



21 April 2016

Mr John Pearce
Chairman
Australian Energy Markets Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Pearce

RE: Extension of the Reliability and Emergency Reserve Trader Draft Determination (Reference: ERC0198)

ERM Power Limited (ERM Power) welcomes the opportunity to respond to the Australian Energy Market Commission's (the Commission) Draft Determination on the Extension of the Reliability and Emergency Reserve Trader rule change request proposed by the Council of Australian Governments Energy Council (COAG, the Proponent).

About ERM Power Limited

ERM Power is an Australian energy company that operates electricity generation and electricity sales businesses. Trading as ERM Business Energy and founded in 1980, we have grown to become the fourth largest electricity retailer in Australia, with operations in every state and the Australian Capital Territory. We are also licensed to sell electricity in several markets in the United States. We have equity interests in 497 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland, both of which we operate.

General comments

ERM Power acknowledges the Commission's considerations, but remains unconvinced that an extension of the Reliability and Emergency Reserve Trader (RERT) provision of the National Electricity Rules (NER) is in the best interests of the National Electricity Market (NEM) and consumers overall. We therefore continue to not support an extension of the RERT.

Ongoing uncertainty regarding supply reliability

The Commission indicates that an extension of the RERT is required due to ongoing uncertainty with regard to reliability of supply. The Commission points to this ongoing uncertainty as the reason for the original Reserve Trader provisions of the Rules which were replaced by the RERT in 2008, and the subsequent previous extension of the RERT in 2012. These provisions were included and have remained in the Rules due to an ongoing perception of uncertainty regarding supply reliability over the years.

Yet, during these years of this *uncertainty*, ERM Power contends that, based on any measure and comparison with any other electricity supply system elsewhere in the world, the National Electricity Market (NEM) has exhibited extremely high reliability since its commencement in 1998.

ERM Power is concerned that both the Commission and the Proponent have failed to demonstrate that this strong performance by the NEM will deteriorate into the future. As contained in the Draft Determination, the more detailed and most recent analysis and reports by AEMO do not indicate the possibility of a reserve shortfall until 2020, at the earliest, which is sufficiently into the future to allow for market responses. In fact, AEMO is so unconcerned about the future supply reliability that it has proposed a rule change to modify the routine three-monthly Energy Adequacy Assessment Projection (EAAP) reporting requirements to a requirement to publish an EAAP report at least annually. This rule change request would seem to be at odds with a view of uncertainty with regard to future supply reliability.

All that can be put forward by the Commission to justify maintaining the RERT provision in the NER is this ongoing perceived uncertainty. ERM Power does not believe this to be a substantive reason to maintain a market distorting provision in the NER.

Regulatory certainty

The Commission indicates that regulatory certainty is served by removing the sunset provision for the RERT in the NER as opposed to simply extending the provisions to 30 June 2019 as requested by the Proponent. This removes the need for another possible rule change process and its associated costs during 2018. ERM Power believes that regulatory certainty would be best served, in this instance, by allowing the RERT provisions to cease on 30 June 2016 as originally intended.

Cost of the RERT extension

The Commission concludes that the market costs of extending the RERT in perpetuity is small, as the RERT provisions have to date been infrequently activated and never exercised. The Commission also considered that even when activated, the costs of the RERT intervention by AEMO have been small compared to the total costs of the NEM.

ERM Power is concerned that the Commission in its consideration is viewing the extension of the RERT as a *no regrets* outcome. If the NEM continues its historical performance of high reliability of supply, then the RERT provision will not be activated and therefore additional costs to consumers will not occur. If however supply reliability was to deteriorate and the RERT provisions could be activated, it would appear the decision to extend the RERT would seemingly be justified in the Commission's mind.

ERM Power does not believe this is appropriate basis for a decision on this matter, as it fails to consider the broader implications of the RERT extension on total costs of supply to consumers. We believe the proposed extension of the RERT will result in the establishment of a parallel market for new supply or demand response by AEMO in direct competition to existing load serving entities and lead to increased and unfortunately opaque costs in addition to the transparent costs of the RERT to retailers, which would ultimately be passed through to consumers.

ERM Power also remains concerned that an extension of the RERT may lead to possible gaming by existing suppliers with existing closure announcements. A RERT extension may provide an incentive for suppliers to seek access to additional funds from consumers to maintain existing facilities. We consider there would be a high probability that such facilities would remain available for routine operation anyway, in order to satisfy internal risk management requirements.

This proposed extension of the RERT would therefore leave consumers paying for reliable supply threefold;

- Firstly, through the very high Market Price Cap (MPC) and Cumulative Price Threshold (CPT) settings, justified on the basis these lead to reliable supply outcomes;
- Secondly, paying for the combined costs of any RERT contracts acquired by AEMO, which may or may not be dispatched; and
- Thirdly, due to the real negative impact that the RERT extension has on the normal risk management process of the NEM due to AEMO competing with load serving entities for the provision of new supply or demand management.

Amendments to clause 3.20.3(d) - reducing the timeframe in which AEMO may contract for reserves

If the RERT provisions are to be retained in the Rules then the proposed rule change to amend clause 3.20.3(d) and reduce the timeframe in which AEMO may contract for reserves ahead of a projected shortfall in reserves from nine months, to ten weeks must be implemented at the same time as the RERT extension. This amendment to clause 3.20.3(d) must apply from 1 July 2016.

The Commission's proposal to delay the commencement of the amendment to clause 3.20.3(d) to 1 July 2017 in practice simply *closes a door but opens a window* to a further rule change request to maintain the ability for AEMO to contract for reserves at extended time periods into the future.

In practice, the proposed amendment to clause 3.20.3(d) basically removes the ability for AEMO to procure reserves under the current RERT guidelines under the long notice provision, while retaining the medium and short notice provisions. Delaying the commencement of the amendment to clause 3.20.3(d) to allow the current RERT Guidelines to be amended is not required, as the proposed amendment aligns exactly to remove the current long notice provision. In the future, the Reliability Panel may choose to consult to amend the RERT Guidelines to alter the time periods for the medium and short notice provisions (and possibly a new amended long notice provision). However, this is not a valid reason to delay the amendment to clause 3.20.3(d) past 1 July 2016.

Also, ERM Power believes that in order to lessen the distortionary impact of the RERT extension, clause 3.20.3(d) requires further amendment to remove the last sentence.

For the avoidance of doubt, AEMO may negotiate with potential tenderers in relation to reserve contracts at any time.

ERM Power believes that leaving this last sentence allows AEMO to commence negotiations to allow a RERT transaction in the future at any time it unilaterally decides to. Therefore, any proposed amendment to clause 3.20.3(d) to shorten the timeframe, in effect becomes meaningless. It is ERM Power's belief that allowing AEMO the ability to negotiate, either informally or formally, with potential tenderers outside the proposed 10 week period will result in increased difficulty for load serving entities in negotiations with suppliers of demand management and smaller capacity generation additions, and therefore ultimately result in increased costs to consumers. The NEM would be best served, if the RERT provisions are to be extended, to limit AEMO's ability to negotiate RERT contracts either formally or informally, to within the 10 week period.

In conclusion, the NEM has provided a highly reliable supply of electricity to consumers since its commencement in 1998. The NEM supports efficient risk management processes that have resulted in the provision of new generation generally ahead of schedule, to not only meet customer needs, but also supply sufficient reserves to ensure that credible contingency events can be met without interruption of supply to consumers.

The RERT has a negative impact on these efficient NEM risk management processes and leads to increased costs that will ultimately be borne by consumers.

No actual analysis indicating a credible reliability issue in the future has been supplied by the Commission or the Proponent to justify why the RERT should be extended past 30 June 2016. AEMO's latest public reports continue to indicate that the reliability standard is not expected to be breached in any region prior to 2020. This allows more than sufficient time for the NEM risk management process to facilitate the entry of new generation as and when it is required.

ERM Power remains unconvinced that an extension of the RERT provision of the NER is required.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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