

5 November 2020

Ms Meryn York
Acting Chair
Australian Energy Market Commission
Sydney South NSW 1235

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Brisbane QLD 4122
T 07 3347 3100

By online submission
AEMC code: ERC0287

Dear Ms York

Compensation for other services directions (ERC0287) – AEMO Submission

AEMO welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) draft determination on the rule change requests AEMO submitted relating to compensation for other services directions.

AEMO's submission below outlines our views on the AEMC's draft rule. It draws on our experience in implementing and compensating directions and other forms of intervention.

We welcome the opportunity to discuss our submission further with the Commission if needed. Should you have any questions on the matters raised in our submission, please contact Kevin Ly, Group Manager Regulation at kevin.ly@aemo.com.au.

Yours sincerely



Peter Geers
Chief Strategy and Markets Officer

Attachment 1: AEMO submission

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Compensation for other services directions (ERC0287) – AEMO Submission

1. Context – AEMO’s rule change requests

Whenever AEMO directs for services other than energy and market ancillary services, it must pay compensation to directed participants as required by clauses 3.15.7A and clause 3.15.7B. Compensation under clause 3.15.7B is based on a fair payment price (FPP) for the service provided, as determined by an independent expert. Once the FPP is set, AEMO notifies the participant and they can then make a claim for additional compensation if their lost revenue and net direct costs are higher than the FPP. This creates a two-step process for the participant and may require AEMO to appoint a second independent expert to determine the outcome of the compensation claim.

In its rule change request, AEMO proposed moving to a one step process to reduce the administrative burden on participants and to lower the cost of determining compensation by:

- Allowing the FPP and additional compensation to be determined at the same time.
- Allowing the independent expert to receive and take into account a directed participant's cost and loss information.

2. AEMO’s views on the AEMC’s more preferable draft rule

AEMO notes that the AEMC agrees with the desirability of moving to a one step compensation process in making its more preferable draft rule that (amongst other things):

- Removes the ability for a directed participant entitled to compensation under clause 3.15.7A to make a claim under clause 3.15.7B.
- Introduces a test for how AEMO classifies directions.
- Adds an obligation on AEMO to notify a directed participant of its determination of whether a compensable service was provided. AEMO must provide reasons and the participant can challenge the determination (via a submission process).
- Allows AEMO to determine compensation when the amount is less than \$20,000, and AEMO considers the claim is both reasonable and not complex. In all other circumstances an independent expert must be used.
- Does not apply a minimum compensation threshold if the directed participant provided a compensable service.
- Applies a minimum claim threshold of \$5,000 where the directed participant did not provide a compensable service but incurred direct costs.

While AEMO supports the overall intent of the AEMC’s more preferable draft rule, AEMO has some concerns with specific elements of the draft rule. These are set out below.

New definition of non-market service

AEMO has concerns with the proposed definition of *non-market service*, cl. 3.15.7(a1)-(a3) of the draft rule.

The term *non-market service* may cause confusion for stakeholders. For example, system strength is a service for which a market does not exist, yet by virtue of cl. 3.15.7(a2)(4) it is a service involving the provision of energy or market ancillary services rather than a *non-market service*.

Noting the potential inconsistency above and given the complexity of the proposed definition, AEMO considers it would be preferable to not try to define something which is inherently difficult to define. Instead AEMO should retain the flexibility embodied in the existing approach in the rules for the categorisation of directions.

Appealing AEMO's compensation determination

The draft rule (cl. 3.15.7A(c)) introduces a procedural step that allows a directed participant to lodge a written appeal with AEMO if it disagrees with AEMO's determination of whether a *compensable service* was provided by a directed participant.

AEMO notes that one of the main aims of its rule change request was to eliminate extra and unnecessary steps to reduce the time taken to determine compensation and reduce the administrative burden on AEMO and participants which reduces costs for all parties. AEMO considers that the extra step for participants to appeal to AEMO to review a considered decision it has just made is unnecessary. A participant can use the existing dispute resolution process if it disagrees with AEMO's decision.

Compensation in cases where a compensable service was not provided

Under the draft rule directed participants who do not provide any service in response to a direction, but incur direct costs (greater than \$5,000) are still eligible for compensation under cl. 3.15.7A(f). AEMO does not support this element of the draft rule. It represents a very significant and potentially costly change to the compensation regime and was never contemplated in the rationale for AEMO's rule change proposal.

AEMO notes that it regularly has to constrain output from scheduled or semi-scheduled generators to manage power system security, through the use of constraint equations in central dispatch. Consistent with the design of the market, when dispatch constraints are applied these generators are not entitled to compensation.

However, when it is necessary to restrict the operation of non-scheduled generation or other power system equipment for power system security reasons, AEMO's only enforceable option is to direct. In the recent past this has most frequently occurred in relation to legacy wind farms in South Australia that remain non-scheduled. In some abnormal conditions AEMO may need them to turn off (disconnect inverters) or reduce output. Under the draft rule, these directed non-scheduled generators would be eligible for compensation when constrained scheduled or semi-scheduled generators taking the same actions are not.

Hence, the draft rule gives rise to an inequitable outcome – it allows one category of participant to claim compensation not available to other participant categories, even though the overall impact on the participants is essentially the same.

Drafting ambiguity

The draft rule introduces a new clause 3.15.7(a3), expressed to be for the avoidance of doubt. Noting that paragraphs (a1) and (a2) together seem to articulate the compensation regime comprehensively, paragraph (a3) is unnecessary and may instead introduce doubt. It uses a new term – a ‘component’ of a direction – whose meaning is very unclear in this context and therefore open to interpretation. AEMO requests the AEMC delete this paragraph, or further clarify paragraphs (a1) or (a2) if it considers there is any residual ambiguity.

3. Implementation – timing and transitionals

AEMO’s rule change request noted that AEMO could immediately apply the rule it proposed. However, noting the differences in the draft rule (relative to AEMO’s proposed rule), AEMO considers an implementation time of three months is required to adjust processes and procedures.

AEMO does not have any concerns with the proposed transitional provisions (ch. 11 of the draft rule).

AEMO welcomes the opportunity to work with the AEMC and provide further input as the AEMC looks to finalise the rule.