



Interim Market Liquidity Obligation Guidelines

Retailer Reliability Obligation

August 2019

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AER Reference: D19/132640

Amendment Record

Version	Date	Pages
1	30 August 2019	29

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1 Overview

These guidelines are produced in accordance with National Electricity Rules (Rules) Rule 11.116.10 regarding the Market Liquidity Obligation (MLO). A final set of guidelines will be developed following the *Rules Consultation Procedures* by 31 December 2020.

The MLO is a market making requirement designed to facilitate transparency and liquidity in the trading of electricity futures contracts relating to a forecast reliability gap. The MLO operates between T-3 and T-1 when the Retailer Reliability Obligation (RRO) is triggered and provides a source of qualifying contracts for liable entities to purchase to help meet their RRO contracting requirements. *MLO generators* under the MLO are required to post bids and offers, with a maximum spread, on an approved exchange for standardised products that cover the period of the gap.

These guidelines are intended to assist *MLO groups*, *MLO generators* and *MLO nominees* to understand how the AER will exercise its functions in relation to the operation of the MLO as part of the Retailer Reliability Obligation. These guidelines does not constitute legal or other professional advice. Participants should obtain professional advice for specific concerns.

1.1 Purpose of these guidelines

The AER aims to work with National Electricity Market (NEM) participants to maximise their compliance with their obligations under the national energy framework. The purpose of these guidelines is to inform relevant participants of our approach to the relevant obligations, including monitoring and enforcing compliance with the Rules regarding the participation, conduct and operation of the MLO by *MLO groups*, *MLO generators* and *MLO nominees*.

If the RRO is triggered at T-3, the Rules require the obligated parties in the relevant *region* to commence making bids and offers for *MLO products* on the *MLO exchange* within five business days. These bids and offers must meet certain parameters in terms of parcel size, bid-offer spread and trading windows each trading day.

1.2 Roles and functions of the AER

The AER has a range of roles in the RRO process which are outlined in Part 2A of the NEL and 4A of the NER.

Our roles and functions for the RRO include:

- Creation of six guidelines including¹:
 - .1. Reliability Instrument Guidelines
 - .2. Market Liquidity Guidelines
 - .3. Contracts and Firmness Guidelines
 - .4. Forecasting Best Practice Guidelines
 - .5. Opt-in Guidelines
 - .6. Reliability Compliance Procedures and Guidelines
- Decision to make or not make a reliability instrument
- Monitoring of the Market Liquidity Obligation
- Establishing and maintaining an Auditors Panel
- Decision to approve or reject an application to adjust a net contract position
- Large customer opt-in process and approval
- Compliance

1.3 Definitions and interpretation

The words and phrases presented in *italics* in these guidelines have the meaning given to them in the Rules.

¹ Due to timing constraints the Reliability Instrument Guidelines, MLO Guidelines, Contracts and Firmness Guidelines and Forecasting Best Practice Guidelines will be developed as interim guidelines for operation in 2019 and 2020.

2 The Market Liquidity Obligation

This section outlines the process that triggers the MLO, how parties may request changes to deemed *MLO groups* and *MLO generators*, as well as the information *Market Generators* are required to provide the AER to assist in the development and maintenance of the *MLO register*.

2.1 Triggering and duration of the liquidity period

If a T-3 *reliability instrument* is made, under Rule 4A.G.16(a) *MLO generators* are required to commence market making five business days after the effective date of the instrument in the affected *region*, provided there is more than one *MLO group* in the *region*. This is the start of the *liquidity period*.

MLO generators are required to post bids and offers for *MLO products* on an approved *MLO exchange* for the duration of the *liquidity period* (the period during which a liquidity obligation is in effect with respect to a *forecast reliability gap*).

Once the *liquidity period* has commenced, Rule 4A.G.16(d) requires the MLO to operate until:

- the T-1 cut-off day for the relevant *forecast reliability gap*;
- the date AEMO publishes a notice under clause 4A.C.5(a)² (notification of a closed forecast reliability gap at T-1);
- the date the AER updates the *MLO register* to indicate there are less than two *MLO groups* in the relevant *region*;
- the date there is no current *MLO exchange* in respect of the relevant *region*; and
- the date that all *MLO products* are no longer permitted to be bought and sold on any *MLO exchange* in the relevant *region*³.

It is expected that the MLO will typically operate for approximately two years between T-3 and T-1 for a given *reliability gap period*.

Our approach

The AER will notify the *MLO generators* in the relevant *region* when a T-3 *reliability instrument* request is received from AEMO under Rule 4A.G.15(a). This provides *MLO generators* notice that the MLO may be triggered following the assessment of a *reliability instrument* request for a *region*.

² 4A.C.5(a) If the AER makes a T-3 reliability instrument and the *reliability forecast* in the *statement of opportunities* published in the second *financial year* following that T-3 reliability instrument shows that the *forecast reliability gap* is no longer forecast to occur, AEMO must provide written notice to the AER of that, and publish that notice on its website, *within 5 business days* of that *reliability forecast* being published.

³ This may include scenarios where there are no longer any approved *MLO products*, the approved *MLO exchange* is no longer able to operate due to licencing or other regulatory issues, or the exchange no longer trades the approved *MLO products*.

Where the AER makes a T-3 *reliability instrument*, the AER will publish a notice of the date the *liquidity period* commences in the affected region under Rule 4A.G.16(b).

MLO generators should note that Rule 4A.G.16(a)(1) states a *liquidity period* commences five business days after the reliability instrument takes effect. Rule 4A.G.16(c) goes on to state the liquidity period commences regardless of whether the AER has published a notice under Rule 4A.G.15(a). That is to say, the commencement of the MLO is triggered by the effective date of the reliability instrument, not a notice of commencement from the AER. The AER will endeavour to publish the notices of the commencement of the MLO promptly, but *MLO generators* should be mindful the obligation is effective in the absence of a notice from the AER. The AER does not anticipate any scenarios where it will not advise obligated parties of the liquidity period commencing. Under the Rules, the AER is also required to publish a notice on its website when a *liquidity period* ends under 4A.G.16(e).

However, should the AER decide to not make a T-3 *reliability instrument*, it will notify the *MLO generators* of the decision in the relevant *region* as required by Rule 4A.G.15(b). To ensure obligated parties are aware of developments concerning the MLO, the AER will provide notices to *MLO generators* directly via email to nominated contacts while also publishing a notice on the AER website.

2.2 Obligated parties

2.2.1 Deemed MLO groups

The Final RRO Rules provide for an interim deeming period where *MLO groups* and *MLO generators*, are identified and listed in the Rules. The deeming period commenced on 1 July 2019 and continues until 30 June 2021. A complete list of the deemed generators and groups is included at 11.116.12 of the Rules.

The deeming of MLO generators and groups defers the need to develop the *MLO register* and *MLO information template* to identify the obligated parties in each *region*, as outlined in sections 2.3 and 2.3.2.

Our approach

The transitional rules provide the AER with the ability to make a determination during the deeming period to modify a *MLO group* by adding or removing the registered capacity of a *scheduled generating unit*.

Any changes requested to a *scheduled generating unit*, will be considered using the information published in the list of deemed generators and groups and the information contained in AEMO's NEM Registration and Exemption List (where the capacity was not previously included in the list of deemed generators).⁴ Therefore, any capacity figures (in MW) used in the Rules to determine market share for deeming will also be used by the AER when considering any request from a *Market Generator* to change a *MLO group*.

⁴ Available at <https://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Participant-information/Current-participants/Current-registration-and-exemption-lists>.

When considering requests for any changes to deemed groups, the AER may publish a draft determination and seek public comment before proceeding to a final determination. However, in some cases, if the requested change is not considered controversial, the AER may choose to proceed to publish a final determination.

Following a determination to change the *scheduled generating units* assigned to *MLO groups* and *MLO generators* on the deemed list (e.g. the obligation ceases to apply to one party and another takes it on), the AER will publish the determination on its website, outlining the details for changes to any deemed *MLO groups* and *MLO generators* in the effected region(s).

Stakeholders seeking a determination can contact the RRO team at RRO@aer.gov.au.

2.2.2 MLO groups and MLO generators

Following the initial deeming period of two years, generation capacity will be traced to trading groups within each *region* (except for Tasmania⁵) in a process to determine the obligated parties in each region. As outlined in Rules 4A.G.4 to 4A.G.9, the process for allocating generation capacity will consider the holder of trading rights associated with generators with the trading group that owns or controls the output of any generator having that capacity allocated to the trading group. This process will also consider any controlling entity that may be able to influence or control a trading right holder.

Where a trading group's aggregate share of scheduled generation exceeds an average market share of 15 percent of all the trading group capacity for the previous two quarters, in the relevant region, the trading group will be designated a *MLO group*⁶. The specific *Market Generators* that have capacity traced and allocated to a *MLO group* will be a *MLO generator*⁷. For example, in South Australia, Torrens Island A & B generators would be assigned to AGL's trading group and designated as *MLO generators* within the AGL *MLO group*.

The *MLO generators* within the *MLO groups* in each region are the obligated parties required to perform the MLO when a T-3 *reliability instrument* is made. Rule 4A.G.16(a)(2) states the MLO will only apply in a *region* where there is more than one *MLO group*. If, for example, a T-3 *reliability instrument* is made in a region and only one *MLO group* exists, the MLO will not apply unless a second *MLO group* is identified by the AER (e.g. a trading group expands its market share to greater than 15 per cent following the acquisition of or investment in new generation in the *region*).

Our approach

To establish the *MLO groups* and *MLO generators*, *Market Generators* will be required to provide information about their generation assets, including generation capacity, details of trading rights holders, and the controlling entities behind trading rights holders. This information will be used to develop the *MLO register*, which will outline the *MLO groups* and

⁵ Under 4A.G2(a) the MLO does not apply in the Tasmania *region*.

⁶ 4A.G.10

⁷ 4A.G.11

MLO generators in each region (see section 2.3). The process and specific details concerning the information required are outlined in section 2.3.1 of this document.

Once the AER has received the information from *Market Generators*, as per section 2.3.1, the AER will commence the process of tracing each parcel of capacity (in MW) from generators and applying them to respective *trading groups*. This process will be undertaken to verify the allocation of capacity provided by *Market Generators*.

As per Rule 4A.G.8(b)(1), the AER will consider the extent to which a controlling entity is able to influence or control a trading right holder that belongs to more than one trading group. The AER is proposing to do this on a proportional basis. For example, if a generator has entered into an arrangement where a percentage of its output is purchased and/or controlled by an trading right holder in another trading group, that percentage will be taken into account when allocating capacity between the trading groups.

Where a *Market Generator* provides information to the AER about the allocation of generation capacity under 4A.G.8(a) or (b), the AER may reject the allocation and determine a substitute allocation. This may be undertaken in instances where the supporting information provided by the *Market Generator* failed to satisfy the AER of the existence of a proposed arrangement (i.e. the evidence provided lacks detail or is not verified with the other party to the arrangement).

2.2.3 MLO nominees

Rule 4.A.G.20 allows an *MLO generator* to appoint a *MLO nominee* to perform the MLO on its behalf. The process of appointing a *MLO nominee* may be relevant for parties that have limited experience or internal capability with financial trading and wish to use the services of a third party to perform a liquidity obligation on their behalf.

Where a third party nominee performs the obligation for a *MLO generator*, the nominee will need to ensure the information provided to the *MLO exchange* for each trading period contains the necessary details to ensure the bids/offers can be attributed to the appropriate *MLO generator* for the purposes of compliance. Rule 4A.G.20(c) stipulates that the *MLO generator* remains wholly responsible for the performance of the MLO, notwithstanding the appointment of the nominee, including any approach to record keeping.

Where there is a failure of record keeping between a *MLO generator* and a *MLO nominee* for any period of time during a liquidity period, the AER may not count any performance for any aspect of the liquidity obligation over the period in question.

Any registered *MLO nominees* will be identified on the AER's website during the deeming period, and on the *MLO register* thereafter, including the details of the appointing *MLO generator*.

Where a *MLO generator* intends to appoint a *MLO nominee*, it must advise the AER, in writing, in order to register the nominee. Requests to register a *MLO nominee* can be sent to the RRO inbox at RRO@aer.gov.au.

2.3 MLO register

Rule 4A.G.12(a) requires the AER to establish, maintain and publish a *MLO register* on its website, and Rule 11.116.14 requires the register to be established by 31 May 2021. The *MLO register* will, among other things, identify the *MLO generators* within the *MLO groups* in each *NEM region* that will perform the MLO. Under 4A.G12(b) of the NER, the *MLO register* must identify, for each region:

- each *Market Generator*;
- the generator capacity of each *Market Generator*;
- each trading right holder of each *Market Generator*;
- the trading rights held by each trading right holder;
- each trading group;
- the allocation of each parcel of a *Market Generator's* traced capacity to a trading group;
- the trading group capacity of each trading group;
- the proportion that the average trading group capacity of each trading group at the end of the two preceding quarters, bears to the average aggregate trading capacity of all trading groups in that region at the end of the two preceding quarters;
- each *MLO generator*;
- each *MLO group*;
- each *MLO nominee* and its appointing *MLO generator*.

Our approach

The AER will develop and publish the *MLO register* by 31 May 2021 as required under Rule 11.116.14. The AER will update the register within five business days of being made aware the *MLO register* is no longer correct e.g. where a *Market Generator* is sold, or there is an error with the underlying information provided for input to the *MLO register*.

When preparing the *MLO register* for each *region*, the AER will take into account any generator notices of closure. For example, if a notice of closure is published for a generator stating it intends to exit at the end of the 2024/25 financial year, the *MLO register* for that *region* will remove the capacity of that generator for the relevant *MLO group*. This will ensure obligated parties are not required to offer contracts against generation that will exit the market prior to the period covered by the contracts. In some instances, this may result in an *exit notice* if the closure results in the *MLO group* falling below the 15 percent threshold.

However, in the above example, the *MLO register* would clarify that the *MLO group* would have the generation capacity assigned to it for the purposes of any reliability gap that occurred in or before the 2024/25 financial year, and would therefore still be obligated to perform the MLO and offer contracts over that period, up until the expected closure date.

This approach will require the *MLO registers* to identify the obligated parties in different timeframes in the future (e.g. in different financial years) when taking account of upcoming generator exits.

Further information about the development of the *MLO register* will be included in the Final MLO Guidelines, due by 31 December 2020.

2.3.1 Updating the MLO register

A *Market Generator* can apply to the AER for a determination if it considers the information relating to it on the *MLO register* is no longer correct. For example, where a *MLO generator* is sold to another company, and as a result, the *MLO group* falls below the 15 per cent threshold required to perform the obligation. Conversely, a *Market Generator* may apply to be included as part of a *MLO group* following a purchase by the trading group, as the trading group may now exceed the 15 percent threshold to perform the MLO in the *region*. Specifically, a *Market Generator* may apply for a determination under Rule 4A.G.14(a):

- that it is, or is not, a *MLO generator*;
- that its trading right holder is, or is not, a member of a trading group; and
- of how one or more parcels of its traced capacity should be allocated.

Our approach

Any requests for changes to a *MLO generator* or a *Market Generator* that affect an *MLO group* must be made in writing to the AER, and be supported with appropriate evidence. For example, if a market generator were to be sold, the evidence for the pending transaction may be provided by way of a memorandum of understanding (or equivalent) between the two parties that outlines:

- the details of the generator (including scheduled generation capacity);
- the purchaser(s) of the generator;
- the seller(s) of the generator;
- the date ownership and control of the generator is transferred;
- the identity of each of its trading right holders;
- the trading rights held by each of its trading right holders; and
- the identity of the ultimate controlling entity of each of its trading right holders.

In a situation where the trading rights or output of a generator were to be sold to another party (but ownership doesn't change) the details of this arrangement must be provided as per the example above (where applicable). Additional details that would be required include:

- the new entity that controls the output of the generator;
- how much output is being sold under the terms of the arrangement (e.g. 80 percent of output purchased by entity A); and
- the term of the arrangement.

When an application to update the *MLO register* is received, the AER will publish a notice on the website that the application has been received and is being considered as per Rule 4A.G.14(b). The notice will not provide details of the specific matter being considered, only

confirmation that an application has been received and the affected NEM region. The AER may request additional information from the applicant in order to decide on the application.

Following the assessment of the application, Rule 4A.G.14(c) states the AER will update the *MLO register* if it is satisfied that:

- a *Market Generator* is no longer a *MLO generator* for a *region*;
- a *trading group* is no longer a *MLO group* for a *region*;
- a new *trading group* is taken to be a *MLO group* for a *region*; or
- the *trading group capacity* of a *trading group* has changed.

Upon making its decision in respect of an application, the AER will initially notify the *Market Generator* of the outcome and then publish a notice on its website advising the outcome within 20 business days.

Where an application is successful and requires the *MLO register* to be updated during a *liquidity period*, such as where an obligated party will no longer be obligated to perform the MLO, the AER will issue an *MLO exit notice* as per Rule 4A.G.12(e). The obligated party will be required to continue performing the MLO until the date specified in the *MLO exit notice*.

As per Rule 4A.G.12(e)(2), the date specified in the *MLO exit notice* must be the later of:

- if immediately prior to the time the *MLO exit notice* is issued there are three or more *MLO Groups* in the relevant *region*, the day that is one business day after the date of the *MLO exit notice*; or
- if immediately prior to the time the *MLO exit notice* is issued there are two *MLO Groups* in the relevant region and the AER is not issuing notice under paragraph (f)⁸, the day that is one business days after the date the notice is issued; or
- if immediately prior to the time the *MLO exit notice* is issued there are two *MLO Groups* in the relevant region and the AER is issuing a notice under paragraph (f), the day immediately before the day specified in the *MLO entry notice* under paragraph (g)⁹.

If the AER determines that a party previously not obligated to perform the MLO in a *region* has become an obligated party due to changes in generator market shares (whether through sale or other arrangements), the AER will issue a *MLO entry notice*. During a liquidity period, an obligated party is required to commence performing the MLO from the date that is 10 business days after the date the notice is issued.

⁸ 4A.G.12(f) states: "If, as a result of updating the *MLO register* under paragraph (c), a *trading group* is taken to become a *MLO group* for a *region*, then the AER must notify each *MLO generator* which has a parcel of traced capacity allocated to that group on the same day that it publishes the relevant update to the *MLO register*."

⁹ 4A.G.12(g) states: "If the AER issues a notice to a *MLO generator* under paragraph (f) ("*MLO entry notice*") during a *liquidity period*, then that *MLO generator* must comply with the *liquidity obligation* in respect of the parcel of its traced capacity allocated to the relevant *MLO group*, on and from the date that is 10 business days after the date the notice is issued."

2.3.2 Market generator information

To assist with the establishment of the *MLO register*, under Rule 4A.G.13(a) each *Market Generator* must provide the AER with the following information:

- the *scheduled generating units* in relation to which it is a *Market Generator*;
- its generator capacity;
- the identity of each of its trading right holders;
- the trading rights held by each of its trading right holders, as determined under 4A.G.4;
- the trading group to which each of its trading right holders belongs;
- the identity of the ultimate controlling entity of each of its trading right holders;
- the allocation of its traced capacity to one or more trading groups, as determined under 4A.G.8;
- the trading group capacity of each trading group to which each of its trading right holders belong; and
- any traced capacity for which it has appointed a *MLO nominee* to discharge, and the identity of that *MLO nominee*.

Our approach

All *Market Generators* will be required to provide this information through the AER's RRO portal. If, for any reason, the RRO portal is unavailable, the AER will publish an *MLO information template* in accordance with Rule 11.116.13 and provide *Market Generators* with the template to provide the information outlined above. The timeframes to complete and provide the requested information will be outlined at the time the request is made.

The initial information needed for the establishment of the *MLO register* will need to be provided to the AER by 31 January 2021 (see section 2.3.1). Follow-up requests for additional or clarifying information from *Market Generators* will be responded to within 10 business days per request.

Rule 4A.G.13(a)(2) requires *Market Generators* to provide the AER with any supporting information requested by the AER for the purposes of determining the information provided by *Market Generators* under Rule 4A.G.13 is correct.

If a *Market Generator* becomes aware the information previously provided to the AER under this requirement is no longer correct, Rule 4A.G.13(a)(3) requires the *Market Generator* to notify and update the AER with the correct information within 10 business days of a change event. A change event would be an event or series of related events that results in the information previously provided under 4A.G.13 to be no longer correct or results in a change to the allocation of capacity under rule 4A.G.8 (e.g. a change to the holder of the trading rights for a generator).

The AER will use information gathered through this process in the course of carrying out its other duties in line with the ACCC/AER Information Policy.¹⁰

¹⁰ <https://www.accc.gov.au/system/files/ACCC-AER%20Information%20Policy.pdf>

3 Performing the Market Liquidity Obligation

This section outlines the details relating to the performance of the MLO, including the products to be offered, the trading facility the products must be offered through, bid-offer spreads, exemptions to the obligation, and the AER's role in approving additional products or exchanges.

3.1 MLO products

The RRO builds on existing spot and financial market arrangements in the NEM to facilitate investment in dispatchable capacity and demand response. It is designed to incentivise retailers to support the reliability of the power system through their contracting and investment decisions.

The MLO is intended to address concerns about liquidity and transparency of contract markets. To further the objectives of the RRO, the products offered through the MLO will be firm financial contracts offered through an approved exchange. This has the dual benefit of assisting purchasers of the contracts in meeting their contracting obligation under the RRO, while also incentivising *MLO groups* to invest in dispatchable capacity.

Rule 4A.G.22 outlines that a *MLO product* is an electricity futures contract which:

- has a contract unit of either:
 - 1 MW of electrical energy per hour based on a base load period, being from 00:00 hours Monday to 24:00 Sunday (in the relevant region) over the duration of the contract period; or
 - 1 MW of electrical energy per hour based on a peak load period, being from 07:00 hours to 22:00 hours (in the relevant region) Monday to Friday (excluding public holidays) over the duration of the contract period, provided that, if the trading intervals identified in the relevant forecast reliability gap apply only during parts of a day, then the contract unit must include those trading intervals; and
- satisfies each of the following criteria:
 - it is a contract relating to electrical energy bought and sold in the region in which the forecast reliability gap has been identified;
 - the contract period is monthly or quarterly, provided the contract period covers all of the trading intervals identified in the relevant forecast reliability gap, in that month or quarter;
 - the maximum contract unit is 1 MWh;
 - the contract price is quoted in AUD per MWh; and
 - the contract quantity is for an identical contract unit in each trading interval.

Our approach

When the RRO commences, the AER will accept the following products as approved *MLO products*:

- Base load futures (that satisfy the criteria set in 4A.G.22(a)(1)(i));
- Peak load futures (that satisfy the criteria set in 4A.G.22(a)(1)(ii)); and
- Caps¹¹ (that satisfy the criteria set in 4A.G.22(a)(1)(i)).

All the above products must be traded on an approved *MLO exchange*. In addition to monthly or quarterly contract periods, the above listed products can also be offered by *MLO generators* as calendar or financial year products. The *MLO generators* have discretion as to what combination of the above products are offered in meeting the obligation, provided the products individually, or collectively, cover the period of the reliability gap.

The AER will publish a list of approved *MLO products* on the AER website, for each *region*, by 1 October 2019, as per Rule 11.116.15.

3.1.1 Approval of additional MLO products

The Rules provide the AER with the authority to approve additional *MLO products*. This includes products that do not satisfy the criteria outlined in the Rule 4A.G.22A(a)(2). This provides for continued innovation of exchange-traded products over the longer term.

Our approach

When considering a request for additional *MLO products*, the AER may have reference to the following criteria:

- the firmness of the product as per the principles stipulated in the Contracts and Firmness guidelines;
- the availability of the product on the exchange (for new or emerging exchange-traded products);
- the traded volume of the product; and
- the coverage of the product in relation to a reliability gap period.

Stakeholders can approach the AER to consider the approval of additional *MLO products*. Any application must make the case for the approval of the additional *MLO product* with reference to the above criteria and how the product will benefit liable entities seeking to contract for the reliability gap period.

At this time, the AER is not proposing any additional *MLO products* other than those outlined in section 3.1 of this document.

¹¹ The AER notes that caps are currently not available on the ASX beyond Q2 2021 due to the commencement of five minute settlement on 1 July 2021. Cap *MLO products* will remain approved to allow for the possibility of caps being offered again in the future.

3.2 The MLO exchange

A *MLO exchange* is a trading facility that is approved by the AER in order to facilitate the trading of *MLO products*. The transitional Rules provide for the ASX24 to be designated as a *MLO exchange* from the commencement date unless the AER determines it no longer satisfies the criteria set in 4A.G.23 (11.116.16).

3.2.1 Approval of MLO exchanges

Rule 4A.G.23 provides the AER with the authority to consider applications from a person for a trading facility that it owns, operates or controls and approve and designate *MLO exchanges* to be used by obligated parties in meeting their obligations under the MLO.

Our approach

When considering an application for a MLO exchange, the AER will consider the following criteria, as per Rule 4A.G.23(d):

- one or more *MLO products* are able to be bought and sold on the trading facility;
- the trading facility has an adequate volume of trading and diversity of participants;
- the rules of the trading facility include (or will include) appropriate rules to allow *MLO generators* to perform a liquidity obligation;
- the trading facility has appropriate credit and prudential arrangements;
- the costs and ease of trading on the trading facility are reasonable;
- the AER has a reasonable expectation that the relevant *MLO products* will be traded on the trading facility;
- the operator of the trading facility can provide relevant trading data to the AER when requested, for the purposes of monitoring compliance; and
- the operator of the trading facility holds all licences and approvals required by law to operate the trading facility.

When considering whether a trading facility has an adequate volume of trading and diversity of participants, the AER will take into account whether the trading exchange is a new entrant or an established platform. Where the applicant is a new entrant, the AER will consider projections of estimated trading volume over the following 12 months. The performance against these estimates will also be considered during the annual review (see below in this section). The AER will consider the volume of trading for an established exchange against historical contract market liquidity benchmarks. The AER will not set a specific target benchmark for volume of trading, as trading in the market is influenced by a variety of factors.

The AER will not outline an expectation for costs or ease of trading on a MLO exchange, as these are expected to be driven by competition and market forces. However, these issues will be considered as part of the annual review based on feedback from stakeholders and obligated parties about the performance of the *MLO exchange*.

Where the AER receives an application for a trading facility to be considered a *MLO exchange*, the AER may prepare a discussion paper and undertake a public consultation process to seek feedback from stakeholders on the above criteria.

Rule 4A.G.23(f) requires the AER to carry out annual reviews of each *MLO exchange* and consider whether the exchange is meeting the criteria set out above. In undertaking this review, the AER will engage with the *MLO exchange* and advise the review has commenced. Where necessary, the AER may seek information from the *MLO exchange* to support the review. Any requests for information will be made in writing and timeframes for responses will be included in the correspondence. The AER will publish a consultation paper and seek stakeholder feedback as part of the annual review.

The AER may revoke the approval of any exchange if it determines the trading facility is no longer satisfying the criteria in this section.

The AER will establish, maintain and publish a register of approved *MLO exchanges* on the AER website, in accordance with 4A.G.23(e).

3.3 Trading periods

To perform the liquidity obligation, Rule 4A.G.18 requires *MLO generators* to post bids and offers for *MLO products* on a *MLO exchange* during the following trading periods:

- 11.00am to 11.30am (Sydney time); or
- 3.30pm to 4.00pm (Sydney time).

The Rules provide flexibility under 4A.G.18(a) for the *MLO exchange* to nominate two other 30 minute periods for trading to take place.

Rule 4A.G.18(b) and (c) provide that *MLO generators* must, each month, perform the liquidity obligation for at least the number of target trading periods for that month. The number of target trading periods for a month is defined as the number of trading periods in which the relevant *MLO exchange* is open for trading during the month, less 10.

Our approach

The AER will engage with the *MLO exchange* to discuss any proposed alternate trading periods for the MLO to understand the potential benefits or drawbacks of making the change.

If the *MLO exchange* ultimately nominates two other 30 minute periods for the trading to occur, the AER will provide details of this change on the AER website and the *MLO register* (once developed).

To avoid confusion, where a T-3 *reliability instrument* is made mid-month, the AER will use a pro-rata approach to monitoring the performance of the MLO against the target trading periods when the MLO applies in a *region*. This will equate to 2.5 sessions per full week, or 0.5 of a session per business day. The same approach will be taken where the MLO ends mid-month. The AER will actively monitor performance to ensure obligated parties commence performing the MLO after five business days when the MLO commences mid-month following the making of a T-3 *reliability instrument*.

3.4 Bids and offers

3.4.1 Queensland, New South Wales and Victoria

Where the MLO applies in Queensland, New South Wales or Victoria, 4A.G.18 requires the *MLO generator* to simultaneously offer to buy and sell 5 MW of *MLO products* in each *region* (being five lots of 1 MW products, each with buy/sell prices) that cover the forecast reliability gap period for that *region*, as outlined in the T-3 *reliability instrument*, on an *MLO exchange*. For the avoidance of doubt, an obligated party must make a simultaneous offer to buy and sell the same *MLO product*. Where a combination of different *MLO products* is used, each product must have an offer to buy and sell; the obligation cannot be split with an offer to buy one *MLO product* and offer to sell a different *MLO product*.

The bid-offer spread for baseload and peak load contracts is 5% or \$1 per MWh, whichever is highest. The bid-offer spread for a cap contract is 10% or \$1 per MWh, whichever is highest.

The *MLO products* offered must be either accepted (4A.G.18(d)(1)) or available for at least 25 minutes (4A.G.18(d)(2)) during the trading period on the *MLO exchange*.

A *MLO group* is taken to have complied with the MLO if, in a single trading period for one *region*, the aggregate qualifying transactions of *MLO products* for the *MLO group* total 5 MW (i.e. a combination of offers to buy and/or sell are accepted up to a total of 5 MW).

Consider the following example of three obligated parties performing the MLO in a single trading period:

MLO group	A	B	C
MLO products offered (MW)	5	5	5
15 minutes into trading period			
Purchased (MW)	0	1	3
Sold (MW)	5	3	2
Total traded	5	4	5
	<i>No further obligation for current trading period</i>	<i>1 MW remains until end of period or until traded</i>	<i>No further obligation for current trading period</i>

The above example sets out that *MLO group* A and C meet the obligation in the first 15 minutes of the trading period, where *MLO group* B would need to have 1 MW with buy/sell prices available for the remainder of the trading period, or until it is accepted (i.e. either purchased or sold).

3.4.2 South Australia

Where the MLO applies in South Australia, 4A.G.18 requires the *MLO generator* to simultaneously offer to buy and sell 2 MW of *MLO products* (being two lots of 1 MW products, each with buy/sell prices) that cover the forecast reliability gap, as outlined in the T-3 *reliability instrument*, on an *MLO exchange*. For the avoidance of doubt, an obligated party must make a simultaneous offer to buy and sell the same *MLO product*. Where a combination of different *MLO products* is used, each product must have an offer to buy and sell; the obligation cannot be split with an offer to buy one *MLO product* and offer to sell a different *MLO product*.

The bid-offer spread for baseload and peak load contracts is 7% or \$1 per MWh, whichever is highest. The bid-offer spread for a cap contract is 10% or \$1 per MWh, whichever is highest.

The *MLO products* offered must be either accepted (4A.G.18(d)(1)) or available for at least 25 minutes (4A.G.18(d)(2)) during the trading period on the *MLO exchange*.

A *MLO group* is taken to have complied with the MLO if, in a single trading period, the aggregate qualifying transactions of *MLO products* for the *MLO group* total 2 MW (i.e. a combination of offers to buy and/or sell are accepted up to a total of 2 MW).

Our approach

The AER will calculate the bid-offer spread based on the offer (sell) price to provide the widest spread for obligated parties in all NEM regions. For example, if a *MLO generator* in Queensland, New South Wales or Victoria offered base load *MLO products* with a sell price of \$100 and a buy price of \$95, the spread would be calculated as 5% of \$100, being \$5. As the bid or buy price is \$95, the offer is made within the required spread. If the calculation were approached using the buy price in the same example, the spread would not have been met as 5% of \$95 is \$4.75, therefore requiring the sell price to be \$99.75 to meet the obligation. In South Australia, the same principle would apply, except the spread would widen to 7% for base load *MLO products*.

3.5 Meeting the obligation

In all *regions* where the MLO applies, a *MLO generator* is not required to perform the MLO obligation in relation to its associated *MLO group* if:

- in a *liquidity period* if, during that *liquidity period*, the aggregate *MLO group* transactions exceeds 10% of the *MLO group's* trading group capacity for the relevant region, as per Rule 4A.G.19(a); or
- in a quarter if, during that quarter, the aggregate *MLO group* transactions exceed 1.25% of the *MLO group's* trading group capacity for the relevant *region*, as per Rule 4A.G.19(b).

The AER will advise *MLO generators* when it considers the obligation has been met in respect of the above points.

3.5.1 Volume limits

The MLO volume limit threshold is not intended as a target, and there is no penalty to obligated parties for not reaching it each quarter. When reached, an obligated party is no longer required to perform the MLO for the remainder of the quarter (or liquidity period).

The MLO volume limits for the various *MLO groups* has been calculated below, based on the information included in 11.116.112 of the Rules.

NEM region	MLO group	Combined registered capacity (MW)	10% (MW) liquidity period*	1.25% (MW) quarterly
Victoria	AGL	3,050	305	38
	EnergyAustralia	1,541	154	19
	Snowy Hydro	2,114	211	24
South Australia	AGL	1,310	131	16
	Origin	489	49	6
	Engie	861	86	11
New South Wales	AGL	4,690	469	59
	Origin	3,784	378	47
	Snowy Hydro	2,970	297	37
Queensland	CS Energy	4,044	404	51
	Stanwell	3,832	383	48

* A liquidity period is eight quarters

The AER considers the RRO Rules are clear that qualifying transactions attributed to the MLO volume limits are calculated by counting *MLO products* 'sold', less 'purchases'. Only those transactions involving *MLO products* and occurring during the trading periods described in section 3.3 above are relevant for the volume limits calculation.

Rule 4A.G.19(c) outlines that the calculation of 'aggregate MLO Group transactions', in a liquidity period or quarter, is the *MLO group's* aggregate quantity of qualifying transactions for the period, less the total volume of products purchased. In practice, this means that *MLO products* sold in the trading periods for a specific *region* will count towards the quarterly threshold of 1.25% of the *MLO group's* trading group capacity of the *region*, but any *MLO products* purchased in the trading period will be subtracted from the sold volume, resulting in a net position further away from the threshold.

The example below highlights three obligated parties performing the MLO in a single trading period:

MLO group	A	B	C
MLO products offered (MW)	5	5	5
Purchased (MW)	0	1	3
Sold (MW)	5	3	2
Contribution to MLO volume limits			
Quarterly (1.25%)	5	2	-1
Liquidity period (10%)			

The following example follows one obligated party through multiple trading periods, and demonstrates the cumulative effect purchases have on its net position and obligation:

MLO group A	11:00 (Day 1)	3:30 (Day 1)	11:00 (Day 2)	3:30 (Day 2)
MLO products offered (MW)	5	5	5	5
Purchased (MW)	1	0	4	2
Sold (MW)	3	5	1	2
Contribution to MLO volume limits				
Quarterly (1.25%)	2	5	-3	0
Liquidity period (10%)				
Net position after trading period				
	2	7	4	4

The Rules outline that qualifying transactions are determined on the basis of contracts sold less purchases. This could lead to a situation where an obligated party reaches the volume limit threshold for their group for the quarter (1.25%), but following any qualifying MLO product purchases, then being required to make contracts available again. This essentially means the calculation of the volume limits is an ongoing process and the obligation can cycle off and on.

The AER recognises this adds a complication to the operation of the mechanism. The AER will continue to monitor obligated parties in case they reach the necessary threshold to

cease performing the MLO to account for any further purchases that qualify as MLO transactions. Only MLO products purchased within the trading period windows that qualify as MLO transactions (i.e. simultaneous bid/offers on approved MLO products within specified spread etc.) will move obligated parties away from the threshold limit, and potentially result in the MLO generator needing to recommence performance of the MLO.

While the AER will monitor the performance of *MLO generators* with the liquidity obligation, *MLO generators* are expected to monitor their own performance, including progress towards the volume limits. If a *MLO generator* considers it may have reached the volume limit for a quarter (or liquidity period), it can request confirmation from the AER. *MLO generators* will be expected to monitor their trading activity for the remainder of the quarter (or liquidity period), and recommence performance of the MLO if subsequent trading brings it below the volume limit threshold. The requirement to perform the MLO is not dependant on notification from the AER.

The *MLO register* may have to distinguish between obligated parties in various reliability gaps over different timeframes. For example, an obligated party may be obligated to perform the liquidity obligation for a gap period in one year, but not a gap identified the following year due to the expected closure of scheduled generation capacity. Where a notice of closure is published for a generator, but the *MLO group* remains an obligated party, the respective 1.25% and 10% thresholds identified above will account for the exiting generator.

If the AER makes a T-3 reliability instrument, it will publish a schedule outlining the commencement date of each quarter over the liquidity period from T-3 to T-1. This schedule will provide confidence to *MLO generators* about the specific periods the AER will monitor to calculate and allocate qualifying transactions to the MLO volume limits.

3.5.2 Managing the obligation over multiple periods

The approved *MLO products* are generally traded as quarterly products. As obligated parties are required to make bids and offers for products that cover the reliability gap, where the gap covers more than one quarter (e.g. from 1 December to 31 March the following year), obligated parties will need to make offers for 5 MW of products in each of the two quarters of the gap in each of NSW VIC and QLD as appropriate in each trading session. In South Australia, a total of 2 MW of products will need to be offered in each respective quarter of the gap in each trading session.

Some MLO products may be available or offered with a monthly resolution as opposed to a quarterly basis. If the reliability gap is forecast for one entire quarter, and obligated parties choose to offer MLO products on a monthly resolution, 5 MW of products will need to be offered for each month covering the gap, therefore providing 5 MW of coverage over the entire gap period, and not only part of the gap period. The same principle would apply in South Australia, except with a threshold of 2 MW.

Where the MLO products offered are as calendar or financial year strips, this may not be a concern, provided the respective product covers the entire gap period.

3.5.3 Interaction of multiple trading periods with volume limits

This section sets out the AER's approach to recognising qualifying transaction towards volume limits where an obligated party offers multiple MLO products to cover the reliability gap period (due to the limited period covered by the MLO product).

The AER will take a proportional approach that reflects the process for offers outlined above for attributing qualifying transactions to the MLO volume limit thresholds for a given quarter or liquidity period.

For example, where the reliability gap covers the period 1 December to 31 March, and the obligated party offers a combination of Q4 and Q1 quarterly products, any qualifying transactions would be weighted at 50 percent each. Were the gap to be 1 December to 28 February, and the obligated party managed this with monthly products, each monthly product would be weighted at 33 percent in terms of any qualifying transactions that resulted.

Following the example above, where the reliability gap covers the period 1 December to 31 March, the weighting would apply as outlined below:

MLO group A	Q4	Q1
MLO products offered (MW)	5	5
Purchased (MW)	2	3
<i>(Weighted at 50%)</i>	1	1.5
Sold (MW)	3	1
<i>(Weighted at 50%)</i>	1.5	0.5
Contribution to MLO volume limits (sold less purchases)		
Quarterly (1.25%) and Liquidity period (10%)	0.5	-1

The proportional weighting approach only considers the MLO product period, not the period of the gap. If an obligated party meets their obligation for a December to February gap with Q4 and Q1 products, the Q1 products is not more heavily weighted due to the majority of the gap period being in Q1.

This approach is informed by Rule 4A.G.18(f) which states:

'...a MLO generator or MLO nominee is taken to offer MLO products relating to the entirety of the relevant forecast reliability gap period if it either:

(1) offers MLO products that each has a contract period that covers all of the trading intervals identified in the relevant forecast reliability gap period; or

(2) offers MLO products with contract periods which, taken as a whole, cover all of the trading intervals identified in the relevant forecast reliability gap period.’

The AER considers the intention of the Rule is that obligated parties will offer products that cover the entire gap period, not only a portion of it. Therefore, unless parties are offering products that cover the entire gap period (e.g. calendar or financial year products - depending on the gap), products of a shorter duration would be weighted proportionally where the gap covers more than one product period.

The AER considers this approach will provides an equitable approach to the risk various parties take on when offering products with differing periods of cover, and reaching the volume limits set in the Rules.

3.6 Exemptions to performing the MLO

Rule 4A.G.21 outlines circumstances where a *MLO generator* is exempt from carrying out the obligation. An obligated party is not required to perform the MLO in the following circumstances:

- if doing so would constitute a breach of sections 588G or 588V of the *Corporations Act 2001* (Cth) by:
 - (i) that *MLO generator*;
 - (ii) an officer of that *MLO generator*;
 - (iii) a member of the *MLO group* to which a parcel of that *MLO generator's* traced capacity has been allocated; or
 - (iv) an officer of a company referred to in sub-paragraph (iii);
- while it or its *MLO nominee* is suspended or prohibited from makings bids and offers for *MLO products* on any *MLO exchange* in the relevant region, in accordance with the relevant rules of that *MLO exchange* or the *Corporations Act 2001* (Cth);
- while the trading of all *MLO products* is temporarily suspended on each *MLO exchange* in that *region*.

Our approach

The AER will allow for an additional exemption to performing the liquidity obligation where obligated parties are taking steps to avoid the risk of breaching the *Corporations Act 2001* (Cth) (e.g. not trading when in possession of price-sensitive information that could otherwise be considered insider trading).

The Rules (4A.G.18(b) and (c)) provide for *MLO generators* to miss 10 trading periods per month (without consequence), which is approximately a quarter of the available trading sessions in a typical month. The AER expects obligated parties to effectively manage the use of these sessions to account for operational circumstances that are not listed in the exemptions above (e.g. technical issues with trading infrastructure or equipment, trading team sick or required to be offsite etc.).

In the course of its compliance monitoring, where the AER observes instances of non-compliance with the MLO, *MLO generators* seeking to claim the exemptions outlined above will be required to support the claim with evidence. Where evidence is not provided to support a claim, or the AER is not satisfied with the evidence provided, the non-compliance will be treated as a missed trading period, as per the target trading periods outlined in 4A.G.18(b) and (c). If the obligated party fails to perform the obligation in 11 or more trading periods in a single month, the AER will consider further action.

4 Compliance

This section outlines the AER's approach to its compliance monitoring of the performance of the MLO by *MLO generators*.

Rule 4A.G.24(b) requires *MLO generators* to ensure that it, or the AER, has access to any information relating to that *MLO generator's* compliance with the liquidity obligation, regardless of whether the information is held by a trading right holder, MLO nominee or an agent acting on instructions by a MLO nominee. The AER interprets this to mean that *MLO generators* will facilitate access to trading information from any *MLO exchange* to allow the AER to monitor compliance with the obligation.

Our approach

The AER will seek to obtain trading information in a streamlined format directly from any approved *MLO exchange* to monitor compliance with the MLO. The AER will initially rely on data from the exchange to make its own assessment and form a view as to the compliance of obligated parties. As part of this process, *MLO generators* may be asked by the AER to support requests from the AER to the *MLO exchange* in accessing the trading information from the *MLO exchange* the AER considers necessary to effectively monitor obligated parties' compliance with the liquidity obligation (as per 4A.G.24(b)). The AER may also seek performance data/information directly from *MLO generators*, in addition to data provided by an *MLO exchange*.

The AER will monitor compliance of obligated parties with the MLO following the making of a T-3 *reliability instrument*. The AER will monitor, on the approved *MLO exchange*:

- whether obligated parties have commenced making bids and offers after five business days of the T-3 *reliability instrument* taking effect;
- the *MLO products* being offered (including after volume thresholds are met);
- the bid-offer spread;
- the number of trading periods bids and offers for *MLO products* are made in each month;
- that offers are available for at least 25 minutes per session; and
- the aggregate traded volumes where an obligated party has met the obligation for a given session, quarter or liquidity period (in respect of its trading group capacity, where applicable).

Stakeholders should note that, in relation to the MLO:

- the provision of *Market Generator* information, as required under 4A.G.13(a);
- performance of the liquidity obligation by *MLO generators*, as per 4A.G.17(b); and
- ensuring the AER has access to any information relating to *MLO generator* compliance with the liquidity obligation, as outlined in 4A.G.24(b)

are all civil penalty provisions in the *National Electricity (South Australia) Regulations*.

The AER will provide more information about its approach to compliance in its Reliability Compliance Procedures and Guidelines, which are due to be published by 31 December 2020.