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Dear Commissioners

Review of the operation of the Retailer Reliability Obligation — Draft Report — 28 September 2023

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 5,000MW of generation capacity.

We appreciate the Commission exploring a range of operational issues with the Retailer Reliability Obligation (RRO) and making recommendations to reduce the compliance burden and cost for participants, which ultimately get passed onto customers. We reiterate the main point of our earlier submission that the RRO is ineffective in influencing investment decisions and affecting reliability outcomes. We support the Commission conducting a self-initiated 'policy' review and note the large number of stakeholders that have questioned the efficiency of the RRO. The Commission's draft recommendations would require amendments to the National Electricity Law as well as subsequent guideline reviews by the AER, which will be resource intensive and involve significant lead times. It therefore seems prudent to consider more fundamental changes to the RRO now, including the prospects of its abolishment, in preference to making a series of operational amendments that might only apply for the short term.

The Commission has identified substantive issues around liquidity and the perceived role of the Market Liquidity Obligation (MLO). As per the Commission's analysis, the MLO does not appear to have affected liquidity in South Australia in spite of being triggered since early 2020. The MLO imposes a material burden for obligated generators in terms of trading resources and direct financial impacts in periods of high volatility given narrow bid-ask spreads (as raised in our previous submission). The MLO also applies to vertically integrated entities without consideration of whether they might be short to their retail loads, and are hence themselves in need of liquidity rather than holding onto contract capacity. Market making obligations that exist in other exchanges involve compensation as well as relief valves that avoid losses for contributing parties where volatility is excessive. Replacing the MLO with a stand-alone and effective liquidity support measure should be considered as part of a holistic policy review of the RRO.

Voluntary market-making arrangements have been proposed and considered in detail by the Commission in the past but were rejected due to the emergence of the RRO at the time.[1]

Holistic considerations of the RRO and liquidity notwithstanding, we support the various recommendations in the draft determination. Our further detailed comments on these are below.

- **Moving the Net Contract Position (NCP) compliance date to T** — we support this and agree it will assist participants in dealing with a range of uncertainties in managing their liabilities, without any negative effect on investment signals.

- **AEMO to request reliability instrument up to 9 months after an Electricity Statement of Opportunities (ESOO)** — we support this recommendation, noting that the likelihood of reliability gaps occurring in Spring and Autumn seems low at least for the short term. The making of any reliability instrument earlier in this window, based on an ESOO at up to T minus 4.5, would seem to make it more susceptible to forecast error and revocation. For the avoidance of doubt, we understand that MLO obligations would still be tied to the making of a reliability instrument rather than the identification of gaps in an earlier ESOO, and AEMO would still be bound to make instrument requests at least three months before the T-3 cut-off date.

- **AEMO to request T-1 cancellation after forecast gap closes** — we support the ability of AEMO to request revocation of T-1 instruments. For the avoidance of doubt this decision should be 'one way' (revocation only, not reinstatement of instruments for gaps reopening). In making this recommendation we note the Commission would make revocation contingent on AEMO considering that a gap will not reappear before T. It may be worth exploring the circumstances in which such a gap does reappear and the consequences of this, to ensure AEMO is not overly cautious and therefore reticent to ever request a revocation. In our view the RRO does not encourage new investment, particularly in the timeframes being contemplated here, meaning that the consequences of the RRO not being triggered against any (reappearing) forecast reliability gap are negligible.

- **Lowering the MLO threshold to 10 per cent** — We appreciate the Commission exploring means to ensure the MLO continues to operate in the face of increasing ownership concentration of firming capacity. This is a structural issue requiring a more considered solution to liquidity, given the issues in SA seem likely to arise in other jurisdictions with the exit of thermal capacity. The entry of new firm capacity for the near term seems mostly via government risk sharing arrangements (e.g. under the Capacity Investment Scheme) which may potentially disincentivise selling of hedge contracts and will otherwise see government counterparties taking significant market positions.

- **Recommendations to expand eligible demand management contracts and reconsider firmness ratings** — We support the various recommendations to expand the pool of available contracts and lower compliance costs for liable entities. To this end it is unclear why the Commission disagrees with Origin's

[1] Market making arrangements in the NEM | AEMC

proposal to disallow contracts held by customers to be counted against their retailer's liability as part of the opt-in mechanism. The Commission's brief reasoning is that this would introduce "new complexities to definitions"[2] however this should be explored further.

- **AER to review bespoke arrangements and qualifying contracts** — We are also supportive of the AER being directed to review is various guidelines and compliance approaches. The Commission's recommendations for the AER to consider bespoke methodologies and auditing should be broadened to explicitly consider the scope of standardisation. We consider there should be sufficient standardisation in how Power Purchase Agreements are structured for the AER to develop a standard approach to firming and auditing. Similarly Settlement Residue Auction units are sufficiently 'off the shelf' to warrant standardisation by the AER rather than forcing participants to spend resources pursuing a bespoke pathway.

We urge the Commission to re-examine the need for entities like EnergyAustralia to report and comply with the RRO for each of its licenced entities rather than on an aggregated basis. This issue goes beyond dealing with uncertainties in forecasting that would be assisted by moving compliance to year T, and relates to the scaling of liable load that occurs where there is a higher than forecast peak demand. Liable shares of the one-in-two peak demand forecast load are calculated for each liable entity. The lack of diversity across customer segments served by each liable entity, as well as some segments being more sensitive than system wide demand in greater than one-in-two year conditions, results in a need to overhedge in aggregate relative to what would normally be required when managing the risk of an aggregated portfolio. The result is we face artificially high compliance costs, and under the RRO framework reflects contracting in excess of what might be regarded as the efficient amount to encourage new investment. This is not addressed by setting the NCP compliance date closer to real time. The inability to aggregate retail liabilities is also at odds with the treatment of generator groups for the purposes of the MLO. The Commission appears to have not substantively engaged in issues stemming from the definition of liable entities because it could involve "complex changes"[3], however redrafting provisions to allow for aggregation would seem relatively simple. For example, by allowing liable entities to agree to transfer their obligations to one another and for their liable loads to be summed for compliance purposes. The law definition of 'liable entity' already provides for the transfer of reliability obligations between parties and could be built upon.

If you would like to discuss this submission, please contact me on 03 9060 0612 or Lawrence.irlam@energyaustralia.com.au.

Regards

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[2] AEMC, *Review of the operation of the Retailer Reliability Obligation - Draft report*, 28 September 2023, p. 24.
[3] ibid., p. 26.