

Our Ref: 18497027

19 June 2025

Anna Collyer  
**Chair**

Australian Energy Market Commission  
GPO Box 2603  
SYDNEY, NSW, 2001

Dear Ms Collyer

**Re: Improving the NEM access standards – Package 2 consultation paper**

The Australian Energy Regulator (AER) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) consultation paper on Improving the NEM access standards – Package 2.

The AER supports the proposed changes in the consultation paper to broaden connection requirements beyond Registered Participants, given the impact that Schedule 5 Participants can have on the power system. However, to achieve the policy intent, it is important that there are incentives for newly captured types of participants to ensure their compliance post connection. In particular, it is important that key obligations on Registered Participants for performance standards are broadened out as detailed below.

**Clause 4.15**

Currently, clause 4.15 of the NER Compliance with Performance Standards applies to Registered Participants and is a Tier 1 civil penalty provision. The consultation paper considers expanding the scope of clause 4.15 to apply to all Schedule 5 Participants.

The AER supports the broadening of clause 4.15 to impose civil penalties on Schedule 5 Participants given that many obligations under the NER in Package 1 have been broadened to apply to Schedule 5 Participants. The AER is of the view that if an entity has an obligation, it should also be liable for a civil penalty if it breaches that obligation.

**Clause 5.2.1**

The AER notes that the obligations in clause 5.2.1 of the NER Obligations of Registered Participants currently only apply to Registered Participants and are not civil penalty

provisions. We recommend that the obligations under clause 5.2.1 of the NER be amended to:

1. Apply to Schedule 5 Participants, instead of only Registered Participants. This would ensure consistency with other amendments in both Package 1 and proposed amendments in Package 2 which seek to broaden obligations of Registered Participants to Schedule 5 Participants; and
2. Be civil penalty provisions. These are important obligations which the AER should be able to take enforcement action against, if breached. We note that obligations placed on other entities in clauses 5.2.3 - 5.2.7 of the NER are civil penalty provisions. While we acknowledge that there may be instances where there is overlap between clause 5.2.1 and these other provisions, we are of the view that the obligations in clause 5.2.1 are broader and should be civil penalty provisions.

#### Continued engagement

We appreciate the opportunity to provide feedback on the consultation paper and are available to discuss our comments further if needed.

Please do not hesitate to contact Sam Karczmarz on 08 8213 3476 or at [Sam.Karczmarz@aer.gov.au](mailto:Sam.Karczmarz@aer.gov.au) to discuss further.

Yours sincerely



Sara Stark  
**A/General Manager**  
**Policy**