

17 February 2026

FERM Market Liquidity Obligation Consultation
Department for Energy and Mining
Government of South Australia

Submitted by email: dem.ferm@sa.gov.au

Re Firm Energy Reliability Mechanism (FERM) Market Liquidity Obligation consultation

The Australian Energy Council (AEC) welcomes the opportunity to make a submission to the Department of Energy and Mining (DEM) on the proposed FERM Market Liquidity Obligation (MLO).

The AEC is the peak industry body for retailers and generators operating in energy markets. Our members generate and sell energy to over 10 million homes and businesses. We seek to deliver a market that allows consumers to benefit from the transition to a reliable, affordable and decarbonised energy system.

The AEC supports the transition to net zero emissions by 2050, and the role of the electricity sector in unlocking opportunities for reductions in other sectors. AEC members are major investors in the renewable energy, firming and energy security services needed to deliver an effective transition.

Overall Views

The AEC supports the proposed alignment between the key features of the proposed SA FERM MLO and related recommendations from the NEM Review final report regarding a NEM-wide market making obligation (MMO). This is a logical position that could help streamline rules in the future.

However, we continue to question whether the proposed SA FERM MLO will help to increase liquidity in the market. South Australia is a relatively small market, with a limited number of buyers and sellers. We would suggest that priority be given to investing in new forms of firm capacity, so that overall capacity is increased.

Further, we note that the issue of liquidity in SA is largely structural and relates to the small firmed generating capacity in relation to load, high variable renewable energy (VRE) penetration, relatively low overall demand, market composition and the nature of interconnection. DEM has articulated why liquidity is an issue but not what problem it is trying to solve. The consultation paper has not defined which tenors (prompt vs out-quarters) face liquidity deficits, which products are most constrained, or what market segments lack access (small retailers, large commercial and industrial customers). In the absence of this, the proposed always on MMO may not be appropriate.

Our key points on the design features of the proposed MMO include:

- Bid/offer spread – we suggest that the spread for all quarters be aligned with other similar schemes. We note that the ASX market making arrangements allow for a spread of 10% or \$1 per MWh (whichever is the higher amount) on cap contracts.
- Application to prompt quarter - we remain concerned with proposed requirements to include the MMO on the prompt and next quarters. Applying the policy to these quarters could discourage prudent risk management from natural buyers, which would include stand-alone retailers and larger consumers with some wholesale market exposure. Perversely, this could risk reducing liquidity in the market.
- Contract types – we agree with including cap contracts initially, but flexibility should be provided to allow obligated parties to propose other options, as new contract types may evolve in the future.
- Obligated volumes – the MMO is proposed to apply a required minimum volume which is offered each trading day, based on registered capacity. However, this does not appear to account for units that may have been mothballed for commercial reasons. We suggest that an obligated participant's daily volumes be referenced to capacity that is currently in service. This should also exclude generators that have been contracted out for their entire volume, such as tolling agreements. It will also be important to manage the risk associated with aggregated positions. For example, there could be a temporary reprieve following large trades to ensure positions are manageable.
- Penalties – the proposed penalty regime appears overly strict. Generally, Tier 1 penalties are reserved for breaches of the security of the power system, not financial contracts. We suggest a fine regime would suffice. Also, consistent with the NEM Review recommendations, explicit exemptions are required to avoid tension with insider trading obligations in energy and financial regulations.
- Commencement – application of the proposed MMO from 1 July 2026 appears ambitious and leaves little time for final guidelines to be developed. This then leaves very little lead time (if any) for obligated parties to implement systems and compliance regimes to ensure they are capable of meeting their liabilities under the scheme. Overall, we would suggest that the MMO component of the scheme be deferred by at least six months.

Please find our responses to the specific consultation paper questions in the attached.

Any questions about this submission should be addressed to Matthew Kaspura, by email matthew.kaspura@energycouncil.com.au



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OFFICIAL



Government
of South Australia

Department for
Energy and Mining

Firm Energy Reliability Mechanism

Market Liquidity Obligation

Consultation Paper - Response
Template





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Date	17 February 2026
Please indicate any parts of your submission to be treated as confidential	

Question:

1. Do the proposed approaches of allowing obligated participants to participate at the group level (for REE's that are part of a larger corporate group) or to nominate a trading entity (e.g. for obligated participants that may not have trading resources/capability, or for instances when trading resources are unavailable) provide sufficient operational and commercial flexibility? Are there any risks with this approach?

Response: The flexibility proposed in these approaches is supported.

2. Do you have any concerns with the proposal to initially limit SA MMO products to ASX-style cap contracts?

Response: Cap contracts are an appropriate starting point. However, we suggest that the legislation provide flexibility to allow other products in the future, if they are developed by the market.

Further, we would suggest that cap contracts allow for products with different strike prices. Currently, \$300 caps are the most commonly traded and it is assumed that this is the



product the consultation paper is generally referring to. However, some generators and trading platforms also offer cap contracts with other strike prices and these should also be available for inclusion.

3. Would adopting a different (relaxed) bid/offer spread (Option one), or lowering the daily volume requirement (Option two) in the prompt quarter be an effective risk management tool for obligated participants? Which option do you prefer?

Response:

Overall, we do not support the application of the policy to the prompt quarter and the following quarter. These quarters are too short term in nature. Applying the policy to these quarters could discourage prudent risk management from natural buyers, which would include stand-alone retailers and larger consumers with some wholesale market exposure. This is because such parties may be incentivised to wait to hedge exposures (longer than they otherwise would) until these periods, to pick up contracts that must be offered on restricted spreads.

Further, by forcing generators to post prices in the prompt quarter, a disincentive to fully contract generation capacity is created, as generators may decide not to fully contract so as not to be exposed to selling SA caps through the MMO, which they cannot back with their generation portfolio.

If the policy must be applied to the prompt and following quarters, then a more relaxed spread combined with a reduced obligated volume is appropriate. We note that the ASX market making arrangements allow for a spread of 10% or \$1 per MWh (whichever is the higher amount) on cap contracts. We generally support this spread for all quarters.

4. What are the risks or complexities with adopting either of the options proposed in Question 3 above?

Response: The more relaxed spread coupled with reduced volumes (discussed in Question 3, above) is not viewed as adding further risk or complexity. It is a relatively simple policy choice that could reduce incorrect incentives.

We would also suggest the need to manage aggregate trading positions. For example, if a participant traded 20 or 30 MW one day, then they could be relieved the next day. This would manage the risk that consistently trading small volumes could create an unmanageable position in aggregate.



5. What is your preferred MMO trading window, 11:00 – 11:30 am or 3:30 – 4:00 pm (AEST) and why?

Response: -

6. Are there any risks with not stipulating a minimum firmness rating for SA MMO products?

Response: No

7. Do you have a view regarding the requirement for, and a potential approach to, including a mechanism to ensure bid/offer spreads are available for a minimum time each trade period (unless traded)?

Response: The minimum time should be less than the required trading window. For example, if the trading window is 30 minutes, the minimum requirement should be about 20 minutes.

8. Are there any additional capabilities or competencies to those outlined in the consultation paper that the Scheme Regulator could consider incorporating in a platform approval process?

Response: The proposed capabilities and competencies appear appropriate.

9. Do you agree with our approach to managing the interplay of the RRO/MLO and SA MMO via the SA MMO exemption process?

Response: Overall, the use of an exemption to ensure there are not two obligations at the same time, is supported. However, the process outlined in the consultation paper appears unnecessarily complex. We would suggest that the guidelines outline a deemed exemption process for the AER, so that dual obligations are avoided with certainty.

10. Does the proposed implementation timeframe for the SA MMO cause any concerns, or are there any further timing considerations that the Department should be aware of?

Response: The proposed implementation timeframe appears ambitious. Responses to this consultation process are due mid-February, and the South Australian Government will enter



caretaker mode soon after. An election is then scheduled for 21 March. Considering the time it will take before Parliament resumes (assumed to be in May), this leaves little time for guidelines to be developed, consulted on and passed into law. This then leaves very little lead time (if any) for obligated parties to implement systems and compliance regimes to ensure they are capable of meeting their liabilities under the scheme.

Overall, we would suggest that the MLO component of the scheme be deferred by at least six months.

11. What design elements could be included in the SA MMO framework implemented under the FERM Regulations to facilitate a smooth transition to a NEM-wide MMO?

Response: Aligning with the recommendations of the NEM Review final report, as has been proposed in this consultation paper, is supported.

In considering opportunities to align with the NEM Review recommendations, the SA FERM must also explicitly exempt participants when trading is prohibited under the Corporations Act 2001 and other regulatory frameworks. The ability to access five discretionary exemption days within a rolling 20-working-day-period will help mitigate risks associated with planned and unplanned outages. But it is important there is also recognition that there can be prohibitions on trading, such as for mandated information disclosure arrangements, that cannot be capped or ignored.

Further, once the SA FERM is in place, we would request that the South Australian Energy Minister no longer use their powers under the RRO to trigger the MLO under that scheme (as now the Minister would have the power to trigger the FERM MMO). Given this is being used as a test case for the NEM wide MMO, once that scheme is developed and implemented we would seek assurance that South Australia would support the abolishment of the entire RRO scheme for all jurisdictions (which includes the associated MLO associated with that scheme).
