15 May 2025

Mr Phillip Munro-Laylim
Project lead
Australian Energy Market Commission
GPO Box 2603
**SYDNEY NSW 2000**

Lodged online: https://www.aemc.gov.au/contact-us/lodge-submission

Dear Mr Munro-Laylim,

**Submission to draft determination – Allowing AEMO to accept cash as credit support**

Delta Electricity (**Delta**) submits the following response to the Australian Energy Market Commission's (**AEMC**) draft determination on allowing the Australian Energy Market Operator (**AEMO**) to accept cash as credit support.

Delta welcomes the proposed change to the rules that would allow market participants more options to meet AEMO's credit support requirements through allowing cash as credit support. Delta also supports the AEMC's decision to require the payment of interest on any cash provided as credit support.

Delta's preference is for cash as credit support to be uncapped, however Delta understands the reasons the AEMC has considered a cap. Delta therefore suggests a higher limit of $20 million which:

- should be adequate to address its concerns; and
- would not create a material difference in the impact on the market from a potential claw back event.

**An increase to the limit on cash as credit support is needed**

Delta understands the need for the AEMC to consider a limit on the amount of cash that can be provided as credit support due to the risk of claw back. However, the limit of $5 million is not suitable as a blanket threshold, noting:

- $5 million is only suitable for some participants such as small retailers, who would most likely never need to provide credit support above this amount.
- Medium and large retailers will likely need to provide credit support above $5 million at times, particularly during periods of high prices.
- Larger participants, such as Generators and Gentailers, would provide credit support much less frequently due to typically having a net position of receiving payments or being able to offset retailer prudential obligation with its generation side. However, on some occasions when they provide credit support it could likely be greater than $5 million due to the size of their portfolios.

The are a number of scenarios that could result in an outcome of needing to provide credit support. The following example, while simple, is a plausible scenario that illustrates the need for a generator, such as Delta, to provide credit support.

Where the generator has two generating units, and one unit will typically undergo a planned maintenance outage each year, ranging 6-10 weeks. There is a real risk and possibility that the in-service unit could experience a forced outage while the other unit is offline due to the planned outage.

If this occurs and the Generator has a retail load of 100MW, the Generator would become a net consumer of energy. Its position with AEMO will then depend on the average spot price and duration of the forced outage (noting the unit on planned outage cannot be recalled early). For context:

- An average spot price, for a sustained period, of $300-$400 MWh is infrequent but does occur. It occurred three times in 2024.
- Forced outages of 1-3 weeks are common with older thermal units. While best endeavors are made to return units to service within 7 days, these timelines may be extended due to return to services issues or other issues revealed during the maintenance.

The table below illustrates the position of the Generator with AEMO in the scenario of both units being out of service and with a retail load of 100 MW.

| | | **Duration of forced outage** | | |
|---|---|---|---|---|
| | | **7 days** | **14 days** | **21 days** |
| **Average spot price ($/ MWh)** | **100** | -$1.68 million | -$3.36 million | -$5.04 million |
| | **200** | -$3.36 million | -$6.72 million | -$10.08 million |
| | **300** | -$5.04 million | -$10.08 million | -$15.12 million |
| | **400** | -$6.72 million | -$13.44 million | -$20.16 million |

Generators typically have a net position with AEMO of receiving payments and any credit support that would otherwise be required (shown by the negative values in the table) would be netted against these receivables first. However, under some circumstances this buffer of receivables would be depleted, and the Generator would be required to provide credit support.

**Cash as credit support needs to be set at an adequate limit**

Delta proposes a $20 million limit on cash as credit support as this would be sufficient for the upper bounds of the conditions Delta considers possible and likely to occur over the longer term.

While Delta does not oppose the AEMC including surety bonds as a credit support option and expanding the base of allowable bank guarantee providers, these options do not provide certainty as they may not be available, now or in the future, to companies with investments linked to fossil fuels. The cash limit must be sufficient to meet the primary objective of this rule change proposal – ensuring companies like Delta can promptly meet AEMO's prudential requirements directly through using cash as credit support.

Vales Point Power Station is a critical piece of infrastructure in providing energy to NSW businesses and consumers. If the cash limit is inadequate, and Delta is unable to obtain surety bonds or bank guarantees, the risks remain to supply reliability and security due to potential forced withdrawal or removal from participating in the market by AEMO. It is therefore critical that the limit on cash as credit support is sufficient to avoid this preventable risk.

**A $20 million limit does not materially change the impact of a potential claw back**

Insolvency events that result in claw back risk are rare, but if they occur, it is likely during high price events. High price events create volatility and, at worst, create cash flow and insolvency risks for participants who are net consumers of electricity from AEMO. NEM revenue during high price events is much higher compared to average price events, as both price and demand are typically much higher. Consequently, any potential claw back amount would represent a relatively small proportion of total NEM revenue and therefore a relatively small cost deducted from payments to participants.

Using 2024 as an example, there were three separate weeks (in May, August and November) when the dispatch weighted price was very high, ranging from $300 MWh to $450 MWh. While there was no insolvency risk for Delta during these periods, such conditions could cause a participant that is underhedged or has lost generation capacity to default. During these weeks, NEM revenue was between about $1 billion and $1.7 billion. If a claw back were applied to a $20 million cash credit support amount due to an insolvency event, it would equate to a 1-2% reduction in NEM revenue.

Delta notes that under current rules, recovery would be deducted from the billing period in which the claw back occurred, rather than tied to the period of the participant's insolvency or default. Delta suggests the AEMC consider allowing claw backs to be backdated, so that recovery is spread proportionally across participants during the billing period in which the insolvency/default occurred. This would create a more equitable distribution of claw back risk.

In addition, Delta recognises the mitigation measures proposed by the AEMC in the draft determination to lessen the impact of a potential claw back risk, including:

- Corporations Act displacement;
- first ranking charge;
- return rights; and
- set off rights.

Delta therefore considers the risk and potential impact of any potential claw back to be minimal.

**Surety bonds and expanding the base for bank guarantees**

Delta does not oppose the AEMC's draft changes that would allow surety bonds and expanding the base of banks able to provide bank guarantees to AEMO. These changes, however, do not provide the certainty that Delta is seeking from this rule change request. That is, where Delta is reliant on another party to provide credit support (through a surety bond or bank guarantee) on its behalf, there is a risk that this service may be withdrawn due to ESG positions at some point in the future, and this would therefore not be an enduring solution. Delta does not, however, discourage these changes if other stakeholders can justify their use, but encourages the AEMC to consider if they would be practical considering the cost and complexity of implementation for AEMO.

**Implementation timeframe**

Delta considers the 9 August 2026 implementation date to be unreasonable given this is a relatively simple and urgent rule change request and noting the AEMC were to expedite the rule change had it not been for an objection to that process. As noted in the draft determination, Delta encourages the AEMC and AEMO to consider bringing forward the implementation date to December 2025, which would still allow six months to develop changes to AEMO's processes, systems and procedures.

To discuss further please contact Joel Aulbury, Market Compliance and Regulation Manager, at joel.aulbury@de.com.au.

Yours sincerely,

**STEVE GURNEY**
**Company Secretary / General Counsel**