

15 July 2020

Mr Andrew Pirie
Project Leader
Australian Energy Market Commission

Submitted via website: www.aemc.gov.au/contact-us/lodge-submission

Dear Mr Pirie

Stanwell response to Compensation following directions for services other than energy and market ancillary services (ERC0287) consultation paper

Stanwell appreciates the opportunity to provide feedback on the Australian Energy Market Commission's (AEMC) consultation paper on compensation following directions for services other than energy and market ancillary services ("other" services).

Stanwell notes the timeframe to assess and respond to multiple intervention pricing and compensation consultation papers was constrained, particularly considering both concurrent related rule changes (e.g. the six essential system services provision rule changes consolidated under ERC0290 – System services rule changes) and the impacts that COVID-19 is having on staffing and working arrangements of industry participants.

This submission contains the views of Stanwell Corporation Limited in relation to the compensation following directions for "other" services information provided to date and should not be construed as being indicative or representative of Queensland Government policy.

1. Proposed rule changes

Stanwell appreciates the Australian Energy Market Operator's (AEMO) interest in simplifying the administration of the process by which directed participants claim compensation for the provision of "other" essential system services.

The current lack of clarity about which "other" services are compensable and how compensation for these services is calculated increases results in uncertainty for both AEMO and market participants. Stanwell contends that all valuable services provided by market participants should be compensable. The current mechanisms are limited and need to be revised to include other essential system services. The proposed administrative changes do not address this market design gap.

Stanwell is also concerned about the removal of the two-step compensation process without the introduction of an appeal mechanism. As detailed in the consultation paper, Pelican Point was denied FPP compensation under 3.15.7A, but for their additional claim under 3.15.7B the independent expert determined Pelican Point had provided a service and awarded them \$254,703 for loss of revenue for reduced energy and FCAS

provision.¹ It appears that under the proposed single step compensation process, market participants will not have recourse if they do not agree with the independent expert's or AEMO's final determination.

Stanwell's responses to select questions posed in the consultation paper are provided in Appendix A.

2. Incentivisation of "Other" Services

Stanwell is concerned that the suite of intervention pricing and compensation rule changes proposed by AEMO do not attempt to value the essential system services provided by market participants.

Under both the current and proposed compensation processes, when AEMO directs market participants to provide essential "other" services to maintain the network in a secure state, the best-case outcome for directed participants is they break even with respect to the loss of revenue and costs associated with complying with that direction. This does not incentivise market participants to invest in capability to provide essential system services.

The ongoing withdrawal of scheduled synchronous generation and growth of non-scheduled and non-synchronous generation will provide an increasing challenge for AEMO in maintaining the network in a secure state. Stanwell suggests that developing and implementing market mechanisms that incentivise the provision of essential system services will allow the market the opportunity to address this issue, which is preferable to AEMO's continuing and growing reliance on interventions.

3. Conclusion

Stanwell supports some of the proposed clarifications and simplifications to the "other" service compensation process but is concerned the removal of one of the steps of the "other" services compensation process without the introduction of an appeal mechanism may adversely affect directed participants.

Stanwell believes the effort currently being expended on incremental improvements to the administration of intervention pricing and compensation would be better directed at developing mechanisms that value and incentivise essential system service provision by market participants. In-market solutions are more efficient and transparent than continued reliance on interventions to ensure continuity and security of supply to consumers.

Stanwell welcomes the opportunity to further discuss this submission. Please contact Evan Jones on (07) 3228 4536.

Yours sincerely



Ian Chapman
Manager Market Policy and Regulatory Strategy

¹ AEMC, Compensation following directions for other services consultation paper, p20

Appendix A: Stanwell's responses to select questions in the consultation paper

Stanwell's response to select questions posed in the consultation paper are provided below. These responses should not be construed as implicit support for non-market delivery of increasingly essential system security services. Stanwell's preference remains that AEMO focuses its resources on the development of market-based solutions.

2-1. Is clause 3.15.7A(a1) and its application clear?

Stanwell does not consider either the clause or the application of 3.15.7A(a1) are clear.

If the clause was currently clear, market participants and AEMO would have certainty about what "other" services are compensable. Instead, as the Commission notes, "[i]t appears that previous determinations by independent experts that a direction was not compensable under clause 3.15.7A have been used as the basis of AEMO's recent decisions that a service was not provided by a participant directed for other services, and hence that no compensation is payable under clause 3.15.7A".²

Stanwell agrees with the Commission's view that the application of clause 3.15.7A(a1) "appears to have been somewhat inconsistent in recent years, which may create confusion for stakeholders as to how it would be applied".³

2-2. Do stakeholders consider there could be benefit in amending NER clause 3.15.7A(a1) to clarify when a directed service is classified as an "other" service and compensated under clause 3.15.7A and when a directed service is not classified as an "other" service and is compensated under clause 3.15.7?

Stanwell believes market participants would benefit from an amendment to clause 3.15.7A(a1) to clarify which services are compensated under clause 3.15.7A and which services are compensated under 3.15.7. At a fundamental level, if AEMO is intervening to have a participant provide a service, that service is of value and should be compensated. The Rules should clearly reflect this concept. Clarification will reduce the burden and increase the certainty for market participants in claiming compensation after providing "other" services under AEMO direction.

2-3. Is clause 3.15.7A(a1) appropriate for the current and changing mix of services provided by participants (i.e. combination of energy, FCAS and other services that can be provided by an individual participant)?

The current wording of clause 3.15.7A(a1) is inappropriate given the potential for participants under AEMO direction to provide a combination of services. Having some "other" services compensated under 3.15.7 and some under 3.15.7A is not consistent with the simplification of the compensation process AEMO is seeking with this rule change request.

3-1. What are stakeholder views on the two stage process for other services direction compensation, including on its necessity and efficiency (both in terms of timeliness and cost)?

² AEMC, Compensation following directions for other services consultation paper, p22

³ AEMC, Compensation following directions for other services consultation paper, p28

Stanwell considers the two-step compensation process is not efficient, but it is a necessity as it provides an important opportunity to review the independent expert's or AEMO's final determination. As detailed in the consultation paper, Pelican Point was denied "fair payment price" (FPP) compensation under 3.15.7A, but for their additional claim under 3.15.7B the independent expert determined Pelican Point had provided a service and awarded them \$254,703 for loss of revenue for reduced energy and FCAS provision.⁴ Stanwell is concerned that market participants may not have recourse under the single step compensation process in the event they do not agree with the final compensation determination.

4-1. Would the proposal to combine the determination of the FPP and additional compensation into a single step process be more administratively efficient (in terms of timeliness and administrative cost) than the current two-step compensation process for other services direction?

Combining FPP and additional compensation into a single step would be more administratively efficient for participants, however Stanwell believes this would need to be coupled with an appeal mechanism in the event the affected market participants do not agree with AEMO's or the independent expert's final compensation determination.

In their rule change request, AEMO states that "[i]nvolving additional claims will therefore not resolve any difference of views between the participant and the Independent Expert on what constitutes a fair price", but does not detail how these differences would be resolved under the proposed single step compensation process.⁵

Stanwell does not agree with AEMO's view that directed participants do not require additional opportunities to raise concerns about their cost recovery.⁶ As detailed in the consultation paper, Pelican Point was denied FPP compensation under 3.15.7A, but for their additional claim under 3.15.7B the independent expert determined Pelican Point had provided a service and awarded them \$254,703 for loss of revenue for reduced energy and FCAS provision.⁷

4-2. Should there be a process in clause 3.15.7A by which AEMO determines whether a compensable service has been provided, and then publishes its determination?

Stanwell believes there should be a process in clause 3.15.7A by which AEMO publishes its determination on whether compensable services have been provided. At a fundamental level, if AEMO is intervening to have a participant provide a service, that service is of value and should be compensated. The Rules should clearly reflect this concept

The potential clarification of which "other" services are compensated under 3.15.7A and which are compensated under 3.15.7, as discussed in Stanwell's response to Question 2-2, would further increase transparency and consistency.

Stanwell also supports the Commission's suggestion that "[c]onsideration could also be given to allowing directed participants to provide input in relation to that determination", to ensure directed participants' opinions are considered as part of the determination as to whether a compensable service (or services) had been provided.⁸ However, Stanwell would not consider input to the determination of whether a compensable service has been provided as

⁴ AEMC, Compensation following directions for other services consultation paper, p20

⁵ AEMO, Removal of additional compensation for other services directions rule change request, p3

⁶ AEMO, Removal of additional compensation for other services directions rule change request, p3

⁷ AEMC, Compensation following directions for other services consultation paper, p20

⁸ AEMC, Compensation following directions for other services consultation paper, p26

a substitute for the appeal mechanism on the final determination of “other” services compensation discussed in Stanwell’s responses to Questions 3-1 and 4-1.

4-3. Should there be a process by which a directed participant which has not provided a compensable service can still seek compensation for any costs incurred in the course of complying with the direction?

Stanwell believes there should be a process by which directed participants can seek compensation for all costs incurred in the course of attempting to comply with a direction. AEMO’s directions typically impose costs on participants; participants should be able to seek compensation to make them whole with respect to those costs.

4-4. In clause 3.15.7B(a)(1) is the phrase "as a result of the provision of the service under direction" clear? If not, is "as a result of compliance with the direction" or another alternative preferable?

Stanwell agrees with the independent expert quoted in the consultation paper that “while a directed participant may not provide services under direction, the directed participant may still incur costs in complying with a direction”.⁹

Stanwell suggests “as a result of the direction” is preferable wording for clause 3.15.7B(a)(1) to ensure consistency with the single step compensation process proposed by AEMO.

6-1. Does AEMO's proposed rule appropriately allocate any risks for directed participants in recovering costs related to other services directions?

Stanwell does not believe the proposed changes appropriately allocate risks for directed participants.

Stanwell agrees with the Commission’s analysis that inconsistent application of 3.15.7A(a1) and lack of clarity over inclusion of cost and loss information in the proposed rule both “by themselves and in combination, are likely to reduce the ability of participants to recover their out of pocket costs relating to directions for other services”.¹⁰

Given the importance of “other” services in maintaining the network in a secure state, the inability of directed participants to recover their costs (and no way to manage the risk of not being able to recover their costs) means directed participants assume a disproportionate share of risk when acting under AEMO’s direction.

7-1. What information (i.e. pricing methodologies and/or cost and loss information) should be able to be considered in determining compensation following directions for other services in clause 3.15.7A?

Stanwell agrees with the Commission’s recommendation that clause 3.15.7A would need to be amended to allow AEMO and independent experts to receive the directed participant’s cost and loss information, consistent with the apparent intent of the rule change request.

⁹ AEMC, Compensation following directions for other services consultation paper, p27

¹⁰ AEMC, Compensation following directions for other services consultation paper, p29

8-1. If additional claims are removed and only loss of revenue and net direct costs are considered, is the independent expert required or could AEMO be provided with the option, but not the obligation, to determine compensation claims "in-house"?

Stanwell appreciates the cost of engaging independent experts is ultimately borne by consumers, and any simplification and clarification of the compensation process would be expected to reduce the complexity of compensation calculations (and hence the need for independent experts to determine which "other" services are compensable and how compensation will be calculated).

Stanwell's support for AEMO making the decision about whether a compensation claim is assessed by an independent expert or by AEMO in-house is contingent on whether an appeal mechanism is available to directed participants under the single step compensation process:

- In the absence of an appeal mechanism, Stanwell's preferred approach would be for AEMO to make a recommendation of who should assess the compensation claim (based on the complexity and size of the claim), but the directed participant makes the final decision; or
- If an appeal mechanism was introduced, Stanwell would not object to AEMO making the decision about who determines each compensation claim.

For compensation claims that AEMO determines "in-house", the outcomes of these determinations should be made public to ensure adequate transparency and consistency of the "in-house" compensation determination process.

10-1. If the alternative option in section 6.2.1 is applied, could this option co-exist with a requirement for the same compensation to apply for the same service directed in the ensuing 12-month period?

Stanwell questions the value of retaining the requirement for the same compensation to apply for the same service directed in the ensuing 12-month period if the alternative option in section 6.2.1 is adopted. The proposed simplification of the compensation process would enable calculation of the cost of "other" services provided by directed participants based on their actual loss of revenue and net direct costs. Applying the same compensation for the same service from other participants risks under-compensating or over-compensating "other" service provision by directed participants (resulting in directed participants incurring costs for providing services to AEMO or higher costs for consumers, respectively).

11-1. Is it appropriate for clause 3.15.7(c)(1)(ii)(C) and (D) to refer to the 'market price' for the service when, by definition, if the service is a service other than energy and market ancillary services, there is no market price?

It is not appropriate for clauses 3.15.7(c)(1)(ii)(C) and (D) to refer to the 'market price' for services that do not have a market price. The wording should be amended to reflect the methodology for calculating prices for "other" services.