

Rebecca Holland

Australian Energy Regulator (AER)

Sent via email aercompliance@aer.gov.au.

31 March 2026

Dear Ms Holland

Updates to the Australian Energy Regulator (AER) Rebidding and Technical Parameters Guideline – Akaysha Energy submission

Akaysha Energy (Akaysha) welcomes the opportunity to provide the AER with comments on the “Updates to the AER’s Rebidding and Technical Parameters Guideline – Consultation Paper” (the Consultation Paper).

Akaysha Energy is an Australian company and leading Australian developer and owner/ operator of utility scale battery energy storage systems (BESS). In total Akaysha has 5GWh of BESS in construction or operation across the national electricity market (NEM). Our comments below are on specific elements of the Consultation Paper relate to the BESS rebidding and auto-bidder sections.

Akaysha appreciates the work that is being done by the AER in considering the most useful advice to provide industry in respect of Auto-bidders and BESS rebidding behaviour. We recognise that this is a part of the energy sector that is evolving – and is of interest to the market bodies. We are supportive of the continued engagement of the AER with both industry and auto-bidding technology providers to ensure that the AER has the latest industry information and insights. We look forward to continuing to engage with the AER as work on the updated Guideline progresses.

2.2 Updates responding to key market changes and emerging risks

2.2.3 Utilisation of Auto-bidding

Akaysha views auto-bidders as a critical tool for enabling the efficient market participation of energy limited assets such as BESS. This is a topic that has been considered over the last twelve months in both the Independent Panel Review of the National Electricity Market (NEM) Wholesale Market Settings, as well as the Prohibiting Energy Market Misconduct (PEMM) Review.

The previous reviews focused on the risks associated with algorithmic collusion and highlighted concerns raised by the AER regarding it being difficult to assess whether excessive rebidding behaviour – linked to the use of Auto-bidders – is excessive or responsive.

This Consultation Paper seems to focus more specifically on the role of AI utilisation within algorithmic bidding tools, as well as considering what additional safeguards might be needed to reduce risks of

non-compliance associated with using auto-bidding tools. The AER is proposing to make it clear in the Guideline that:

- non-compliance which results from a Market Participant's utilisation of Auto-bidding (whether directly or through a third-party service) will still be considered a breach by the relevant Market Participant submitting the bid or rebid;
- a third-party provider may be liable for any breach which results from the utilisation of their services by a Market Participant, if they are directly or indirectly concerned in or a party to the commission of that breach;
- where using third party Auto-bidding services, Market Participants must maintain appropriate oversight. We consider any approach where automated bids are sent directly to AEMO by a third party, without the ability for the Market Participant to verify or adjust the bid, to be high risk; and
- Market Participants need to ensure they have appropriate risk mitigation and management processes in place to ensure any utilisation of Auto-bidding is compliant with all legislative obligations.

The AER also believes that there could be benefit to the market from providing greater transparency in relation to whether submitted rebids have been made by an Auto-bidder

Response to AER questions:

Question 8. Do you consider additional guidance relating to the expectations for Market Participants utilising Auto-bidding software (including third party software), and for the third-party providers would be useful? If so, what guidance would be of assistance?

In respect of the specific Guideline updates proposed Akaysha broadly believes that these points are well understood by market participants using auto-bidding software and are either explicitly or implicitly set out in the NER. Including these in the Guideline would provide some additional reinforcement but will not materially impact on participant behaviour.

In respect of third-party auto-bidding services. The Guidelines should clarify that third-party auto-bidding services are only a risk in the absence of appropriate oversight. Currently it reads as though the AER Guidelines would discourage all automated bids sent directly to AEMO – with or without oversight – which we do not think is the intent of this Consultation Paper.

Question 9. Do you consider there would be any benefit from adding additional transparency on the utilisation of Auto-bidding in a rebid reason? Why?

No. We do not believe that there would be any benefits in adding an "AB" to rebids submitted by Auto-bidders. Rebids made by human operators and rebids made by Auto-bidding tools are often indistinguishable. There is also a constant feedback loop between human traders providing bidding oversight, and the auto-bidding tools that exist. There is not always going to be a simple delineation

between bids and rebids submitted by auto-bidder tools or not. Akaysha does not think that this would provide any additional value to the AER or to the market more broadly.

2.2.4 Rebidding of batteries

Question 12. Do you consider there are any changes to the requirements for the recording of contemporaneous notes for battery rebids that could be implemented to help to reduce regulatory burden whilst still providing necessary integrity?

It would be useful for the Guideline to specify whether maintaining the inputs and calculations that the rebids are based on is considered as sufficient record keeping. The AER should also specify in the Guideline whether human interventions impacting late rebidding window being captured should also be captured within the recording of contemporaneous notes.

3. Technological developments

Question 13. What are your views regarding the utilisation of AI in Auto-bidding technology? What do you consider the potential benefits and harms as this technology becomes more utilised and sophisticated?

Akaysha considered this topic at length in our response the NEM Wholesale Markets Settings Review in 2025. We are very supportive of the use of auto-bidding technology and consider it to be low risk.

Auto-bidders in the current market do not possess – nor are they designed with – capabilities or intent for algorithmic collusion. From a first-principles perspective, Akaysha does not believe there are inherent risks of such behaviour. The auto-bidding software available in Australia today is designed to comply with all market rules and regulatory obligations, ensuring transparent and competitive bidding. They are highly effective for managing complex bidding strategies.

Effectively the ability to consider the most efficient bidding structure out of millions of possible combinations for the immediate trading interval (i.e., these combinations are not being considered hours ahead), is the limit of the functionality of auto-bidding software. There is no game theory or broader market strategy. Auto-bidders bring less strategic insights than human energy traders who can look at the market hours ahead or make personnel-based bidding decisions.

It would be helpful for the AER to continue to engage with industry to maintain an understanding of how different auto-bidders work.

Question 15. What, if any, amendments to the NER are required to address the utilisation of AI in the bidding process?

Akaysha does not currently see the need for any additional amendments to address the utilisation of AI or algorithmic bidding in the bidding process. We also view this as being outside of the scope of the



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Guideline Review. We are supportive of the continued engagement being done by the AER on this topic with industry.

For more information on the Akaysha submission, please get in touch with Emma Fagan

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Kind regards

Emma Fagan

General Manager – Policy and Regulatory Affairs