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GPO Box 2343  
Adelaide SA 5001  
DX 56201  
Tel 08 8226 3500  
Fax 08 8226 3535  
[www.dpc.sa.gov.au](http://www.dpc.sa.gov.au)

12 September 2017

Mr John Pierce  
Chair  
Australian Energy Market Commission  
PO Box A2449  
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

**RE: ERC0224 Pricing During Market Suspension**

The Energy and Technical Regulation Division (the Division) of the Department of the Premier and Cabinet (DPC) thanks you for the opportunity to make a submission to the Pricing During Market Suspension Rule Change, as requested by the Australian Energy Market Operator (AEMO).

The Division notes that you have elected to treat this Rule Change request as urgent under section 96 of the National Electricity Law (NEL) and to therefore follow the expedited rule making process. In outlining the case for urgency, the Australian Energy Market Commission (AEMC) and AEMO both cite the tight supply and demand position for Victoria and South Australia this summer, as well as the recent amendments to South Australia's emergency management legislation to give the Minister powers to issue directions in an electricity supply emergency.

As noted by COAG Energy Council, South Australia's new emergency management powers introduced in 2017 largely replicate those powers already in place in South Australia under the *Essential Services Act 1981* (ESA), as well as in other NEM jurisdictions. All jurisdictions in the NEM have in place emergency management legislation which conveys on a delegated officer the ability to declare an emergency and exercise powers to address that emergency.

A key difference between the new powers under the *Emergency Management Act 2004* (EMA) and those of the ESA are the process requirements around the declaration of an emergency. Under the EMA, the Minister can declare an emergency, whereas the ESA sets out a more protracted process involving the Governor declaring a period of emergency, limiting the speed of a response in an electricity supply emergency. The new powers provide a more streamlined approach when time is of the essence.

The new powers expressly allow directions to be issued to AEMO, including to require suspension of the spot market, whereas the existing ESA powers (as per those in other jurisdictions) allow the direction of any person or body. The direction to AEMO on 29 September 2016 to suspend the spot market during the Black System event was issued pursuant to the ESA, not the new emergency management powers.

The Division also notes that a working group established by AEMO and comprised of market bodies and industry has met on four occasions between April and June 2017 to examine the issues associated with the current market suspension arrangements and the working group's deliberations have informed the rule change request.

In principle, the Division supports initiatives to improve the operational and administrative efficiency of the National Electricity Rules (NER) while maintaining overall effectiveness to achieve their intended outcomes. The Division sees merit in seeking to simplify the framework by removing pricing regimes that are, in practice, cumbersome, unworkable or of limited application, and only add to uncertainty for participants and decision-making complexity for AEMO. The market suspension framework should avoid complexity where there are no obvious benefits.

While the rule change request notes that pre-dispatch pricing may be a valid option in some instances, this is likely to be limited to a short period of time, which AEMO suggests is an hour at most. In the context of a market suspension, the resources to assess and validate a pre-dispatch schedule may be more appropriately devoted to managing the power system. In the case of neighbouring-region pricing, there is clearly more administrative complexity for AEMO in the case of the suspended region being New South Wales or Victoria. While it may be more workable to apply neighbouring-region pricing for those regions with only one neighbouring region, such as South Australia, to retain this pricing regime for only some regions would add complexity for no apparent benefit. Removal of these two pricing regimes would be consistent with providing greater predictability and confidence in market suspension pricing arrangements.

Further, the Division supports the concept of automation where possible. A market suspension framework wherein the pricing regime(s) are able to be applied on an automated basis would reduce the administrative burden on AEMO staff, limit the diversion of staff away from other more critical functions during a suspension, and lessen the risk of error in pricing notifications and calculations. The Division is interested in understanding whether there is an opportunity to align the suspension pricing regime with the administered pricing framework under the Cumulative Price Threshold regime.

A fundamental concern for South Australia during the Black System event of 28 September 2016 was to avoid the potential for the exercise of market power in pricing during the extreme and unprecedented circumstances of that event. In order to ensure the integrity of the electricity wholesale spot market in South Australia during that event, a Ministerial direction was given to AEMO under clause 3.14.3(2) of the NER to suspend the spot market in the South Australian region until the direction was revoked. Clause 3.14.3(2) provides that AEMO can declare the spot market suspended in a region when they have been directed by a participating jurisdiction to suspend the market following the formal declaration of that participating jurisdiction of a state of emergency under its emergency services or equivalent

legislation. A period of emergency was declared in South Australia on 29 September 2017 under the ESA.

The rule change request seeks the ability of AEMO to move 'backwards' through the sequence of the market suspension pricing regimes, when currently AEMO is restricted to moving sequentially through the regimes, from central dispatch, to neighbouring-region, pre-dispatch and, ultimately, to the market suspension pricing schedule as a last resort.

In the context of there being only two applicable pricing regimes, central dispatch and market suspension pricing schedule, such flexibility may be appropriate so long as there are clear circumstances in which AEMO may apply central dispatch pricing in the context of a 'suspended market'. The particular circumstances in which the market has been suspended are relevant. Clause 3.14.3 provides the conditions under which AEMO may declare the spot market suspended in a region.

Given the different scenarios under which the market may be suspended by AEMO, the ability to revert to central dispatch pricing should be linked to the body determining the need for suspension. Where Ministerial direction has been made to suspend the market, the Division strongly considers that the suspended pricing schedule must continue to be utilised while the jurisdiction's direction remains in place. Without such a mechanism linking back to the affected jurisdiction that initiated the suspension, clause 3.14.3(2) appears to have no meaningful outcome and the scenario emerges that NEM Ministers' powers to issue directions to suspend the market would be undermined.

The Division acknowledges the market suspension pricing issues highlighted by AEMO and the working group, and broadly supports the changes proposed to improve the operation of the suspension framework. However, the Division would be concerned that the specific proposal to allow the pricing regime to be changed to central dispatch when the market has been suspended at the direction of a jurisdiction due to an emergency would seem to counter the intent of that market suspension. Market suspension is a last resort option, as evidenced by the market suspension framework having been invoked only twice in the history of the NEM. The September 2016 event was an extraordinary set of circumstances, warranting extraordinary measures while the power system was restored and to ensure the interests of consumers were protected.

Thank you for accepting this submission. Please contact me for further clarification or discussion on (08) 8204 1724 or [vince.duffy@sa.gov.au](mailto:vince.duffy@sa.gov.au).

Yours sincerely



Vince Duffy  
**Executive Director**  
Energy and Technical Regulation