



Final Decision

Opt-in Guidelines

Retailer Reliability Obligation

June 2020

June 2020

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1 Background

The Australian Energy Regulator (AER) is responsible for a number of roles under the Retailer Reliability Obligation (RRO), as prescribed by the National Electricity Law (NEL) and National Electricity Rules (the Rules). The AER's roles include administering the RRO opt-in mechanism.

Liable entities, for the purposes of the RRO, are entities registered by AEMO as Market Customers as well as other large customers that are approved by the AER to opt-in to liability under the obligation.

To opt-in, opt-out, or adjust opt-in arrangements, eligible large customers will need to apply to the AER for approval. The AER is required to assess applications based on a set of criteria, and to notify applicants of their opt-in status. The AER is also required to establish and maintain an opt-in register for each T-3 Reliability Instrument that is issued.

The RRO Opt-in Guidelines must detail the opt-in process, including

1. the process for establishing and maintaining an opt-in register,
2. information to be contained within an opt-in register,
3. the processes for registering, deregistering or amending registrations,
4. the criteria for assessing opt-in eligibility.

In September 2019, the AER published the RRO Opt-in Guidelines Issues Paper for public consultation. In March 2020 we published draft Guidelines for consultation. This is our final decision on the RRO Opt-in Guidelines, and sets out our consideration of submissions on the draft Guidelines.

The engagement timeline for the development of the RRO Opt-In Guidelines is set out in Table 1 below.

Table 1 - Timeline for the development of the RRO Opt-in Guidelines

Milestone	Date
Issues Paper and Notice of Consultation	23 September 2019
Consultation period for written submissions on Issues Paper	1 November 2019
Draft Guidelines published	19 March 2020
Consultation period for written submissions on Draft Guidelines	9 April 2020
Final Guidelines published	## June 2020

2 Issues raised in submissions on the draft Guidelines

The AER received three submissions on the draft RRO Opt-in Guidelines. The submissions, which are available on the AER website, are broadly supportive of the proposed approach to the draft Guidelines.

The submissions highlighted a small number of issues and made a few suggestions, which are discussed below.

2.1 Opt-in Register

2.1.1 Accessibility of information in an opt-in register

Section 4 of the draft Guidelines proposed a two-tiered approach to recording opt-in data. While recognising that opt-in registers are 'confidential records held by the AER as formal records of opt-in liability for a given reliability instrument', containing 'only information required to assess liability and compliance', the AER has discretion under Rule 4A.D.13 (3) over the extent to which some or all of the information on the opt-in register is to be accessible to Market Customers and the public, for example in a public register or summary.

A comparison of information included in the confidential opt-in registers and public opt-in registers is included at Table 2 of Section 4.7 in the draft Guidelines. Under the proposed approach on which submissions were invited, the AER proposed to include the following in the public register:

- Business name, ABN and/or ACN of opt-in customer
- Category of registration: prescribed opt-in customer or large opt-in customer;
- Number of connection points for which it has (fully or partially) opted-in.

It was submitted by MEU that the release of such data was unlikely to be in the public interest and that the release of even limited data could be detrimental to the end user. In MEU's view, the information the AER proposed to release publicly signalled an entity's risk appetite and could be used to gain a competitive advantage.

The AER does not consider that the information it proposed to release publicly is in itself commercially sensitive. However the AER agrees that even if it is de-identified, the release of such information in the context of a small number of opt-in entities and a limited number of instruments which are region-specific may allow for conclusions to be drawn about the opt-in customers.

The AER will therefore not release a public register or summary at the initial stage of RRO implementation. However it will continue to monitor the situation, and will re-assess the Guidelines to the extent that commercial concerns are alleviated.

2.2 Other Matters

2.2.1 Timeframes

Engie submitted that the inclusion of timelines and definitions should also reflect jurisdictional derogations. Depending on how the RRO process is triggered, there are three potential timeframes, which are not presently accounted for in section 3.3 of the draft Guidelines.

The AER agrees with this suggestion and has clarified in the discussion of timeframes under section 3.3 that alternative iterations are possible.

It was further submitted by ERM that the timeframes mentioned in the Draft Guidelines should take into account recent changes to RRO timing, reflecting that T-1 instruments no longer require a T-3 trigger.¹ We are unable to do this in this first version of the Opt-in Guidelines, but will be able—in accordance with the rules consultation procedure—to consult on any consequential changes to Guidelines after the Energy Security Board (ESB) has submitted its recommended amendment package to the COAG Energy Council in September 2020. The ESB will be consulting on these changes shortly.

2.2.2 Notification

The draft Guidelines state that the AER will provide a written response to an applicant and the affected Market Customer advising whether an application has been approved or rejected. Engie notes that the draft Guidelines do not indicate whether applicants and affected Market Customers will be notified about any de-registrations or amendments to the register and recommends that they should.

The AER agrees and has amended the Guidelines to make clear that it will notify, in writing, applicants and affected Market Customers on any decisions on opt-in applications, de-registrations and register amendments (and corrections).

Engie also sought clarification on the definition of certificates, and the process for issuing certificates.

For the purposes of the Guidelines we take 'certificate' to mean a written statement, signed by an authorised AER officer, confirming that the applicant was recorded as an opt-in customer for a connection point in the opt-in register at a particular time.²

We proposed in the draft Guidelines to issue these directly to the end customer. To clarify, we propose sending these in the form of a letter and will copy in affected Market Customers at the same time.

¹ <http://www.coagenergycouncil.gov.au/reliability-and-security-measures/interim-reliability-measures>

² National Electricity Rule 4A.D.11 (a)

2.2.3 De-registrations

It was suggested by MEU that, as long as consent has been obtained from a Market Customer, the AER should allow an applicant to apply for approval to de-register at any time prior to the incursion of liability.

We note the opt-in cut off day is prescribed under the NER, and is not something we can change through these Guidelines.