

11 June 2015

Ref: A656679

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Lodged via AEMC web portal.

Project Number: ERC0166

## **BIDDING IN GOOD FAITH RULE CHANGE: CONSULTATION ON DRAFT DETERMINATION**

Delta Electricity welcomes the opportunity to make a submission in response to the Bidding in Good Faith Rule Change Draft Determination (Draft Rule) released in April 2015.

Delta Electricity (Delta) is an electricity generator in the National Electricity Market (NEM) with an installed capacity of around 1,320 megawatts that produces electricity from coal, water and biomass. Delta operates Vales Point Power Station on the NSW Central Coast and the hydro-powered Brown Mountain Power Station at Bemboka River on the NSW South Coast. Delta generates around 4 per cent of the electricity needed by consumers in the NEM.

The opportunity to rebid capacity in response to continually changing market and operational conditions is fundamental to the market's ongoing effectiveness, promoting a competitive price for the provision of electricity to consumers, and providing accurate and timely investment signals to the market.

Delta supports the current provisions in the National Electricity Rules (Rules) that require generators make all bids and rebids in good faith. That is, generator bids and rebids should reflect their intention and not be misleading.

The AEMC has identified late rebidding, or more specifically late rebidding undertaken as part of a strategy of behaviour that is aimed at misleading competitors as the primary justification for the proposed Draft Rule. Delta does not agree that this is a material problem in the NEM, nor does Delta agree that the qualitative and quantitative analysis presented by the AEMC supports fundamental changes to the Rules.



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Delta is concerned that the proposed Draft Rule:

- creates an additional cost and a compliance burden for market scheduled generators that is disproportionate to the purported impact of the alleged issues and the potential gains that the Draft Rule seeks to achieve;
- creates an intolerable reporting requirement that has the express purpose of influencing rebidding behaviour rather than addressing any identified shortcoming in the Australian Energy Regulator's (AER) information gathering powers; and
- cl 3.8.22A(e) directs a court, when assessing compliance with the proposed Draft Rule, to consider information that would reasonably be outside the knowledge of generator when submitting a rebid.

### *It is not clear that late rebidding is a material problem in the NEM*

It is Delta's view that the cost of strategic very late rebidding is difficult to separate from the underlying limitations imposed on the market by the 5 minute dispatch versus 30 minute (5/30 min) settlement inconsistency.

AEMO's analysis of late rebidding<sup>1</sup> impact identifies that, in 2013, rebids in the last dispatch interval of a 30 minute settlement interval lowered prices in the largest regions (NSW and Vic). Modest rises were observed in Qld, SA and Tas. The total estimated cost of very late rebidding was less than \$10M in 2013, the proportion directly associated with 'strategic' very late rebidding has not been identified.

The AEMC has not provided evidence that participants are delaying rebids to mislead others and take advantage of the 5/30 min settlement inconsistency.

### *Market efficiency benefits have not been quantified*

The AEMC proposal is based on an 'in principle' assessment that the Draft Rule will result in shifts in behaviour that drive more efficient outcomes. Delta is of the view that the expected efficiency gains are likely to be difficult to realise given the 5/30 min settlement inconsistency has a bigger impact, and pre-dispatch accuracy will continue to be impacted by pre-dispatch constraint implementation and demand forecasting errors.

### *Compliance burden is not trivial*

To estimate the impact of the Draft Rule reporting requirements Delta has reviewed its rebids during the week ending 31 May 2015. Of 65 rebids, approximately 60% would have met the proposed reporting threshold. As a longer term average Delta expects that the proposed reporting obligation would create the need for approximately 5 reports per day. The vast majority of Delta's rebids address short term changes in the availability, performance and the marginal cost of operating Delta's plant.

Given that a late rebid report is "expected to be substantially more comprehensive than the brief, verifiable and specific reason that participants are currently required to provide with each rebid submitted"<sup>2</sup>, the Draft Rule will impose a material increase in Delta's costs of participation in the NEM.

1. AEMO letter to AEMC 18 December 2015 - NEM 5 MINUTE DISPATCH AND 30 MINUTE SETTLEMENT: PRICE IMPACTS FROM LATE REBIDS

2. DRAFT RULE DETERMINATION: National Electricity Amendment (Bidding in good faith) Rule 2015 pg 47



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### *'Red Tape' is not an appropriate tool to modify participant behaviour*

Delta does not believe it is good policy to seek to change participant behaviour by compelling a generator "to consider the trade-off between the necessity of a rebid and the requirement to provide a report"<sup>2</sup>. This approach is inconsistent with the current Government's policies to minimise unnecessary 'Red Tape'.

Further, the need for additional reporting may mean late rebids that improve the efficiency of the market may not be made. This outcome would be inconsistent with the National Electricity Objective.

### *No justification to expand the AER's information collection powers*

The AER already has powers under cl 3.8.22(c)(3) of the existing Rules to "request...such additional information to substantiate and verify the reason for a rebid as the AER may require from time to time". In Delta's view the AEMC have not identified that a lack of information impedes the AER's market monitoring and rule enforcement activities.

Delta is concerned that the specific content and format of the late rebid report is to be left for the AER to specify as part of its Rebidding and Technical Parameter Guidelines. The effect of specifying a Rules obligation within an operational guideline prepared without a rigorous consultation process provides the AER with too much discretion. The ongoing potential for revision by the AER creates uncertainty for market participants.

If it is determined that a late rebid reporting regime is justified then it must be: proportionate to the problem it seeks to address, be based on pre-determined and justified triggers, and not be left to the discretion of the AER.

### *Strict compliance is not achievable*

Delta is very concerned that the Draft Rule creates conditions under which a generator cannot develop internal processes for achieving strict compliance with the Rules. In Delta's view cl 3.8.22A(e) has the effect of forcing a generator to consider information, namely competitor response times, that would reasonably be outside the knowledge of a generator submitting a rebid. It is not clear how a generator would resolve a potential conflict with the need to submit a rebid while considering the ability of other market participants to respond to the consequence of the rebid.



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### *Summary*

Delta does not support the AEMC's conclusion that strategic late rebidding is a material problem in the NEM. The proposed Draft Rules apply restrictions to a participant's ability to rebid and are unwarranted. In Delta's view the proposed Draft Rule will impose increased compliance costs on generators and hinder rebids that improve the efficiency of dispatch.

Any questions about our submission should be addressed to Alister Alford, Manager Regulation, Risk and Strategy by email to [Alister.Alford@de.com.au](mailto:Alister.Alford@de.com.au).

Yours faithfully,

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