

# RETAILER RELIABILITY OBLIGATION – CONSULTATION ON BOOK BUILD PROCEDURES

ISSUES PAPER

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## EXECUTIVE SUMMARY

The publication of this Issues Paper commences the first stage of the Rules consultation process conducted by the Australian Energy Market Operator (AEMO) to make the first voluntary book build Procedures (Book Build Procedures) for the Retailer Reliability Obligation (RRO) under rule 4A.H of the National Electricity Rules (NER).

AEMO has prepared this Issues Paper to facilitate informed feedback from National Electricity Market (NEM) registered Participants and other interested parties on a voluntary book build mechanism that is likely to efficiently meet the purpose and requirements expressed in the NER.

The purpose of the voluntary book build is to assist liable entities to find contracts that may help to meet their RRO liability, after the declaration of a forecast reliability gap three years ahead. AEMO has sought and received some informal feedback from industry representative bodies prior to the publication of this paper and this feedback is reflected in the draft Book Build Procedures.

Importantly, this feedback indicated broad in-principle support for a simple offer listing and introduction approach, with no involvement from AEMO in the clearing or settlement of contracts.

In summary, the key elements of the Book Build Procedures comprise:

- Criteria and conditions of accreditation to participate in a voluntary book build.
- When and how a book build will be initiated.
- The scope of the book build, describing the processes for submitting offers and registering interest in listed offers for book build contracts.
- Fees payable by Participants.
- Requirements for reporting on the outcome of contract negotiations initiated from a book build.
- The terms of the Book Build Participation Agreement (in the form of a deed) to be entered into by participants.

Written submissions on the draft Book Build Procedures are now invited.



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## 1. STAKEHOLDER CONSULTATION PROCESS

As required by the NER, AEMO is consulting on the Book Build Procedures in accordance with the Rules consultation process provided in rule 8.9.

AEMO's indicative timeline for this consultation is outlined below. Future dates may be adjusted depending on the number and complexity of issues raised in submissions and any meetings with stakeholders.

Deliverable	Date
Issues Paper published	14 August 2019
Submissions due on Issues Paper	19 September 2019
Draft Report published	17 October 2019
Submissions due on Draft Report	1 November 2019
Final Report published	20 December 2019

Prior to the Issues Paper submissions due date, stakeholders can request a meeting with AEMO to discuss the issues and proposed changes raised in this Issues Paper.

NEM registered Participants and other interested parties are invited to submit written responses on the questions identified in this Issues Paper and any other aspect of the draft Book Build Procedures. Stakeholders are requested to include reasons for their responses and (if applicable), details of any alternative options they consider may better achieve the relevant objectives. Submissions must be made in accordance with the Notice of First Stage of Consultation published with this paper.



## **2. BACKGROUND**

### **2.1 NER requirements**

The RRO commenced on 1 July 2019. The RRO framework is designed to send early investment signals to the market in relation to impending supply shortfalls, providing time and incentives to invest in new supply-side or demand response capacity to fill the predicted generation shortfall.

The RRO requires that, if a reliability gap period is forecast for a NEM region, liable entities enter into sufficiently firm 'qualifying contracts' to cover their share of the one-in-two year peak demand forecast for the region and reliability gap period. The share is based on the metered energy consumption at the liable entity's connection points in the reliability gap region.

A liable entity is required to demonstrate to the Australian Energy Regulator (AER) that it meets its qualifying contract requirement approximately one year before the commencement of the reliability gap period (T-1).

Liable entities may wish (but are not obliged) to use the new voluntary book build mechanism under Chapter 4A. H of the NER to assist in finding contracts with providers of new or uncontracted capacity. AEMO is required to conduct a voluntary book build process after the AER issues a 'T-3 reliability instrument' approximately three years before a reliability gap is forecast to arise and may conduct a further book build about a year later.

AEMO must develop and publish the Book Build Procedures under clause 4A.H.2 of the NER, after consultation in accordance with NER rule 8.9.

### **2.2 Context for this consultation**

This Issues Paper and the accompanying draft Book Build Procedures commences AEMO's consultation process. AEMO's aim is to determine and publish the final Book Build Procedures by the end of December 2019. This will enable a voluntary book build to be undertaken early in 2020, should a T-3 reliability instrument be issued by the AER following any forecast reliability gap period that may be identified in AEMO's 2019 electricity statement of opportunities (ESOO).

The book build mechanism is one option that liable entities may be able to use if they are unable to source sufficient qualifying contracts through bilateral negotiations. The book build is separate from the market liquidity obligations (MLO) placed on certain generators under Chapter 4A of the NER.

Participation is voluntary and, on the seller side, does not count towards an MLO generator's obligations. It is therefore difficult to assess the demand for the book build or the amount of capacity that may be offered through the book build. Accordingly, and consistent with feedback from market participants to date, the draft book build process has been designed to be as simple, efficient and cost effective as possible.



### 3. DISCUSSION

AEMO has developed an initial draft of the Book Build Procedures that, in the first instances, represents a low-cost mechanism. The book build will in the first instance have minimal features. This approach is also intended to minimise regulatory requirements that may otherwise apply to the operation of the book build and would significantly delay its availability.<sup>1</sup>

A minimalist approach will allow AEMO to quickly develop the processes and interfaces to support the first iteration of the book build mechanism should it be required in the short term, if the AER issues a T-3 reliability instrument in early 2020.

AEMO recognises that circumstances may change. Should high use of the book build warrant additional investment in systems and process, AEMO will revisit the book build design and procedures in consultation with industry. The way that participants seek to interact with the book build may also change over time. AEMO will monitor use of the book build and consider feedback from participants, as well as regulatory requirements, when evaluating future development of the book build mechanism.

#### 3.1 Fees for using the book build

AEMO intends to charge a fee for use of the book build to recover costs (NER 4A.H.4.b(iv)). AEMO has focused on providing a low-cost solution in the short term. This may be refined later with the benefit of experience and greater understanding of the demand for the book build, the way that participants choose to interact with the mechanism, and the types of offers that will be available.

In the first year of operation (2020), AEMO proposes to recover a nominal fee, (to be determined), from participants in the book build on a user pays basis. We propose that a book build fee is payable in respect of each *voluntary book build* by each person who is an accredited *book build participant* at any time from the commencement of that process to the date on which offers are closed. If participation is low, there may be a shortfall in cost recovery, which would need to be recovered through AEMO's broader participant fee structure.

#### 3.2 Participation in the book build

AEMO has taken the approach that the book build will only be open to registered NEM Market Participants and opt-in customers who are registered by the AER, as follows:

- For accreditation as a potential buyer in the voluntary book build (VBB Buyer):
  - A Market Customer or another category of Market Participant that could be a liable entity (other than a suspended Market Participant).
  - An Intending Participant in one of the above categories of Market Participant.
  - A person registered with the AER as a large opt-in customer or a prescribed opt-in customer;
- For accreditation as a potential seller in the voluntary book build (VBB Seller):
  - A Market Generator, Market Small Generation Aggregator, Market Customer or another category of Market Participant that can offer a qualifying contract (other than a suspended Market Participant)
  - An Intending Participant in one of the above categories of Market Participant.

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<sup>1</sup> Including in relation to financial services regulation. In parallel with this consultation, AEMO will consider whether it may be subject to any form of financial services regulation under the initial design or any proposed alternatives.



The remaining proposed criteria to become and remain accredited are:

- To enter into, and comply with the terms of, a book build participation deed.
- To pay fees and provide reports to AEMO when due in accordance with the Book Build Procedures.

AEMO has proposed to limit accreditation largely to Market Participants to streamline the accreditation process, noting that they will have already undergone AEMO's NEM registration process. Only opt-in customers registered with the AER are included in addition to registered Participants, to reduce the likelihood of participation by contract buyers who are not liable entities.

The inclusion of Intending Participants may assist those parties that have shown intent to join the market to possibly bring forward new projects underpinned by dispatchable generation. It will remain the responsibility of a potential contract buyer to ensure that the project will be completed by T-1 so the contract will be a qualifying contract.

- The Book Build Participation Agreement contemplated in NER 4A Part H(4)(b) is proposed to take the form of a deed to be executed by each participant before being allowed to participate in the book build. The deed will include undertakings for the benefit of AEMO and all other book build participants. A draft is provided for comment with this Issues Paper and the draft Book Build Procedures. As a minimum, NER 4A.H.4(b) provides that a book build participant will agree to:
  - Participate in the book build and negotiate in good faith.
  - Comply with the terms of the Book Build Procedures.
  - Indemnify AEMO against loss or damages arising out of its operation of the book build.
  - Pay any book build fees.

For transparency, AEMO proposes to publish a list of accredited book build participants on its website.

### **3.3 Limited role for AEMO**

AEMO does not have a role in any book build negotiations or transactions beyond listing offers provided by accredited sellers, providing an "introduction" for accredited buyers interested in a specified offer, and reporting usage data for the book build. AEMO will not assess book build participants or projects underpinning potential contracts, collect any form of credit support, or otherwise provide any assurance of:

- The creditworthiness of any book build participant.
- Whether the contract is a qualifying contract, the applicable firmness methodology or resulting firmness factor.
- The capacity of a book build participant to enter into or perform its obligations under the contract.

Book build participants are expected to satisfy themselves of these matters in the course of their negotiation. No standard form contracts will be prescribed by AEMO – this will also be for participants to agree.

### **3.4 Posting and Maintaining Offers**

The book build will operate in a manner similar to a bulletin board in that 'offers' containing minimum terms of the product, capacity and availability periods will be published on the AEMO website and publicly available to view (other than specified seller information such as contact details). While only accredited buyers will be able to request these details by notifying AEMO of their interest in a particular offer, the offers are listed publicly to encourage liable entities that are not yet book build participants to use the mechanism where an offer may meet their requirements.

To facilitate the posting of offers to the book build site, sellers will complete a template form including specified minimum terms and provide this to AEMO electronically (initially by email). Sellers will be required



to ensure that offers are for products that will meet specified criteria for qualifying contracts, however the buyers (as liable entities) are expected to undertake their own due diligence to confirm this, including the likely firmness factor of the contract for the purposes of covering its RRO liability.

The draft Book Build Procedures set out the proposed process and criteria for submitting and maintaining offers, and also explain the legal characterisation of offer terms submitted to the book build. Sellers must keep offer details up to date, and either replace or withdraw offers if the available capacity changes, through contracting or otherwise.

Upon receipt of an offer AEMO will:

- Perform rudimentary checks for completeness.
- Remove the seller's name, reference and contact details from the offer.
- Post the offer to the book build site within a maximum of two business days of receipt.

To establish contact with the seller for an offer, an accredited buyer can contact AEMO (initially by email) to obtain contact details for that specific offer. AEMO will not provide the contact details to anyone who is not an accredited buyer, and AEMO will also notify the seller of each buyer enquiry. A record will be kept by AEMO of who has been introduced to whom. For privacy law compliance purposes, the book build participation deed will require a participant to ensure that any personal information of a participant's representatives provided for contact purposes can be disclosed and used by AEMO as provided for on the Book Build Procedures.

Template offer forms are included as appendices to the draft Book Build Procedures. Through this process where AEMO brokers introductions, AEMO also gains important data on the volume of traffic on the book build site, this is important in understanding the need for any future development or automation of the book build process.

### 3.5 Reporting Requirements

Clause 4A.H.6 requires that book build participants provide information to AEMO for reporting purposes. In particular, this includes confirmation of whether contracts were entered into, to be provided within six months of the date AEMO conducts a book build. Section 7 of the draft Book Build Procedures clarifies that the six month period starts from the beginning of the book build process, and provides for the following specific information to be reported (noting identifiable details remain confidential information):

- The identity of all matched book build participants that the reporting participant contacted, or was contacted by, in relation to a book build offer.
- Whether a book build contract was entered into with a matched book build participant on the basis of that offer, and if so:
  - the date of the contract and name of the counterparty; and
  - any material departures from the offer terms published on the VBB Site;
- The duration of any negotiations that did not result in a *book build contract*.
- Whether any negotiations are ongoing as at the date of reporting.

AEMO intends to publish non-identifying information about the use of the book build mechanism, based on participant reporting. This is expected to include the number and total size (megawatt (MW) capacity) of book build contract offers received in respect of a forecast reliability gap in a given region, and the number and total size of resulting book build contracts entered into.



#### **4. SUMMARY OF MATTERS FOR CONSULTATION**

In summary, AEMO seeks comment and feedback on the following matters:

1. The proposed approach for a minimal, cost-effective book build mechanism, subject to further development if warranted based on experience.
2. The proposed criteria for accreditation to participate in the book build, limited to registered market participants and intending participants in the NEM, as well as opt-in customers already registered by the AER.
3. The proposed minimum terms to be included in an offer listed by AEMO in a book build.
4. The proposed fee basis.
5. The remaining content of the draft RRO Book Build Procedures, including the book build participation deed, published with this Issues Paper.

Submissions on these and any other matter relating to the proposed Book Build Procedures must be made in accordance with the Notice of First Stage of Consultation published with this paper by 5.00 pm (Melbourne time) on 19 September 2019.