

Australian Energy Market Commission (**AEMC**)
60 Castlereagh Street (Level 15),
Sydney, NSW 2000

13 May 2025

Dear Sir/Madam,

Submission in relation to Draft Rule Determination – National Electricity Amendment (Allowing AEMO to accept cash as credit support) Rule (Reference: ERC0403)

We refer to the AEMC Draft Rule Determination, dated 3 April 2025, proposing amendments to the credit support arrangements for the National Electricity Market (**NEM**) to increase optionality and flexibility to participants. In response, please find below our submission, in accordance with Section 99 (4a) of the National Electricity (NSW) Law, Act 20a of 1997.

Draft Rule

The draft rule, in response to a rule change request submitted by Delta Electricity, would amend the NEM credit support arrangements with the objective of increasing optionality and flexibility for market participants to provide credit support and meet their prudential requirements, without weakening the credit support arrangements. It is proposed that this will be achieved with draft rules including:

- broadening the pool of acceptable credit support providers; and
- allowing participants to provide cash as credit support up to a limit of \$5 million each.

Our submissions are detailed below:

Broadening the Pool of Acceptable Credit Support Providers

It is proposed that the following rules be introduced to achieve the objective of broadening the selection of credit support providers:

- allow participants to provide surety bonds, issued by insurers; and
- allow credit providers regulated by a member of the Basel Committee of Banking Supervision, or that have regulatory equivalence with Australia as determined by the Australian Energy Market Operator (**AEMO**).

In this regard, we submit that the objective of broadening the pool of acceptable credit support providers can also be achieved by applying a more practical approach than the current minimum credit rating requirement required for credit support providers.

Specifically, clause 3.3.4 of the National Electricity Rules (**NER** or **Rules**) states the following:

“(b) Until varied by determination of AEMO, an acceptable credit rating is either:

- (1) a rating of A-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Standard and Poor’s (Australia) Pty. Limited; or*
- (2) a rating of P-1 or higher for short term unsecured counterparty obligations of the entity, as rated by Moody’s Investor Service Pty. Limited.”*

While requiring providers to meet a minimum credit rating supports robust prudential arrangements in the NEM, the current minimum S&P credit rating of A-1 or Moody’s credit rating of P-1 is a severe restriction limiting the pool of credit support providers to the four major Australian ADIs and Macquarie Bank. The requirement to meet a minimum credit rating therefore precludes the much wider range of fully regulated Australian banks, such as Avenue Bank (**Avenue**) which is solely focused on the bank guarantee market.

As a bank guarantee specialist, Avenue’s financial strength is not impacted by the performance of lending and trading operations, as is the case with other Australian Banks including the majors. Instead, Avenue focuses on offering 100% cash-secured bank guarantees (which are irrevocable and unconditional), with the cash from customer’s security deposits conservatively invested in highly rated Government, Semi-Government and ADI debt securities and term deposits.

This means that whilst Avenue does not have a credit rating, as part of an APRA regulated investment strategy, all of the assets backing our bank guarantees are invested in cash or high quality securities that are highly liquid, AUD denominated and issued by highly-rated issuers such as:

- NSW Treasury Corporation (A-1+) (S&P AA+, Moody's Aaa)
- Queensland Treasury Corporation (A-1+) (S&P AA+, Moody's Aa1)
- Treasury Corporation Victoria (A-1+) (S&P AA, Moody's Aa2)
- WA Treasury Corporation (A-1+) (S&P AAA, Moody's Aaa)
- Macquarie Bank (A-1) (S&P A+, Moody's Aa2)
- Commonwealth Bank (A-1+) (S&P AA-, Moody's Aa3)
- ANZ (A-1+) (S&P AA-, Moody's Aa2)
- National Australian Bank (A-1+) (S&P AA-, Moody's Aa2)
- Westpac Bank (A-1+) (S&P AA-, Moody's Aa2)

This conservative approach combined with Avenue's capital position provides a high level of security and confidence in its offering. Further, like all banks, Avenue is also covered by the Australian Government's Financial Claims Scheme.

To provide greater flexibility to market participants, we submit that what constitutes an acceptable credit rating for the purposes of the Rules be extended to include providers where the security supporting the bank guarantee is invested predominantly in cash or debt securities that are credit grade 1 or 2 for the purposes of banking regulations, being securities with a short term rating of at least A-2 (S&P) or P2 (Moody's) and/or a long term rating of A- (S&P) or A3 (Moody's) instead of the rating approach currently set out in 3.3.4(b) of the NER.

Allowing Participants to Provide Cash as Credit Support up to a Limit of \$5 million Each

Section 3.1.1 of the Draft Rule Determination states that AEMO will pay interest on the cash provided, less any liabilities or expenses incurred by the AEMO. We note that to ensure interest rates paid remain competitive, the cash provided as credit support will need to be reinvested, likely in assets with a similar risk profile and rating to the investments that Avenue makes with the cash security that supports its bank guarantees. This reinforces our above submission that the credit rating requirement should 'look through' to the underlying assets securing the credit support.

As indicated in sections 2.5.1 and 3.1.1 of the Draft Rule Determination, allowing cash as credit support introduces clawback risk which has to be mitigated and managed. In addition, investing cash introduces significant interest rate and liquidity risk that requires specialised knowledge and skill to manage. The administrative burden and operational complexity associated with accepting cash as credit support should not be underestimated and may introduce significant cost to the AEMO that has to be recovered from market participants.

As a separate matter, whilst the current draft rule broadens the available credit support providers, we note that a changing social or political environment may make the continued provision of such support problematic in the future. To cater for this, we would submit that the draft rule incorporates provisions whereby surety bonds or bank guarantees can be replaced with cash support in an integrated and streamlined manner to mitigate some of the issues currently faced in the banking sector.

Conclusion

Avenue is a specialist provider of bank guarantees and is already assisting market participants with some of their, non-NEM, credit support requirements. We trust that the above submissions assist with the development of a final rule that provides market participants with increased optionality and flexibility and an improved process for the provision of credit support.

Please contact us if you have any questions or require further information.

Best regards,



Peita Piper
Chief Executive Officer
Avenue Bank Limited