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Dr Ray Challen
Steering Committee Chairman
Electricity Market Review (Phase 2)
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Dear Dr Challen

RESPONSE TO POSITION PAPER ON THE PROPOSED RELIABILITY ADVISORY COMMITTEE (RAC)

1. Introduction

Bluewaters Power welcomes the opportunity to provide comments on the issues contained within the document [“Position Paper on the Proposed Design of a Reliability Advisory Committee in Western Australia”](#).

Bluewaters assets are owned by Sumitomo Corporation and The Kansai Electric Power Company. Additionally, Sumitomo Corporation has a 50% interest in the NewGen Power Kwinana Power Station (328MW CCGT).

Bluewaters Power participates in the WA Wholesale Electricity Market as follows:

- **Generation:** 2 x 220MW (sent out) coal fired power stations, Bluewaters 1 and Bluewaters 2, located in Collie, and each “certified” by the IMO for 217MW of capacity. The power stations were both fully commissioned in 2009 (albeit 6 months apart) and typically provide ~15% to 20% of the energy consumed in Western Australia.
- **DSP Capacity:** Bluewaters Power operates a 20MW Demand Side Program through its relationship with a major contestable load (and energy off-taker).
- **Retail:** Bluewaters holds a Retail License and has long term contracts to supply ~220MW of retail load (ie. Bluewaters has responsibility for NMI which may draw up to 220MW).

2. Bluewaters’ overarching position

Bluewaters is supportive of the proposed arrangement to confer the reliability and security functions to a local independent entity. Given the Economic Regulation Authority’s (ERA’s) track record and its independence under section 28 of the [Economic Regulation Authority Act 2003](#) (ERA Act), the ERA would be a suitable entity to perform such functions.

Bluewaters is also supportive of the proposal to create a Reliability Advisory Committee (RAC) to advise the ERA in its performance of the reliability and security functions. It is anticipated that this body will provide the ERA with the required expertise leading to decisions which best meet the reliability and security requirements in Western Australia’s South West Interconnected System (SWIS).

Bluewaters notes that, as discussed in section 4.2.3 of the Position Paper, the following details relating to the proposed arrangement *may* be set out in Terms Of Reference at a later stage:

- Consultation process for the ERA’s system reliability and security determinations (discussed further in part 3 of this submission);
- RAC composition and members selection process (discussed further in part 4 of this submission); and
- ERA’s and RAC’s decision-making process (discussed further in part 5 of this submission).

It is Bluewaters' view that the above details are critical in promoting the fairness, transparency, clarity and efficiency of the proposed arrangement. As such, Bluewaters recommends that the Steering Committee direct or request the ERA to conduct public consultations in regard to the details above.

3. The consultation processes

3.1. Comprehensive consultation process

Bluewaters considers the public consultations process for the ERA's system reliability and security determinations should be comprehensively detailed in the appropriate legislative instruments. Bluewaters considers this will give clarity in regards to the consultation process which in turn will promote regulatory transparency.

In order to promote fairness and transparency of the consultation procedure, Bluewaters considers there should be two rounds of consultation (unless it is fast-tracked - discussed below) to give interested parties sufficient opportunities to provide inputs to a determination processes.

3.2. Fast track consultation – ERA determinations on power system reliability and security matters

Bluewaters considers there should be provisions to fast track a determination process if the ERA considers the subject matter to be non-controversial and/or urgent.

There should also be provisions to allow any party to object to the ERA's proposal to fast track a determination process. The provisions should oblige the ERA to follow the full consultation process if it receives such objection within a set period.

3.3. Fast track consultation – changes relating to reliability methodologies and processes

Bluewaters notes that (as discussed in section 4.1.1 of the Position Paper) the reliability methodologies and processes are proposed to be set out in the Wholesale Electricity Market Rules (Rules) and related Market Procedures. Therefore, the ERA will be required to propose a Rules change if it sees a need to change the methodologies and processes set out in the Rules (as a result of exercising its determination functions or otherwise).

In proposing a Rule change the ERA may have already consulted on the relevant matters under its own consultation process. Bluewaters is of the view that under some circumstances further considering the matters under the Rule Change Body's (RCB's) Rule change process may not add value to the final Rule determination. In those cases, Bluewaters recommends that the Steering Committee introduce provisions to enable that Rule change proposal (ie. where the MAC or RCB do not see the process adding value) to be fast-tracked. This is similar to section 96A¹ of the [National Electricity Law](#)².

Similar to the ERA determination process discussed in part 3.2 above, there should also be provisions to enable any party to object to the proposal for fast tracking the Rule change process. The provisions should also oblige the RCB to follow the full consultation process if it receives such objection within a set period.

Where fast-tracking is possible, Bluewaters considers the ERA's and RCB's determination processes are likely to promote a more efficient regulatory process.

3.4. Protected provision

Bluewaters also considers the ERA's consultation process should be protected and can only be changed with the Minister's approval.

¹ "Fast track" rules where previous public consultation by electricity market regulatory body or an AEMC review

² Note that the National Electricity Law is in a schedule of the *National Electricity (South Australia) Act 1996*.

4. RAC composition and members selection process

Bluewaters considers the RAC members composition and selection criteria should be clearly set out in the Terms of Reference and should be subject to industry consultation.

Bluewaters also considers the membership composition should be balanced and representing all segments of industry.

Importantly, prospective members should demonstrate understanding of the changing/contemporary landscape of the electricity industry and the implications on power system reliability and securities.

5. Decision making process

Bluewaters considers the decision making process should be set out in the Terms of Reference or related documents (e.g. the RAC Constitution with further detail in Market Procedures). Bluewaters recommends that the Steering Committee direct (or request) the ERA to propose a decision-making framework and subject it to public consultation.

Bluewaters considers the decision-making process should also include merits and procedural review processes. Bluewaters considers the decision making process should be protected and only be amended with the Minister's approval.

6. Clarity of roles and responsibilities

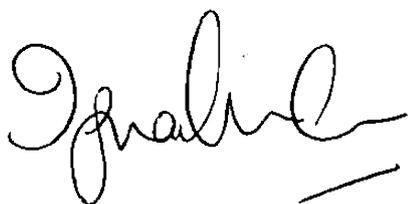
Bluewaters propose that the PUO clearly map out (and make available for public comments) the functions and responsibilities of the ERA, RCB, RAC, AEMC and AEMC Reliability Panel in regards to the reliability and security functions.

7. Smart regulation supported by staff with the appropriate expertise

Bluewaters considers carrying out the power system reliability and security administrative functions requires the ERA to be supported by highly skilled staff members with specialised technical knowledge and practical experience. This may necessitate the ERA to compete with the private sectors to attract suitably qualified staff members to enable effective execution of the functions. As such, Bluewaters considers ERA's effectiveness in carrying out the functions could be bolstered by adopting provisions similar to section 48(1) of Part 5 of the [Australian Energy Market Commission Establishment Act 2004](#)³ and related provisions.

Bluewaters thanks the Steering Committee for considering our comments. Please feel free to contact us if you have any queries or wish to discuss further.

Yours sincerely,



Ignatius Chin
Commercial & Regulatory Advisor

³ Under this provision, the [Public Sector Act 2009](#) does not apply to staff of the AEMC. This would give the AEMC the ability to provide a more flexible remuneration arrangement which in turn would enable it to attract suitably qualified staff members.