

Bidding in good faith

Draft determination released for consultation

The Australian Energy Market Commission has made a draft rule to enhance the arrangements that govern generator bidding behaviour in the wholesale electricity market. The draft rule would provide clearer guidance about appropriate market conduct.

The Commission's draft determination

The draft rule would amend the relevant provisions in the National Electricity Rules (NER) as follows:

- the current requirement that offers be made in good faith would be replaced by a prohibition against making false or misleading offers;
- the obligation not to mislead the market would need to be met by generators on an ongoing basis through a requirement that any variations to offers be made as soon as practicable; and
- additional reporting requirements would be imposed on variations to offers made close to dispatch.

The Commission's draft rule is a more preferable draft rule which adopts elements of a rule change request submitted by the South Australian Minister for Mineral Resources and Energy, in particular, the requirement that any rebids made to vary an offer to supply the market would need to be made as soon as reasonably practicable.

Defining the issues raised in the rule change request

Participation in the National Electricity Market (NEM) requires that generators submit offers to the Australian Energy Market Operator (AEMO) specifying the minimum price they are willing to receive for the generation capacity offered. Following the submission of initial offers, generators may submit "rebids" to shift the capacity they are willing to offer to different prices to allow for changing market conditions.

The ability to rebid provides generators with necessary flexibility to adjust their position to accommodate changes in market conditions and to respond to the offers or bids of other market participants. The resulting dynamic process of participants learning and reacting to the actions of their competitors is an important part of achieving efficient market outcomes for consumers.

However, the rebidding process can also compromise the ability of the market to arrive at an efficient outcome when rebids are made close to real time dispatch. This is because other generators and demand-side participants may still have an incentive to respond but do not have sufficient time to do so.

Strategic late rebidding behaviour by generators has the potential to result in inefficient price outcomes if high price plant is dispatched ahead of lower price plant that does not have sufficient time to change output to meet its generation targets.

Spot prices which do not reflect underlying conditions of supply and demand will tend to reduce their effectiveness as consumption, production and investment signals and may affect the availability of price-reflective hedge products to the market. This may impact the efficiency of investment and result in higher costs being passed through to consumers.

While the NEM has maintained the same broad market design since commencement, an assessment undertaken for the AEMC suggests that the more widespread occurrence of late rebidding has been a recent phenomenon, occurring within the last two years and predominantly in Queensland and to some extent in South Australia.

The Commission has made a draft rule to enhance the arrangements that govern the manner in which generators offer electricity to the wholesale market

The draft rule

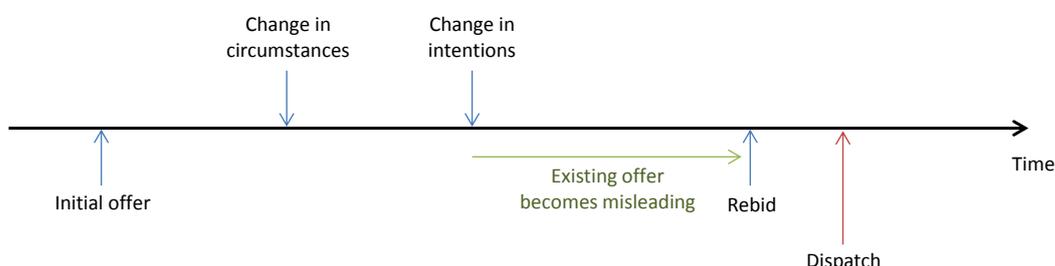
The Commission considers that these issues indicate that the current rules are not setting reasonable boundaries on the ability of participants to influence price outcomes to the detriment of other participants in a way that is not reflective of an efficient market.

However, the Commission also recognises that the issues have not manifested until recently or in all regions of the NEM, and that the resulting price outcomes may also be a function of market structure in specific NEM regions. The Commission considers that rules are not an effective means to compensate for a non-competitive industry structure.

The Commission has consequently decided to make a draft rule that it considers would reduce the deficiencies in the current market framework, while remaining proportionate to the materiality of the issues.

Changes to the good faith provisions

The current rules require that, when an offer or rebid is made, it must be made in good faith. Therefore, providing an intention to rebid is formed after the submission of the initial offer, deliberately delaying making such a rebid until close to dispatch, in order to limit the opportunity for potential responses from other participants, is not clearly counter to the existing rules. At the time it is submitted, a late rebid is made in good faith in that the generator has a genuine intention to honour it.



Consequently, the Commission's draft rule seeks to recast generators' offers as a continuing representation of their willingness to provide supply at the prices specified in them. Therefore, any rebid made to vary an offer to supply the market would need to be made as soon as reasonably practicable after the generator has formed the intention to make a rebid so that the original offer does not become misleading with respect to the generator's intentions.

Compared to the current requirement that offers be made in good faith, the draft rule to not mislead would establish a more objective basis through which the AER, and subsequently a court, would be able to infer a generator's intent. The Commission considers that this would assist with the interpretation of and practical application of the rules. The draft rule would further allow patterns of conduct to be considered. For example, a court might take into account, if relevant, repeated very late rebidding by a generator.

Additional reporting

The draft rule would also introduce new reporting requirements for rebids made close to dispatch. For each rebid made during, or less than 15 minutes before the commencement of, the trading interval to which the rebid applies, the rebidding generator would need to provide a report to the AER setting out in detail the reasons for making the rebid at that time.

These late rebidding reports would provide additional information to the AER regarding rule compliance at times when rebidding has a disproportionately higher probability of resulting in inefficient market outcomes.

The Commission welcomes submissions by 11 June 2015.

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