



EnergyAustralia

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Dear Commissioners

Consultation Paper – Market Participant Suspension Framework

EnergyAustralia welcomes the opportunity to comment on the Australian Energy Market Commission's (the Commission) Consultation Paper for a rule change request by the COAG Energy Council on the suspension of market participants who are under external administration.

We are one of Australia's largest energy companies, with over 2.5 million household and business customer accounts in NSW, Victoria, Queensland, South Australia and the Australian Capital Territory. We also own and operate a multi-billion dollar portfolio of energy generation facilities across Australia, including coal, gas and wind assets with control of over 4,500MW of generation in the National Electricity Market (NEM).

Suspension of market participants

EnergyAustralia supports the proposed rule change and agrees with the COAG Energy Council on the likely benefits, namely, that:

- suspension may impede corporate rescuing initiatives;
- suspension of a generator may lead to security of supply concerns; and
- suspension could risk financial system stability.

As we stated in our submission to the Commission's NEM Financial Resilience Review, generators are natural creditors to the market and there is no obvious rationale for suspending a generator's registration simply because they are in administration.¹ Suspending a generator during a period of market instability and very high prices is counterproductive and not in the interests of consumers.

¹ EnergyAustralia (2014), *Submission to the Australian Energy Market Commission's NEM financial market resilience second interim report*, available at www.aemc.gov.au.

Suspension of a participant other than a generator (in the event of external administration) could negatively impact all creditors to the market and counterparties of the suspended participants. In the case of a retailer, particularly a larger one, suspension also has implications for other retailers who have been appointed as retailers of last resort.

Further it is not evident that any participant should be automatically prohibited from trading while in administration. An orderly administration (restructuring or liquidating customers) can limit financial contagion if an administrator guarantees to meet all trading obligations and provides appropriate prudential cover.

Factors for AEMO to consider

EnergyAustralia supports the proposal to require the Australian Energy Market Operator (AEMO) to consider a range of predetermined factors when it decides whether to suspend a market participant. These factors should then become conditions of operation for that market participant, with AEMO discussing this with the participant and its administrator in advance of its decision so it can assess whether those conditions are likely to be met.

The specification of factors to which AEMO should have regard will improve the transparency of its decisions and ensure accountability for those decisions. This is particularly important if the rules are amended to grant AEMO discretion over an issue of such importance.

We agree that AEMO should clearly communicate its decisions to all relevant parties, which include the relevant market participant, the Australian Energy Regulator and the COAG Energy Council. AEMO should also notify all other market participants as this will promote confidence in the integrity of the wholesale market and allow them to adjust their trading and other risk management strategies accordingly.

In terms of the conditions of ongoing market participation, AEMO should require a participant under external administration to meet all obligations that apply to participants. In particular, the administrator would need to ensure the participant has sufficient guaranteed funding to meet relevant trading obligations while it continues to operate, as the COAG Energy Council proposes.

We agree with the Commission's suggestion that AEMO should consider the following²:

- whether the market participant has sufficient staff and resources;
- likelihood of the market participant failing to comply with the NER;³ and
- overall significance / materiality of the generator in the context of the NEM.

However, we recommend that AEMO should consider the significance and materiality of *any* market participant, not just of generators. As mentioned, the suspension of a large retailer has implications for all creditors to the market and for retailers of last resort so it is equally important for AEMO to take this into account.

² Australian Energy Market Commission (2016), *Consultation Paper, National Electricity Amendment (Market Participant Suspension Framework) Rule 2016*

³ This should include compliance with all procedural obligations.

These factors complement AEMO's statutory functions – most notably, to maintain and improve power system security – and the requirement that AEMO have regard to the National Electricity Objective when carrying out those functions.

The Commission should consider whether there are other relevant factors that AEMO must take into account and whether there are particular indicators or metrics – generation capacity or number of customers, for example – that might also inform its decision; the basis for its decisions should be as transparent as possible.

In terms of consultation, we agree with the Commission's suggestion that AEMO should consult with the AER to better understand the likely customer impact of a retailer suspension. The AER will also be able to advise AEMO on the potential impact on retailers of last resort.

However, it may be difficult (and time consuming) for AEMO to consult with all the market participants that might be affected by a suspension (particular creditors to the market) due to their large number. Therefore, AEMO should announce its decision to the market as soon as possible.

Finally, we also support the proposal to allow AEMO to selectively suspend a registration if an entity holds multiple registrations. The main benefit will be to system reliability as it would allow the generation assets of a failed retailer to continue operating in the NEM. This element of the rule change provides for a tailored and proportionate response and is consistent with the proposal to grant AEMO discretion with respect to suspensions. We do note, however, that it could be challenging for AEMO to make an assessment when a participant uses shared assets and resources across different registered entities and when the activities of the parent company (i.e. the holder of multiple registrations) are determined by administration arrangements.

Should you require further information regarding this submission please call Geoff Hargreaves on (03) 8628 1479.

Yours sincerely

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