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Edward Orum
AEMC

By email

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Dear Edward

RE: Improving consultation procedures in the rules – Consultation paper

Thank you for the opportunity to provide feedback on the consultation paper for the *Improving consultation procedures in the rules* rule change. This submission sets out Enel X's views on the proposal.

Enel X operates Australia's largest virtual power plant.¹ We work with commercial and industrial energy users to develop demand-side flexibility and offer it into the NEM's energy and ancillary services markets, the RERT mechanism, and to network businesses.

We support the proposal to combine the various consultation processes in the rules into a single process. We also support the ability to have shorter processes for less controversial matters.

However, we believe that the default should be a two-stage consultation process. This is for three reasons:

1. The breadth and complexity of issues covered in subordinate instruments is significant. A default single-stage process implies that most changes to subordinate instruments would be non-controversial, which we do not believe to be the case. Stakeholders must be afforded sufficient opportunity to comment on issues that affect them. The onus should be on the decision-maker to make the case for why a two-stage consultation is *not* needed, not the other way around.
2. The rules consultation procedure already allows the decision-maker to publish documents earlier. For example, if there are no submissions to a draft decision, the decision-maker can choose to publish the final decision immediately after submission closes – i.e. it doesn't have to wait the full 30 business days.
3. It's not clear that the proposed approach, specifically the publication of consultation plan before the draft instrument, will actually save the consulting party or stakeholders any time or effort as this essentially creates a two-stage consultation anyway. Further, it will be difficult for stakeholders to comment on the appropriateness of the proposed consultation approach without consideration of the issues – the two must be considered together.

For these reasons, we propose that the default two-stage process be retained. However, we support the use of a one-stage process if clear, objective criteria are met. We recommend that this occur in a similar way to the expedited rule making process, which is well understood – that is, the decision-maker publishes a consultation paper covering all the issues and including a recommendation that there only be a single-stage consultation, based on its assessment of the issues against the consultation criteria. If there are no objections to the decision-maker's recommendation, and if stakeholders agree to that assessment in their submissions, then the single-stage process can proceed. In this way, stakeholders will be able to fully consider the issues raised in the consultation paper alongside the assessment of

¹ Bloomberg NEF, December 2019.

Enel X – Submission to draft determination on Access, pricing and incentive arrangements for DER

required consultation. The decision-maker must also retain the ability to switch back to the two-stage consultation if issues arise and the expedited consultation criteria are no longer met.

Other matters

With respect to the consultation criteria – the criteria set out in the rule change request aren't really criteria, but rather broad themes for assessment. This approach may lend itself to quite a subjective assessment by the decision-maker, which is not appropriate. To be effective, they must be as specific and objective as possible such that any party assessing the issues against them would come to the same conclusion about whether they are met.

With respect to AEMO's proposal that the decision-maker would have to publish the final instrument no more than 80 business days after it published the draft instrument under a single stage process – this seems long for non-controversial changes. If our proposal above is supported, we recommend a shorter single-stage process. Similarly, any timeframes for publication of documents (e.g. final decision) should be stated as maximums to allow the decision-maker to publish documents earlier.

With respect to the proposal to remove the explicit ability for stakeholders to request a meeting – while we have generally found AEMO, the AER and other consulting parties amenable to individual meetings, it would be a shame if removal of this clause gave decision-makers an excuse not to do so. For that reason, we do not see the harm in retaining this. That said, we agree that it makes sense to combine the existing RCP timeframes regarding written consultation and other forms of consultation.

We support the introduction of an ability for stakeholders to request a change to subordinate instruments and procedures. As noted above, the breadth and impact of matters contained in these documents is significant. Market participants should have the ability to propose changes to them, like they can propose changes to the rules. Change proponents should be required to submit written requests containing certain information (e.g. identifying the issue, explanation of how the change would further the relevant energy objective, etc) so that the decision-maker is not unduly burdened. It would make sense for decision-makers to keep a record of, and potentially publish, these requests and commence consultation on the relevant instrument if a significant issue has been identified or there are several issues to be addressed.

Regarding the list of instruments in Appendix A, we note that the registration information resource and guidelines will be subject to the rules consultation procedure from 21 April 2022, as per the *Generator registrations and connections* rule.

I look forward to continued engagement with AEMC in the development of this rule change. If you have any questions or would like to discuss this submission further, please do not hesitate to contact me.

Regards

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