AUSTRALIAN COMPETITION & CONSUMER COMMISSION

Our ref: 64737
Contact officer: Lyn Camilleri
Contact phone: 03 9290 1973

21 December 2018

John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr ~~Pierce~~ John

Re: Consultation on wholesale demand response mechanisms

Thank you for the opportunity to provide comment to the Australian Energy Market Commission's (the AEMC) public consultation on wholesale demand response mechanisms in the National Electricity Market (NEM).

The ACCC strongly supports the development of a wholesale demand response mechanism, given its potential to constrain the pricing of generation businesses, limit the need for additional generation and lead to lower prices.

In our 2018 *Retail Electricity Pricing Inquiry final report* (**REPI**), we noted that retailers may not be employing demand response at an efficient level, and there were weak incentives for them to utilise demand response from smaller customers.

We consider that retailers may not be employing demand management at an efficient level because either they could at times be long energy, or they have available to them other methods of managing periods of high wholesale prices including hedging through vertical integration and financial contracts.

We also found that, under the current arrangements, demand response from smaller customers was likely hindered because third party providers of wholesale demand response were experiencing difficulties in developing a commercial relationship with retailers, which is needed in order for them to capture the value associated with wholesale demand response under the current framework.

The ACCC considers that specialist demand response providers are best placed to identify and respond to any market opportunities in this area. By removing barriers to their direct participation in the market for demand response services, competition will increase the availability and range of demand response services on offer for electricity users, enabling them to more effectively trade off consumption against price signals.

To this end, in REPI, the ACCC recommended the development of a wholesale demand response mechanism that would, amongst other things:

- not allow retailers to limit the ability of their customers to engage a third-party demand response provider (to the extent it is not inconsistent with the retail contract), and
- promote competition through allowing the widest range of businesses to directly offer demand response services.

The ACCC considers that third-party suppliers of demand management services should be able to directly bid in the market in a similar way to generators.

The ACCC considers this is the best way to ensure an efficient level of these services is provided, and to limit the risk that retailers with generation interests ('gentailers'), who may have conflicting incentives, will be able to influence (and potentially restrict) the extent of demand management participation. The ACCC considers that any model requiring demand management providers to negotiate with gentailers would risk perpetuating the current barriers to the provision of demand response to smaller customers.

We are therefore strongly opposed to the Australian Energy Council's rule change request for a Wholesale Demand Response Register.

This proposed approach would rely on a retailer negotiating with a third-party service provider in 'good faith' and would therefore provide retailers with significant discretion to materially influence or restrict the nature and extent of a customer's participation in demand-side response.

In the absence of an obligation to arrive at an agreement, customers and other market participants will have little confidence that commercial agreements can be fairly reached or transferred when customers change retailer. As a result, this approach will fail to bring about an efficient level of wholesale demand response. It also will not promote significant competition benefits through greater third-party involvement in the wholesale demand response market.

In contrast, the rule change requests for a *Wholesale Demand Response Mechanism* and a *Wholesale Demand Response Market* both allow third-party suppliers of demand management services to participate directly in either the existing market or a dedicated newly-created demand response market. We strongly favour models of this kind which provide greater opportunities for third-party competition, innovation and user participation.

Of these two proposals, the ACCC notes that the *Wholesale Demand Response Market* has been proposed by the South Australian Government as a transitionary measure, on the assumption that it would allow the benefits of the demand response mechanism to be realised sooner.

Our preference is for a wholesale demand response mechanism where third-party aggregators are able to bid into the wholesale market directly; however, we support the AEMC considering the merits of the separate market proposal in its assessment process.

If you have any questions in relation to this submission, please contact Lyn Camilleri, General Manager Electricity Markets Branch, on (03) 9290 1973.

Yours sincerely

Sims

Rod Sims
Chair