



1 November 2019

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Sent by email: [RRO@aer.gov.au](mailto:RRO@aer.gov.au)

**Retailer Reliability Obligation (RRO)  
Opt-in Guideline Issues Paper**

Dear Mark

Major Energy Users Inc (MEU) is pleased for the opportunity to provide its views on the issues paper relating to the Retailer Reliability Obligation (RRO) opt-in guideline prepared by the Australian Energy Regulator (AER).

The MEU was established by very large energy using firms to represent their interests in the energy markets. As most of the members are located regionally and are the largest employers in these regions, the MEU is required by its members to ensure that its views also accommodate the needs of their suppliers and employees in those regional areas. It is on this basis the MEU and its regional affiliates have been advocating in the interests of energy consumer for over 20 years and it has a high recognition as providing informed comment on energy issues from a consumer viewpoint with various regulators (ACCC, AEMO, AEMC, AER and regional regulators) and with governments.

The MEU stresses that the views expressed by the MEU in this response are based on looking at the issues from the perspective of consumers of electricity but it has not attempted to provide significant analysis on how the proposed changes might impact generators, network service providers, retailers and other stakeholders.

As a general observation, the MEU considers that the opt-in guideline is an important element of the RRO mechanism as it provides essential flexibility to end users to manage their exposure to the electricity market. While the MEU considers that the opt-in provision will need to be used wisely, to opt-in will impose some significant costs and internal compliance issues on the end user.

The MEU considers that a retailer is best placed to provide the lowest cost for the RRO service to its customers due to its ability to use the diversity of demand from its multiple end user customers to minimise the amount of firm generation that it

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requires under the RRO<sup>1</sup>. The MEU considers that because of this, the AER might consider asking an end user the reasons for it seeking to opt-in<sup>2</sup> and which retailer the end user has contracted with. This information will allow the AER to better understand how the RRO process is being managed by retailers.

There is an important issue that the guideline should address. If the opting-in end user is required to have an Australian Financial Services Licence (as prescribed under the Corporations Law and ASIC Act for certain financial market dealing and products), then the guideline should expressly state that holding such a licence is a prerequisite for opting-in in before the AER will permit the end user to opt-in. If the holding of the licence is not required, the guideline should state this.

In the issues Paper, the AER has asked seven questions that it considers should be addressed. The MEU responds to each below

**Question 1:** Public opt-in registers would provide greater transparency for opt-in customers and Market Customers, however the AER is currently proposing that the registers are confidential in order to protect potentially commercially sensitive information. In particular, opt-in registers will identify the specific connection points (NMIs) for which each opt-in customer is liable, which is information not otherwise in the public domain.

Would the public listing of NMIs be an issue for opt-in customers or could the opt-in registers containing this information be made public?

The MEU is very concerned about individual end user usage information being made public. The MEU points out that all end users are operating in their own highly competitive markets and an ability of an end user's competitor to access an end user's usage data can provide the competitor with significant information<sup>3</sup>.

With this in mind, the MEU agrees with the AER view that the information provided by an end user in order to opt-in must be kept confidential and the registers and the information included in them (including the NMI) must not be made public

**Question 2:** Is there any reason that a large opt-in customer applicant would not be able to provide documented evidence to verify its annual aggregate consumption in a region?

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<sup>1</sup> This is because the amount of firm generation that a retailer will require will be less than the aggregate of all demands the retailer will be serving. This point was made at the RRO conference after which the decision was made not to impose the RRO directly on large end users, based on the recognition that the sum of each individual demand will be greater than the amount of firm supply required due to the diversity of times when individual peak demands occur; therefore retailers should incur lower costs for the RRO than individual end users.

<sup>2</sup> The MEU considers that in most cases this will be because the costs proposed by retailers will be greater than the end user sourcing its firm supply. If this occurs, the AER should be made aware that the retailer is possibly using its market power to increase prices.

<sup>3</sup> This issue was raised in the relation to a recently determined rule change on Transparency of New Projects see <https://www.aemc.gov.au/rule-changes/transparency-new-projects>. The AEMC decided that (page iv) "...TNSPs will not be required to share with AEMO key connection information that relates to loads". This was a result of accepting that providing such information could be detrimental to end users.

The MEU does not consider this requirement cannot be complied with and that this information has been readily accessed by MEU members from their retailer and/or network service provider.

**Question 3:** The information and evidence requirements for opt-in applications are designed to ensure the AER has the information it needs to make its assessment of an application, while not imposing an undue administrative burden on the applicant. Are the information and evidence requirements proposed in this Guideline reasonable for applicants to meet, or should alternative requirements be considered?

The MEU considers the requirements for documentation are not unreasonable.

**Question 4:** When applying to the AER to opt-in, prospective large opt-in customers must provide evidence from their retailer (or other Market Customer) that they are the customer purchasing electricity at the connection point(s) for which they are applying to opt-in. This evidence should also identify when multiple connection points occur at a single site. Is there any reason that retailers (or other Market Customers) would not be able to provide the opt-in applicant this confirmation?

The MEU is aware that retailers do require their customers to keep confidential the details of the supply arrangements between the retailer and the end user. This means the guideline should require retailers to permit the provision of data to the AER in relation to opting-in.

Further, some contracts might include requirements limiting the ability of the end user to opt-in. If such limitation did apply, the end user would either have to amend the contract or seek retailer waiver of these contract conditions preventing the end user from opting-in. With this in mind, the MEU considers that the guideline should impose on retailers a requirement not to withhold consent unreasonably. If an end user considers the retailer is withholding consent unreasonably, then the AER should have the power to arbitrate on the consent process should an end user seek to appeal a retailer's withholding of consent

**Question 5:** Currently, it is proposed that prescribed opt-in customers be required to opt-in to liability for a fixed percentage of load at a connection point. This fixed percentage would apply to all days and trading intervals for the relevant gap period. The AER welcomes feedback on whether it is feasible for prescribed opt-in customers to nominate a fixed percentage of load for which they are responsible, or whether another metric would be more appropriate.

As the MEU has no members which are prescribed opt-in customers, the MEU has little clarity on how prescribed opt-in customers might operate in relation to opting-in. However, what is proposed appears to be a reasonable approach to allow such prescribed opt-in customers which might want to interact with the process.

The MEU can see that there needs to be some ability to address an issue where a prescribed opt-in customer might be prevented from opting-in through the actions of the manager of the electricity use at a specific NMI and/or other related parties<sup>4</sup>. With this in mind, the MEU recommends that the AER might carryout further investigation about the extent to which other parties are able to prevent a prescribed opt-in customer from being able to opt-in

**Question 6:** Calculating and demonstrating annual peak demand for a connection point, or annual peak coincident demand across multiple connection points at a single site, may be challenging for some applicants. This is likely to require access to demand data per connection point at trading interval granularity. The AER welcomes feedback on whether this is an achievable requirement, and whether there are alternative options for providing evidence of annual peak demand that the AER should consider.

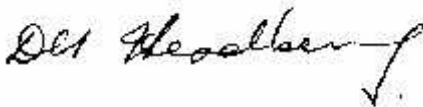
MEU members report that they have little or no difficulty in acquiring usage data at trading interval granularity from their retailer and/or network service provider.

**Question 7:** To be eligible to opt-in as a prescribed opt-in customer, an applicant must demonstrate that it is financially exposed to some or all of the cost of electricity at a connection point. Is a contract between the applicant and a Market Customer or other relevant entity at the site a suitable form of evidence of financial exposure?

A prescribed opt-in customer might not have a contract for the supply of electricity as this is commonly held by the operator of a site. In this case, a combination of contracts and/or documents should be acceptable providing these show that ultimately the prescribed opt-in customer does have an indirect liability for the electricity supply<sup>5</sup> and this liability extends over the time when a reliability gap has been declared.

The MEU is happy to discuss the issues further with you if needed or if you feel that any expansion on the above comments is necessary. If so, please contact the undersigned at [davidheadberry@bigpond.com](mailto:davidheadberry@bigpond.com) or (03) 5962 3225

Yours faithfully



David Headberry  
Public Officer

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<sup>4</sup> For example, should the operator of a JV operation and/or the other JV parties be able to prevent a prescribed opt-in customer from opting-in. Such prevention might occur by not providing the necessary paperwork the AER requires from an opt-in customer

<sup>5</sup> For example, it should be sufficient if the opt-in customer provides evidence that it employs (at least in part) the site operator and the site operator has an electricity supply contract with a Market Customer