SUBMISSION

DRAFT INTERIM MLO GUIDELINE CONSULTATION | 10 MAY 2019

EUAA
Energy Users Association of Australia

INTRODUCTION

The EUAA welcomes the opportunity to make some brief comments on the Draft Market Liquidity Obligation (MLO) Guideline and are mindful of the urgency to ensure these and other measures are implemented in a timely way.

We are also mindful of the significant demands on the ESB and the desire of policy makers and regulatory bodies "to get things done". We can assure you that consumer advocates are facing similar demands which we are struggling to meet.

Therefore, due to both the number and complexity of issues the energy industry is being asked to deal with we are finding great difficulty in making substantive comments given the extreme haste with which the RRO is being developed and the style of the Draft Guideline itself.

An observation we would makes is that the Draft Guideline seems to have been written more for a legal audience than to help energy users to understand how they might be impacted by the RRO and whether they would choose to opt-in. While this approach is understandable given the complexity of the measure, an explanatory memorandum combined with more specific examples to explain the concepts would have been very helpful.

Because of this, while we support the overall RRO design and the need for some form of market liquidity obligation, we are unable, at this stage, to endorse the details set out in Draft Guideline.

In discussions with other stakeholders we have been made aware that the ESB has issued the final draft of the Rules around the RRO - without the usual formal notification or circulation to stakeholders. Unfortunately, we have no ability prior to the submission deadline to know if the final draft of the rules has any impact on the Draft Guideline which we assume was written by the AER on the basis of the previous draft Rules.

We know that we are not alone in our inability to fully analyse the complexity of these Draft Guidelines. We are aware that many stakeholders on the supply side, with much larger resources than the EUAA, are also having difficulty keeping up with the consultation programme – not just for the RRO but the fact that the RRO is occurring at the same time as extensive consultation processes being undertaken by both the AER and the AEMC.

We are aware of discussion that are taking place in the ESB regarding options to support consumer advocacy, not just for the ESB matters, but also to meet the wider demands on consumer advocates time and limited resources. We would encourage the ESB, along with governments and regulatory bodies, to consider providing additional support for consumer advocates. We and others are simply unable to engage with the ESB to the extent we would like on such important issues for our members.

All we can propose at this point is that the whole RRO governance structure has appropriate provisions for regular review. Major changes implemented with haste can result in unintended consequences that should be addressed as soon as possible.

Within this context we make the following brief comments:

<u>Obligated parties under the MLO</u>

We agree with the overall approach to determining obligated parties and the MLO register. While we acknowledge that the selection of the cut-off point is a matter of judgement, we would have liked to see more analysis as to why 15% was selected as that level.

Performing the Market Liquidity Obligation

The proposed list of MLO products is narrow. It is difficult to comment on why other products were excluded such as ASX call and put option contracts, without seeing the draft Contract and Firmness Guideline. We are assuming we will get our answer in this Guideline.

The market making trading periods of 30 minutes and 25 trading periods (December/January) or 35 trading periods in other months appears very restrictive and may not actually be effective in promoting liquidity.

We do not support the increase in the allowed bid/offer spread in the final version of the RRO rules published by the ESB on 7 May, which was not fully explained. We believe the previous levels (3% and 5% for SA) was about right and should not have been changed, especially without further consultation of buyers.

While we appreciate that the transaction thresholds in the guideline are based on the same final version of the electricity rules, we do not support the view that liquidity needs to be rationed out over time as suggested in the explanation to the final version of the rules. Both the 10% and 1.25% transactions thresholds in section 4.5 appear low for natural sellers and should be increased to ensure the mechanism is effective. Where the MLO results in unwanted positions, entities are able to change their bids and offers to trade out of these positions, as a market maker should.

With regards to section 4.5 we would suggest it is not sufficiently clear what the meaning of 'aggregate transactions' is. Does it mean the total volume of transactions, both bought and sold, or the net position resulting from the transactions? We suggest it needs to be the net position and should be made clear in the Guideline.

Regards

Andrew Richards
Chief Executive Officer