

1 February 2008

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
SOUTH SYDNEY NSW 1235

By email: submissions@aemc.com.au

Dear Dr Tamblyn,

Demand Management Rule Change Proposal from TEC

The Energy Retailers Association of Australia (the ERAA) welcomes the opportunity to make a brief submission on the Demand Management Rule Change proposed by the Total Environment Centre (TEC).

The ERAA supports demand management initiatives in the NEM provided they are consistent with the NEM objective. As retailers many of our members work closely with customers to find ways to share the benefits that can accrue from properly implemented demand side response.

While this is the case, we have reservations that many aspects of the TEC proposal are not consistent with the NEM objective. Our comments and concerns on the issues identified by the AEMC in relation to this Rule change proposal are outlined below.

- 1. That when planning, network operators consider DM solutions before augmentation alternatives so that DM is implemented when it is a more cost effective solution**

In formulating the Rules, the ERAA supports the concept of competitive neutrality being maintained between network augmentations, supply and demand side technologies. This principle has been incorporated into the Rules as currently drafted. If properly implemented, this approach is consistent with the NEM objective by facilitating the most efficient investment for customers in both the short and long term.

As the current Rules already require NSP's to consider and adopt demand management options if they are more cost effective than augmentations we do not believe there is a need for a Rule change as proposed by the TEC in this area.

2. Requiring transmission network owners to publish robust data on upcoming network constraints that are relevant and useful to DM service providers

Transparency of operations from NSP's is necessary to allow the competitive market to operate effectively. It has been a long held ERAA position that NSP's should provide robust data on matters relevant to market investment. For this reason we have no objection to the principle behind this proposal from the TEC.

While we agree with this principle, we have not completed a thorough review of the detailed rule drafting proposed by the TEC, and therefore cannot comment on their appropriateness.

3. Requiring the AER to design a demand management incentive scheme

The role of the AER with relation to the competitive market is to enforce the rules and perform market monitoring functions. Imposing obligations for the AER to design a demand management incentive scheme would appear to be a major departure from these existing competitive market roles and one that the ERAA does not support.

Apart from the governance questions raised by this proposal, we also note in the Rules currently provide for demand side options to participate directly in the pool on the same basis as supply side options. If demand side providers choose to participate, they face incentives to avoid using energy at times of high pool price, and incentives to use more energy at low pool price. We are not clear what clearer incentives could be provided.

As retailers, our experience has been that customers perceive the costs and risks of active participation in the pool outweigh the risk premium they pay by choosing to contract with a retailer for risk management services. In our view it is the fundamental economic trade off's and practicalities of participating in the energy market that account for the lack of direct participation to date - not deficiencies in the rules.

In terms of Network investment, the appropriate role for the AER is to enforce existing provisions of the Rules to ensure that NSP's appropriately assess demand and supply

side options on a competitively neutral basis with network augmentations. Any “incentive scheme” in addition to this existing requirement would amount to providing a preferential subsidy to demand management over other options, thereby reducing the efficiency of NEM investment. Such an outcome would be inconsistent with the NEM objective and would not be supported by the ERAA.

4. Including a clear specification of the circumstances in which transmission network owners can recover expenditure on demand side activities

We understand that the current Rules allow for recovery of the costs of demand side measures if implemented by NSP’s. On this basis we are not clear why a change is needed in this area.

5. Requiring the DM activities are prioritised and properly integrated into revenue determinations

Our understanding is that demand management that has been appropriately contracted by a NSP is currently incorporated into the NSP revenue determination. We do not see a need for a rule change in this area.

6. Including prudency reviews to assess the extent to which transmission network operators have implemented an adequate level of demand management

Under the current regime, the time to assess the appropriateness of investments is before they are made. As discussed above, we fully support a competitively neutral assessment of demand side, supply side and network augmentations when investments are being assessed. Implemented correctly this approach should lead to the correct level of network investment related demand management.

As such we do not perceive a need for a Rule change in this area.

7. Including specification, within the Regulatory Test, that DM options be investigated before augmentation options

Demand management, supply side and network augmentations should be assessed against each other on their merits. Any move away from this principle would be a

move away from achieving the NEM objective. We do not support this aspect of the rule change proposal.

8. Including a mechanism for setting the price of demand side response within the market pool

As discussed above, demand side participants already have the option to participate in the pool. Consistent with its technology neutrality design principle, demand side participants that choose to participate can enjoy the same price as supply side participants. The basis for setting a different price for demand side participation would be major deviation from the current energy market design. In our view a case has not been made for such a change.

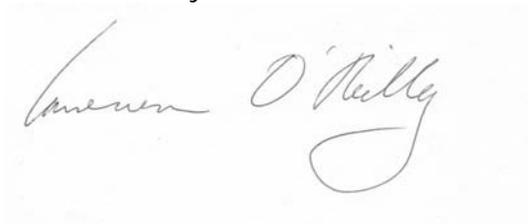
Summary

Overall the ERAA supports appropriate demand side management in the NEM. However we believe that the Rules should treat it on the same basis as network and supply side options. We believe many aspects of the TEC rule change are inconsistent with this principle, and with the NEM objective.

The current review into demand management being conducted by the AEMC would appear to provide an opportunity for a more holistic review into demand side participation in the NEM, and we suggest that it may be worth using that as the primary vehicle to develop any Rule changes required to remove Rule based impediments to demand side participation. As such any proposals emerging from the TEC proposal should be fed into that review to ensure the resulting rules are internally consistent.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437 6180.

Yours sincerely

A handwritten signature in black ink, reading "Cameron O'Reilly". The signature is written in a cursive style with a large, looped 'y' at the end.

Cameron O'Reilly
Executive Director
Energy Retailers Association of Australia