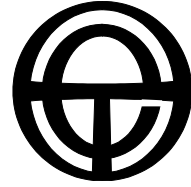


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20 October 2008

John Tamblyn  
Australian Energy Market Commission  
submissions@aemc.gov.au

Dear Mr Tamblyn,

Re: Reliability and Emergency Reserve Trader

Total Environment Centre (TEC) is concerned about the current design of the Reliability and Emergency Reserve Trader (RERT) and the associated guidelines. There has been a massive oversight and hence a missed opportunity to establish a standing reserve based on demand side response (DSR). This concept was raised by NERA during the AEMC's Demand Side Participation Review and was considered directly in relation to the RERT, but was inappropriately rejected. It may not be possible to revisit the idea at this stage of the RERT Review, but should be considered within the AEMC's other reviews of Demand Side Participation and the Climate Change Review.

The NERA report<sup>1</sup> did argue against a DSR standing reserve, but recommended a staged approach, which would include annual invitations to provide reserve capacity. They suggested that where necessary these providers could be invited to quote for provision of reserve; then capacity would be contracted on the basis of the quotes. Even this mild recommendation seems to have been rejected by the AEMC.

TEC supported NERA's recommendations in our submission on that report, but we are still not convinced that the concept of a DSR standing reserve has no value. We suggest that both approaches should be followed, that is, the staged approach be adopted as an interim but that the AEMC, together with NEMMCO, continue to investigate the potential for a DSR standing reserve. The investigation should focus on the potential of demand side reserve to contribute to reliability and efficiency while following the principle of optimising demand side participation. This needs to be done in tandem with any investigation of the potential for DM bidding within the wholesale market.

**Other models**

Other markets have set up reserve trader programs of various kinds, fashioned around the provision of load curtailment by participants registered for the purpose in some permanent fashion within the market. The examples of Texas and California – although there are a number to choose from – are briefly described here.

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<sup>1</sup> NERA (2008) *Review of the role of demand side participation in the National Electricity Market*, Draft Report for the AEMC

## *Texas*

The Electric Reliability Council of Texas (ERCOT), which is also an energy only market similar to the NEM, has realised the value of the demand side and implemented programs to encourage DSR from various sources.<sup>2</sup> The NEM could include any combination of these ERCOT mechanisms within a permanent program as an adjunct to the Reserve Trader.

Of particular interest here is the Load acting as a Resource (LaaR) program, which is used within the ancillary services (AS) markets. It involves signing up customers with interruptible loads to provide operating reserves. Any provider of operating reserves under this program is eligible for a capacity payment, regardless of whether the curtailment occurs. Up to 1,300 MW can be called on through this program.

Another feature of the Texas programs, which is called on after the LaaRs have been exhausted, is the Emergency Interruptible Load Service (EILS). Its main features are:

- Contracts are made with network businesses in this case, who put in bids for contracts; the minimum is for one MW that can be via aggregation
- The contracts may be made for one or more quarterly contract periods, and more than this can be renegotiated
- There is a cost cap on the EILS program
- Each quarterly contract period is capped at 1,000MW
- The contracted “resource” must be able to reduce its load within 10 minutes
- Each resource is only to be called on twice in a contract period
- Each contractor is paid a capacity payment.

## *California*

The “Base Interruptible Program” (BIP) involves participants nominating a base level of electricity necessary to maintain operations that is below their historic average maximum demand. They then receive a monthly payment based on the size of the curtailable portion of their load, in return for committing to reduce to the base level when called upon. Curtailment requests cannot exceed one per day (of up to four hours), ten per month, or a fixed number of hours per year.

The “Demand Bidding Program” provides incentive payments of a fixed rate beyond market price for day-ahead curtailment commitments. When notified of such an event, participants can bid the amount of load they can reduce, and the hours for which they are willing to reduce this load. Bids must cover at least two consecutive hours.

Another feature is the “Demand Reserves Partnership Program”. Participants in the program agree to reduce their electricity load (by curtailment or by operating on-site generation) when notified. This program, like BIP, also has time limits. Participants receive a monthly reservation payment as well as a performance payment for each load curtailment event. Individual customers usually participate via a designated “Demand Reserves Provider.”

### **Load curtailment in the NEM**

The current version of a reserve trader within the NEM is rarely used and overly cumbersome, providing limited potential for rapid response (or reduction of greenhouse gas emissions). Replacing the same mechanism with a permanent program that awards contracts for demand side reserve capacity could be made to work within the NEM model. It would provide a range of functions: to provide reserve; enhance security

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<sup>2</sup> Texas ERCOT PUC Substantive Rule #25.507 (EILS)

and reliability; and deliver significant co-benefits of reduced carbon pollution and carbon costs.

The particular problem for demand side response is that the participant offering the load curtailment does not know in advance what the actual price paid will be at the end of the trading interval, and therefore participants cannot be confident of the value they will get for their curtailment. If there is a monetary incentive, in the form of payment to be in reserve plus a bonus when the reserve is activated, there is greater certainty for potential participants. This certainty is likely to unlock some of the demand side potential that is widely recognised to be untapped at present.

There is currently a very small amount of load curtailment in operation in the NEM, some of which is negotiated via retailer or networks. Prices paid for the curtailed load are based on a retailer's avoided cost, usually when the spot price exceeds the trigger price in a hedge contract, or on the value of network deferral. These are chronically under-utilised and there are virtually no other incentives to seek DSR as an alternative.

For end users, the main disincentive for load curtailment is that they do not get proper remuneration. Presently the end user merely avoids consumption at the market price when they curtail their load.

For the networks, deferral of new investments is disincentivised as it reduces the asset bases from which they can earn revenue. The only active incentives are those being developed under the AER's demand management incentive schemes. The schemes under way do offer some minor incentives – consideration of foregone revenue, “learning by doing” funds and so on – but TEC has argued that these need to go much further to have any real impact.

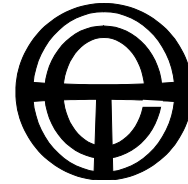
We therefore strongly urge the AEMC to investigate the potential for load curtailment programs within the NEM in the form of permanent programs to provide standing reserve. There are models in existence which provide the basis for a design for the NEM, possibly using a staged approach to be established in the interim. Development of load curtailment programs is a way in which the NEM could provide the sorely needed boost to DSR as well as a significant contribution to reducing carbon costs and greenhouse emissions.

Yours faithfully,



Jeff Angel  
Executive Director

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**SUBMISSION**

**to**

**AEMC**

**Stage 2**  
**Review of Demand-Side Participation**

**Draft Report**

EPR0002

**June 2009**

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# Stage 2 Review of Demand-Side Participation

## Draft Report

EPR0002

### 1. Introduction

#### 1.1 The DSP Review

Total Environment Centre (TEC) welcomes another opportunity for input to the AEMC Review of Demand Side Participation (DSP). The Draft report for Stage 2 of the Review does provide a wide-ranging discussion of the issues and barriers involved.

A major disappointment with the report, however, is that it presents a very limited suite of solutions to the problems identified. For all the discussion, it does not quite come to grips with ways to increase effective demand side participation, and in particular ways to facilitate greater demand management (DM). There have been numerous reports and reviews of DM and DSP (highlighted by CRA in their report for the AEMC on wholesale markets<sup>1</sup>) and yet little progress has been made in maximising opportunities. Once again the easy route has been taken, with many solutions being dismissed as being too difficult in terms of instituting change. This demonstrates a lack of genuine will to properly incorporate DSP in the National Energy Market (NEM) and instead to continue the reliance on supply-side solutions.

Our greatest disagreement is with the chapter on “Economic regulation of networks”, although we do support a couple of the recommendations. The discussion of network approaches is completely flawed, and we attach a report by Headberry and Lim prepared for TEC on economic regulation<sup>2</sup>. Their report covers similar ground and comes to completely different conclusions. The report also contains an assessment of existing incentive schemes (service performance and efficiency benefit sharing), in which it is concluded that they **do** pose barriers to DM and DSP. The difference in conclusions lies in the emphasis, since the Headberry and Lim report actively sought out information and solutions to deal with barriers.

Another failing is the chapter on “Network access and connection arrangements”, which does not cover the full range of barriers and difficulties. The findings on embedded generation (EG) are of mixed quality and the issues are not covered in sufficient depth. The issues are being dealt with in considerably greater detail by the Ministerial Council on Energy (MCE), and the MCE review and the development of the National Energy Customer Framework deal with the ramifications for small EG much more thoroughly.

In addition, more care should be taken with the term “demand side participation”. It is frequently used in this review as if it were synonymous with demand management (DM), and even on occasion to refer only to load curtailment. Presumably DSP should refer to the full range of potential consumer actions, and so can include the full suite of DM

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<sup>1</sup> CRA International (2008) *The wholesale market and financial contracting: AEMC review of demand-side participation in the NEM*. Final report, August 2008. p 48

<sup>2</sup> Headberry Partners & Bob Lim & Co (2008) *Does Current Electricity Network Regulation Actively Minimise Demand Side Responsiveness in the NEM?* Report for Total Environment Centre. (We forwarded this report to the AEMC previously, but perhaps not to this Review)

actions and product choices (such as GreenPower). This misuse can lead to erroneous conclusions. The Draft report also commonly neglects the potential for action on the part of small consumers, and focuses on major users and networks. We have already raised this problem with the AEMC in our submission to the Stage 2 Issues Paper, where we noted that:

The term “demand side participation” is used seemingly without definition in the Issues paper. By implication in many places it is used to refer to what we would consider to be “demand management” in general; in others it seems to refer to “demand side response”. TEC has been arguing for more rigorous applications of terms to standardise the language in order to avoid confusion. On the surface, one would expect demand side participation to refer to all participants on the demand side; however, it appears that the demand side referred to is limited to large users, or demand management providers. There does not seem to have been any real consideration of small consumers, except in more generic discussions about normal markets (that is, the general relationship which exists between producer, retailer and consumer).

Finally, it is curious that almost every barrier to DSP put forward in the Draft report is brushed aside as being immaterial. This begs the question then: why is actual DM implementation in the NEM so negligible? It is clear that it can be efficient, and brings wider benefits on top of reductions in cost – so how does the AEMC propose to actively maximise DM?

Our main recommendations in this submission are:

- Networks should be obligated to *implement* non-network solutions where they are equal in cost or more cost effective than augmentation.
- A DM target must be established for networks – the barriers to DSP and the lack of incentives for non-network solutions are proving largely intractable; without a target it will be mostly business as usual.
- Carry-over of DSP costs across regulatory periods is essential, efficient and equitable. Network service providers (NSPs) should also be able to roll over DM capex into their revenue asset base.
- Promotion of innovation for both distribution and transmission is critical to provide experience in the design and implementation of non-network solutions and an innovation allowance would assist this.
- The requirements on networks and retailers for annual reporting must include forecast DM actions; forecast constraints; and DM actions implemented. This would assist both the Australian Energy Regulator (AER) and NEMMCO with their planning.
- The AER is probably the most appropriate body to collect such annual information, which could then be accessed by NEMMCO for short-term and longer-term planning for reserves. NEMMCO should be given powers to collect extra information as necessary.

- A standing reserve meets the necessity for emergency reserve; and it should be noted that the existence of the Reserve Emergency Reliability Trader already allows for a form of capacity planning. A panel of potential participants plus a new class of market participant would both further assist with short-term emergencies.

### 1.2 Scope of this submission

We have addressed issues of concern roughly in the order in which they appear in the Draft report, that is:

- Economic regulation of networks
- Service incentives and reliability standards
- Distribution network planning
- Network access and connection arrangements
- Wholesale markets and financial contracting
- Reliability.

## 2. Economic regulation of networks

### 2.1 Network approaches

The underlying premise in this chapter is that if DSP options are efficient then networks will select them. The flaw is that this may be true in a perfect world where business behaves according to theory, but in reality networks actually seek and implement DSP options rarely. To say that this is because DSP options are by implication inefficient is ignoring the many incentives and cultural bias against DSP solutions, not to mention the inherent predilection for selecting the most profitable option rather than simple recovery of efficient costs. The NSPs perceive their function as developing networks, not as providing the most efficient option. The expert advice provided by David Headberry and Bob Lim<sup>3</sup> to TEC in their report on economic regulation is emphatic on the point that price cap regulation does **not** incentivise DSP. The report concludes that neither price cap nor revenue cap forms of regulation provide sufficient incentives for DSP; while price cap regulation is more of a barrier than revenue cap.

This problem is not addressed in any meaningful way in the Draft report. The **real** lack of applying DM solutions – including DSP – is a fundamental flaw in the market and continuing to debate the efficiency of these options is fruitless since it limits any attempts to develop imaginative solutions towards encouraging network businesses to properly investigate DM alternatives. In particular, there has been no actual assessment – in this Draft report or elsewhere – of what kind or the extent of DSP activities the networks are actually doing. TEC recommends that the AER establish a database of what DM networks investigate; what is successful and what is not; and the actual DM options they pursue. The AER will be collecting similar information relating to the innovation allowance schemes they have established for distribution. Rigorous reporting, however, has only been set out for DM actions under the schemes, but it should be required for **all** DM investigations by both transmission and distribution networks.

In the meantime, a benchmarking exercise needs to be done for DM investigations and actions to date. At the moment the arguments are all largely based on suppositions. (One

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<sup>3</sup> Headberry Partners & Bob Lim & Co (2008) *Does Current Electricity Network Regulation Actively Minimise Demand Side Responsiveness in the NEM?* Report for Total Environment Centre

exception is a report done by the Institute for Sustainable Futures for TEC<sup>4</sup>, which involved an assessment of the D-factor in NSW.) The recent determination process for DNSPs does give some clues however – for instance, Energy Australia recently proposed to spend \$50 million on DM, compared to a total budget of \$8.6 billion on capital expenditure. This is paltry, and the other DNSPs have made similar (or worse) proposals. IPART recognised this problem – as the Draft report notes – when they were developing the NSW D-factor, and there has been little improvement since then in the default position which networks take, ie replace or augment.

References to “socially desirable” in this chapter are peculiar in that the concept seems to be a very restricted one and based only on economic notions of social desirability. If the structure were really to encompass what society regards as desirable from the provision of electricity, then currently the reduction of greenhouse gas emissions and support for the socially disadvantaged would clearly be high on the list – but neither of these are canvassed.

## **2.2 Capex v opex**

It is currently difficult for NSPs to argue to the AER the efficiency of any DM spending, for a variety of reasons. This increases the NSPs’ perception of DM as being of too great a risk.

There are two methods which would assist with alleviating this problem and which could work in tandem – NSPs should be allowed to roll any spending on DM capex into the revenue asset base (RAB); and a carry-over mechanism should be developed for networks for the costs of DM arrangements made as part of opex but which do not fit neatly into one regulatory period. The notion of a carry-over mechanism has been supported by the AEMC for transmission businesses, but it should also be applied to distribution as it is equally relevant in that arena.

TEC’s opinion is that DM and DSP activities should be exempt from the existing Efficiency Carryover Mechanism (ECM). Although it would obviously be undertaken where efficient, this kind of solution operates in an entirely different fashion to network replacement and augmentation and should be given separate consideration.

## **2.3 Consumer information**

We support the arguments about the lack of detailed information available for consumers about network charges. The rollout of “smart” meters will not assist with this problem for small consumers since there is no technology mandated for direct communication between the meter and the consumer. In addition the rollout only applies to residential consumers. Certainly the meters will give networks more accurate information, but without some form of contact with the consumer they will not assist them to manage their demand. In addition even where networks do implement time-of-use pricing, there is no guarantee that retailers will pass these on to consumers of any scale.

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<sup>4</sup> Institute for Sustainable Futures (2008) *Win, win, win: Regulating Electricity Distribution Networks for Reliability, Consumers and the Environment*, Report prepared for Total Environment Centre, January, 2008 (we have forwarded the report previously to this Review)



## 2.4 Innovation

Network businesses currently investigate DSP options on a very limited basis and the reasons for this are not entirely clear. For instance, CRA International noted that<sup>5</sup>:

Efforts by regulators to encourage NSP consideration of DSP as an alternative to network augmentation have, thus far, yielded limited success only ... In CRA's experience, DSP is more likely to occur when a NSP actively facilitates DSP compared to passively advertising an opportunity.

The end result though is that they clearly need further encouragement to pursue DM actively. TEC supports the concept of an "innovation allowance" as part of the solution, as the AER has already been doing for distribution networks. This kind of approach should be extended to the transmission arena, although we would emphasise that the sums the AER has been setting are tiny and need to be substantially increased. As is mentioned in the Draft report, such a scheme has been successfully implemented in the past for ETSA Utilities. (It should be noted that the AER, for unfathomable reasons, greatly reduced the allocated sum in contrast to that applied when the business was under State government regulation.)

## 3. Service incentives and reliability standards

The discussion of this issue focuses predominantly on the perception of NSPs of the reliability of non-network alternatives to augmentation. As we have mentioned, TEC commissioned a report on, "Does Current Electricity Network Regulation Actively Minimise Demand Side Responsiveness in the NEM?"<sup>6</sup> Authors Headberry and Lim included a critique of the service performance incentive scheme in regards to the interaction between the perception of reliability of DSP and the consideration of non-network solutions. They noted that although the scheme does not directly present a barrier to DSP, nonetheless it encourages favouring network solutions over alternatives:

There have been wide ranging debates in the NEM comparing the reliability of non-network solutions to network solutions for network needs. The debates have included the claim frequently put by NSPs that embedded generation solutions are less reliable unless they are inclusive of 100% backup, and that demand response only can be provided if the DM responder is actually using the network at the time the DM response is required. This has resulted in the assertion that DM has implicitly less reliability than a network solution. Although these claims have not been substantiated by evidential supports, the culture of support and familiarity with network approaches, combined with the performance incentive scheme, results in the favouring of network approaches over non-network solutions. On the basis that network solutions are perceived to provide a higher reliability than non network solutions, the performance incentive scheme incentivises network solutions, as the NSP is required to take the risk (pay a penalty) if the performance is worse than the target, and is rewarded if performance is better than targeted.

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<sup>5</sup> CRA International (2008) *The wholesale market and financial contracting: AEMC review of demand-side participation in the NEM*. Final report, August 2008. p 50

<sup>6</sup> Headberry Partners & Bob Lim & Co (2008) *Does Current Electricity Network Regulation Actively Minimise Demand Side Responsiveness in the NEM?* Report for Total Environment Centre

**Thus a side-effect of the performance incentive scheme is to discourage DM solutions by actively encouraging the approach that is perceived to be more reliable: ie by the use of network approaches.** (p 14) [their emphasis]

Headberry and Lim also weighed up the Efficiency Benefit Sharing Scheme (EBSS) in regard to DM and concluded that, like the service performance incentive scheme, it incentivises network solutions. They judged that:

The downside of this incentive scheme, however, is that any program that is included in the opex (such as DM) and which can be addressed in another way (such as by a network solution funded by the capex program) provides an incentive for network solutions over DM.

The basis for such an observation is that the opex allowance excludes any profit for an NSP whereas the capex solution has embedded within it a profit element which is included in the rate of return on capital used for a network solution. As the EBSS rewards a NSP for reducing its opex below that allowed for in the revenue reset, a solution which reduces opex increases profit. As increased capex also rewards the NSP, there is no countervailing pressure on the NSP to find an opex solution for a network need.

**The EBSS therefore creates a disincentive for DM by encouraging NSPs to exchange potential DM programs funded by opex for capex programs where profits are greater.** (pp 14-15) [their emphasis]

Thus we encounter a chicken-and-egg situation: DM solutions are perceived as being overly risky in terms of investment, so there is limited implementation of this option, leading to limited experience in the area, resulting in a lack of knowledge about the potential for reliability. In a footnote Headberry & Lim pointed out that: *In fact there is little evidence that demonstrates that where a non-network solution has been used, that there has been a resultant reduction in the overall reliability of a network* (p 14). It is critical that the choice of whether to use a non-network solution is made based on a variety of criteria not just reliability; there **is** no proof that it may be unreliable and many would argue that it can in fact contribute to reliability (see also Section 7 below).

#### **4. Distribution network planning**

TEC would certainly agree that the current planning arrangements disadvantage DSP proponents by the emphasis on consultation on network augmentation options. There is a further problem here, that there is no requirement for full and accurate reporting by NSPs on their own investigations and implementation of non-network solutions. We have submitted a response to the AEMC Scoping and issues paper on the “Review of national framework for electricity distribution network planning and expansion” where we highlighted a number of problems with current distribution planning:

There is a lack of transparency in reporting on DM efforts [by networks] including:

- efforts to identify and procure cost-effective DM;
- expenditure on DM;
- peak demand and energy consumption reductions;

- the value of electricity sales foregone;
- the value of capital and operating expenditure avoided or deferred.

This makes it impossible for regulators, DM proponents and consumers to assess the degree to which networks are utilising an adequate level of DM.

All network businesses should be required to publish robust data on upcoming constraints that are relevant and useful to DM service providers. This would serve to inform the DM market of upcoming opportunities and enable it to respond to these in a timely manner. The NSW DM Code of Practice for Distributors and the South Australian Guideline 12 provide sound precedents for such information disclosure by distributors.

Although that review deals with distribution network planning, the problems and solutions apply equally to transmission. While the proposed Rule change for DM tightens up conditions for transmission in terms of annual reporting, particularly in terms of forecast constraints, there is still significant progress to be made for reporting of DSP options and actions. TEC proposes that networks be required to report to the AER on an annual basis on both constraints and their own internal deliberations and decisions. This would contribute to opening up the market for DSP providers as well to the reduction of greenhouse gas emissions by effecting more efficient networks.

## **5. Network access and connection arrangements**

The MCE has been running a review for years of this subject, as noted in the Draft report, and TEC has participated extensively in that process. Included in that review have been discussions on connection processes, minimum technical standards and connection charges. We consider that although we would agree with some of the findings in this chapter, it presents a very limited discussion of the issues involved particularly for small EG and therefore does not particularly progress reform of this area. The National Energy Customer Framework also includes sections that are relevant to connection arrangements, and these are being designed in coordination with the MCE review.

Some findings in the chapter actually contradict those of the MCE's Standing Committee of Officials (SCO), in particular in relation to connection charges for small EG. The SCO acknowledged that deep connection charges could indeed pose a barrier to their success, and have recommended specific arrangements for domestic-scale and small commercial installations (ie small consumers).

Although this topic is certainly relevant to a wide-ranging consideration of DSP, the AEMC has not sufficiently grappled with the issues. TEC would be happy to provide the submissions we have made to the MCE.

## **6. Wholesale markets and financial contracting**

### **6.1 Asymmetry of scale**

TEC fully supports NEMMCO's proposals for small changes to the Rules to lower obstructive costs for DSP.

We note, however, that further barriers are presented in the Draft report as being unimportant because they exist for generators as well. This is a spurious argument

because of the massive difference in scale between existing generators and DSP aggregators. The operational costs in this case would form a minute fraction of a large generator's budget, whereas they could form a substantial proportion of those for a DSP aggregator since these are relatively small businesses at present.

## 6.2 DM reporting

The problems with demand forecasting could in part be addressed by more rigorous requirements on all market participants to report on forecast DM. Given the degree to which the market is regulated, it seems peculiar that NEMMCO does not have the powers to derive the information it requires for operational purposes. These powers should be strengthened.

In addition, our basic argument that there should be much wider reporting on DM for networks would assist here also. It seems appropriate that the AER would be the main repository of the information, in which case it could then be passed on to NEMMCO. This would also assist NEMMCO with arrangements for the Reliability Emergency Reserve Trader (RERT) (discussed in the next chapter).

CRA International made a number of suggestions for solutions to this problem<sup>7</sup> (such as a bulletin board) which seem to hold merit, but only a few seem to have been canvassed in the Draft report. More investigation of potential mechanisms is warranted.

## 7. Reliability

The RERT is in itself a form of capacity being acknowledged as available within the energy market, so the possibility for capacity arrangements have already been opened up in the NEM. The suggestions on page 75 of the Draft report, for either a panel of potential providers or a new category of market participant, are both de facto capacity solutions. If modification of the market is required to address a problem, formed around an exception that has already been introduced, then TEC considers that all reasonable solutions should be pursued. Both of the recommendations would be feasible and could be established quite readily. Nor are they mutually exclusive, but could both be established.

We also take issue with the presentation of the arguments against supporting DSP – they rely implicitly on a perception that DSP is inefficient; and that the costs of network augmentation or replacement are always efficient. The whole chapter is biased against DSP with only allegedly negative features presented and none of the benefits of developing DSP included.

In previous investigations of the RERT by the AEMC, a report was produced by NERA to which TEC responded and we attach that submission. We noted then that, "Other markets have set up reserve trader programs of various kinds, fashioned around the provision of load curtailment by participants registered for the purpose in some permanent fashion within the market." Most of our arguments in that submission are relevant to this Review.

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<sup>7</sup> CRA International (2008) *The wholesale market and financial contracting: AEMC review of demand-side participation in the NEM*. Final report, August 2008. p 67

We consider the discussion in this Draft report to be overly biased against DSP, and we look to the current assessment by the Reliability Panel of the RERT for short-term emergency provisions to be more inclusive. For instance, the report on the exposure draft rule for NEM reliability Settings<sup>8</sup> clearly classes these provisions as providing capacity, and proposes (on p vii):

- NEMMCO would assess expressions of interest from entities offering reserves to resolve any technical and legal issues;
- entities on the RERT panel would be free to offer their capacity to the market, but would be requested to advise NEMMCO if they do so;
- NEMMCO would not make payments to entities for being on the RERT panel; and
- NEMMCO would use a full tendering process when contracting for reserves if time permits or, when there is insufficient time for such a tender process, select members of the RERT panel and then enter into reserve contracts.

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<sup>8</sup> AEMC Reliability Panel (2009) *Exposure draft rule and guidelines for consultation – NEM Reliability Settings: Improved RERT Flexibility and Short-term Reserve Contracts*, AEMC, May 2009