



Our ref: D214446
Contact: Rajat Sarawat

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Mr Stephen Edwell
Energy Transformation Taskforce
David Malcolm Justice Centre
28 Barrack Street
Perth, WA, 6000

Sent by email to energytransformation@energy.wa.gov.au

Dear Mr Edwell

DER Roadmap Implementation Rule Change – Industry Consultation Paper

The Economic Regulation Authority welcomes the opportunity to comment on the consultation paper and proposed changes to the Wholesale Electricity Market (WEM) rules.

The release of the State Government's Distributed Energy Resources (DER) Roadmap is a major milestone in the Energy Transformation work program. The 36 actions in the roadmap will address many of the challenges identified in the ERA's annual reports on how effectively the WEM is meeting the market objectives.

The ERA fully supports the intent of the proposed rule change to allow AEMO to promptly recover the efficient costs of undertaking roadmap actions, some of which require immediate resourcing. However, the ERA is concerned that proposed WEM rule 1.20.6. will inadvertently lead to higher than necessary costs being passed on to consumers.

The ERA's regulatory oversight of AEMO's funding seeks to ensure that only AEMO's efficient costs are recovered through the market fees paid by market participants. As drafted, the proposed WEM rule 1.20.6 places conditions on:

- How the funding submission is assessed against AEMO's other functions and funding previously approved by the ERA.
- The information that the ERA can consider when making its determination.
- The timeline for the ERA's determination.

These conditions could limit the ERA's ability to undertake a transparent review of any in-period funding proposal AEMO makes pursuant to WEM rule 1.20.6. For example, the rule as currently drafted would prevent the ERA from seeking the views of market participants and other stakeholders on a draft funding determination. The ERA's specific concerns are outlined in Attachment 1.

To address these concerns, the ERA has commenced working with the Energy Transformation Implementation Unit and AEMO to amend proposed WEM rule 1.20.6. The shared goals for the rule amendment are to support the roadmap actions proceeding in a timely manner, ensure

that AEMO is appropriately funded for its new functions and for only efficient costs to be passed on to consumers.

The ERA is pleased to discuss any of the items in this letter with the Taskforce. In the first instance please contact Rajat Sarawat, Executive Director Energy Markets on 08 6557 7905.

Yours sincerely



Nicola Cusworth
CHAIR



Attachment 1

Proposed WEM rule 1.20.6 (e) (ii)

This rule states the ERA must “only have regard to information provided by AEMO in its application and in accordance with clause 1.20.6(c)”. This suggests that the ERA cannot take stakeholders’ views into account. Therefore, when making its determination, the ERA would not be able to undertake public consultation on AEMO’s proposal, or on a draft funding determination.

Although public consultation is not mandated for in-period funding applications (2.22A.14(a)), the ERA Act obligates the ERA “to promote transparent decision-making processes that involve public consultation.”¹ All previous funding approval processes have included at least one, four-week, public consultation period.

WEM rule 2.22A.11(c) suggests that, where possible, the ERA should seek to benchmark AEMO’s proposed costs against the costs of providing similar services in other jurisdictions. As currently drafted, WEM rule 1.20.6(e) (ii) suggests the ERA cannot benchmark AEMO’s proposed costs or seek technical advice from a third party to help assess AEMO’s proposal. Although benchmarking and technical advice may not be necessary for every in-period funding approval, removing these requirements may unduly limit the rigour of the ERA’s assessment. Therefore, it would be prudent to allow for the possibility of these two activities, if the need arises.

Proposed WEM rule 1.20.6 (e) (iii)

This proposed rule would prevent the ERA from considering previously approved expenditure when reviewing an in-period funding submission from AEMO on the forecast costs of DER implementation activities.

Historically, when making a determination on in-period funding applications, the ERA has reconsidered previously approved funding. This enables the ERA to recommend that AEMO utilises previously approved funding for its new functions where previously planned projects or activities have been delayed or may no longer be necessary and where AEMO has incurred cost savings on existing projects or activities.

The ERA also has to ensure that AEMO is recovering costs for fulfilling its functions only as identified by the market rules and not utilising approved funding on discretionary projects, the costs of which are not to be recovered through market fees, pursuant to WEM rule 2.22A.11(d) (ii).

Reconsideration of previously approved expenditure ensures the ERA is able to recommend, where appropriate, that previously approved funding can be used for the projects and activities identified in the in-period submission. In this way, the ERA can seek to ensure that market participants, and ultimately consumers, pay only the efficient costs incurred by AEMO in performing its functions under the WEM rules. This is consistent with the WEM objectives to promote the economically efficient, safe and reliable production of electricity and to minimise the long-term costs of electricity supplied to consumers. In seeking to approve only AEMO’s efficient costs for recovery through market fees, the ERA is also meeting its functions under

¹ *Economic Regulation Authority Act 2003 (WA) Part 4, 26 (g)*

the Act to have regard to “the long-term interests of consumers in relation to the price, quality and reliability of goods and services provided in relevant markets.”²

The ERA has commenced discussing the drafting of WEM rule 1.20.6 (e) (ii) and (iii) with EPWA and AEMO to ensure the implementation actions of the DER Roadmap can progress and AEMO is appropriately funded to undertake them while also ensuring only efficient costs are passed through to market participants.

Proposed WEM rules 1.20.6 (b) and (d)

The dates when AEMO submits and the ERA must approve periodic (three-yearly) funding applications are currently written into the WEM rules. There are no timeframes explicit or implied in the WEM rules for in-period funding applications. The time taken to assess any in-period funding application from AEMO has historically depended upon the complexity of the application and the ERA’s preference to consult with stakeholders and undertake a transparent determination process.

The ERA has taken 14 weeks and 18 weeks respectively to make a determination on the last two in-period funding applications made by AEMO. This is longer than the 30 business days (6 weeks) proposed in draft rule 1.20.6 (d).

Previous in-period funding approvals have also entailed several information requests to AEMO, for clarification of, or additional justification for, information in the original proposal. This has added to the time taken by the ERA to make a funding determination in line with its legislated obligations. The proposed WEM rule 1.20.6(b) states that, if required, the ERA must request additional information from AEMO within 10 business days of receipt of the funding request and then make its determination within 20 business days of AEMO providing the requested information. This suggests the ERA can make only one request for additional information. To do this the Secretariat will have to fully understand and have tested the costings provided within 10 business days in order to be able to make a meaningful information request to AEMO.

The reasoning behind setting a timeframe for the ERA’s approval of DER roadmap implementation funding was to “resolve uncertainty regarding timeframes for this “in-period” review, and to streamline the review process.”³ The ERA supports activities that seek to streamline administrative processes. However, greater streamlining should improve efficiency rather than risk inadequate consideration of AEMO’s proposed costs and an uninformed determination that does not deliver an outcome consistent with the WEM objectives. The ERA is willing to work with EPWA and AEMO to streamline the funding review process where appropriate. In addition, the ERA and AEMO can seek to set and agree to a timeline in advance of the funding submission and approval, to remove uncertainty.

A timeframe agreed in advance would depend upon the complexity of AEMO’s submission and what the ERA has to consider in making its determination. As a minimum this should include reviewing previously approved funding and consulting with stakeholders, including AEMO and EPWA, before the ERA makes its final determination. The combination of these two conditions provides the greatest likelihood that the DER implementation actions are progressed in a timely manner and only efficient costs are passed through to market participants and consumers.

² Ibid. clause 26(1) (b)

³ Energy Policy WA, 2020, *DER Roadmap Implementation Rule Change, Industry Consultation paper*, p.9. [online](#)