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Executive General Manager – Reform Delivery
Australian Energy Market Operator (AEMO)
Level 2, 20 Bond Street
Sydney NSW 2000

Submitted via email: reformdevelopmentandinsights@aemo.com.au

Dear Ms. Mouchaileh,

AEMO CONSULTATION PAPER: STRUCTURE OF PARTICIPANT FEES FOR AEMO'S NEM 2025 REFORM PROGRAM

Endeavour Energy appreciates the opportunity to provide input into the structure of Participant fees related to the National Electricity Market (NEM) 2025 Reform Program (the Program). The consultation paper presents two potential options for AEMO to charge Registered Participants to recover the costs it incurs from progressing the suite of initiatives related to the Program. These options are:

1. Applying existing Participant Fees structures such as the core NEM fee, the Distributed Energy Resources (DER) program fee and/or Electricity Retail Markets fee; and
2. Establishing a separate NEM 2025 Reform Program fee.

AEMO has committed to undertaking this consultation with the goal of developing a fee recovery mechanism that is considered reasonable by stakeholders and AEMO and in accordance with the National Electricity Law (NEL) and National Electricity Rules (NER). We support this broad objective guiding AEMO's decision, noting the NER obligates AEMO to have regard to the national electricity objective (NEO) and specific principles in determining a Participant fee structure.

Option 1 is most consistent with the fee structure principles and the NEO

AEMO's initial assessment of the two options against the fee structure principles and the NEO suggests Option 2 is marginally preferred on the basis it is more consistent with the *reflective of involvement* and *not unreasonably discriminate* principles. However, we believe a more balanced and holistic consideration of the factors and the NEO supports using the existing fee structures (Option 1) until the end of the current general Participant fee period.

For instance, with regard to the involvement principle we believe there is a high degree of uncertainty around the final design of the NEM 2025 reforms which makes the task of attributing fees to Participants on the basis of involvement problematic. This is due to the nascency of the Program and the initiatives underpinning it being in a planning and developmental stage as demonstrated in Figure 1 of the consultation paper.

From a Distribution Network Service Provider (DNSP) perspective, uncertainty around the future levels of participation and involvement at this early stage of the Program is reflected in the feedback to the Participant Impact Assessment (PIA) survey. Specifically, where an initiative was identified as likely to have an impact

on DNSPs, it was noted that the impact measure was indicative, has a significant level of uncertainty, and was provided on the assumption that rule changes (where proposed) proceed without material changes. Similar caveats were not reflected in the PIA responses for other Registered Participants.

We therefore caution against developing a new fee structure and attributing costs on the basis of this feedback given the uncertain nature of the survey responses. There also is a risk that the relative involvement of DNSPs could be overstated, particularly if finalised initiatives depart from initial expectations or jurisdictional derogations from NEM arrangements are subsequently declared.

With regard to the non-discrimination principle and to the extent that DNSPs are considered an involved participant, we believe there is scope for AEMO's assessment to better consider the regulatory barriers which currently prevent DNSPs from recovering the costs of Participant fees attributed to them from their customers. In the absence of regulatory changes enabling these costs to be recovered, any new fee structure that includes DNSPs would discriminate against DNSPs by not allowing them the same opportunity to recover their costs as other Participant classes. We expand on the cost recovery challenges faced by DNSPs in the next section.

We support Energy Networks Australia's (ENA) alternative assessment of the options against each of the fee principles and NEO which on balance indicates Option 1 best promotes the NEO and meets the relevant principles of simplicity, non-discrimination and cost recovery on the basis of involvement of participants.

We consider the costs and complexities of establishing a separate fee at this stage of the program is likely to outweigh any benefits. Changes to the fee structures should be evaluated for the fee period commencing 1 July 2026 as the design of the NEM 2025 reforms takes shape and relationship and interaction between AEMO and Registered Participants become clearer. This would provide confidence the allocation of costs is representative of Participant involvement and allows time to consider any regulatory changes to enable DNSPs to recover any AEMO fees allocated to them in the future.

Barriers to cost recovery for DNSPs

The NER empowers AEMO to recover their budgeted revenue requirements through charging Registered Participants in accordance with the structure of Participant fees. Currently, Registered Participants which are charged fees include Wholesale Participants, Market Customers and from 1 July 2023 Transmission Network Service Providers (TNSP). Reflecting the comparatively infrequent and immaterial interaction between DNSPs and AEMO, DNSPs do not currently pay Participant fees.

Similarly, the revenue and pricing principles in the NEL entitles regulated networks a reasonable opportunity to recover their efficient costs. These are ultimately recovered from network customers (via their retailer) and typically include the cost operating their respective networks, a rate of return on the regulated asset base (RAB) and rewards/penalties applied under any applicable incentive scheme. They also relate to regulatory payments which TNSPs and DNSPs have limited influence over such as declared jurisdictional schemes and AEMO's Participant fees.

The mechanisms which allow costs to be recovered by networks are outlined in chapter 6 of the NER. Generally, forecast costs are recovered through a prescriptive revenue determination process administered by the Australian Energy Regulator (AER) which is supplemented by a cost pass through mechanism that provides an ex-post pathway to recoup efficient costs arising from eligible unforeseen events that are not incorporated in expenditure forecasts and allowances.

Our primary concern is that, in the event AEMO establishes a new fee structure for the Program that attributes Participant fees to DNSPs, the cost recovery mechanisms in the regulatory framework do not provide a sufficient opportunity for DNSPs to recover these costs from customers. Specifically, Participant fees would not have been factored into DNSPs expenditure allowances for the current regulatory period.

Furthermore, given the Program will formally run over a period of approximately 5 years commencing in July 2022, there is insufficient information to enable DNSPs to provide a reasonably accurate forecast of Participant fee costs to include in expenditure forecasts for the next regulatory period. In addition to uncertainty over the relative involvement of DNSPs and the share of AEMO's costs attributed to DNSPs (in aggregate as a Registered Participant category and to DNSPs individually), variation in AEMO's budgeted annual revenue requirements also presents a challenge in forecasting Participant fees and recovering them from network customers.

We also believe the cost pass through mechanism cannot be relied upon - in lieu of being able to accurately forecast Participant fee costs - to allow DNSPs to recover Participant fee costs. This is because the costs apportioned to any individual DNSPs is unlikely to meet the cost materiality threshold required to trigger a pass through event. It is also unclear whether DNSPs could apply to recover their costs via the prescribed *regulatory change event* or whether a new nominated pass through event that explicitly captures Participant fees within its scope would be required.

Unlike DNSPs, TNSPs are able to recoup Participant fees following a 2022 rule which removed similar barriers to cost recovery. The rule included a significant delay to allow the requisite rule change process to proceed and transitional arrangements which require AEMO to provide transparency and certainty over fees to be charged to individual TNSPs. This allows TNSPs to directly pass through Participant fees via the annual transmission pricing process before eventually being reflected in regulated opex and factored into opex forecasts via the AER's conventional base-step-trend methodology.

At the time of the rule change, it was not considered DNSPs should be included within the changes that support cost recovery of Participant fees as their involvement was considered by AEMO to be immaterial and therefore they were not allocated a share of costs associated with AEMO's core NEM functions costs. To the extent DNSPs involvement becomes material, equivalent opportunities for cost recovery should be provided as a pre-requisite ahead of any allocation of Participant fees to DNSPs.

In summary, attributing Participant fees to DNSPs without a clear regulatory pathway to enable these costs to be recovered from customers would be inconsistent with the revenue and pricing principles. Importantly, this approach would not conform with AEMO's stated objective to develop a structure that is consistent with the NEL, and therefore Option 2 should be discounted as a viable option.

If you have any queries or wish to discuss our submission further, please contact Joe Romiti, Regulatory Analyst at joseph.romiti@endeavourenergy.com.au.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Colin Crisafulli', written in a cursive style.

Colin Crisafulli
Head of Network Regulation