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Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

By email to RRO@aer.gov.au

Dear Sir/Madam

Draft Interim Contracts and Firmness Guideline for the Retailer Reliability Obligation

Ergon Energy Queensland Limited (Ergon Energy Retail) welcomes the opportunity to provide comment to the Australian Energy Regulator (AER) on its *Draft Interim Contracts and Firmness Guideline* (the Interim Guideline).

While Ergon Energy Retail is largely supportive of the Interim Guideline, we suggest there are a number of issues which require additional clarification.

1. Ergon Energy Retail acknowledges the AER's proposed averaging approach for the treatment of Power Purchase Agreements (PPAs) and concurs such an approach, at face value, appears fair to retailers. However, we question how PPAs with biomass generators (for example a sugar mill bagasse generator) are to be treated, given the operation of a biomass generator is more closely aligned to the operation of a traditional (thermal) power station rather than a solar or wind generator. In our view, PPAs with biomass generators should be classified as standard qualifying contracts and attract a high firmness factor.

2. Ergon Energy Retail is a Local Area Retailer (LAR) for regional Queensland. We question how PPAs under LAR arrangements with non-market generators are to be treated under the Interim Guideline. For example, does the PPA output offset a LAR's demand? We also question the audit obligation on these PPAs.

3. Consistent with Energy Queensland's 22 May 2019 submission to the Australian Energy Market Operator's (AEMO's) *Reliability Forecasting Methodology Issues Paper*, together with our submission to the AER's *Draft Interim Forecasting Best Practice Guideline,* as retailers settle purchases at the Regional Reference Node (Gen@Node); as Demand Side Management is calculated as Gen@Node; as Marginal Loss Factors are calculated at Gen@Node; and as all RRO obligations rest firmly with retailers, it is our view that all calculations and data associated with the RRO must be calculated and reported at Gen@Node. Such an approach also alleviates issues associated with the "as generated" definition, particularly for generators with large auxiliary loads such as sugar mills with bagasse generators.

4. We also reiterate the advice provided to AEMO and the AER in the submissions identified in 3 above, of the need for increased transparency of generator reliability data in the Medium Term Projected Assessment of System Adequacy by publishing outage parameters (both forced and planned) over the T-1 and T-3 window for individual generators. The availability of this data is critical for a retailer when contracting to satisfy RRO liability.
5. The NEM is continuing to evolve, with new products and services constantly on offer. Consequently both the Interim Guideline and Final Guideline require sufficient flexibility to capture and calculate the firmness of new products. We question whether the Interim Guideline has this flexibility, and recommend that this issue be considered prior to the Interim Guideline and Final Guideline being released.

Finally, Ergon Energy Retail acknowledges the timing disconnect between the commencement of the RRO on 1 July 2019 and the need to urgently progress an Interim Guideline to provide confidence and certainty to the market relating to contract firmness. As such, we expect this Guideline will evolve to reflect stakeholder feedback prior to the Final Guideline being made in December 2020. We therefore request that the comments provided in this submission also be incorporated within the Final Guideline.

Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact myself or Andrea Wold on (07) 3664 4970.

Yours sincerely

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Encl: Ergon Energy Retail response to the Consultation Questions

AER Heading		Ergon Energy Retail Comments
1	The AER can classify qualifying contracts as either standard qualifying contracts or non-standard qualifying contracts. In this draft version of the interim guideline we have classified all contracts listed in Table 5.1 (page 28) as standard qualifying contracts. We have considered power purchase agreements (PPAs), demand response, internal hedges and interregional contracts as non-standard qualifying contracts. We are seeking your views on whether PPAs, internal hedges, interregional contracts, and demand response contracts should be classified as standard or non-standard contracts? Please give an explanation of your reasoning.	We acknowledge the intent of the AER in providing a list of standard qualifying contracts in order to reduce costs associated with having all contracts assessed by auditors. We also acknowledge that, for example, the firmness of Caps being assessed with a strike price as a percentage of the Market Price Cap provides a degree of flexibility into the future to accommodate for changes in the market (e.g. innovative products, the move to 5 Minute Settlements etc.) To that point we believe the AER should consider the opportunity to allow participants sufficient flexibility to move some contracts from standard qualifying contracts to non-standard qualifying contracts, and vice versa, particularly when aspects of what may be non-standard qualifying contracts could be argued to display similar characteristics to a standard qualifying contract. For example, in our view, PPAs with biomass generators should be classified as firm standard qualifying contracts given their operations are more closely aligned with the operation of a traditional (thermal) power station rather than a solar or wind generator. We also believe the AER should give consideration to the extent of historical data available when assessing firmness. For example 3 to 5 years of data should be able to demonstrate a level of reliability. In relation to demand response we seek further guidance on what constitutes “control” when assessing these contracts. We note that unlike other contracts, demand response does not appear to be subject to price considerations when assessing its firmness.
2	The AER considers contract firmness is the product of volume risk, price risk, and other contract limitations (such as non-price triggers and payout limits). Do you consider any other factors need to be considered in determining contract firmness? Is their further guidance the AER should provide in the final interim guideline?	We suggest that the correlation of a PPAs output and reliability to that of a scheduled generator be considered when deciding contract firmness.

AER Heading		Ergon Energy Retail Comments
3	The AER is aware of contracts between liable entities and their customers (energy supply agreements) that pass through spot price volatility risk to the customer. These contracts have not been addressed in the draft version of the interim guideline. The AER is interested in stakeholder's views on how these contract fit into the qualifying contract framework	Where a retail customer has agreed a contract for pool price pass-through, it is unlikely that a retailer will have included this customer in their contract position. We therefore question how this customer's load will be considered when a retailer's RRO demand is calculated and their contract position confirmed.
4	Section 8 outlines the format of the Net Contract Position (NCP) report. It specifies what information must be submitted and some examples of the format of this information. We plan to include a more detailed template for the NCP report when the final interim guideline is published in August. The AER is seeking feedback on what should be included in this template.	We provide no comment.
5	The AER is required to establish an Auditors Panel. To be appointed to the Auditors Panel the AER must determine that the person has sufficient experience and expertise in energy derivatives and energy contracts to carry out the functions of an Independent Auditor. The AER is seeking input on criteria which it will use to assess the suitability of an auditor.	We concur with the AER's approach to only appoint an auditor to the Panel when they have demonstrated the appropriate competencies required to undertake an audit for firmness. Such experience and expertise may include not only energy derivatives and energy contracts but also technical and engineering expertise when assessing the likely output/planning data of greenfield sites.