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12 February 2015

Mr John Pierce
Mr Neville Henderson
Dr Brian Spalding
Australian Energy Market Commission

Lodged electronically: www.aemc.gov.au (ERC0166)

Dear Commissioners

RE: ERC0166 – Bidding in Good Faith Options paper

By way of background InterGen Australia (**InterGen**) is owned by InterGen N.V. and the China Huaneng Group (**CHG**). CHG is China's largest generation company. InterGen and CHG are leading developers and operators of electricity generation facilities worldwide. In Australia, InterGen is the operator and majority owner of the 851MW Millmerran Power Station and a 50% owner of the 850MW Callide C Power Station.

The Australian Energy Market Commission (**AEMC**) has sought stakeholder submissions to its Bidding in Good Faith Options paper (**Options paper**) dated 18 December 2014. The AEMC is specifically seeking stakeholder views regarding options to address issues raised during consultation for the proposed National Electricity Amendment (Bidding in good faith) Rule 2014 (**Rule Change**).

InterGen acknowledges the comprehensive analysis the AEMC has undertaken to date with respect to the proposed Rule Change and welcomes the opportunity to make a submission.

We are a member of the Electricity Supply Association of Australia (**esaa**) and also acknowledge and support the esaa submission on this matter. In summary, the esaa is of the view that no problem has been identified that warrants changing the rules. The proposed changes to gate closure will adversely affect efficient price discovery, outweighing any possible gains.

InterGen contends that *the most appropriate course of action is the amendment of the good faith provision.*

In addition to the esaa's submission, InterGen offers the following positions in relation to the AEMC's Options paper.

The development of the NEM involved multiple trade-offs such that, in total, it represented the most efficient market design given its inherent physical characteristics whilst limiting administrative costs. The AEMC options need to be assessed against the totality of the NEM design to ensure they do not:

- unduly favour one segment over another (i.e. maintain competitive neutrality)
- entrench inefficient wealth transfers (i.e. enrich segments of the market whilst passing its cost to others)
- prevent, through regulatory intervention, the potential to earn normal returns required to sustain the market and investment
- increase operational complexity and regulatory compliance cost
- introduce unintended consequences through distortionary impacts
- support inefficient business models and mal-investments

The NEM is a sophisticated market designed specifically with a five minute resolution. Changing the timing of gate closure fundamentally changes the construct of the market and therefore requires the entirety of the NEM design to be reviewed.

Without a broad review of the knock-on implications, the proposed early gate options risk introduction of unforeseen and negative outcomes to detriment of all participants. The widespread damaging effects to the NEM, possible from the range of potential unintended consequences of such a decision, are extremely concerning for the very future of the NEM.

There is no problem or market failure with bidding processes, rules or behaviour

It is a critical point that, since its inception, the NEM has consistently produced spot price outcomes - in most regions for most years - that are materially below a long run marginal cost to justify generation investment. In other words, generator competitive bids have driven outcomes that have consistently failed to set an average price which enables them to recover their costs and to make an adequate return on investment. This applies to baseload, intermediate and peaking plant across the NEM.

Forward contract markets have consistently priced forward contracts at levels that reflect the spot market outcomes on average. In other words, contract prices have also on average been materially below long run marginal costs of generators. This holds true of the forward prices as of today across all NEM regions.

It appears to InterGen an extraordinary suggestion, in this context, that the current NEM bidding arrangements are in some way creating inefficient outcomes to the detriment of electricity customers.

The suggestion that late rebidding in particular is a problem that results in inefficient price outcomes and lacks transparency and predictability also seems an extraordinary suggestion to InterGen given that:

- Retailers and end users have an abundance of information, transparency and options with which to work with
- Spot price bids and outcomes are completely transparent
- Retailers and end users can obtain a fixed price simply by entering into a fixed price contract at any time
- It is unreasonable for a retailer or end user to decide not to sign a contract in an attempt to profit from low spot prices and then be aggrieved if spot prices end up higher than they had judged

- Buying electricity under a fixed price contract will not only provide price certainty for that retailer or end user, it will incentivise the generator from which it bought the contract to generate a higher portion of its output at a lower price, effectively reducing its ability to exercise any transient market power
- Similarly, customers with the ability to shed load can do so at any time, taking into account the abundance of NEM information available. It is unreasonable for a customer to being willing only to shed load if they have certainty that it will alleviate what would otherwise be a high price. Generators certainly don't have that sort of certainty in spot market outcomes.

The uncertain nature of demand, supply, bids and prices is an inherent nature of the NEM. Spot market volatility should not be misrepresented as a lack of transparency. Customers can always choose to shed load at high market demand or high market risk periods, just as they can choose to contract for electricity at a fixed price to alleviate market risk.

A suggestion that customers who have the ability to shed load should be able to profit with certainty from low spot prices when it suits them, and curtail only when prices would otherwise certainly be high, is an unreasonable expectation and it is one that certainly does not represent a level playing field with generation investors.

InterGen believes that the proposed Rule Change would absolutely not lead to more efficient price signals for investment nor enhance security or reliability.

The proposed changes to the bidding rules can do nothing but add further risk and uncertainty to the generation sector – a sector which, despite political and media comments to the contrary, has been unable to achieve an adequate return for more than a decade, largely due to the constant regulatory change and intervention in the market.

The proposed changes represent another potential material intervention that will add risk and uncertainty and potentially create a new set of unforeseen circumstances for all market participants.

InterGen trusts that the AEMC will carefully consider the issues we have raised.

Please feel free to contact Mr. Robert Pane on 07 3001 7124 regarding any queries on this submission.

Yours sincerely



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