



Submission to the Orderly Exit Management Framework Consultation

Mining and Energy Union, February 2024

The Mining and Energy Union's 22,500 members work across Australia's mining and energy industries, predominantly in the coal sector. In addition to export industries, our members work in Australia's coal-fired power stations, and the mines that supply coal for domestic power generation. Our members in the domestic coal sector have repeatedly seen anticipated closure dates for their worksites brought earlier by private sector operators, often with little regard for the impacts of closure decisions on the broader electricity network. Our members also grapple with the negative impacts of closures on their employment prospects and the long-term health of their local community.

The MEU has consistently drawn attention to the importance of an orderly energy transition. The impact of Australia's energy transition on the structure of our economy is simply too significant to leave to market forces. An orderly transition, led by careful government planning, is critical to energy security, the ongoing viability of our most important heavy industries, and the local economies of energy regions. Increasingly, governments in Australia are recognising this. The NSW Government is in ongoing talks with Origin about the future of Eraring Power Station and, last year, the Victorian Government and AGL entered into a Structured Transition Agreement that provides a mechanism to avoid a premature closure of Loy Yang A Power Station.

We welcome the recent decision of the Energy and Climate Change Ministerial Council to approve the establishment of an Orderly Exit Management Framework (the OEM Framework) for the retirement of thermal generators in the National Electricity Market (NEM). This is a necessary step to ensure energy security and grid stability throughout the energy transition, and we encourage state governments in the NEM to opt-in to the Framework when established. Additionally, planning for an orderly transition enables appropriate support and employment pathways to be developed for the affected workforce, and is essential for a successful socioeconomic transition in energy communities.

Apart from expressing our general support for the establishment of the Framework, below we make comment on selected points in the consultation paper which pertain to the Framework's treatment of 'captured' coal mines which supply OEM Generating Units. Captured coal mines are those which supply coal exclusively, or almost exclusively, to domestic coal-fired power stations, with limited ability to access export markets.

The interaction between government policy, privatised power generation, and captured coal mines (often operated by a different entity than the related power station) is resulting in complex and unusual circumstances for state governments to manage. The OEM Framework must be sensitive to the relationship between generators and captured coal mines, and the challenges faced by captured coal mines that supply to generators slated for closure in the near future. Though Australia's captured coal mines are limited in number, for the purposes of the OEM Framework, they should be treated the same in principle as the Generating Units they supply.

6.2.2.2. What information are OEM Generators required to provide?

The consultation paper appropriately proposes that information on supply contracts with related entities and third parties be considered Prescribed Information to be provided to the AER, along with the Jurisdiction Minister and AEMO. The details of supply contract information suggested by the consultation paper on page 27 are also appropriate.

We assume that ‘supply contracts with related entities and third parties’, as referred to in the consultation paper, includes contracts between OEM Generators and coal suppliers. Information on coal supply contracts will be essential to ensure that the OEM Framework can operate successfully for coal-fired OEM Generating Units.

8.3. Technical and financial due diligence reports

The consultation paper proposes that the Jurisdiction Minister be able to direct the commissioning of confidential technical and financial due diligence reports on the position of the OEM Generator and Generating Unit, and for these to be provided to the Jurisdiction Minister, the OEM Generator, AEMO, and the AER. In identifying the technical requirements, issues, and risks associated with continued operation of a coal-fired OEM Generating Unit, technical due diligence reports should consider the importance of consistent fuel supply for maintaining compliance with environmental standards. Switching to a coal source with, for example, a higher sulphur content at a power station lacking a scrubber would impact on compliance with air pollution standards. Similarly, the environmental compliance of a Generating Unit’s associated ash dam could be compromised by a change in coal source.

In addition to assessing the technical and engineering requirements of continued operation, we strongly support the proposal for the technical due diligence report to identify work health and safety issues associated with the continued operation of OEM Generating Units. MEU members at coal-fired power stations frequently express concerns about safety risks at power stations slated for closure, invariably due to a reticence shown by Generators to invest in necessary plant maintenance.

For the purposes of technical due diligence reports, captured coal mines should be considered ‘necessary associated facilities’ of coal-fired OEM Generating Units. This would provide assurance that supply to a coal-fired OEM Generating Unit is secure throughout any period of extended operation, and that the health and safety of the production workforce is given equal attention to the power generation workforce, especially given both workforces are critical to the energy sector and will face similar upheaval through the energy transition.

It may also be appropriate for captured coal mines to be directed to prepare financial due diligence reports, where there is reason to believe that coal supply to an OEM Generating Unit is at risk of disruption due to financial difficulties at the captured coal mine, notwithstanding the financial position of the OEM Generating Unit. Furthermore, in select cases, some larger captured

coal mines are subject to the requirements of the Safeguard Mechanism which carries associated compliance costs.

10.2. Content of the Notice for Mandatory Operation

The consultation paper proposes that, where a voluntary negotiated agreement cannot be reached between the Jurisdiction Minister and System Significant Generator, a Notice for Mandatory Operation may be issued by the Jurisdiction Minister. We acknowledge that, due to the variability of circumstances across generators and jurisdictions, it is appropriate for Notices for Mandatory Operation to be 'bespoke' and for the OEM Framework to avoid prescriptiveness. However, we recommend that captured coal mines be considered as 'related entities that provide essential services to the System Significant Generator' for the purposes of a Notice for Mandatory Operation.

We strongly support the consultation paper's proposal that the Notice for Mandatory Operation require the System Significant Generator to use 'all reasonable and best endeavours' to maintain arrangements with related and third-party service providers. This requirement should include the negotiation (or renegotiation) of fair coal supply contracts with coal mine operators that are conducive to ongoing production at captured coal mines for the full life of the power station, understanding the capital nature of mining investments. In certain circumstances, use of a price cap mechanism to set contract prices may be appropriate.

The consultation paper also proposes that the 'maintenance and operation of ancillary plant such as coal unloaders and conveyers' be specified in the Notice for Mandatory Operation. Notices for Mandatory Operation should take a broad view of ancillary infrastructure, noting that there are cases where ancillary infrastructure is under ownership of the captured coal mine operator rather than the OEM Generator.

10.10.3.3. Fuel costs

We support the consultation paper's proposal for the AER to determine the forecast fuel price for the purposes of determining the fuel costs of a System Significant Generator. It is understandable that the AER would seek to interrogate the 'efficiency' of Generators' contracting strategies and 'future fuel supply options', however any assessment of supply contracts must take a broad view of 'efficiency' that encompasses more factors than only fuel price, as coal grades and infrastructure play a critical role in shaping 'efficient' supply chains to power stations.

Given the long-term, embedded relationships between coal-fired generators and captured coal mines, existing infrastructure favours the continuation of existing supply relationships. There would be additional costs involved in riling coal supply over greater distances, in addition to additional strain placed on rail network infrastructure. Furthermore, coal-fired generators are built to operate with the specific grades of coal that are supplied by captured mines. In many cases, coal from alternative suppliers would need to be mixed to, for example, reach the appropriate sulphur or ash content for the Generating Unit. The potential environmental impacts of switching to a different coal supply are already outlined above in our response to Part 8.3 of the

consultation paper. These factors must be considered by the AER when assessing fuel costs and comparing against alternative supply options.

10.12. Work health and safety obligations

We support the requirement for the System Significant Generator to retain responsibility for meeting work health and safety obligations at generating assets covered by a Notice for Mandatory Operation. We would similarly expect that operators of 'related entities', including captured coal mines, would remain responsible for fulfilling work health and safety obligations at their worksites.