

# Frequently asked questions

## Retailer Reliability Obligation (RRO)

The guidance in this document reflects the AER's responses to recent queries from stakeholders in relation to the RRO obligations in the National Electricity Law (**NEL**) and National Electricity Rules (**NER**).

The AER expects participants to understand their obligations under the RRO and ensure they have robust systems, processes and personnel in place to achieve compliance. Participants should review the FAQs, as well as the AER's suite of [RRO guidelines](#), to assist in this process.

Section 14D of the National Electricity Law gives the meaning of a liable entity for a region. For further guidance on determining whether a person is a liable entity, and therefore whether they have obligations under the RRO, please refer to section 2.1 of the AER's [Interim Contracts and Firmness Guidelines \(the Guidelines\)](#).

Please note that the AER cannot provide a definitive interpretation of the relevant legislation because that is the role of the Courts. Where a liable entity is unsure about specific aspects of the NEL or NER and how they may apply to certain situations, we recommend they obtain their own legal advice.

## LIABLE ENTITY CONSUMPTION THRESHOLD

### How do I calculate whether I exceed the 10 GWh load threshold to be considered a liable entity?

Clause 4A.D.2(b) of the NER provides the load threshold for a Market Customer to be considered a liable entity, and the relevant point in time at which that threshold must be applied.

More specifically, clause 4A.D.2(b) sets out that a person who is a Market Customer is not a liable entity for a region if (among other things) the aggregate of all loads at their connection points in that region at the end of the contract position day is equal to or less than 10 GWh per annum as determined in accordance with the Contracts and Firmness Guidelines.

For the purposes of calculating whether you exceed the 10 GWh per annum threshold for a region under clause 4A.D.2(b), you should use the sum of all pool purchased electricity at connection points in that region for which you are a Market Customer during the 12 months prior to the contract position day.

## Important dates

### **What is the difference between the contract position day and the reporting day?**

The contract position day is the day on which liable entities are required under section 14R of the NEL to hold a sufficient net contract position (**NCP**) for the relevant reliability gap period (see also section 14K(4)(b)(i) of the NEL).

The reporting day is the day on or before which liable entities must report their NCP *as at the contract position day* to the AER under section 14P of the NEL (see also section 14K(4)(b)(ii)).

For the purposes of the current T-1 reliability instrument in South Australia, which applies for periods of 8 January to 29 February 2024 inclusive, liable entities are required to enter into sufficient contracts by 6 January 2023 and report to the AER by 31 July 2023.

### **Regarding the contract position day, can I get an extension to allow more time to secure contracts?**

The NEL and NER do not provide the AER with the discretion to vary the contract position day for individual liable entities. Accordingly, the AER is unable to provide extensions to the contract position day.

## Contracts and arrangements

### **There are not enough contracts being listed on the Australian Securities Exchange (ASX) or FEX Global Pty Ltd (FEX). Don't generators have to make contracts available? What should I do?**

The Market Liquidity Obligation (**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 once the RRO is triggered by the making of a T-3 reliability instrument, 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 on an approved exchange for standardised products that cover the period of the reliability gap.

As at March 2023, the ASX24 and the FEX are the two approved exchanges on which MLO groups, MLO generators and liable entities can trade MLO products. We recognise that there is currently a low volume of MLO products being traded. However, the intent of the RRO is for liable entities to identify their RRO contracting requirements and purchase contracts (through the MLO exchange or other arrangements) where needed once any T-3 reliability instrument is made. Generally speaking, we consider that a prudent approach to compliance with the RRO contracting requirements would be to contract well ahead of T-1.

The Guidelines provide guidance for liable entities to determine whether a contract or arrangement is a qualifying contract for the purposes of the liable entity's NCP. Liable entities may like to review the Guidelines to determine whether there are other types of contracts or

arrangements besides MLO products that may contribute to their NCP, and if so the firmness methodologies that are to be applied when assessing contracts for the NCP report.

## **I am a liable entity that owns generation assets. Can I use these assets towards fulfilling my obligations under the RRO?**

Liabile entities that own generation assets may use these assets towards fulfilling their obligations under the RRO.

Section 5.3.4 of the Guidelines outlines the AER's guidance for developing a bespoke firmness methodology for the contribution of generation within a liable entity's portfolio to their NCP (known as an "internal hedge"). Section 5.3.4 applies only to vertically-integrated liable entities, in which both generation assets and load are owned by the one entity (the one National Electricity Market Registered Participant).

The internal hedge must be recorded by the liable entity and may be a contract or some other arrangement. The liable entity must be able to provide to the AER, on request, documents providing evidence of the total generation capacity of the liable entity, and inputs to the firmness factor calculation (for example, evidence of historical generator performance, planned outages and upgrades, and relevant fuel considerations). Section 5.3.4 also provides examples of how a liable entity might record an internal hedge in its NCP report (see pp.39-41). Liable entities should consider the examples that are relevant to the types of generation it owns.

We also note that the NCP report to be provided to the AER under clause 4A.E.6 of the NER must record relevant details of all qualifying contracts, but does not need to include copies of the contracts themselves. Section 9 and Appendix C of the Guidelines set out further details of the information required to be included in relation to each contract/arrangement and trading interval. This includes, but is not limited to, information on unadjusted and adjusted contract volumes (MW) and the relevant firmness factor applied to the contract/arrangement. Any bespoke methodology must be approved by an Auditor from the [Auditors Panel](#) prior to inclusion in the NCP report. The Independent Auditor will need to familiarise themselves with the content of the contracts in order to be able to comment on any relevant firmness factors or methodologies.

## **I have secured interregional contracts for the reliability gap period. Do I need to also purchase settlements residue distribution units (SRD units)?**

An interregional contract must be paired with SRD units to be classified as a qualifying contract. The contract and the SRD units must cover all or part of the forecast reliability gap period identified in the reliability instrument.

Section 5.3.3 of the Guidelines outlines the AER's guidance for developing a bespoke firmness methodology for interregional contracts where SRD units have been purchased.

## **I have one or more grandfathered contracts. Can I use these towards fulfilling my obligations under the RRO?**

Grandfathering arrangements apply to Transitional Customers who are liable entities. As defined in rule 11.116.8 of the NER, a Transitional Customer is a Market Customer or opt-in customer that is not a licensed retailer (being a person who holds a retailer authorisation under the National Electricity Retail Law or an electricity retail licence under the Electricity Industry Act 2000 (Vic)).

A grandfathered contract must meet the following criteria:

- it is a qualifying contract which reduces the Transitional Customer's exposure to the volatility of the spot price in a relevant region during the gap trading intervals for the load for which it is a liable entity; and
- the qualifying contract was in effect as at 10 August 2018.

If the Transitional Customer is a liable entity, grandfathered contracts may be used in determining the Transitional Customer's NCP. For further information, please review section 4.1.4 of the Guidelines.

## **My business decreases its demand during periods of high wholesale prices. Can I rely on this to fulfil my obligations under the RRO?**

A demand response contract/arrangement is a contract/arrangement under which non-scheduled load is curtailed or, in certain circumstances, for the provision of unscheduled generation.

A liable entity that uses demand response may be eligible to record its demand response arrangement as a qualifying contract if the arrangement meets all of the criteria in section 5.3.8 of the Guidelines.

If a liable entity does record the arrangement as a qualifying contract, the Australian Energy Market Operator (**AEMO**) must calculate the liable entity's liable share by adding the demand response (see clause 4.A.F.3 of the NER) to the liable entity's demand. Conversely, if a liable entity does not record the arrangement as a qualifying contract, AEMO must calculate liable share based on demand only (without adding demand response). That is, other things being equal, the lower the liable entity's demand, the lower its liable share.

As noted in Appendix H of the Guidelines, the treatment of a demand response arrangement as a qualifying contract or otherwise can impact a liable entity's uncontracted MW position (and therefore their PoLR debt).

Liability under the RRO is based on demand, rather than wholesale price. Liable entities intending to use demand response to reduce their liability under the RRO may like to monitor demand in the relevant region to inform decisions around the appropriate timing of demand response.

## NCP report

### **We are one of several liable entities within the same corporate group. Does each liable entity within the group have to submit a separate NCP report?**

Each individual liable entity is required to meet its contracting requirements under the RRO, with respect to its load, and individually submit a NCP report to the AER. This is the case irrespective of the relationship between separate liable entities, including their corporate grouping. In the case of a compliance assessment, the AER will need to be able to assess the compliance of each liable entity individually.

If a single corporate group owns two Registered Participants, both of which are liable entities, it must meet the requirements for each entity separately. If the corporate group wishes to use generation or contracts held by one liable entity to contribute to the NCP of the other liable entity, it will need to establish and record a contract/arrangement (inter-entity arrangement) to reallocate the generation or contract between the two liable entities.

For further information, please see section 5.3.5 of the Guidelines.

### **I have “behind the meter” generation. How should I account for this in the NCP report?**

Where a liable entity has “behind the meter” generation which it utilises to offset demand, this will reduce its spot market electricity demand for inclusion in the NCP report and this does not need to be otherwise accounted for through contracting or other arrangements.

### **Can I engage an Independent Auditor to develop my bespoke firmness methodology?**

While a liable entity may seek external assistance in developing bespoke firmness methodologies and factors, this should not involve the Independent Auditor who will approve them as it would compromise the independence of the Independent Auditor. Once submitted to the Independent Auditor for approval, it is open to the Independent Auditor to make necessary corrections to those factors and methodologies before approving them.

The AER expects Independent Auditors to maintain sufficient records to verify and substantiate any completed assessments and approvals of any bespoke firmness methodologies or factors relied upon by a liable entity in an NCP Report, and provide those records to the AER on request.

The AER may conduct spot audits of bespoke firmness methodologies and firmness factors, which will consider among other things the independence of the process undertaken by an Auditor. Section 3 of the [Auditors Panel Handbook](#) sets out the ongoing responsibilities of Auditors Panel members.

To assist the AER in assessing the validity of an NCP report, liable entities should be prepared to provide information to the AER about the process for the development and approval of the relevant firmness methodologies and factors. In the [draft Reliability](#)

[Compliance Procedures and Guidelines](#), the AER has set out further details of the proposed manner, form and timeframes for providing this information.

## **I have asked an Independent Auditor to assess and approve my bespoke firmness factors and methodologies. Are they allowed to decline?**

Yes. There is no specific obligation under the RRO framework for an Auditor to provide services to a liable entity if requested.

Contact details for all Auditors are available on the [AER's website](#).

## **As an Independent Auditor, how do I determine what historical performance data I should use when assessing and approving a liable entity's bespoke firmness methodology?**

As the RRO is focused on reliability during the forecast reliability gap period, historical data relevant to the forecast reliability gap period (time of year and trading intervals) must be used when accounting for the firmness of the relevant generation or demand response.

Section 5.3.2 of the Guidelines provides examples in relation to solar and wind power PPAs. For example, for solar power the Guidelines state:

*Historical information relevant to the time of day of each trading interval in the forecast reliability gap period should be used. For a gap trading interval after sunset, a firmness of zero should be used. For gap trading intervals in daylight hours, a historical sample should be used. This should include an average of historical generation data for the relevant trading intervals and the relevant time of year. For example, if the gap trading interval is for 18.30 on 31 January, the liable entity may consider historical data for 18.30 for days around 31 January (e.g. they may consider data from 21 January to 10 February to be indicative and provide a large enough sample). If available, we consider at least three years of historical data should be used.*

This example indicates the Independent Auditor may consider historical generation data for days around or during the forecast reliability gap period in relation to the relevant trading intervals (including both type of day (i.e. weekday or weekend) and time of day). The sample does not need to be restricted to historical observations where demand is the same as (or higher than) AEMO's one-in-two year peak demand forecast for the forecast reliability gap period.

Overall, the Independent Auditor must consider whether the proposed bespoke firmness methodology accurately represents the volume of electricity that is likely to be available during the forecast reliability gap period. This includes, for example, by forming a view in relation to assessing the historical performance of other types of assets than those set out in the Guidelines, but we consider that a similar approach should be taken in terms of examining similar types of day and times of day, and informed by other parts of the Guidelines.

## **Where do I find the NCP Report Excel Template that I am required to complete and submit with my NCP Report?**

Section 9.1.2 of the Guidelines provides guidance on the NCP Report Excel Template that liable entities must submit. Full specifications for the relevant fields are set out in Appendices B-E of the Guidelines.

The AER is currently developing a spreadsheet version of the NCP Report Excel Template, which we will publish on our website well in advance of the contract reporting day for the current T-1 reliability instrument for South Australia (31 July 2023).

## **In what circumstances will I need to submit a revised NCP report?**

A liable entity's NCP is an accurate reflection of its contract position for the forecast reliability gap period as at the contract position day and is reported to the AER on reporting day. Section 9.3 of the Guidelines sets out the five categories of permitted adjustments to the NCP.

If a change occurs to one of those permitted categories between T-1 and T, a liable entity may apply to the AER for approval to adjust its NCP. The liable entity must submit an updated NCP report for the region in which the change occurs. This will be the entire NCP report, and not just an updated subsection.

## **Further information**

### **Where can I find more information about how to fulfil my obligations under the RRO?**

The RRO is supported by a number of AER guidelines, which provide detail on how the various stages of the RRO operate and impose obligations on entities involved in the RRO. These guidelines can be viewed [on the AER's website](#).

If you have any questions relating to the RRO, please email us at [RRO@aer.gov.au](mailto:RRO@aer.gov.au).