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Submitted via the AEMC's website: <https://www.aemc.gov.au/contact-us/lodge-submission>

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Objection to the AEMC's proposal to use expedited rule making process for the National Electricity Amendment (Allowing AEMO to accept cash as credit support) Rule 2024

AGL Energy (**AGL**) refers to the AEMC's consultation paper regarding Delta Energy's (**Delta**) rule change request to allow AEMO to accept cash as credit support.¹

The AEMC is proposing to use the expedited rule making process under section 96 of the National Electricity Law (**NEL**) for this rule change request.

AGL objects to the use of the expedited rule change process for this rule change request.

For the reasons set out below, AGL considers that if the rule change is not made as a matter of urgency the safety, security or reliability of the national electricity system, and the effective operation or administration of the wholesale exchange operated and administered by the Australian Energy Market Operator (**AEMO**) will not be imminently prejudiced or threatened. Additionally, AGL considers that this rule change request is not a non-controversial request.

The Delta rule change proposal should be considered through the normal rule change process.

The prudential framework plays a critical role in securing the systemic financial stability of the NEM, minimising market participant exposure to another participants inability to meet their financial obligations.² It is important that changes to the framework are thoroughly examined and subject to a robust consultation process with stakeholders to maximise benefits and minimise risk of unintended adverse consequences for other market participants or consumers if these protections were to be amended.

To be clear, AGL objects to the need for, and use of, the expedited rule change process. AGL supports consideration of the substantive issues raised in the rule change proposal and will engage separately on the issues raised.

The safety, security or reliability of the national electricity system

The rule change request and consultation paper describe a scenario in which Delta is unable to provide an accepted form of credit support to AEMO from the end of 2024 and, as a result, it could be suspended or otherwise restricted from participating in the NEM. It is this scenario said to give rise to the imminent risk.

The National Electricity Rules (**NER**) already include arrangements to adequately manage the issues raised by the rule change proponent (Delta) to ensure that there is no imminent risk to safety, security or reliability of the national electricity system. These arrangements were

¹ AEMC, *Allowing AEMO to accept cash as credit support*, Reference: ERC0403 – <https://www.aemc.gov.au/rule-changes/allowing-aemo-accept-cash-credit-support>

² Financial stability is used to refer to flow of funds between market participants in the market to facilitate the buying and selling of electricity as intended



substantially enhanced by the AEMC in the 2016 Market Participant Suspension Framework rule change and therefore do not necessitate the rule change be made as a matter of urgency.³

Under these arrangements, AEMO is not required to suspend a market participant if it fails to provide credit support required under the NER. Even if AEMO decided to issue a suspension notice to a market participant, AEMO has a significant degree of discretion and flexibility around what a suspension notice can relate to, including:

- specific registration categories of the defaulting market participant
- specific activities the registration categories of the market participant it is suspended from

The consultation paper notes that if Delta was restricted from participating in the NEM, this could exacerbate reliability gaps over summer – in reference to AEMO's 2024 Electricity Statement of Opportunities (**ESOO**) which highlighted forecast reliability gaps in New South Wales, as well as Victoria and South Australia for this coming summer.

As the operator of the NEM and publisher of the ESOO, AEMO is well placed and informed to make decisions that do not prejudice or threaten the safety, security or reliability of the national electricity system or the effective operation or administration of the wholesale exchange.

Further, the NEL sets out AEMO's statutory functions which include:⁴

- to promote the development and improve the effectiveness of the operation and administration of the wholesale exchange ((1)(b))
- to maintain and improve power system security ((1)(e))

In the event Delta is unable to arrange sufficient credit support beyond 2024, this alone will not result in Delta being restricted from participating in the NEM. It would require AEMO to issue a suspension notice to Delta that related to its generation activities. AGL considers that AEMO would not do this if it risked the safety, security or reliability of the national electricity system, or its effective operation or administration of the wholesale exchange.

Non-controversial

While not stated by the AEMC as a reason for to the proposed use of the expedited rule change process, Delta's rule change request makes the claim that the rule change is non-controversial.

The reasons for this claim are it would not have a significant effect on the NEM or impact any participant negatively, and would not favour anyone, group, or technology over another. Further, Delta states the rule change does not require a change in how the market operates and would provide all market participants with the ability to reduce their own financing costs by having the option to provide credit support directly to AEMO.

AGL considers the rule change request cannot be considered as non-controversial, primarily because it relates to the prudential arrangements of the NEM. Robust prudential arrangements are critical to ensuring that market participants are shielded from the risk of a financial exposure where another participant cannot meet their financial obligations to the market. There is a significant risk of unintended consequences arising from what may appear to be small changes.

³ AEMC, *Final Rule Determination – National Electricity Amendment (Market Participant Suspension Framework) Rule 2016*, 1 December 2016 – <https://www.aemc.gov.au/rule-changes/market-suspension-framework>

⁴ National Electricity Law, Part 5 – *Role of AEMO under National Electricity Law*, Division 1, section 49



We would encourage the AEMC to exercise caution when assessing rule changes which affect the prudential arrangements, and that an expedited process is not appropriate in these circumstances.

Ralph Griffiths

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