

19 October 2016

Mr John Pierce
Chairman
Australian Energy Market Commission

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By email

Dear Mr Pierce

Submission to consultation paper – National Electricity Amendment (Market Participant Suspension Framework) Rule 2016

AEMO welcomes the opportunity to provide a submission on the AEMC's draft market participant suspension framework Rule.

We support the removal of clause 3.3.1(b) and the removal of any ambiguity concerning AEMO's discretion in relation to market participant suspension under the Rules.

Our comments on the draft rule are limited to matters of clarification, where we consider there may be potential for ambiguity or unintended consequences. This submission covers three areas:

- Overlap between a suspension notice and a non-suspension decision
- Matters to be considered for non-suspension decision
- Definition of external administration default events.

Interaction between suspension notice and non-suspension decision

AEMO agrees that a suspension notice should include partial suspension, by category or activity. However, as paragraph 3.15.21(c1) is drafted, there is the potential for confusion because a suspension notice can achieve the same effect as a non-suspension decision, unless the suspension applies in respect of all activities within all registration categories.

It may therefore be necessary to clarify that AEMO's options are to:

- issue a suspension notice in respect of all activities in all registration categories; or
- make a non-suspension decision.

Matters for consideration in relation to a non-suspension decision

AEMO takes many factors into account when considering whether to suspend a market participant and to what extent. Some information will be common to all such decisions, for example, market conditions and the market participant's prudential status. Other information which AEMO takes into account will be unique to a given situation.

Clause 3.15.21(c2) lists matters which AEMO should take into account when making a non-suspension decision. Criterion (2)(ii) requires AEMO to consider the potential impact of suspension on the reliability of the power system for a given set of market participants. While AEMO agrees that power system reliability is an important factor that should be considered

in any non-suspension decision, it is unclear why reliability is singled out (and not, for example, power system security) and why AEMO is only permitted to take reliability into account for a defined set of market participant categories.

AEMO considers that reliability is also a potentially relevant consideration in relation to other types of market participant (whether current or future categories). For example, demand side participants and support service providers may become increasingly relevant to power system reliability.

To ensure that AEMO's ability to consider all matters of relevance in a non-suspension decision is maintained, AEMO proposes either the removal of sub-paragraph (ii) or removal of the list of market participant categories for which the impact on system reliability may be considered.

Definition of external administration default event

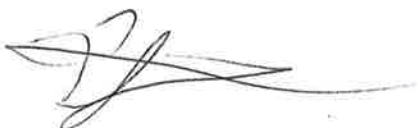
AEMO considers that the proposed definition of an 'external administration default event' should be narrowed to the default events listed in subparagraphs 3.15.21(a)(10) and (11) only. Events (12) and (13) do not necessarily involve the appointment of an external administrator and the current drafting could have the unintended consequence of mandating a suspension in circumstances where it may be unwarranted. For example:

- A default event under (12) (winding up order) could occur in respect of a financially sound company that overlooks payment of a demand by the due date. This has in fact occurred previously in the NEM and was resolved by payment of the relevant invoice.
- A default event under (13) involves ASIC notifying a proposed deregistration of a company. This can occur for a number of reasons, including failure to make a payment to ASIC by the due date, which do not necessarily involve the appointment of an external administrator.

AEMO believes these types of events should be managed through the standard default and suspension provisions of the Rules, and external administration default events should be limited to (10) and (11). This would be consistent with the intent that the external administration default event process replaces clause 3.3.1(b) in relation to companies 'in external administration'.

We would be happy to discuss these matters further with the AEMC. If you have any questions regarding this submission, please do not hesitate to contact me or Chin Chan, Group Manager Market Management on (03) 9609 8345.

Yours sincerely



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