



18 May 2016

Richard Owens
Senior Director
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Owens

RE: Updating the electricity B2B framework – Draft Determination

ERM Power Limited (ERM Power) welcomes the opportunity to respond to the Australian Energy Market Commission's (the Commission) Draft Determination on updating the electricity B2B framework.

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 supports the Commission's objective to amend the electricity B2B framework to better reflect the range of parties likely to be impacted by the framework as the market responds to recent rule changes on competition in metering and related services, and embedded networks. However, we believe there are aspects of the draft rule which should be amended to ensure fair representation and decision-making powers across the range of B2B parties, while ensuring the framework can evolve with market needs.

An integral part of the framework's governance is the membership of the Information Exchange Committee (IEC), which is responsible for the development of B2B procedures. In its Draft Determination, the Commission proposes an alternative membership structure to those requested by the proponents. While ERM Power has previously provided its support for the structure proposed in the Red/Lumo Energy rule change request, we have reconsidered this in light of the Commission's draft considerations, and recommend a revised structure to reflect what we believe is a fair and balanced middle ground between the Red/Lumo Energy proposal and the Commission's alternative structure.

We provide more detailed views on this and other aspects of the Draft Determination in the submission that follows.

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



Yours sincerely,

[signed]

Jenna Polson

Manager, Regulatory Affairs

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IEC MEMBERSHIP

ERM Power has previously outlined our support for the Red/Lumo Energy proposal for IEC membership, and in particular, the allocation of two places for each of the distributor, retailer and metering business categories. The Commission has recommended an alternative model in its Draft Determination. Having reviewed our position in response to the Commission’s draft considerations, we propose a further alternative structure, which we believe strikes an appropriate balance of the relevant interests, and we commend to the Commission. These models are compared in the following table, and discussed further below.

Red/Lumo Energy structure	The Commission’s alternative structure	ERM Power’s alternative structure
AEMO member (chairperson)	AEMO member (chairperson)	AEMO member (chairperson)
2 retailer members	1 retailer member	2 retailer members
2 DNSP members	1 DNSP member	2 DNSP members
2 metering members	1 metering member	2 metering members
Up to 4 discretionary members	Up to 1 third party B2B participant	Up to 1 third party B2B participant
	1 consumer member	1 consumer member
	2 - 4 discretionary members	Up to 2 discretionary members
Total: Up to 11 members	Total: Up to 10 members	Total: Up to 11 members

Two representatives per category

The Commission acknowledges the common stakeholder view that two representatives per category are necessary to ensure that diversity of views within each category can be represented. However, the Commission points out that providing two representatives per category would not guarantee diversity of representation. Further, the Commission contends that sub-category representatives could be appointed as discretionary members to achieve this diversity, while allowing the flexibility to potentially seek alternative representation through discretionary membership, should this be deemed more appropriate over time.

ERM Power remains of the view that specifically reserving two representatives per category is preferable to relying on discretionary positions to be allocated to represent sub-categories. While we acknowledge that reserving two representatives per category does not necessarily guarantee diversity of representation, it does guarantee the *opportunity* for diverse sub-category businesses to be represented on the IEC. Without this opportunity, sub-category businesses would have no choice but to rely on a member from another business which may have opposing views, and therefore a disincentive to represent other interests. Further, there may be commercial sensitivities which disallow a business from fully expressing their position to that representative. Where each category is allocated two positions, the risk of this occurring is significantly reduced.

Additionally, this allows shared workload in updating and consulting with other businesses within the category to enable their views to be represented on the IEC.

Third party and consumer members

In reviewing the Commission's proposed drafting, we agree that if there is a B2B user nominated for IEC membership, this party should also have the right to participate. We also find that there is benefit in specifying one consumer member on the IEC, to ensure an independent and inclusive perspective of consumer interests. It is appropriate for AEMO to appoint the consumer member.

Discretionary members

ERM Power's alternative proposal allows up to two discretionary members. We consider this allows another third party B2B participant to be represented to match the positions allocated to other industry categories, should this be considered appropriate as the market evolves. The remaining discretionary member place provides the flexibility to also enable appointment of an independent subject matter expert, or another industry representative where deemed appropriate.

Importantly, we oppose the draft position that discretionary members should be appointed by AEMO. We believe the IEC as a whole (including the AEMO chair) is best placed to consider whether its membership is appropriately representative of the broader industry, and that discretionary member appointments should therefore be an IEC responsibility. We encourage the Commission to provide the IEC with this responsibility in its final rule.

OTHER MATTERS

Obligations of IEC members

Draft rule 7.17.8(c) states that an IEC member *may* take into account the interests of the persons it has been elected to represent in performing its IEC duties. It is our strong belief that IEC members should be required to account for these interests, to ensure that IEC discussions and recommendations are adequately informed by the views of the broader industry. We therefore urge the Commission to amend this rule to state that an IEC member *must* take those interests into account.

B2B e-hub participant accreditation

The draft rules provide AEMO with the right to exempt persons or classes of persons from one or more requirements under the accreditation process for becoming a B2B e-hub participant. ERM Power strongly supports this provision, believing that existing e-hub users are likely to have already demonstrated fulfilment of some or all accreditation requirements. This provides the opportunity for costs to be avoided where additional assessment of these parties would not derive further benefit.

Cost recovery

We support the Commission's draft determination that the costs of the B2B e-hub should be recovered through participant fees, with third party B2B participants (other than Embedded Network Managers) to be deemed as participants for this purpose. This ensures equitable cost recovery from e-hub end users.

AEMO's role in making B2B procedures

ERM Power also supports the proposal to limit AEMO's powers to veto IEC recommendations to instances where there is an expected conflict with the MSATS procedures. We agree that this clarifies

decision-making accountability between the IEC and AEMO, removing those veto provisions where there are already grounds for a court judicial review.

B2B e-hub capabilities

The draft rule would require the B2B e-hub to:

- have the capability to facilitate the B2B communications set out on the B2B procedures;
- meet any performance requirements specified in those procedures; and
- have the capability to support free-form B2B communications between B2B parties.

ERM Power supports these requirements existing in the National Electricity Rules. One of the key objectives of the proposed rule change is to provide a framework to support communications relating to advanced metering services. The e-hub will only be utilised by parties where services can be performed in line with market requirements. For example, a fundamental characteristic of many advanced services expected to be offered in the future is service delivery in near-real time. If the updated B2B e-hub is not capable of facilitating near real-time transactions, parties will choose to utilise other communications methods to enable those services. This would compromise the efficiency benefits of a shared market protocol.

Having said that, we also consider it important that the e-hub is capable of supporting free-form communications between B2B parties. This feature could be utilised for new services between small numbers of parties that are either commercially sensitive, highly tailored, or low frequency, such that there are not material efficiency gains in enabling shared industry communications. A proposal may then be put to the IEC to include a shared communications approach in the procedures, should this be justified in the future.