
From: Healy, Rosannah [REDACTED]
Sent: Friday, 17 April 2020 10:06 AM
To: McCracken-Hewson, Daniel <daniel.mccracken-hewson@acc.gov.au>; Drake, Michael <michael.drake@acc.gov.au>
Cc: Janissen, Robert <robert.janissen@acc.gov.au>; Hill, Ted [REDACTED]; Hender, Kathryn [REDACTED]
Subject: AEMO application for authorisation - small revision to 'Proposed Conduct'
Importance: High

Dear Mr McCracken-Hewson and Mr Drake

For publication – AEMO application for authorisation – revision to definition of Proposed Conduct

We refer to the application for authorisation lodged by AEMO on 30 March 2020.

AEMO wishes to make a minor revision to the definition of Proposed Conduct in the application so that it excludes entering into any contracts, arrangements or understandings in relation to the supply or acquisition of gas in reliance on the proposed authorisation. This would not prevent the parties from discussing, for example, any potential issues in relation to the gas required for electricity generation. However, to the extent authorisation was required for any gas supply arrangements proposed to be entered into to address such an issue, a new application for ACCC authorisation would be submitted at that time.

Set out below is an amended definition of Proposed Conduct.

Please don't hesitate to contact me to discuss.

3.1 Overview

AEMO, AEMO Industry Participants and Other Approved Participants seek authorisation to discuss, enter into or give effect to any contract, arrangement or understanding between them, or engage in any conduct, which has the purpose of:

3.1.1 ensuring the safe, secure and/or reliable operation of Australia's energy systems and/or the continued operation and integrity of the wholesale markets that underpin energy supply during the pandemic;

3.1.2 ensuring ongoing energy supply to support consumers, businesses, government operations and the economy during the pandemic;

3.1.3 minimising the risk of any energy outages during the pandemic;

3.1.4 ensuring that there are sufficient resources to maintain and operate energy infrastructure, including personnel and essential inputs such as fuel, parts and equipment; or

3.1.5 planning or preparing for the impacts of the pandemic in relation to any of the above
(the **Proposed Conduct**).

3.2 Examples of Proposed Conduct

Examples of co-ordination measures that may be engaged in if they have one or more of the purposes listed in 3.1.1 to 3.1.5 above include, but are not limited to:

3.2.1 (**Sharing information regarding ongoing operation**) sharing of information related to the ongoing availability, performance and/or operation of AEMO Industry Participant facilities and any risks to ongoing availability, performance and/or operation;

3.2.2 (**Co-ordinating repairs and maintenance**) planning for and/or minimising any disruptions to energy supply, for example, by coordinating scheduling of any repairs, maintenance and other works requiring outages;

3.2.3 (**Sharing essential personnel**) sharing information and/or entering into common arrangements in relation to essential employees and contractors to ensure there are sufficient personnel to maintain and operate energy infrastructure;

3.2.4 (**Sharing essential inputs**) sharing information about the availability of, and/or entering into arrangements to share, essential inputs for energy production, generation, transmission, distribution and supply systems and infrastructure, such as fuel for thermal electricity generators, parts, equipment or specialised resources necessary for essential maintenance, as well as other consumable materials necessary for the operation of AEMO Industry Participant facilities;

3.2.5 (**Deferring non-essential works**) sharing information, and/or entering into arrangements, to defer activities and/or projects not essential to maintaining the safe, secure and/or reliable operation of energy markets during the pandemic;

3.2.6 (**Gas availability**) sharing information ~~and/or entering into arrangements to secure~~ **for the purposes of assessing whether there are** sufficient quantities of gas for electricity generation during the pandemic; and/or

3.2.7 (**Managing system stability**) sharing information and/or entering into common arrangements in order to manage system stability from a technical perspective as a result of changes in system supply and/or demand, including for example managing generation profiles.

Importantly:

- the Proposed Conduct would be limited to:
 - (i) discussions, conduct, contracts, arrangements and/or understandings to which AEMO, the independent market operator, is either a party or has facilitated; or
 - (ii) discussions, conduct, contracts, arrangements and/or understandings to which AEMO is not a party but which are carried out for the purposes of implementing (i) above;
- the Proposed Conduct is intended to ensure the ongoing safety, security and reliability of Australian energy systems and the integrity of wholesale markets during the pandemic. It does not involve entering into **any contracts, arrangements or understandings** ~~agreements~~ regarding the wholesale or retail price of energy, **or the supply or acquisition of gas, that would rely on the authorisation**. Nor is it intended that AEMO, AEMO Industry Participants and Other Approved Participants would share confidential information relating to retail pricing matters, cost or profits;
- the Proposed Conduct is not compulsory, and any AEMO Industry Participant or Other Approved Participant can opt out of any proposed collaboration the subject of this application;
- the Proposed Conduct is a temporary measure to ensure the ongoing safe, secure and reliable supply of energy to consumers, businesses, government operations and the economy during the COVID-19 pandemic;
- if authorisation is granted, AEMO will notify the ACCC of any proposed coordination measures to be undertaken and which are not listed at 3.2.1 to 3.2.7 above;
- If authorisation is granted, it is intended that AEMO will update the Energy Coordination Mechanism (of which the Australian Energy Regulator (**AER**) is a member) of steps being taken to ensure ongoing energy supplies during the pandemic, including coordination measures as relevant. The newly formed Energy Coordination Mechanism brings together government and industry leaders for weekly meetings to coordinate a national response to the impact of COVID-19 on the energy industry. Members include representatives of the federal and state government departments responsible for energy, AER, AEMO, the Australian Energy Market Commission, the Energy Security Board and Energy Consumers Australia.

Kind regards

Rosannah

Rosannah Healy
Partner, **Allens**

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