



**EnergyAustralia**

LIGHT THE WAY

5 April 2019

Mr Peter Adams  
General Manager, Market Performance  
Australian Energy Regulator  
GPO Box 520  
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Lodged electronically: [noticeofclosure@aer.gov.au](mailto:noticeofclosure@aer.gov.au)

Dear Mr Adams,

### **AER Generator notice of closure exemption guidelines Consultation Paper**

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EnergyAustralia is one of Australia's largest energy companies with around 2.6 million electricity and gas accounts in NSW, Victoria, Queensland, South Australia, and the Australian Capital Territory. We also own, operate and contract an energy generation portfolio across Australia, including coal, gas, battery storage, demand response, solar and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM).

EnergyAustralia continues to support the intent of the Generator Closure Notice rule to promote a reliable market by providing clear investment signals about future generation requirements. However, implementation of the rules needs to reflect the commercial realities of plant operations, the wholesale market and the changing nature of government policies and regulations. The exemption application process should be appropriate to the likely impact on reliability and the reason for early closure, and not create unnecessary market uncertainty or compliance burdens on generators.

#### **Question 1: What information should we require a generator to provide in submitting an application for exemption?**

There should be no requirements on generators to submit particular information in an application for exemption. It is not possible to outline all the possible sources of information that may be relevant to an exemption application. Further, imposing specific information provision requirements on applicants creates a compliance and reporting burden, particularly when some information may not be relevant to the application. For example, consideration of reliability implications is always important but producing this information may not be relevant, or productive, in circumstances where closure is beyond the control of the plant owners, such as critical plant failure.

The obligation should be on participants to provide all supporting information they believe is relevant to the AER's decision making. The guidelines could suggest information the AER would find useful in making its determination, and highlight that the AER may ask participants for information that is not described in the guidelines, depending on the circumstances of closure.

## **Question 2: What procedure would be appropriate for considering applications for exemption?**

The AER should consider that there are a multitude of reasons for early closure, and that a single process may not be appropriate for all circumstances.

We suggest that consultation would not be required for early closures caused by material plant issues. In these circumstances, the AER should independently consider the application on its merits, based on information and discussion provided by the applicant. Early closure reasons that would be considered under this approach could include, but not be limited to;

- force majeure events,
- changes of law or licence that materially inhibit plant operation,
- major plant equipment failure (e.g. boiler failure, turbine fire),
- major failure in fuel supply (e.g. mine equipment failure, mine flooding),
- Original Equipment Manufacturer closure resulting in lack of expertise and/or timely replacement of failed components,
- other events that render one or more units of a plant inoperable.

These reasons for closure are sudden and could have serious consequences for the market. It is important that applications are assessed expeditiously to provide clarity, and certainty, to all market participants, about future supply. A consultation process with third parties would extend this uncertainty and we do not see how this adds value.

The AER should avoid specifying a complete list of reasons for which this approach would be taken, but rather provide guidance that material plant issues would be considered through this process.

Other reasons for closure, such as changing demand and supply balance, are more complex and may require consultation with other relevant parties such as AEMO.

It is also worthwhile ensuring the application process allows for fast-track consultation where it is easily demonstrated that a closure will have negligible impact on market reliability. For example, extensive consultation should not be required to close a small unit within an aggregated system, such as a 6MW turbine within a 45MW plant of aggregated units.

Further, the AEMC is currently considering a rule change to reduce the threshold for Scheduled Generators from 30MW to 5MW, which would subsequently require new generators captured by the changes to provide three year's notice and follow the AER exemption process. This may be unnecessarily cumbersome for smaller plants operating in large jurisdictions as the material implications of their closure is likely to be minimal.

On a related note, the AER should ensure there is a clear process for reviewing the efficacy of the guidelines, particularly in light of changes to related rules. We encourage the AER to undertake a review of the guidelines within the next five years and to state this within the guidelines to provide participants certainty that this is planned.

**Question 3: To what extent should we make applications for exemption, any supporting information, and our considerations public.**

Early closure applications that follow the expedited process outlined above should be made public as early as possible to provide notice to the market of potentially material changes in supply. This is consistent with the intent of the rules. In these circumstances the date of application and the reason for exemption should be public.

For other closure reasons, such as market oversupply, a private consultation process is likely to be more sensible, as it is not clear that an exemption will be granted and there may be commercial sensitivity around the reasons for closure. The application should only be made public if requested by the generator (see response to question 4).

If an application is accepted, details on the date of application and the high-level reasons for closure should be made public. It may also be appropriate to publish AEMO's assessment of likely USE levels and replacement plans, with agreement from the applicant. It is inappropriate for supporting information provided by applicants, particularly financial and operational information, to be made public.

If an application is not accepted, details of the application and consultation should only be released upon agreement with the generator, as this information could be highly commercially sensitive, and publication is not required to maintain market reliability.

The AER should make it clear in the guidelines which third parties could be included in the consultation process, and the information that will be provided to them. We understand that consultation with AEMO would be required to assess the impact of closure. Their primary role would be to compare the forecast supply-demand balance against the reliability standard to ascertain whether closure leads to a forecast for unserved energy (USE). For this, AEMO would need information about the timing for closure, the size of the plant, and details of any replacement plans.

It is unclear which other parties would need to be consulted in assessing whether an early closure has material ramifications for market reliability. Any other consulted parties, and the information they are provided, should be agreed to by the applicant.

**Question 4: Would a defined timeframe for considering an application for exemption be beneficial?**

Yes. This would provide applicants with certainty around when a decision will be made. Suggest that 2 months is sufficient time to consider applications.

It is important that the closure notice date can be deemed to commence from the date an application is made public. Should consultation on an unsuccessful application take six months, an applicant would then need to issue notice for a closure date that is three years hence. This will have extended their possible closure date by six months, possibly at financial cost to the generator. For unsuccessful exemption applications, it should be possible for the notice period to commence from the date that the application was made public. It is then a decision for the applicant as to whether, and when, the existence of the application should be made public.

**Question 5: What criteria could be helpful in considering application for exemption?**

As outlined above, for unanticipated events which lead to the plant being inoperable, the AER should make an assessment based on the evidence provided by the generator that it is no longer operable.

For financial or supply/demand balance reasons, key criteria should be whether AEMO forecast USE following closure, and whether the company, or individuals, have any over-riding legal requirements to cease plant operation.

**Question 6: How should we treat the interaction of the National Electricity Rules and other legislation, regulations, or obligations in considering applications for exemptions?**

It's imperative that conflicting obligations be considered when assessing applications as there could be serious consequences for individuals and corporations for failure to comply with those rules.

If you would like to discuss this submission, please contact Georgina Snelling on 03 9976 8482 or by email [Georgina.Snelling@energyaustralia.com.au](mailto:Georgina.Snelling@energyaustralia.com.au).

Regards

**Sarah Ogilvie**

Industry Regulation Leader