17 September 2025

Professor Tim Nelson
Chair
NEM Review – Expert Panel

Submission lodged via the NEM Review webpage.

Dear Professor Nelson and Panel members,

SUBMISSION TO NEM REVIEW DRAFT REPORT

Delta Electricity ('**Delta**') provides this submission in response to the NEM Wholesale Market Settings Review Draft Report.

Delta acknowledges and appreciates the considerable effort the Expert Panel has invested in preparing the draft report and engaging with industry. We recognise the significant challenges facing the energy sector during the transition and appreciate the Panel's detailed consideration of these issues.

Delta understands and recognises the complexity and scope of the review and issues, and it is unfortunate that such an extensive review is being conducted in less than 12 months. Many aspects of the detailed design remain unclear, making it challenging to fully understand and assess the potential impacts of the recommendations at this time.

Delta has previously advocated for a capacity market as a transitional arrangement and continues to regard this as the most effective approach to ensure system security and reliability through sufficient firm dispatchable resources. Although the Panel has not adopted this approach, the draft report proposes a suite of recommendations considering short, medium, and long-term signals of the National Electricity Market ('**NEM**').

Delta remains cautious of the potential risks associated with a wide-ranging suite of recommendations that bring government-backed intervention through the Electricity Services Entry Mechanism ('**ESEM**') and mandatory obligations through the Market Making Obligation ('**MMO**'). The draft report offers limited detail on these mechanisms, which makes it difficult to provide feedback. Accordingly, this submission focuses on highlighting Delta's key concerns and offering constructive insights to help inform the detailed design phase and avoid unintended consequences.

Short-term spot market recommendations

Delta is generally supportive of the recommendations that propose to:

- maintain the existing spot market for real-time dispatch of resources;
- improve spot market efficiency where possible;
- increase visibility of smaller dispatchable, price-responsive resources; and
- consider more forward-looking market price settings to provide greater certainty for market participants.

Market Making Obligation (MMO)

Delta believes that a contract design that encourages participation in the market is preferable to a mandatory MMO. Delta has concerns that a mandatory MMO could compel market participants to post continuous bids and offers regardless of their commercial risk appetite or hedging strategies.

The MMO's detailed design, including key features such as volume and spread of obligations and the forward-looking period, is crucial to understanding its potential burden. The limited detail at this stage prompts caution as such an obligation has potential to distort natural liquidity, compel participants to warehouse positions they would not otherwise take, increase financial exposure and undermine risk management.

Commercial Risks

Imposing a requirement to provide liquidity in certain contracts may severely constrain a participant's ability to manage their risk and trading strategies. By compelling participants to take on exposures that do not align with their commercial interests, risk appetite and board approved risk limits, the MMO introduces higher costs and reduces flexibility in managing price and volume risks.

The obligation may also distort natural trading incentives, leading to inefficiencies and unintended distortions in contract prices and liquidity. The risk of insolvency becomes acute if participants are forced into hedge positions beyond their prudent commercial appetite. In the context of a market price cap of $20,300/MWh, any inability to meet these obligations could expose participants to catastrophic financial losses.

Fiduciary Duties and Governance Risks

An MMO may conflict directly with directors' fiduciary duties, which require acting in the best interests of the company, exercising due care and diligence and avoiding exposure to unnecessary risk. Mandating trading activities that do not align with a company's commercial strategies could create tensions between regulatory compliance and fiduciary duties, this in turn may heighten compliance risk, increase uncertainty in decision-making, and expose directors to potential shareholder scrutiny if mandated activities result in financial detriment. This conflict risks undermining sound governance.

Margining Requirements

Many market participants rely on International Swaps and Derivatives Association (ISDA) Agreements for OTC trading, which allow tailored credit support and margining arrangements. These may be less onerous than exchange requirements and better suited to participants' risk profiles.

Forcing market participants to make a market on an exchange, however, would impose significantly higher margining requirements, especially as obligations extend further into the future. The New Zealand example below demonstrates the disproportionate scale of capital demands under stressed conditions. Unless alternative arrangements are considered, requiring large volumes of additional working capital for margining could deter participation, reduce market depth, and threaten financial resilience.

New Zealand example

During the August 2024 "crisis" period on the New Zealand exchange, a relatively modest 50MW quarterly position required tens of millions in initial margins. With the New Zealand MMO requiring bids and offers to be shown across the full curve, this obligation would have multiplied this tenfold. For many participants, such capital demands create a situation where margining obligations rapidly consume working capital and threaten solvency. Imposing similar obligations in the NEM could compound these risks in such conditions, exposing participants to extreme capital calls that are disconnected from the scale of the underlying position while offering little genuine benefit to market stability.

Increase in compliance costs and impact on competition

While the proposed MMO is designed to improve liquidity, it may also impose significant costs and regulatory burden on participants. The MMO would create new layers of compliance, requiring participants to monitor, evidence and report on how the various requirements of the MMO are met, such as bid and offer spreads and volume thresholds. These compliance requirements add complexity and administrative overhead, increasing costs for all obligated entities.

The financial impact extends further, as maintaining a continuous market presence in the derivative markets demands higher prudential commitments, additional trading desk resources, and upgraded IT systems. This will place higher costs on market participants and increase overall costs of running the power system, which would eventually be passed onto customers.

The burden of MMO would fall disproportionally on smaller retailers and generators, who are less able to absorb these obligations and risks deterring new entrants and forcing smaller players out of the market, ultimately decreasing competition in both the retail and generation markets.

Potential alternatives

Delta welcomes the Panel's consideration of extending the MMO to include OTC trading. Allowing OTC trades under the MMO could help mitigate some of the more prohibitive features of exchange trading, particularly margining requirements, while still delivering liquidity.

Another potential option is to adopt a similar approach to the ESEM contracts where the scheme administrator bears the future risk of price changes in those contracts. Under such an approach, the MMO could operate through a dedicated exchange administered by the scheme administrator, with the margining risk managed centrally rather than by individual participants. This would prevent the financial destabilisation of market participants while still meeting policy objectives around liquidity provision.

Delta therefore supports the development and release of the detailed MMO design features prior to the release of the final report, so that stakeholders can properly assess the impacts and engage meaningfully on the final design.

In addition, Delta considers the Retailer Reliability Obligation (RRO) should be repealed. The RRO has proven ineffective at incentivising investment in firm generation and has created unnecessary burden for market participants. If the Panel's recommendations are implemented, they would replace the need for the RRO.

Extending the MT PASA

The draft report proposes to extend the MT PASA to five years. Delta does not oppose this, as it would be relatively straightforward for generators to provide indicative maintenance schedules over a longer horizon. However, beyond 24 months these schedules are subject to significant change in both timing and duration. Planned outages are generally firm up to 12 months and somewhat firm at 24 months, but beyond that the information is too uncertain to highlight specific reliability concerns with confidence.

Accordingly, any reliability assessment beyond the current 24-month period is less reliable and unlikely to be useful. It is Delta's view that extending the MT PASA would not contribute to greater liquidity in the derivative market. The current approximate three-year horizon for electricity derivative trading reflects existing market settings rather than the MT PASA outlook.

Electricity Services Entry Mechanism (ESEM)

Government intervention may create reliance on the ESEM

The introduction of the ESEM represents a significant step towards government involvement in the market. While its objective is to provide greater investment certainty, there is a risk that participants could become reliant on the scheme rather than pursuing private market-based solutions. Once embedded, the revenue certainty offered by the ESEM may be viewed as a lower-risk pathway to project finance, potentially encouraging all new investment through the scheme and leaving the market reliant on government-backed structures. To avoid this outcome, any implementation of the ESEM should include clear sunsetting provisions and well-defined criteria for scaling back the scheme as voluntary, private sector arrangements mature.

Recycling of ESEM contracts may distort the derivative market

A central feature of the ESEM is the recycling of contracts back into the market, partly through the MMO. While this is intended to enhance liquidity and price discovery, the approach also carries risks of market distortion. Introducing ESEM contracts without appropriate safeguards could depress natural trading activity by crowding out privately negotiated derivatives, creating artificial liquidity and reducing incentives for voluntary trading. To mitigate these risks, it is critical that recycled ESEM contracts are designed to complement, rather than distort, the operation of existing derivative and hedge markets, ensuring that genuine price signals continue to support effective risk management.

Inter-regional settlement residues

Delta supports a review of hedging arrangements across interconnectors to provide longer-term certainty. However, we consider an alternative approach, or body may be better placed to undertake this review. As noted in the Australian Financial Markets Association's (AFMA) submission, the Australian Energy Market Commission's (AEMC) current rule change project to accommodate Project EnergyConnect through the settlement residue auction ('**SRA**') process has caused frustration across industry and suggests that the AEMC may not fully understand the hedging role of SRAs, or may have objectives that differ to maintaining the hedging function SRAs have historically provided.

Strategic reserves

Delta supports the introduction of out-of-market reserves service, as this would:

- allow jurisdictions to alleviate their reliability concerns for rare but extreme events; and
- ensure the market remains relatively unfettered by additional reserves that would otherwise dampen the competitive dynamics and efficient pricing of electricity.

Delta appreciates the opportunity to provide input to this review and thanks the Panel for considering the matters raised in this submission. We welcome the opportunity to continue contributing to the detailed design phase and to work with the Panel to ensure the reforms deliver both secure system operation and a well-functioning competitive market.

For further discussion, please contact Delta's Market Compliance and Regulation Manager, Joel Aulbury at joel.aulbury@de.com.au.

Yours sincerely,

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