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Australian Energy Market Commission  
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**Proposed Rule changes: System Restart Ancillary Services and pricing under market suspension**

Thank you for the opportunity to comment on the Rule changes proposed by NEMMCO dealing with *System Restart Ancillary Services and pricing under market suspension*.

As a general principle CS Energy is concerned that since 2002 NEMMCO has been incrementally changing the recruitment method for SRAS away from an open, competition-based process. The proposed Rules changes continue this move away from competitive procurement.

The method NEMMCO proposes for recruiting SRAS is predicated on a non-competitive environment and insufficient depth of providers. Treating the process as proposed discourages new competitive entries. The SRAS recruitment process should be set up to encourage the submission of competitive offers.

The current recruitment process imposes significant barriers to new entrants, and the proposed changes make this situation worse to such an extent that is likely to drive existing participants out, further reducing competition.

There is no *technical* barrier to a new entrant deciding to purchase and connect plant suitable for use as a black start service, or to upgrade existing plant to have this capability. Despite this we are not seeing an increase in the depth of providers. The reasons for this can all be remedied by NEMMCO.

**Recruitment process**

The proposed process for recruiting SRAS places a significant risk with the tenderer as to the price that will be paid by NEMMCO under the agreement. This risk arises from NEMMCO's ability to prevent a tenderer withdrawing their offer if the price determined by NEMMCO is too low. The risk of being compelled to provide a service and outlay capital without knowing the return is not a fair bargain between consenting parties. A tenderer must be permitted to withdraw at any point up to an agreement being executed, just as

NEMMCO would be able to withdraw. Tenderers must be able to choose if they wish to proceed or not dependant upon their view of the price and risk.

It is not acceptable for NEMMCO to put a price on the risks associated with providing SRAS, and then expect participants to take the risk. This is particularly the case with the liabilities under the agreement, and the pricing of adverse impacts on the provider. Under the current proposal NEMMCO could lock a tenderer into an agreement, including a liquidated damages penalty, on NEMMCO's own assessment of the risks but require the provider to carry those risks. The tenderer has no avenue to withdraw or to appeal the pricing decision.

**Lead-time between agreement providing the service**

If market forces set the return on an investment and the lead-time is sufficient to allow construction of new plant or upgrading existing plant then there will be adequate competition in the SRAS market. Adequate lead-time between entering an agreement and delivering the service is needed to allow necessary construction. Without this lead-time NEMMCO will be making the construction of a competitor an impossible proposition. A new entrant needs certainty before committing capital expenditure, so would not build a competing service without an agreement with NEMMCO.

**Conclusion**

CS Energy submits that the proposed Rule changes relating to SRAS should not proceed in their current form. The market requires a further consultation to develop Rules that encourage the genuine competitive provision of SRAS, and do not allow NEMMCO to set prices for services that tenderers must meet.

Nothing in this submission is considered confidential.

Yours faithfully

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GENERAL MANAGER OPERATIONS

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