC0122

RE: AEMC Rule Change – Business Day Definition

United Energy Distribution (UED) appreciates the opportunity to respond to the AEMC Draft Consultation Paper, National Electricity Amendment (Business Day Definition) Rule 2011.

Australian Energy Market Operator (AEMO) proposed that the National Energy Rules (NER) business day definition be deleted to remove the inconsistency between the National Energy Law (NEL) and NER. The current definitions are:

NEL - Schedule 2, Clause 10

Business day - a day that is not:

(a) a Saturday or Sunday

(b) observed as a public holiday on the same day in each of the participating jurisdiction (except the Commonwealth).

NER - Glossary

Business Day - A day other than a Saturday, Sunday or a day which is lawfully observed as a national public holiday on the same day in each of the participating jurisdictions

The AEMC Draft Consultation paper is seeking to provide regulatory certainty for all National Energy Market (NEM) participants regarding the treatment of a business day in the NEM. The intent is to align the definition to current operational practice.

UED is supportive of removing the possible confusion or potential for disputes regarding the interpretation. UED also supports the principle that the NEL definition offers more clarity than the NER definition and is also reasonably consistent with the NERL definition.

The AEMO proposal is focused on the settlement/prudential processes. However other chapters of the NER relating to connections, pricing and metering also have timeframe obligations. The Market Settlement and Transfer Solution (MSATS) Procedures and National Metrology Procedure adopt the NER business day definition. The Business to Business (B2B) Procedures take account of the jurisdictionally gazetted holidays (Technical Guideline for B2B Procedures, 3.8).

Current operational practice is that Victorian gazetted holidays are considered non work days for the majority of support staff. Support staff would be manned for weekend staffing levels on

any Victorian public holiday as the number of requests is likely to be minimal. The regulatory framework has a general principle that customers are not de-energised on non work days and work at customer sites is generally not conducted on non work days (unless the timing is more convenient for customers or a fault needs to be repaired).

Common sense should prevail in relation to both civil penalties and compliance in relation to the disconnect between full staffing on Victorian business days and the staffing levels on Victorian public holidays. Compliance for high volume transactions needs to be considered based on the level of materiality rather than at an individual transaction level.

Policy reasons for current definition of business day in the NER

Question 1 Policy reasons for the current definition of business day

1.1 For the purposes of the Rules, should a non-business day require that a public holiday be lawfully observed in every State and Territory in Australia, including Western Australia and the Northern Territory?

1.2 For the purposes of the Rules, should a non-business day require that a public holiday observe the same event, as well as fall on the same day in each participating jurisdiction? If yes, how should the proper purpose of the public holiday be determined?

The interpretation outlined in Question 1.1 is that a public holiday be observed in every participating NEM jurisdiction, no matter what the public holiday is called.

Labour Day and Melbourne Cup are examples of Victorian public holidays that are not observed in every NEM jurisdiction or are not observed in every NEM Jurisdiction on the same day. Therefore these would be considered business days.

The AEMO paper outlines that Easter Monday and Anzac Day are observed on different days in the NEM jurisdictions. However these days are consistently observed as public holidays in all the NEM jurisdictions and hence are considered non business days.

If the definition outlined in 1.2 is adopted, then the Easter Monday and Anzac Day public holidays would be considered business days. The same event is not observed on the same day in each jurisdiction, resulting in the need to define these days as business days.

UED is not aware of any policy reasons for either of the interpretations of national public holiday. However UED consider that retail competition and customer protections measures are largely based on the customer's perception of what is a business day and a non business day leading to an interpretation that the normal set of Victorian public holidays would be considered a non work day. This interpretation is consistent with the jurisdictional regulatory framework and with the recent National Energy Customer Framework (NECF) policy decisions where there are three business day definitions.

Is the Rule change sufficient to provide regulatory certainty?

Question 2 Regulatory certainty

2.1 Should the Rules give AEMO the authority to declare public holidays, either generally, or in a defined set of circumstances (for example, where there is a public holiday in at least five NEM jurisdictions)?

2.2 For the purposes of settlement, or any other financial transaction required under the Rules, should a business day be defined as a day on which the funds clearing service used by AEMO is available?

It would be useful to provide clarity of the non business days for the NEL framework and the non business days for the NERL framework, as they could be different depending on the participating jurisdictions and treatment of midyear adoption of NECF etc.

Whilst AEMO could be an appropriate candidate for the definition of the non business days in the NEL, the AEMC may be more appropriate. The AEMC could provide the tables of non business days for both the NEL and NERL.

Regardless of whether AEMO or the AEMC define the non business days, the assignment should take account of all aspects of the regulatory framework (customer impact, cost impact, affect on retail competition etc) not just the availability of a funds clearing service.

Should you have any questions in relation to this submission please give me a call on (03) 8540 7819.

Yours sincerely

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