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14 July 2022

Mr Paul Verschuer  
Executive General Manager  
AEMO Services Ltd  
Email: [paul.verschuer@aemo.com.au](mailto:paul.verschuer@aemo.com.au)

Dear Mr Verschuer

**Re: Updated tender rules with respect to long-term energy supply agreements**

Thank you for your letter of 10 June responding to our feedback on the Consumer Trustee's tender rules for long-term energy supply agreements (LTESAs). We appreciate the collaborative way the Consumer Trustee staff have worked with us in advancing the updated draft tender rules also submitted on 10 June 2022 for consultation as required under section 47(6) of the *Electricity Infrastructure Investment Act 2020 (NSW)* (EII Act).

Our comments relate to the updated tender rules. We welcome the Consumer Trustee's response or further discussion on any of our comments below. We intend publishing all correspondence exchanged between us and the updated tender rules provided to us once the tender rules are gazetted. We consider that this provides appropriate transparency for interested parties in executing the legislative obligation to consult with us.

The EII Act and supporting Regulations do not define 'consult' or specify a process or timing to be followed by the Consumer Trustee and AER to satisfy section 47(6). In reviewing the tender rules, we have:

- a. Checked that the tender rules cover the items in sections 47(5)(a)-(e) of the EII Act.
- b. Considered whether the tender rules will likely facilitate competitive outcomes for LTES agreements in the long-term financial interests of NSW electricity customers.

With respect to the updated tender rules provided, we observe that the document:

- is comprehensive and provides a good level of detail to the market.
- clearly lays out the legislated requirements. We note that the Consumer Trustee is required to consider a range of matters other than price in assessing and recommending LTESAs.
- notes that the Consumer Trustee is to gazette tender rules before running a competitive tender.
- includes all key design elements and the detail on each element with reference to the legislation and the regulations.

In reading the correspondence of 10 June, we note that several documents are still being developed to support the updated tender rules. We will consider these documents when they are publicly released. We are also interested to know whether you will seek financial models and independent resource assessments when assessing the financial value of a proponent's tender.

We will also be interested to observe the way the Consumer Trustee exercises the broad discretion provided in the EII Regulations for 'outstanding merit'.

We appreciate the opportunity to provide the above comments. Should you wish to discuss any of the matters raised, please contact Kami Kaur, A/g General Manager NSW REZ at [kami.kaur@aer.gov.au](mailto:kami.kaur@ aer.gov.au) or 02 9230 9163.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Justin Oliver', with a long horizontal flourish extending to the right.

Justin Oliver  
Board Member  
Australian Energy Regulator