



Liabe entities – Reliability Requirement

Issues Paper

Introduction

The purpose of this paper is to facilitate discussions with Jurisdictions and the Technical Working Group (TWG) on the detailed design elements for liable entities. Following the Senior Committee of Officials (SCO) Reference Group and TWG meetings a more detailed technical working paper will be developed. The technical working papers and draft final design document will be available for public consultation in mid-June.

High level design

- Liable entities will be retailers and large customers (including commercial and industrial users that are not market customers) subject to a size threshold to be determined as part of the detailed design.
- The Reliability Requirement is intended to provide sufficient incentives to retailers and large customers to contract in a way that will ensure the reliability of the power system.
- Large customers will be provided the option of managing their own obligation or transferring this to a retailer. Expecting larger customers to manage their own obligation reflects the need for reliability to be forecast and managed in advance, well before some large customers have entered a retail contract. Requiring retailers to carry the obligation for customers they have not yet contracted would likely result in additional costs being imposed on customers over the longer term.
- Each year, as part of its Electricity Statement of Opportunities (ESoO) process, AEMO would assess whether the NEM reliability standard will be met and if a reliability gap is forecast. If a material gap persists or emerges three years out from the relevant period, the reliability obligation may be triggered and liable entities may be expected to demonstrate future compliance with the reliability obligation by securing sufficient qualifying contracts to cover their share of system peak demand.
- To provide a safe harbour within the reliability obligation, it may be appropriate to only require liable entities to demonstrate sufficient contracts are in place to cover their share of peak demand expected to occur one in every two years.
- Firms conducting emissions-intensive, trade-exposed activities (EITEs) will not be exempt from the reliability obligation as the obligation will need to cover all customer load to ensure that appropriate action has been taken to secure electricity supply.

Detailed design elements for TWG input

TWG input is sought on a number of elements that will add detail to the high level design:

1. What is the threshold for determining liable entities?
2. Managing the transfer of any obligation between liable parties (e.g. Large customer to Retailer)

3. How should new entrants and Retailer of Last Resort (ROLR) events be accounted for under the reliability requirement?
4. Are there any implications from differences in liable entities under the emissions versus reliability obligation (e.g. EITEs)?

Issues for discussion

1. What is the threshold for determining liable entities?

All retailers and large customers (including EITEs) above a threshold will be subject to the Reliability Obligation (when triggered). Large customers have been provided the option of managing their own obligations or transferring this to a retailer. This approach recognises that requiring retailers to manage the obligations for large customers with substantial demand that is not contracted to them would likely require retailers to charge a significant risk premium. It also risks a lessening of competition as the larger vertically integrated businesses would be better placed than smaller retailers in handling this element of unknown risk.

Threshold criteria could be established in the National Electricity Rules (NER), avoiding the need for case-by-case consideration by the Australian Energy Regulator (AER). For example, the threshold could be calculated on the basis of an entity's historic peak load (e.g. MW), its historic annual consumption (e.g. GWh), or a combination of both in a similar fashion to determining network tariffs.

Although unlikely, to ensure any threshold test is not exploited, the AER could request evidence from an entity if it suspects it is attempting to circumvent the threshold requirement by creating subsidiaries within a broader corporate group. The elements of any test, administered by the AER, designed to prevent artificial structuring to allow otherwise liable entities to avoid the obligation could be set out in the Rules.

Questions for the TWG

- Should the threshold be based on average or peak demand, or a combination of both?
- Should the threshold be on a site by site basis or across corporate entities?
- What measures are required to avoid structures being deployed to avoid the obligation (e.g. corporate structures vs facilities)?

2. Managing the transfer of the obligations between liable parties (e.g. Large customer to Retailer)

The inclusion of large customers in the Reliability Obligation and the ability for them to transfer this obligation to a retailer will continue to provide an opportunity for small and large retailers to compete to manage the requirement on behalf of large customers.

If a large customer is liable and the Reliability Obligation is triggered (and clearly communicated to liable entities) then the customer (along with other liable entities) will need to anticipate its likely share of system peak demand and decide whether it will contract: including whether directly or by transferring its obligation to a retailer. By one year out from the period where the Reliability Obligation has been triggered, liable entities will be required to disclose their contract positions to the AER.

When a large customer contracts with a retailer it is likely that the retailer will be willing and able to accept the large customer's liability with regard to the Reliability Obligation. To assist the AER in allocating obligations to liable entities, a form of notification by liable entities transferring any liability will be required.

Questions for the TWG

- How should the transfer of an obligation from a large customer to a retailer be handled?
- Could this approach be used to transfer obligations under other scenarios (e.g. retailer to retailer)?

3. How should new entrants and ROLR events be accounted for under the reliability requirement?

If the Reliability Obligation is triggered this will occur three years out from the specified period. If a sufficient gap persists one year out from the specified period, AEMO will procure the remaining necessary resources and liable entities will need to supply qualifying contracts to the AER. During this time, it is likely that new large loads (depending on the threshold) or retailers could enter the market. There is also the possibility that a retailer failure could occur, and their customers would be transferred to the Retailer of Last Resort. During the detailed design phase, the treatment of these issues need to be considered.

Questions for the TWG

- If a new entrant commences operation during the trigger period (either a retailer or large energy user), how should the new entrant's likely share of system peak demand be treated?
- Does a new entrant automatically become a liable entity if it meets the threshold, regardless of when it entered the market?
- If a retailer fails during the trigger period, activating the ROLR process, how should the likely share of system peak load and hedge contracts associated with transferring customers be allocated under the reliability obligation?

4. Are there any implications from differences in liable entities under the Emissions versus Reliability Requirement (e.g. EITEs)?

The reliability requirement is an obligation on retailers to make contracting and investment decisions well in the future. As there is a range of very large commercial and industrial (C&I) customers whose future demand for electricity is unknown and unknowable to retailers, it is appropriate to make some of these C&I liable entities in their own right.

The emissions requirement, on the other hand, assesses observed consumption by market customers across an annual compliance period, and so retailers are able to evaluate and manage the emissions obligations associated with their large customers. In this case, large users who purchase through a retailer do not need to be treated as a liable entity in their own right.

The Commonwealth Government has indicated that EITEs will be exempt from the emissions requirement, due to the trade-exposed nature of their activities. However they will remain liable for the reliability requirement.

Questions for the TWG

- Are there any implications from differences in liable entities under the emissions versus reliability requirement (e.g. EITEs)?

Interdependencies with other elements of the Guarantee

- Qualifying contracts
- Independent Trigger
- Forecasting Methodology and Accountability
- Compliance