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ERC0284 Draft Determination – Compensation following directions for services other than energy and market ancillary services

AGL Energy (**AGL**) welcomes the opportunity to comment on the Australian Energy Market Commission's (**AEMC**) draft rule determination on compensation following directions for services other than energy and market ancillary services.

AGL is one of Australia's leading integrated energy companies and the largest ASX listed owner, operator, and developer of renewable generation. Our diverse power generation portfolio includes base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources. AGL is also a significant retailer of energy and provides energy solutions to over 3.6 million customers in New South Wales, Victoria, Queensland, Western Australia, and South Australia.

We support some elements of the AEMC's draft rule, particularly those clarifying the application of compensation under cl. 3.15.7 versus cl. 3.15.7A. There are other elements we do not support, key of which is removal of the fair payment price (**FPP**) framework for determining compensation for non-market services directions. Our views of each aspect of the draft rule are set out below.

Classifying the category of directed service

AGL supports changes to the National Electricity Rules (**NER**) to clarify when a directed participant will be compensated under cl. 3.15.7 or under cl. 3.15.7A, however we question whether the draft rule fully achieves this. The draft rule 3.15.7(a2) will apply cl. 3.15.7 compensation to:

- (1) Energy;
- (2) Any one of the market ancillary services;
- (3) A service that is a direct substitute for energy or a market ancillary service; or
- (4) A service that was provided by the Directed Participant incidental to the provision of energy or market ancillary services.

Regarding the interpretation of cl. 3.15.7(a2)(4), the draft determination states that cl. 3.15.7 compensation will apply "if a directed participant generates energy in the course of complying with a direction issued for the purpose of (for example) obtaining fault current, voltage control or inertia."¹ Our view is that the current drafting does not make this interpretation clear.

¹ AEMC, Compensation following directions for services other than energy and market ancillary services, Draft rule determination, 24 September 2020, p. 25.



To better capture the AEMC's intent, we suggest reframing cl. 3.15.7(a2)(4) so that energy or market ancillary are incidental to providing the directed service. Further, the types of services that are covered should be spelled out in a non-exhaustive manner, for example, "including, but not limited to fault current, voltage control or inertia".

Determining when a directed participant is eligible for compensation

The AEMC's proposed amendment of cl. 3.15.7A would require AEMO to determine whether the directed participant was required to provide a non-market service in order to comply with that direction. AEMO would have 10 business days to notify the directed participant of its determination. Where AEMO determines that no compensable service was provided, the directed participant would have 10 business days to respond to AEMO's determination, setting out their case for cl. 3.15.7A compensation.

Consistent with our earlier submission to the Consultation Paper, AGL supports formalising a process by which the Australian Energy Market Operator (**AEMO**) must issue a determination, providing the directed participant with a right of reply. Having said that, we question whether AEMO is the appropriate party to determine that a service is compensable or not. We acknowledge that where AEMO and the directed participant do not agree, the NER dispute resolution process can be applied.

Regarding this formalised process, a directed participant should be advised of the substance and nature of a direction as soon as practicable. The draft rule provides AEMO with 10 business days to provide this information, which we consider is too long. AEMO would have a view of the costs at the time a direction is issued, given the NER requires AEMO to use its reasonable endeavours to minimise any cost related to directions and compensation.² A directed participant should know where they stand without waiting two weeks.

Referring again to our earlier submission, in AGL's experience, AEMO can and does change its position regarding what type of service has been directed, or if a service has been directed at all. This occurs in the period between AEMO issuing the direction and subsequently determining if a cost recovery methodology applies. The draft rule does not address this practice, as a directed participant can be told by AEMO when the direction is issued that they are being directed for service X, but AEMO's determination issued 10 business days later, can state the participant was directed for service Y. We ask the AEMC to consider how the NER could deal with this.

Where AEMO determines that no compensable service has been provided and that cl. 3.15.7A compensation does not apply, AGL supports enabling participants to recover their direct costs. In such an instance, the participant has provided value to the market, and/or otherwise behaved in a way they would not have absent the direction. The participant should not be left out of pocket as a result.

Framework for determining compensation amount for directions for non-market services

Where AEMO determines that cl. 3.15.7A compensation does apply, the draft rule proposes to implement a one-step fair payment compensation (**FPC**) determination, with no ability to make an additional compensation claim. This would replace the current two-step process of FPP determination followed by an additional compensation determination.

The FPC will be determined based on the directed participant's net direct costs, loss of revenue, and relevant contractual arrangements. Current arrangements require consideration of other relevant pricing methodologies in Australia and overseas, relevant contractual arrangements, and principles around market

² National Electricity Rules, clause 4.8.9(b)(1)



prices to determine the FPP. AGL supports the retention of the current arrangements, as they do not constrain the factors that can be considered in determining the fair price for the provision of the non-market service. We also note that AEMO's rule change proposal did not seek to limit the factors which could be considered.

Additionally, AGL continues to favour the two-step process, which allows directed participants to claim for loss of revenue and net direct costs following the FPP determination, and not as a part of the determination per the FPC model. While the AEMC's draft rule provides for a draft and final determination to be issued, offering the directed participant a right of reply, this still relies on a single, consolidated calculation.

As our earlier submission noted, the FPP framework considers the value to the market of the service provided by the participant, while the additional compensation claim considers the cost to the participant of providing that service, to ensure the participant receives the efficient market price and appropriate investment signals are maintained despite the intervention. With regard to the AEMC's concern that compensating a directed participant for the value of a service may encourage participants to seek to be directed, we note that when faced with being directed or bidding commercially, participants prefer the latter.

While perhaps beyond the scope of the AEMC's consideration, in our view, this rule change highlights the fundamental shortcomings of the NER intervention and compensation frameworks. Our submission to the AEMC's system services review highlighted that directions compensation is unlikely to equal what a participant would receive if it offered its output to the market at a price reflecting its short-run marginal cost curve. This occurs because directions compensation does not account for all aspects of SRMC and, directions compensation does not account for the long-run marginal cost of supply, since it does not account for the price impact of scarcity. Participant compensation will often be less than the efficient market price, and therefore will not incentivise those who could provide market or non-market services to enter or remain in the market.³ We are hopeful that these shortcomings will be addressed as part of the broader system services reforms.

If you have any queries about this submission, please contact Liz Gharghori on (03) 8633 6723 or lgharghori@agl.com.au.

Yours sincerely,

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³ AGL, [Submission to AEMC System Services Rule Changes Consultation Paper](#), 20 August 2020, p. 3.