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4 May 2023

Anna Collyer  
Chair  
Australian Energy Market Commission  
Level 15, 60 Castlereagh Street  
SYDNEY NSW 2000

Dear Ms Collyer

**Re: AER submission on consultation paper – Review of the operation of the Retailer Reliability Obligation**

The Australian Energy Regulator (**AER**) welcomes the opportunity to comment on the Australian Energy Market Commission's (**AEMC's**) consultation paper on the review of the operation of the Retailer Reliability Obligation (**RRO**).

We understand the AEMC's review will consider the operational aspects of the RRO and does not extend to assessing the overall efficiency of the RRO. We have framed our submission accordingly.

**AER decision on forecast reliability gap**

Among other things, the consultation paper asks whether:

- the AER should have a broader scope to consider if it is appropriate in the circumstances to make or reject a reliability instrument; and
- there should be circumstances for the AER to be able to review, withdraw or reopen a decision on a forecast reliability gap, following updates on market conditions. These circumstances could include, for example, where the Australian Energy Market Operator (**AEMO**) publishes updated reliability forecasts in its Electricity Statement of Opportunities (**ESOO**) that indicate a reliability gap that is the subject of a T-1 reliability instrument (**T-1 instrument**) is no longer forecast.

We provide our views on these questions below.

### **Scope to make or reject reliability instrument**

The AER's role in deciding whether to make a reliability instrument is to have regard only to the criteria as set out at clause 4A.C.11 of the National Electricity Rules (**NER**) – namely that we are reasonably satisfied there are no material errors or incorrect assumptions.

The intention expressed in the final rules package from 2019 is that these criteria are prescriptive because it would not be appropriate for the AER to replicate AEMO's modelling or put alternative forecasts in the place of AEMO's. We consider this is appropriate and encourage the AEMC to give weight to this policy position when considering feedback from stakeholders on this element of the review.

### **Reviewing, withdrawing or reopening AER decision**

We recommend that the AER should not be granted the power to amend or revoke a T-1 instrument once made. We consider the current RRO framework, under which a T-1 instrument is not subject to a specific revocation or alteration power, best supports the objective of the RRO to support reliability in the National Electricity Market (**NEM**). For example, where there are increased supply and commitment decisions following the making of a T-1 instrument that result in AEMO indicating the relevant reliability gap is no longer forecast (via the ESOO), the AER's view is that the RRO process is functioning as intended by policymakers and revoking the T-1 instrument would be inconsistent with that intention.

We also note that the T-1 instrument supports reliability by sending a firm signal to liable entities that they must enter into a sufficient net contract position (**NCP**) for the forecast reliability gap. Liable entities must do so by the contract position day and report their NCP to the AER by the reporting day. If a T-1 instrument could be revoked or amended by the AER, this may create uncertainty for liable entities as to whether the AER will exercise this power in relation to a given T-1 instrument. In turn, liable entities may reduce or delay the number of contracts they enter into for the associated forecast reliability gap, which would potentially undermine the RRO.

At the same time, we acknowledge there may be concerns underpinning arguments for the AER to revoke or amend a T-1 instrument such as the potential to reduce regulatory burden in the absence of a forecast reliability gap. In addressing any such concerns, we encourage the AEMC to explore options that ensure the intent of the RRO continues to be met rather than moving towards revocation or amendment of a T-1 instrument.

We do not have specific comments on other aspects of the AEMC's review at this stage but anticipate providing further input into the AEMC's draft report.

### **Related matter – impact of AEMO's review of forecasting approach on RRO**

AEMO's ability to identify forecast reliability gaps in an accurate and timely manner is critical to meeting the policy intent of the RRO. We note that AEMO has recently updated its *ESOO and Reliability Forecast Methodology Document*, such that the ESOO Reliability Forecast (for the T-3 timeframe only) now includes all production units that are existing, committed or anticipated in the most recent generation information page published in accordance with clause 3.7F of the NER.<sup>1</sup> Previously, anticipated projects were excluded from the ESOO Reliability Forecast.

AEMO notes that the updated methodology seeks to include in the forecast "a greater number of projects that are likely to proceed, while sufficiently delaying developments that

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<sup>1</sup> AEMO, ESOO and Reliability Forecast Methodology Document, section 2.7, p.14.

are less advanced and more prone to delays”.<sup>2</sup> By considering a broader range of production units that are likely to proceed to commissioning, AEMO is less likely to determine a material reliability gap for the T-3 timeframe, other things being equal.

The AER welcomes this development in AEMO’s methodology. There is an underlying assumption in the National Electricity Rules that AEMO’s forecasting approach should be subject to continuous improvement. We look forward to AEMO continuing to regularly assess whether its forecasting approach needs to be further developed or otherwise reviewed in light of experience with future reliability forecasts, in accordance with the AER’s *Forecasting Best Practice Guidelines*.

**Next steps**

We look forward to continuing to work with the AEMC to ensure the RRO framework is fit-for-purpose and effectively supports reliability in the NEM. If you have any questions relating to this submission please contact Alistair Pellen on [REDACTED].

Yours sincerely



Mark Feather  
General Manager – Strategic Policy and Energy Systems Innovation  
Australian Energy Regulator  
Sent by email on: 04.05.2023

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<sup>2</sup> AEMO, Reliability Forecasting Consultation Paper, 31 October 2022, p.16.