Justice and Equity Centre

Date: 20 November 2024

Sebastien Henry
Australian Energy Market Commission
Submitted via email: sebastien.henry@aemc.gov.au

Your Ref: ERC0403

Dear Sebastien,

Re: Allowing AEMO to accept cash as credit support

The Justice and Equity Centre (JEC – formerly PIAC) welcomes the opportunity to respond to the AEMC Consultation Paper on the National Electricity Amendment (Allowing AEMO to accept cash as credit support) Rule 2024, (the Paper).

This rule change if demonstrated to be justified, should be geographically and time limited, and confined to Delta Electricity. The priority should be to minimise any unreasonable risk or cost impact for consumers.

The Paper observes that cash is a less secure form of credit support than a guarantee or bank letter of credit. In the case that any default cannot be met in full, unmet costs will need to be deferred to another party, potentially consumers. Socialising the costs on bills passes the risks to consumers. This is an unacceptable outcome, particularly where consumers have no means to mitigate this risk.

If determined to be necessary, governments should provide the credit guarantees. They are driving policy on renewables roll out and are better placed to bear the risks for coal generator defaults. The JEC acknowledges that such a solution is beyond the scope of the AEMC powers in this rule change proposal but notes the AEMC could determine a rule change is not an appropriate response given the implications for consumers and emissions.

The JEC's position is that any rule change accepting cash should have strict limiting criteria to protect consumers. Cash should only be accepted from:

- A fossil fuel generator named in the rule change and with respect to trading in the wholesale market within a specific NEM region, for a specific time period.
- Any cash payment should be no smaller than the amount otherwise required in the form of a bank guarantee – and should be set according to the increased level of risk involved. That is, it may be appropriate to require a risk premium.
- The money should be surrendered in advance to AEMO in full.
- AEMO should ensure the cash can be used in full in the event of a default to meet the debt. This includes taking all reasonable steps to become a secured creditor.

The Paper references the 2024 ESOO and forecast reliability gaps in NSW, Victoria and South Australia.[1] It does not provide any analysis of whether the closure of Vales Point will exacerbate gaps in NEM Regions beyond NSW, nor modelling of the actual security gaps likely to arise. Prior to passing this rule change this analysis and modelling should be undertaken. Any rule change to allow AEMO to accept cash should not extend beyond a NEM region and time frame in which security and reliability gaps have been properly demonstrated.

There are also potential emissions implications in allowing Delta (and other fossil fuel generators) to offer a less secure form of credit support. Particularly where the need results from changes in finance markets relating to the emissions impact of these generators.

Delta Electricity has no immediate plans to close Vales Point, and last year delayed the closure date from 2029 to 2033.[2] The requested rule change must be understood in the context of being made by an emissions intensive entity, with no plans to close at the earliest opportunity. Rather it seeks to continue operating an emissions intensive generator, and mitigation of the finance risks involved. Any concessions made to accommodate such a business should only be made to the minimum extent necessary, in the best interests of energy consumers.

In determining whether to pass the rule change proposal, the AEMC must consider the NEO, including consideration of the emissions impact of this decision. The rule change would represent a market intervention which is not technologically neutral, given that it is only necessary to accommodate circumstances for emissions intensive generators. The implications of passing this rule change are the potential extended use of fossil fuel electricity generators (whether other coal generators or gas peaking power stations) beyond that which would otherwise occur in response to the conditions of the market for generation and finance.

We welcome the opportunity to meet with the AEMC and other stakeholders to discuss these issues in more depth. Please contact Douglas McCloskey at dmccloskey@jec.org.au regarding any further input.

Yours sincerely

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1 Consultation Paper, pp.i and 3.
2 https://reneweconomy.com.au/vales-point-coal-closure-date-pushed-back-four-years-in-latest-threat-to-renewables-transition/.