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Department for Energy and Mining  
GPO Box 320  
Adelaide SA 5001

## **RE: Proposed Operation of the Retailer Reliability Obligation in South Australia**

ERM Power Limited (ERM Power) welcomes the opportunity to respond to the Department for Energy and Mining's consultation on the proposed operation of the Retailer Reliability Obligation in South Australia.

### **About ERM Power**

ERM Power is an Australian energy company operating electricity sales, generation and energy solutions businesses. The Company has grown to become the second largest electricity provider to commercial businesses and industrials in Australia by load<sup>1</sup>. A growing range of energy solutions products and services are being delivered, including lighting and energy efficiency software and data analytics, to the Company's existing and new customer base. The Company operates 662 megawatts of low emission, gas-fired peaking power stations in Western Australia and Queensland. [www.ermpower.com.au](http://www.ermpower.com.au)

### **General comments**

ERM Power has been actively involved in the development of the Retailer Reliability Obligation (RRO) through the Energy Security Board's consultations. We are keenly interested in how it will apply in practice given the impact it will have on retailer hedging practices and strategies and the flow on impact this will have on prices for commercial and industrial (C&I) customers. We consider that one of the critical elements of the RRO is to provide three years notice of a gap period at the first instance. This gives retailers the opportunity to find the lowest cost way to 'close the gap' by contracting or investing in new supply or demand response capabilities.

We are therefore concerned by the South Australian Government's decision to allow for a ministerial trigger of a T-3 gap period just 15 months from a gap period. We do, however, understand the SA Government's rationale, and believe that with appropriate amendments to the Rules in South Australia, reliability can be supported at low cost to consumers.

ERM Power does consider that it is essential that these amendments operate purely on a transitional basis for three years from the date the Bill comes into operation as stated in the consultation paper. If these provisions operate beyond this date, the differences in approach between South Australia and the other states in the NEM will mean that retailing electricity in South Australia will be riskier and higher cost.

We also note that the Final Rules for the RRO were released on 7 May, following the release of the consultation paper. We base our comments on the Final Rules as appropriate.

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<sup>1</sup> Based on ERM Power analysis of latest published financial information.



### **Contract position day**

Given that the Minister can make a T-3 reliability instrument at any time up to 15 months before the start of the gap period and that the contract position day begins 12 months before the start of the gap period, liable entities could have a maximum of 3 months to finalise their contract positions. The standard timeframes for the RRO would give liable entities more than two years before the contract position day.

ERM Power considers that 3 months is inadequate given the penalties and costs associated with being undercontracted, the complexity of the task to ensure liable entities have sufficient contracts and report on them, and the fact the Australian Energy Regulator (AER) has yet to finalise the interim contracts and firmness guidelines. If there is a shortage of supply, then a three-month period to contract or enter into alternative arrangements is insufficient to solve the problem. A three-month notice period will likely either force customers to be stranded without contracts, or a retailer forced into non-compliance despite their best efforts.

We consider that liable entities would be better served with a minimum of 9 months from the date the Minister makes a T-3 reliability instrument before the contract position day. This would still ensure that at the latest, the contract position day will occur 6 months before the start of the gap period. In the event the minister issues a T-3 instrument longer than 21 months from the start of the gap period, then the contract position day can remain at 12 months before the start of the reliability gap period.

Allowing for a minimum of 9 months gives liable entities the opportunity to find the most efficient way to procure reliable supply. This could be through contracting with existing participants, installing batteries or engaging in demand response activities. Shorter time periods will limit the opportunities available to liable entities to find ways to bring more supply to market at times of a tight supply-demand balance. A minimum 9-month period would also allow time for the AER to have further developed their contracts and firmness guideline meaning that liable entities will have greater knowledge of what contracts will be eligible. This would largely negate the need for the South Australian Government to develop a separate approach to determining firmness factors for contracts.

We also consider that the provisions in the Final Rules to allow liable entities to adjust their contract positions within the T-1 window should also apply with reduced thresholds. We consider that as this is a new obligation, entities need greater scope to make arrangements to ensure that reliable supply is delivered when it is most needed and to avoid exposure to high costs and penalties if they are non-compliant. This is particularly important for C&I customers who may find that they are due to come out of contract shortly before a gap period begins. These businesses need to be able to access offers from multiple retailers rather than being limited to contracting with what may be likely to be a small number of vertically-integrated retailers.

### **Opt-in provisions**

ERM Power supports the opt-in provisions contained in the Final Rule released on 7 May 2019. We encourage the SA Government to stick closely to these provisions in terms of thresholds (greater than 50 GWh annual consumption) and limitations (must opt-in for all connections point at a site). We understand that the opt-in cutoff date at T-18 months cannot apply if there is a T-3 reliability instrument made 15 months before the start of the gap period. In this case, we see benefits in the SA Government's proposed approach of having parties applying to the Minister to opt-in.

Further, we believe that an opt-in cut-off day should then be set for three months after the issuing of the T-3 reliability instrument. When combined with a minimum of nine months for the contract position day, this would preserve the six-month period between opt-in decisions and the contract position day which exists in the Rules. ERM Power consider that this will allow large customers the ability to opt-in if they choose and give retailers time to adjust contract positions should the customer do so.



### **Market Liquidity Obligation**

We consider it sufficient for the South Australia Government to apply the interim list of deemed Market Liquidity Obligation (MLO) generators contains in the Final Rules released by the Energy Security Board on 7 May 2019. This provides strong guidance as to the generators required to fulfill MLO obligations by making contracts available to the market. We also believe that the MLO should continue to apply until the contract position day.

Please contact me if you would like to discuss this submission further.

Yours sincerely,

[signed]

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