# SUBMISSION

## SA DEM FIRM ENERGY RELIABILITY MECHANISM - STAGE 2 CONSULTATION PAPER

### 14 JULY 2025

## INTRODUCTION

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our members are the engine room of the Australian economy, producing many of the products that households and business use every day including bricks, glass, steel, aluminium, paper, food and beverages. Combined, our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

EUAA members are focussed on making products that meet their own customers' requirements where energy is just one input to the process albeit a critical one. Their expectation is that the energy industry continues to provide energy services that are fit for purpose and consistent with the national energy objectives so that our members can continue to provide a fit for purpose product for their customers.

Thank you for the opportunity to make a submission under the Firm Energy Reliability Mechanism (FERM) - Stage 2 Consultation Paper (Consultation Paper).

At the EUAA, we support the design of rules, legislation and procedures that achieve efficient, cost effective and equitable outcomes for networks, developers and consumers. In the energy sector under most circumstances, this is best achieved through a national approach and a sharp focus on the NEO (National Electricity Objectives). From our perspective, this has not been achieved by the proposed FERM described in the Consultation Paper documents.

Additionally, we are generally supportive of the concept of a capacity market alongside the current electricity-only market and recognise that due to the deep penetration of variable renewable energy resources that SA requires a capacity market ahead of the rest of the NEM. However we will only support capacity markets where it can be demonstrated they will lead to the NEM improving its ability to meet the NEO, i.e. lower costs, higher efficiency, higher reliability etc

Our opinion is that the Consultation Paper effectively duplicates the Commonwealth Government's Capacity Investment Scheme (CIS) and the National Energy Legislation's Retailer Reliability Obligation (RRO):

- with the setting of the Firm Energy Target (FET) followed by tenders to meet the target with cap and collar contracts, and
- a new addition of FERM Liquidity Obligations on retailers and large market customers through a jurisdictional version of the RRO, the biggest difference being that while the RRO has clearly defined regulatory descriptions based on the Interim Reliability Measure, the FERM version will be set by the SA Minister for Energy and Mining's FERM Guidelines with a degree of Ministerial discretion implicit in the process.

We are supportive of the cap and collar contracts of the FERM as informed by the FET, effectively increasing the reach of the CIS in SA. We are pleased that the proposed FERM is complimentary to the CIS and has the potential to significantly de-risk new firming capacity which hopefully leads to lower contract prices for consumers.

We are supportive of the Consultation Paper's proposal that proponents cannot be contracted through both the FERM and CIS and that full transparency in funding sources for projects is required, including full disclosure by the SA Government of FERM contracts.

However, we are not supportive of the FERM Liquidity Obligations as they are currently proposed. We believe that the current design places upward pressure on contract prices and consequently increases costs for consumers.

## REFINED FERM OBJECTIVES AND CORE PRINCIPLES

We are supportive of the refined FERM objectives and core principles, noting that the last objective is:

> *"SUPPORT liquid and competitive wholesale and retail electricity markets"*

The proposed FERM Liquidity Obligation does not align with this objective as it is designed to "control" the liquidity of retail electricity markets but does not promote competition in either the wholesale or retail markets.

We understand that the FERM Liquidity Obligations proposes to fill reliability gaps prior to the RRO. Therefore, the FERM Liquidity Obligation will prevent RRO from ever being considered in SA as the FERM Liquidity Obligation is designed to precede the RRO i.e. should the RRO be triggered, this will be viewed as a failure of the FERM Liquidity Obligation. However, forcing retailers and large market customers to demonstrate market liquidity by having firming contracts in place hands negotiating power to generators and bi-directional unit operators, which will ultimately place upward pressure on contract prices and cost consumers while also transferring market risk from those who are best placed to manage it (generators and bi-directional unit operators) to consumers, who do not.

## INTEGRATION WITHIN BROADER MARKET REFORM

We are supportive of the Consultation Paper's proposal that proponents cannot be contracted through both the FERM and CIS and that full transparency in funding sources for projects is required, including full disclosure by the SA Government of FERM contracts.

However, with respect to the Reliability and Emergency Reserve Trader (RERT), the FERM provides mechanisms to reduce or eliminate the need for RERT, some of our members would argue that the FERM is effectively swapping a source of revenue (RERT) with a liability (FERM).

There is also the NEM Review that intends to recommend a long-term solution to capacity. While the topic of an exit from FERM and transition to the new future NEM that arises from the NEM Review was mentioned, the trigger points and mechanism for this transition were not discussed. We strongly recommend these transitional arrangements be made clear now to provide a degree of certainty for market participants and customers.

## SCHEME DESIGN ELEMENTS

While we broadly agree with the observations within submissions and outlined in your "What we heard" section, the Scheme Design Elements that DEM proposes in "Design decisions" falls short of an adequate response. Your statement that:

> *"The Department considers that the broader framework that includes calculation and subsequent declaration of the FET by the Minister provides a robust framework for determining the level of long-duration firm capacity to be contracted in the FERM."*

Provides neither the comfort nor the level of transparency required by stakeholders to assure them that the most efficient outcome for consumers is met. We question whether the methodology and response hint at an outcome where the cost is well beyond the consumer value of lost load threshold.

This response to genuine observations is akin to "trust us" or "we know what's best".

## REFINED RESPONSIBILITIES OF KEY ENTITIES

We note the responsibilities of key entities including the Minister for Energy and Mining, DEM/Office of the Technical Regulator, Scheme Administrator, Scheme Financial Vehicle, Scheme Regulator and Auditor, and note the similarities with similar NSW mechanisms. We also note that, absent from the Consultation Paper, but mentioned at the Consultation Paper Information Session, AEMO Services will be the Scheme Administrator and establish the Scheme Financial Vehicle. While we support this approach, as AEMO Services have the appropriate capability through its management of the Long-Term Energy Service Agreements (LTESA) and CIS programs, we also note that the omission from the Consultation Paper of "who" will fill the roles of the Scheme Administrator, Scheme Regulator and Auditor is too close to the highly opaque nature of the NSW approach. We recommend that DEM review the NSW Transmission Planning Review Interim Report[1] and ensure that the recommendations in the Interim Report are imbedded in the FERM, particularly those relating to transparency and responsibilities.

## MEETING THE FIRM ENERGY TARGET

We agree with DEM's decision to separate existing and new firm energy participants in the FERM. We think it makes considerable sense to have a simplified process for existing participants to provide a Notice of Intent (NOI) for their intention of provision of firm energy and their expected moth-balling and/or retirement of plant. This will enable the FERM to only fill the void. This will go a long way to protecting consumers from the risks associated with over or under procurement through the FERM.

## CONTRACTING

We still consider that the compulsory 15-year contracts for new eligible capacity will provide a "cliff" at the end of the FERM and remove flexibility for the SA Government to react to small or short-term requirements with respect to the FET. While some investors will want a long-term contract, others will not.

[1] https://www.energy.nsw.gov.au/nsw-plans-and-progress/regulation-and-policy/nsw-transmission-planning-review-2025

We still suggest allowing new eligible capacity participants to nominate the length of their FERM contracts, from 5-15 years with a maximum percentage of the FET each year to be made up of contracts with more than 10 years remaining (i.e. each year there should be a number of FERM contracts ending to ensure flexibility) and that at the end of an initial 15-year period, that contract lengths be reduced.

## LIQUIDITY AND COMPETITION

The current form of the FERM Liquidity Obligation effectively transfers risk away from generators and bi-directional unit operators, who are able to manage firmed energy availability, to retailers and large market costumers. We seek an equitable allocation of the costs and risks associated with the transition to net zero, as all too often energy consumers are expected to carry the heavy weight of market risk (i.e. shareholder and/or debt providers) that should sit with generators and bi-directional unit operators. We firmly believe that this transfer of risk is inconsistent with the NEO.

The problem that the SA FERM Liquidity Obligation solves is that retailers and large market customers do not want to enter into firming contracts. This is not the case. The problem that exists with SA liquidity is that there is significant volatility in wholesale market prices due to intra-day mismatched supply and demand and that firmed products are not available for contracting. Should there be firming products available (through additional capacity) and this leads to less volatility in wholesale market prices, the hedging products will follow. We understand that this "allows the market to function as a market" and doesn't guarantee success like the FERM Liquidity Obligation does, however it will inevitably be cheaper for all SA consumers.

From that perspective, we agree with Energy Australia's proposal to derogate from the RRO to have an always "on" Market Liquidity Obligation (MLO) for generators and bi-directional unit operators which will complement the FERM, FET and other proposed mechanisms without placing upward pressure on contract pricing.

Similar to the challenges with the east coast gas market, the liquidity mechanism is not sufficient if generators are only required to offer contracts to the market. The liquidity obligation should be strengthened to require MLO generators to sell their contracts and to enforce competitive pricing.

We also remain concerned that liquidity contracts are offered through the ASX, but it is incredibly difficult to get a clearing provider to settle ASX energy trades as they are highly concerned about the potential for default by their clients - because of this exposure there is only a very limited pool of clearing providers who will support energy transactions in the first place. As a result, most consumers are effectively locked out of trading on the ASX, and as such, can't access the liquidity obligation contracts even if they wanted to.

We are also dubious about the calculation of the FERM Liquidity Obligation. By looking for theoretical reliability gaps 5 years out and ahead of the RRO timeframes, the FERM Liquidity Obligation will effectively tighten the already conservative Interim Reliability Measure (IRM). The reliability standard considers both frequency and severity of loss of load expressed in MW of lost load. Our perception of how the reliability standard is operationalised and communicated by AEMO is that very conservative modelling results, e.g. the 2022 ESOO leading to a T-1 trigger in South Australia for Q1, 2024 which was then cancelled a few months later. Additionally, the risk of potential USE is communicated by AEMO in meeting a perceived 'political' reliability standard of close to, if not zero (the IRM) which the FERM Liquidity Obligation effectively tightens further.

Our concern with the IRM has resulted in increased costs to consumers well above the level that consumers have indicated they are prepared to pay through the AER value of customer reliability work. We consider that the current unserved energy measure does take account of tail risk given it is a probability measure and we don't want to see a repeat of the past "gold plating" in distribution networks in the area of wholesale market reliability.

Further, we are not convinced that a move to a power system based on increasing amounts of weather-dependent supply resources results in an increase in the potential for either unserved energy or tail risk, as this is also a function of the firming resources available to manage this risk. It's possible that the electricity market transition may improve tail risks as unit size decreases and dispatch flexibility increases given that fluctuations in weather dependent supply side resources is somewhat forecastable and able to be modelled in the planning timeframe.

We accept the need for sensitivity testing around the efficient level of firming resources by artificially engineering tail-risk events in the modelling. Though the base case must be modelled on the efficient level of firming resources with reference to a range of reliability settings such as the market price cap (MPC) and cumulative price threshold (CPT). To do otherwise may result in an inaccurate assessment of the risks the proposed modelling is attempting to understand.

We are concerned that the current SA jurisdictional policy, specifically designed to ensure reliability for the "messy middle" of the transition to a renewables dominant grid will impose additional costs that are met by higher electricity bills.

We would support use of the Reliability Standard; however, it appears that the SA Government will use IRM in a form it was never intended, being out to 5 years. With the political nature of the IRM, we believe that the Government should pay the difference in costs between the Reliability Standard and the IRM, especially given the uncertainty created through using the IRM out to 5 years.

## PERFORMANCE OBLIGATIONS AND COMPLIANCE

While we support, in principle, the FERM performance and compliance obligations, we are still concerned that when an LOR is declared, FERM participants will hold back capacity until the FERM starts, and therefore create a deeper and longer LOR event than had been forecast. We maintain that any scheme designed to address market failures (such as the lack of firming capacity in SA), need to not unduly exacerbate the market failure during events through poor design.

We therefore support the retrospective review of long-duration capacity providers' bids to determine their market availability during forecast LOR2 and LOR3 events, however question whether this is a role for the Scheme Administrator or whether the Scheme Regulator is a more appropriate vehicle.

We consider that the current proposed FERM rules still leave room for "gaming" to ensure USE, LOR2 and LOR3 events to guarantee dispatch.

## CONCLUDING REMARKS

The EUAA supports the design of rules, legislation and procedures that achieve efficient, cost effective and equitable outcomes for networks, developers and consumers. In the energy sector under most circumstances, this is best achieved through a national approach and a sharp focus on the NEO. From our perspective, this has not been achieved by the proposed FERM described in the Consultation Paper documents.

We consider that the proposed FERM has changed to such a significant extent since the FERM Scheme Design Consultation Paper to warrant a further interim paper for consultation prior to proceeding to the Final FERM Design.

As mentioned above, the 5-year nature of the FERM will result in significant error in the furthest years, requiring flexibility in contracting (currently 15 years) and will result in inaccurate FERM Liquidity Obligations.

While pure in intent, the FERM Liquidity Obligations, transfer significant risk and cost onto consumers, particularly those who are liable entities. We strongly recommend that DEM consider derogation from the RRO to have an always "on" MLO for generators and bi-directional unit operators with the additional requirement to demonstrate that they are selling contracts at competitive pricing. Our proposal will complement the FERM, FET and other proposed mechanisms without placing upward pressure on contract pricing.

The EUAA welcomes further discussions with us and our members around the issues raised in this submission.

Do not hesitate to be in contact with EUAA Policy Manager Dr Leigh Clemow, should you have any questions.

Andrew Richards
Chief Executive Officer