Major Energy Users Inc.

5 April 2019

The Chairman
Energy Security Board
C/- CoAG Energy Council

Sent by: email to info@esb.org.au

National Energy Guarantee
Response to Retailer Reliability Obligation
Consultation Paper on Draft Rules

The Major Energy Users Inc (MEU) welcomes the opportunity to provide its views on the Energy Security Board (ESB) consultation paper on the draft rules proposed for the Retailer Reliability Obligation (RRO) which was originally part of the National Energy Guarantee (NEG).

The MEU and its regional affiliates have been advocating in the interests of energy consumer for over 20 years and it has a high recognition as providing informed comment on energy issues from a consumer viewpoint with various regulators (ACCC, AEMO, AEMC, AER and regional regulators) and with governments.

The MEU has been a consistent respondent to the various stages of the NEG and the associated RRO and observes that the draft rules for the RRO as proposed are generally supported.

Below we develop the aspects where the MEU does not support the draft rules and the reasons for this are provided.

1. Where there is a mismatch between the cut-off date for the T-3 ESoO and the three year notice period for a generator closure, the MEU considers that AEMO should make a re-assessment of the forecasts as soon as it receives notice of the planned closure. The MEU observes that AEMO has previously changed core elements of its publications between normal release dates when there have been significant changes to the market; there have been a number of occasions for different reasons where such reassessments have been carried out. outside the normal schedules If a planned generator closure results in a change in the forecast such that there would then be a forecast shortfall (so the RRO would be triggered), the MEU considers that the RRO processes could immediately be implemented so any delay in triggering the RRO process would be minimal.

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The MEU notes that as there was considerable debate about whether the notice of generator closure should be as long as the current 3 years and considers that extending the notice period is likely to trigger significant debate and possible hardship for the generators affected.

The MEU considers that the forecast closures of sufficient generation to change a forecast from one not requiring the RRO to be triggered to one where the RRO is triggered, will be so infrequent not to warrant a change in the proposed draft rule.

2. While MEU members are all very large users of electricity and so would be eligible for opting-in to be a liable entity under the proposed change, the MEU does question why there is such a concern about smaller users of electricity not being able to opt-in. Through its discussions with its members, there is a general view that many will not elect to opt-in[1], implying that the numbers electing to opt-in will not be significant even among very large users. The consultation paper points out that there might be 80,000+ customers able to opt-in under the current definition of a large user, but in reality the number that would decide to opt-in will be very small as the benefits for the risk will be small. A small take up would mean the administrative burden will be low. The MEU is concerned that the use of a high entry level to opt-in will restrict competition and act to the detriment of smaller users and so does not comply with import of the NEO.

   The MEU supports the ability of end users being able to opt-out of the liability but questions the process proposed for achieving this. The MEU members report there are instances where their retailers have been tardy in implementing advice about changes so there is a considerable risk that, even though an end user has decided to opt-out and has agreed to any cost changes involved with its retailer, the retailer might not advise the AER of the change. The MEU considers that when an end user has decided to opt-out, it should be required to advise the AER of the fact and which retailer has accepted the obligation. The AER should then verify this with the retailer. This approach is simpler and provides the end user with certainty that the opt-out has been recorded.

3. As a general observation, end users of electricity do not want to get involved with the electricity market and they rely on Market Participants (eg retailer or aggregator) to manage their electricity supply affairs once they have entered into a contract for the supply of electricity. With this in mind, the MEU does not consider that end users offering demand side responses should be required to advise the AER of their contracted demand responses as this adds an unnecessary administrative burden to end users.

   It is widely recognised that there will be times when an end user offering a demand reduction cannot fulfil this obligation[2] and what the draft rules do not

[1] One of the reasons given is that because retailers have a portfolio of end users, this will allow retailers to "book" less capacity than a single end user which will have to "book" capacity to meet its peak demand, even if that peak demand is unlikely to occur when there is a peak regional demand

[2] For example if the end user has shut down, has contractual obligations in its own market to provide products, or because the limitations of the DSR agreement might preclude the DSR (eg if the agreement

seem to recognise is that a DSR offer is not a single offer such as a generator might provide (eg firm supply of 200 MW at a price). In addition to the price and the magnitude of the DSR (ie so many MW), a DSR contract has many other elements including constraints on how much DSR can be provided under what operating conditions apply at the time, when it can be provided, the frequency the DSR can be called in a given period, its duration, and the notice period required to allow the supply, to name a few. To accommodate these constraints, the Market Participant builds a portfolio of demand side responses and does not bid the entire portfolio because of the potential that a DSR provider might not be able to provide some or all of the DSR notionally contracted.

Equally, the MEU is aware that the AER does need a degree of certainty that each Market Participant does include for qualifying contracts. To address this, the MEU considers that the Market Participant should provide advice to the AER about the sources of its demand side responses with sufficient detail so that the AER can, if it chooses, contact the DSR provider directly to ascertain the validity and any constraints of the DSR that is included in the Market Participant's portfolio. This would allow the AER to get adequate verification of the DSR offered.

4. The draft rules considers that the MLO will only apply where there are at least two corporate groups in the region that exceed a 15% market share threshold. The MEU considers that while this should apply, so too should there be another criterion in that if more than 30%[3] of the market is controlled by one entity, then the MLO should also be triggered. This second criterion is needed because it is possible for one generator to have market dominance and all other generators to have less than 15% of the market. Where one generator has >30% of the market, the market-making requirement is probably even more needed than if there are two generators with more than 15% share[4].

The MEU is happy to discuss the issues further with you if needed or if you feel that any expansion on the above comments is necessary. If so, please contact the undersigned at davidheadberry@bigpond.com or (03) 5962 3225

Yours faithfully

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Public Officer

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stipulates a maximum number of times in a period that the DSR can be called, or there is a limitation on the duration of each DSR demand reduction)

[3] That is, where one generator has the combined market share of two generators with 15% market share

[4] The MEU notes that the ACCC in its report from its retail electricity pricing enquiry identifies that the SA region needs a market-making requirement to be implemented as AGL generation has nearly 40% market share on a capacity basis