



**EnergyAustralia**

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Dear Commissioners

Lodged electronically: [www.aemc.gov.au](http://www.aemc.gov.au) (ERC0166)

### **Bidding in good faith, draft rule determination**

EnergyAustralia welcomes the opportunity to make a submission on the 'bidding in good faith' draft rule determination (the draft rule). We agree with the Commission that rebidding is necessary and efficient and that a generator's bids should not be false or misleading. We bid accordingly and have always understood the current rules to require this.

We understand the AEMC's position that the current rules may allow participants to delay making rebids, and support the draft rule requiring that a participant rebid as soon as reasonably practical after changing their intention. The rationale to redraft the behavioural statement from an obligation to bid in good faith to a prohibition of bids that are false and misleading is less clear, however with modification most of the draft rule could function as intended.

The proposed reporting obligations are excessively onerous, impractical, unnecessary and distortionary. They should not be included in the final rule.

EnergyAustralia is one of the country's leading retailers, providing gas and electricity to more than 2.6 million customers. We own and operate a range of generation and storage facilities, including coal, gas and wind assets, in NSW, Victoria and South Australia.

### **Summary**

We substantially agree with the AEMC's analysis of the draft rule:

- rebidding is necessary and efficient in the NEM's real time energy only market;
- rebidding is essential for efficient price discovery and risk management;
- participants must be able to respond to changes in subjective expectations; and
- bids and rebids should reflect the participants genuine intentions and not mislead.

The analysis undertaken for the Commission confirms that while there is a theoretical risk that rebidding very close to dispatch may lead to sub-optimal outcomes in specific circumstances, there is no material or systemic problem across the NEM<sup>1</sup>.

We understand the Commission's concern that the current rule may be interpreted to mean that the 'good faith' obligation only applies at the time the bid is made. This interpretation could allow a participant to deliberately delay rebidding. EnergyAustralia agrees that participants should rebid as soon as reasonably practicable after changing their intention. We support the explicit inclusion of this requirement in the draft rule.

This change is proportionate and well targeted to the issue identified. It would achieve the key policy and market objectives, ensuring that bids and rebids do not mislead and reflect an enduring representation of the participant's intention.

We do not support the proposal in the draft rule to create a new concept of a 'late rebid' and require that a detailed report be prepared and submitted for every 'late rebid'. The proposed 'late rebid' reporting obligation is excessively burdensome, impractical and unnecessary. It would punish and dissuade thousands of efficient rebids, reducing efficiency, but have no significant impact on the targeted undesirable behaviour.

The draft rule proposes significant red tape that is expected to dissuade a large number of efficient rebids. However there is no of the costs and benefits of the proposed changes.

Bids that are false, misleading or likely to mislead should be prohibited. In principle we are comfortable with the proposed new behavioural statement, however the current 'good faith' requirements already prohibits false and misleading bids. We encourage the Commission to reconsider the proposed redraft of the behavioural statement. There are no obvious benefits associated with the drafting change, but it will create uncertainty and confusion as participants and regulators try to discern the difference. What, in practice, should a participant who currently bids 'in good faith' as soon as reasonably practical after changing their intention do differently in response to this drafting change?

### **Efficient price discovery and 'late rebidding'**

The draft rule confirms that rebidding is necessary and efficient. Rebidding contributes to efficient price discovery and is necessary to respond to changes in the overall market supply and demand, and/or a participant's physical or financial position.

There is a theoretical risk that strategically delaying a rebid until after other participants have locked in their decision can cause sub-optimal outcomes in specific circumstances. This is results from two factors beyond the scope of this rule change.

1. The underlying physical and economic inflexibilities associated with various generation and demand response technologies.
2. A distortion that arises from the market design where generation is priced and dispatched on a five minute basis while settlement is averaged over thirty minutes.

The combined effect may increase or decrease prices over time. The materiality is low. AEMO's analysis identifies that very late rebidding affected average price by a few cents per MWh. Prices increased slightly in some jurisdictions and decreased slightly in others.

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<sup>1</sup> Reports to the options paper available at: <http://www.aemc.gov.au/Rule-Changes/Bidding-in-Good-Faith>

The threat of 'late rebidding' when the demand/supply balance is very tight provides incentives for participants to be online. This improves system security and suppresses price. It is likely to deliver significant benefits in the long term interests of consumers. Flexibility is paramount to risk management due to the uncertainty in generation and transmission availability and inaccuracies in the forecast for non-scheduled generation and demand.

Volatility in an energy only market is also strongly correlated with the level of contract cover in the market. High contract cover reduces volatility and average prices; low contract cover leads to higher volatility and average pool prices. This cycle is important to the efficient medium term price discovery that informs investment, maintenance and long-term operating decisions. The shallow static analysis of the interaction between spot prices and contract markets for the draft rule ignores these important effects.

The underlying 'rebidding' issue is narrow. Very late rebids as part of a deliberate strategy to mislead the market. Explicitly requiring participants to rebid as soon as reasonably practical after changing their intention will effectively address this risk.

### **Facilitating efficient price discovery**

The market risks arising from inaccurate network constraint formulations, unscheduled demand and supply forecasts on pre-dispatch accuracy is far more material than any issues arising from the rebidding of scheduled generation. We encourage AEMC and AEMO to continue efforts to improve the accuracy of forecasts for demand, demand response, unscheduled generation and constraint formulations in pre-controllable dispatch.

Distributed generation, storage, and controllable demand response is becoming increasingly important, and the role of scheduled generation is decreasing. There is an asymmetry in the information provided by scheduled generation and that provided by non-scheduled generation and demand. There are only marginal gains available by improving the veracity of market information from scheduled and semi-scheduled generators who already provide extensive market information. We encourage the AEMC to continue to examine incentives for large controllable demand and demand aggregators to be scheduled or otherwise provide appropriate information to the market.

The analysis for the draft rule identifies that a key distortion results from the inconsistency between the 5 min interval used for dispatch and the 30 min interval used for settlement. The 5/30 issue can act to both exaggerate and dampen efficient price signals. There may be merit in revisiting this issue again through a separate process; however we caution that the experience to date suggests that the 5/30 issue is likely to remain intractable for some time.

### **Rebids should be made as soon as reasonably practical**

We support the inclusion in the draft rule of a new requirement that participants rebid 'as soon as reasonably practical after the [participant] becomes aware of the change in material conditions and circumstance on the basis of which it decides to vary its [bid]<sup>2</sup>'.

This change is proportionate and well targeted to the issue identified. This relatively simple change would achieve the policy and market objectives. Combined with the existing 'good faith' provisions, the explicit requirement to rebid as soon as practicable after changing your intention is sufficient to ensure that bids and rebids do not mislead and are enduring representations of the participant's intentions.

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<sup>2</sup> Draft rule section 3.8.22A(d)

We do not support inclusion within the draft rule of the requirement that a court must consider whether a rebid provided time for another participant to respond when determining whether the rebid was made as soon as reasonably practicable (section 3.8.22A(e)).

This section is confusing, impractical and unnecessary. It effectively requires the rebidding participant to consider the capacity of other participants, generally their competitors, in their compliance and decision making processes. A participant can control their own decisions and processes to make a rebid in a timely fashion. It is the participant's circumstances and processes that should inform whether they made a rebid as soon as reasonably practicably.

### **Statement of conduct**

Making bids that are false, misleading or intended to mislead should be prohibited. In principle we are comfortable with the new behavioural statement proposed in the draft rule based on a normal, plain English understanding of the change to section 3.8.22A(a).

However, the current obligation that bids must be made 'in good faith' already prohibits making false or misleading bids. Redrafting the behavioural statement will create unnecessary uncertainty and confusion. It is not clear the change will deliver any benefits beyond the inclusion of the requirement to rebid as soon as reasonably practicable (s3.8.22A(d)).

The current and proposed clauses appear to have a similar meaning and effect. We encourage the Commission to reconsider redrafting this clause unless it can demonstrate the change delivers a significant improvement. The Commission should clarify exactly what a participant who currently bids 'in good faith' should do differently in response to the change.

### **Reporting requirements for 'late' rebids are intolerably burdensome**

The draft rule proposes to create a new concept - a 'late rebid' - defined as one that applies to a trading interval less than fifteen minutes from the time the bid was placed. The draft rule further proposes a new obligation requiring a detailed report be provided to the AER for each late rebid justifying why the rebid was made, why it was necessary, and that it was made in a reasonably practicable time period.

The reporting requirements have been introduced for two purposes.

1. The 'red tape' burden will dis-incentivise late rebids creating a 'soft gate closure'.
2. The reports will provide high volume contemporaneous reports to the AER.

The first would reduce market efficiency. The second is disproportionate and impractical.

The proposed 'late rebidding' reporting requirements are impractical, excessively burdensome, unnecessary, and would be likely to reduce market efficiency. The direct compliance costs to prepare and review hundreds of reports on all 'late rebids' is intolerable.

Analysis of the first two weeks of May showed that our traders had made three hundred rebids that would have been classified as 'late'. This was an uneventful period in the market, and most were related to plant issues. More 'late rebids' would be necessary on hot summer days with high, variable demand or in response to major transmission or generator failures.

Using an optimistic assumption that a detailed report to the AER could be prepared in 20 minutes, preparing an average of 25 rebid reports would take more than 8 hours per day.

Imposing intolerable red tape on appropriate behaviour to dissuade isolated inappropriate behaviour is not good policy. The reporting obligation will dissuade the many small efficiency enhancing rebids made in response to rapidly changing dynamics of the market. The obligation will have no impact on the targeted inappropriate behaviour, as a participant deliberately delaying making a rebid would have plenty of time to prepare their report.

The AER already has powers to investigate concerns about the bidding behaviour of a particular participant or a particular event. A brief and verifiable reason must already be provided with every rebid creating a highly transparent market; every rebid made by every participant is available to the AER and all participants the next trading day.

Section 3.8.22(c)(2a) of the draft rule should not be made. If the AEMC is minded to mandate further reporting and grant further powers to the AER requirements through this rule change, the scope should be more narrowly defined in the rules.

## **Conclusion**

EnergyAustralia supports the intention of the draft rule to ensure bids are not false, misleading or intended to mislead and that they represent an enduring offer from the participant. We believe the inclusion of the requirement to rebid as soon as reasonably practicable is a well targeted and proportionate response to the issues identified. We strongly encourage the Commission not to proceed with the unjustified and costly reporting obligations and to remove the confusion created by requiring the court to look at other participants' capability when determining whether a participant rebid as soon as reasonably practicable.

We support the amendments to the draft rule submitted by esaa. For any questions regarding this submission, please contact me on (03) 86281034.

Regards



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