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30th January 2020

Submitted online to: <https://www.aemc.gov.au/rule-changes/victorian-jurisdictional-derogation-rert-contracting>

Dear Ms Degen,

Victorian Jurisdictional Derogation – RERT Contracting
Reference: ERC0283

The Australian Energy Council (the “**Energy Council**”) welcomes the opportunity to make a submission in response to the Australian Energy Market Commission’s (“**AEMC’s**”) *Victorian Jurisdictional Derogation – RERT Contracting Draft Rule Determination*.

The Energy Council is the industry body representing 23 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia, sell gas and electricity to over ten million homes and businesses, and are major investors in renewable energy generation.

Introduction

As set out in the Energy Council’s submission to the Consultation Paper, the Energy Council remains philosophically opposed to arrangements which distort the market, and apply to individual jurisdictions. For those reasons the Energy Council continues to oppose the rule. Nevertheless, the Energy Council appreciates the work the AEMC has conducted to address the issues raised by the rule proponent and stakeholders in response, and generally believes that the conditions imposed in the draft more preferable rule provide some protections for the market as a whole.

Obligation to consider the Rule Change Request

Under Section 94(1)(c) of the National Electricity Law, for the AEMC to consider a rule change request, the subject matter of the request must not relate to a rule made in the 12 months immediately before the date of receipt of the rule change request.

On 31st October 2019 Schedule 2 of the Electricity Amendment (Enhancement to the Reliability and Emergency Reserve Trader) Rule 2019 No. 3 commenced.

One of the effects of the rule as made is to increase the procurement lead time for Reliability and Emergency Reserve Trader (“**RERT**”) contracts from 9 months to 12 months, and the AEMC considered at length the issue of procurement lead time and contracting duration in Chapter 6 of the Final Determination.¹

The Energy Council therefore strongly believes that since the proposed rule change is so similar to what has been proposed previously, the AEMC should not be considering the currently proposed rule change until such time as 12 months have elapsed since the rule has commenced.

¹ Australian Energy Market Commission, *Enhancement to the Reliability and Emergency Reserve Trader Rule Determination*, 2nd May 2019

Discussion

Necessity for Long-term RERT

Assessment of the necessity of the proposed rule has proven difficult, due to the paucity of information available from the Australian Energy Market Operator (“**AEMO**”).

According to an undated document on AEMO’s website, AEMO has procured 72MW of Reliability and Emergency Reserve Trader (“**RERT**”) capacity in Victoria for Summer 2019-20.² In addition, AEMO’s Summer 2019-20 Readiness Plan reports 64MW available in Victoria under the AEMO/Australian Renewable Energy Agency Demand-Side Participation Trial,³ as well as up to an additional 1,000MW available as short-notice or medium-notice RERT.

The Summer Readiness Plan observed, “AEMO currently anticipates that the procurement approach ... will deliver more emergency reserves under panel arrangements than last year, with slightly more long notice RERT and similar amounts under the ARENA DSP trial arrangements.”⁴

The Energy Council notes that with the introduction of new reporting arrangements due to the commencement of the Enhancement to the RERT final rule,⁵ some of this information asymmetry may diminish, but it is unclear whether the availability of RERT is inadequate, and therefore would be improved by the introduction of the proposed rule, or not – but initial indications are that by using AEMO’s existing RERT procurement abilities, there is sufficient volume available to meet foreseen needs. The additional multi-year RERT contracting proposed is therefore redundant.

The Draft Rule Determination also reports that AEMO has confidentially advised that vendors have offered cheaper contracts for multi-year terms. This is a logical consequence of the reduced risk vendors face by being able to contract their output for multiple years, and is not unexpected. However the cheaper price over multiple years is no salve for the fact that the RERT contracts may not be necessary in later years. While the requirement that a Low Reserve Condition be forecast in the coming year is supported as a reasonable test for whether contracts should be sought, it does not remove the possibility that RERT in later years may be a wasted cost, or better addressed via more flexible, short-term RERT contracts.

Furthermore, the fact that vendors are prepared to offer terms over multiple years is indicative of the underlying distortion that the Energy Council fears the RERT becomes, if it is allowed to extend beyond a last-resort, last-minute safety net – vendors will see it as an alternative to the market itself. These vendors should instead be looking to the market, for example through retailers, for their long-term sales. Extension of the RERT window crowds out market-based acquisition of demand-side response.

Duration of the Rule

The Energy Council supports the Draft Rule Determination limiting the derogation to three years, but suggests that its distortionary effects could be restricted even further, to better align with the Retailer Reliability Obligation (“**RRO**”) timeframes.

Under the Retailer Reliability Obligation trigger provisions, should the 2020 Electricity Statement of Opportunities (“**ESoO**”) forecast a shortfall in three years’ time, i.e. the summer of 2023-24, the obligation can be triggered, and retailers will be compelled to acquire contracts to meet their share of the expected peak demand.

The Draft Rule Determination is proposed to operate from 12th April 2020 until June 2023, meaning that AEMO would be able to enter into contracts which would expire in June 2026. An RRO triggered by the 2020 ESoO would cause retailers to contract for summer 2023-24, and subsequent RROs, if triggered, would cause retailers to contract for subsequent periods, which would all be before the latest date for AEMO’s RERT contracting of June 2026. Thus the need for the derogation to be on foot for as long as June 2023 does not seem justified, since the RRO can fulfil a similar purpose, and in fact keeping the derogation active may create significant complications in the market and for market participants, due to the overlap.

² Available at https://www.aemo.com.au/-/media/files/electricity/nem/emergency_management/rert/rert-contracted-for-summer-2019-20.pdf

³ Australian Energy Market Operator, *Summer 2019-20 Readiness Plan – A Report for the National Electricity Market*, December 2019 p.15

⁵ National Electricity Amendment (Enhancement to the Reliability and Emergency Reserve Trader) Rule 2019 No. 3

The Energy Council therefore recommends that the rule change be amended so multi-year RERT contracting under the derogation cannot occur beyond June 2023, i.e. as the derogation reaches its expiry date of June 2023, so too should the term of RERT contracts into which AEMO can enter reduce correspondingly from the three years proposed, to ensure that any overlap with RRO arrangements is minimised.

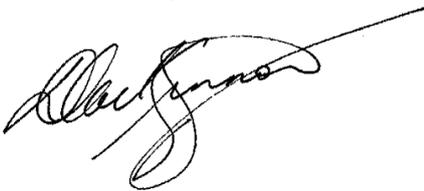
Conclusion

As stated in its previous submission, the Energy Council strongly opposes the rule change, contending that existing RERT arrangements are sufficient for AEMO to procure its forecast needs. The acquisition of multi-year contracts, despite the conditions placed upon the contracts by the AEMC's draft more preferable rule, exposes consumers to the possibility of stranded or inefficient costs in the latter years of the contract. Furthermore, an extension to the RERT's contracting period risks additional market distortion by splintering the market.

The Energy Council recommends that the draft more preferable rule change be further restricted, to reduce the complications and coincidence with the Retailer Reliability Obligation arrangements, and to ensure that duplication of reserves is minimised.

Any questions about this submission should be addressed to the writer, by e-mail to Duncan.MacKinnon@energycouncil.com.au or by telephone on (03) 9205 3103.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Duncan MacKinnon', with a long, sweeping horizontal line extending to the right.

Duncan MacKinnon
Wholesale Policy Manager
Australian Energy Council