

10 May 2019

Mr Peter Adams
General Manager, Market Performance
Australian Energy Regulator

Submitted via email: RRO@aer.gov.au

Dear Mr Adams

Draft Interim Market Liquidity Obligation Guideline

Stanwell appreciates the opportunity to provide feedback to the consultation of the development of Draft Interim Market Liquidity Obligation Guideline (DIMLOG) associated with the Retailer Reliability Obligation (RRO).

Guidelines

Selecting only scheduled generation for the MLO group

*“Where a trading group’s aggregate **share of scheduled generation** exceeds, on average, a 15 percent market share in the relevant region for the previous two quarters, the trading group will be designated a MLO group.”*

Selecting only scheduled generators as obligated parties under the MLO does not appear to be resilient to the changes that are currently occurring in the market, particularly scheduled generation being replaced by semi-scheduled generation.

Stanwell understands that the ability of semi-scheduled generators to provide significant volumes of swaps and caps is currently limited, but they can provide reduced volumes and other hedging products (e.g. power purchase agreements). Further, continued cost reductions in energy storage technologies are expected to increase the dispatchability of new technologies in the future while not necessarily creating conditions for formal scheduling of such plant.

Stanwell proposes that MLO obligated parties are chosen based on registered generation capacity but with all categories of generation considered (i.e. scheduled, semi-scheduled and non-scheduled). The registered generation capacity of each generator should then be adjusted for each plant’s ability to reduce exposure to spot market prices.

Stanwell has previously offered suggestions as to how this adjustment could occur¹:

- Using the average capacity factors generated from AEMO's forecasts. These capacity factors are likely to relate to historic performance and take into consideration the energy constraint information provided by generators through the Energy Adequacy Assessment Projection (EAAP). The EAAP resource gives AEMO visibility of fuel constraints such as gas and water shortages that will impact future capacity factors; or
- Allowing each generator to provide a self-assessment of their likely capacity factor. This would be based on their knowledge of their own fuel supply, constraints, maintenance issues etc. This approach could be identical to firmness adjusting qualifying contracts and use the same AER guideline as reference. To add credibility to the self-assessment the proposed methodology for determining the capacity factors could be endorsed by an auditor (or the AER).

Approval of additional MLO products

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

- ...
- *the availability of the product on the exchange (for new or emerging exchange-traded products);*
 - *the traded volume of the product”*

Stanwell appreciates the products offered by MLO groups to satisfy their obligations under the MLO need to meet the hedging requirements of retailers, but is concerned the current wording may result in a chicken and egg situation for potential additional MLO products, stifling contract innovation.

For example, MLO obligated parties may be reluctant to sell a new product that covers the forecast reliability gap period if it is not approved as an additional MLO product. However, this reluctance to sell the new product may mean they cannot demonstrate the product is available.

Stanwell suggests that the wording is changed from “will have reference to” to “may have reference to”.

Draft rules

In reviewing the consultation paper, Stanwell identified a number of areas of the draft rules that require clarification. While beyond the scope of this consultation process, Stanwell notes these here as they relate to the MLO.

¹ Stanwell submission to ESB's Draft Rules consultation.

Duration of liquidity period

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

...

- *the date that all MLO products are **no longer permitted** to be bought and sold on any MLO exchange in the relevant region.”*

Stakeholders need greater clarity about when MLO products are “no longer permitted” to be bought and sold: when a T-1 Reliability Instrument is declared; when a T-3 Reliability Instrument is cancelled; when the contract is delisted from the ASX; or at some other time.

MLO products

“Rule 4A.G.22 specifies 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 00:00am hours Monday to 24:00pm 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 07:00am hours to 10:00pm 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:*
 - *...*
 - *the **maximum contract unit is 1 MWh**”*

Clarification is required about what the “maximum contract unit” means. Stanwell understood the intent to be that MLO products must be allowed to be traded in 1 MW increments – not that the maximum contract unit was 1 MWh.

Exemptions to performing the MLO

“Rules recognise there may be circumstances where an obligated party may not be able to carry out the obligation (4A.G.21). An obligated party is not required to perform the MLO in the following circumstances:

...

- *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)”*



Clarification is required about whether this MLO exemption encompasses MLO parties taking reasonable action to avoid the risk of a potential breach of the Corporations Act (e.g. trading halts implemented to avoid any potential breach of the insider trading prohibition)?

In circumstances where Stanwell is in possession of potentially price sensitive information not known to the market, it would initiate a trading halt, an approach which we consider to be appropriately conservative. We are, therefore, concerned that by continuing this approach Stanwell may still be obligated under these guidelines to continue trading MLO contracts if the AER has a contrary view as to whether a trading halt was necessary for us to avoid an insider trading breach.

Commencement of the liquidity period

*“Obligated parties should note that Rule 4A.G.16(c) states a liquidity period commences five business days after the reliability instrument takes effect, **regardless of whether the AER has published a notice under Rule 4A.G15(a).**”*

4A.G15(a) says “If the AER receives a request for a T-3 reliability instrument under rule 4A.C.1, it must notify each MLO generator in the relevant region in accordance with the MLO Guidelines”.

Clarification is required about whether “regardless of whether the AER has published a notice under Rule 4A.G15(a)” refers to the notification the AER must give each MLO generator when a T-3 reliability instrument request has been received, a public notice published on the AER website, or another type of notification.

If it is the former, participants require clarification of under what circumstances the AER would not advise MLO generators that a reliability instrument request has been received.

Stanwell welcomes the opportunity to further discuss this submission. Please contact Evan Jones on (07) 3228 4536.

Yours sincerely

Jennifer Tarr
Manager, Market Policy and Regulatory Strategy