



Department of Environment,
Land, Water and Planning

PO Box 500, East Melbourne
Victoria 8002 Australia
www.delwp.vic.gov.au

Mr Peter Adams
General Manager, Wholesale Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Ref: SBR010463



Dear Mr Adams

SUBMISSION ON THE DRAFT GENERATOR NOTICE OF CLOSURE EXEMPTION GUIDELINE

Thank you for the opportunity to make a submission on behalf of the Victorian Government to the Australian Energy Regulator's (AER's) *Generator Notice of Closure Exemption Guideline: Draft Guideline* (the Guideline).

The Victorian Government recognises that exemptions to the three-year notice of closure rule may be necessary in circumstances where a power station has suffered a genuinely unforeseeable catastrophic failure. However, the regime must also ensure that generators are given every obligation and incentive to avoid risk of asset failure which exposes customers to reliability, security and price risks.

There may be other circumstances under which a generator may apply for an exemption from the requirement to provide three years notice of closure. However, the Victorian Government also recognises the critical importance to the community of a safe, reliable, and affordable electricity supply, and the significant disruption and cost that occur when this supply is interrupted. The decision to grant an exemption should not be taken lightly.

On this basis, it is critical that expected system reliability impacts associated with a proposed early retirement should be heavily weighted in coming to a decision about whether an exemption from the three-year notice of closure rule should be granted. The AER should seek advice from AEMO with respect to expected impacts on system reliability, and this advice should be heavily weighted in any decision. The Guideline should also clearly indicate that this will be considered by the AER in assessing a request for exemption.

Victoria also notes that under the previous Commonwealth carbon price, Australia's highest emitting power stations received an up-front \$1 billion cash compensation package in 2011-12. This included all of Victoria's remaining coal generators. Victoria notes that the compensation payments made to the nine power stations ranged between \$8.7 million and \$265.8 million whereas the civil penalty provisions in place for non-compliance with the new three-year notice of closure regime will be \$100,000.

This compensation was provided to generation asset owners for the loss of value of their assets as their power stations would be subject to pollution charges, and was conditional on those generators complying with a power system reliability test. This test required that for two years after the payments were made, the nameplate rating of the generator could not reduce unless conditions relating to system reliability were satisfied. A breach of the test would result in the generator either not being eligible to receive either the initial assistance, or future assistance, and potentially being subject to enforceable undertakings or other penalties. The AER could consider how this penalty regime was implemented and whether this is a suitable model for adoption for the three-year notice of closure requirements exemption process.

In addition, the Victorian Government considers that:

- A statement of principles guiding the AER's decision making framework would provide greater transparency for the market and enhance community confidence in how the AER will reach its decisions.
- It is important that as much notice is provided to the market as possible, and that any delays to this notice are minimised. The AER may wish to confidentially seek evidence of the timing of board meeting resolutions to retire plant as part of its assessment process. The Guideline should also state an unnecessarily delayed application will potentially prejudice an application for an exemption.
- The Guideline should state also how this process operates alongside and interacts with the Retailer Reliability Obligation.
- Given the data in an exemption application is likely to be market sensitive information, a statement outlining the information handling and confidentiality protocol may ease applicant concerns with sharing data. This may encourage generator owners to share relevant sensitive information with the AER.
- The AER should also ensure that effective information sharing occurs between the AER and jurisdictional regulators, including in relation to information pertaining to the direct cause of closure. This will assist with effective transition planning.

The Victorian Government supports the development of the Guideline to provide clarity to generators in relation to the information required when applying for an exemption from the three-year notice period rule. Clearly specifying information requirements in the Guideline will better enable the AER to make fully informed decisions in relation to assessments of requests for exemption.

I trust this input is of assistance. If you have any questions about this submission, please contact Ms Sharn Enzinger, Executive Director, Energy Strategy, Department of Environment, Land, Water and Planning, by email sharn.enzinger@delwp.vic.gov.au or on (03) 9412 4071.

Yours sincerely



John Bradley
Secretary
Department of Environment, Land, Water and Planning

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