

12 September 2019

Mr John Pierce AO
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodged via AEMC website

Dear Mr Pierce,

TRANSPARENCY OF NEW PROJECTS (ERC0257): DRAFT DETERMINATION

The Clean Energy Council (CEC) is the peak body for the clean energy industry in Australia. We represent and work with hundreds of leading businesses operating in renewable energy and energy storage along with more than 6,000 solar and battery installers. We are committed to accelerating the transformation of Australia's energy system to one that is smarter and cleaner.

The CEC welcomes the opportunity to provide comment on the Australian Energy Market Commission's (AEMC's) draft determination on the transparency of new projects rule change proposal. The CEC supports the approach the AEMC has taken to transparency through its more preferable rule. With the significant amount of generation expected to enter the National Electricity Market (NEM) in the near future, we support enhancements to market information that encourage more transparency and collaboration in the market, thereby allowing renewable energy developers to make more informed decisions.

The CEC is pleased to see that the AEMC has adopted our suggested approach to assign the reporting requirement on the Transmission Network Service Providers (TNSPs) to provide connection enquiry and application information to the Australian Energy Market Operator (AEMO). This will alleviate the administrative burden across the industry while also ensuring consistent and easily accessible data through a 'one stop shop' on AEMO's generator information page.

While the CEC broadly supports the draft determination's approach to transparency, we believe there are certain elements that require deeper development and consideration to improve the efficacy of the proposed rule. Specifically, we would like:

- To better understand the detail of how the deemed to be registered participants will function in practice as the draft rule contains limited detail on this matter.
- The AEMC to consider the potential impact of publishing both connection enquiries and connection applications in the same manner.
- To make several comments regarding the forthcoming AEMO information guidelines that will be developed by 6 February 2020.
- Information transparency on projects intending to connect to the distribution network.
- Some refinements and clarifications around implementation of the proposed rule.

We expand on these further in the remainder of this submission.

Deemed to be registered participants

The CEC supports the AEMC's intention behind creating the deemed to be registered participant profile for Asset Sale Developers (ASD). This approach will allow ASDs to access the information they require to undertake modelling studies for their developments. However, it is difficult to understand how this deemed profile will work in practice with the limited detail provided in the draft determination. Further detail is needed in order for industry to understand and comment on the deemed to be registered participant structure for ASDs. The CEC understands this information may be detailed by AEMO following the final rule, however we suggest there is benefit in the AEMC clarifying the practical detail of this framework prior to the finalisation of this rule and in consultation with industry. For clarity, the CEC supports AEMO being the discretionary party managing this process but further information is appropriate at this stage.

The draft determination states that ASDs will be deemed to be registered in order to obtain relevant information and will be subject to confidentiality clauses.¹ However, the process that developers must undertake to become deemed to be registered is not clear. The CEC would welcome further clarity from the AEMC regarding what requirements must be met by the proponents in order to be deemed as registered and the process AEMO will use to deem these proponents. How developers maintain their status as deemed to be registered should also be clarified.

The level of transparency of these participants is important in order that other market participants can know which parties have been deemed to be registered participants and granted access to certain confidential data. It is unclear in the draft determination if deemed to be registered will be a new participant category recognised by AEMO. Irrespective of its category status, given that AEMO publishes a list of all participants on its website, the CEC suggests proponents that are deemed to be registered participants should also be published in this list. Publishing this information may also assist with facilitating more collaboration between project proponents within the market.

The CEC's earlier submission to the AEMC's consultation paper noted concerns regarding the security of confidential data when provided to participants that have no intention of participating in the market.² We note the AEMC did not deem this to be a valid concern in the draft determination, stating the application of civil penalties is a sufficient measure to ensure confidentiality is not breached.³ The CEC suggests the AEMC revisit this concern to assess if the civil penalties framework is a sufficient deterrent to ensure data remains confidential.

¹ AEMC, Transparency of new projects draft determination, 1 August 2019, p 10, available at <https://www.aemc.gov.au/sites/default/files/2019-07/ERC0257%20-%20Draft%20determination%20-%20for%20publication.pdf>

² CEC, Submission on transparency of new projects consultation paper, 23 May 2019, available at <https://www.aemc.gov.au/sites/default/files/2019-05/Clean%20Energy%20Council%20-%20ERC0257%20Submission.pdf>

³ AEMC, Transparency of new projects draft determination, 1 August 2019, p 26, available at <https://www.aemc.gov.au/sites/default/files/2019-07/ERC0257%20-%20Draft%20determination%20-%20for%20publication.pdf>

Ensuring sufficient confidentiality requirements are placed on deemed to be registered participants is equal if not more important than confidentiality on intending participants. An intending participant has an incentive to ensure data confidentiality is not breached to ensure their future registration is not jeopardised. A deemed to be registered party does not have this same incentive and proposing a less robust confidentiality framework than the intending participant category may not be suitable.

Further consideration should also be given to the level of access deemed to be registered participants have to NEM standing data through the yet to be developed framework that will govern these participants. In the future, NEM standing data may potentially contain granular confidential customer information through the distributed energy resources (DER) register or other sensitive data sets. It is important this data remains protected to ensure that customer confidentiality is maintained.

Finally, the CEC suggests that the requirement outlined in the draft determination for AEMO to review the intending participant category to ensure it is kept relevant is extended to the deemed to be registered participant list.⁴ This will ensure this list is kept up to date and only parties that have projects that are making sufficient development steps maintain deemed to be registered status.

Connection applications and connection enquiries

There is a clear distinction between connection applications and connection enquiries. Transparency of these two sets of information presents differing levels of value to the market. The CEC supports transparency of information pertaining to individual connection applications as these projects are highly likely to proceed to completion and can contribute to collaboration in the industry.

In the CEC's previous submission, we suggested that given the speculative nature of connection enquiries, data at this stage in project development should be published in an aggregated form.⁵ The CEC suggests this concern is still valid and we do not believe it has been sufficiently addressed through the draft determination.

The draft determination states that the same level of information will be collected for connection enquiries and applications by TNSPs and passed through to AEMO and the forthcoming AEMO guidelines will outline what level of detail will be published on the generator information page.⁶ The clean energy industry supports the intention behind transparency of connection enquiries and applications, however we suggest that the AEMC should further consider the value that less certain to proceed connection enquiry information presents to the market and provide guidance to AEMO in the final determination on what level of transparency is suitable for connection enquiries.

The CEC would like to raise two concerns with full transparency of connection enquiries being made available to the market. Our first concern relates to the tension between

⁴ Ibid., p 10

⁵ CEC, Submission to transparency of new projects consultation paper, 23 May 2019, available at <https://www.aemc.gov.au/sites/default/files/2019-05/Clean%20Energy%20Council%20-%20ERC0257%20Submission.pdf>

⁶ AEMC, Transparency of new projects draft determination, 1 August 2019, p 10, available at <https://www.aemc.gov.au/sites/default/files/2019-07/ERC0257%20-%20Draft%20determination%20-%20for%20publication.pdf>

transparency of less certain information versus accuracy and the benefits to the broader market. We agree that a degree of transparency of information on potential nearby projects is valuable to the market and can assist with decisions around location, size and technology type. However, the accuracy of that information may have an adverse impact that outweighs the benefits and could lead to less efficient outcomes in the market based on developers acting on less certain information presented in speculative connection enquiries.

Connection enquiries, being less certain to proceed, are likely to contain information on a project that is still subject to significant changes. For example, the location of the project may not be confirmed and proponents may in fact lodge several enquiries in separate locations for a single project. Enquiries may also be abandoned altogether in favour of a more favourable project. Requiring developers to notify TNSPs of material change in project specifications will alleviate this concern to some degree, but it will not completely resolve the issue. As the generator information page is proposed to be updated once every three months this leaves a large period of time where less certain connection enquiry information will exist in the market.

Our second concern is with the potential impacts of speculative connection enquiry information on the investment necessary to continue the energy system transition that is underway. It is possible that by releasing granular enquiry information with the intention of creating a greater level of transparency, this could in fact deter legitimate investment in an otherwise valid location if a large number of enquiries for that particular location do not proceed. With the current transition underway and the significant generation investment required to meet demand as thermal generators retire, discouraging investment based on less certain to proceed enquiries would be a negative outcome of this rule change request.

In order to address this concern, the CEC suggests the AEMC consider the following options:

- Aggregate connection enquiry data by total MWs of enquiries and the number of projects proposed, both by technology type, around grid connection points or at a regional level that adequately balances the size of the region and the granularity and usefulness of the information. We do not believe that GPS coordinate information at the connection enquiry stage is valuable to developers.
- Establish a formal period for connection enquiries to expire and as such are automatically removed from the public record if they have not progressed to connection application after a set period of time.
- Review and standardise the connection enquiry cost to ensure the enquiries displayed on the generator information page all display the same level of intent to proceed. We understand that connection enquiries across TNSPs attract varying costs, meaning a connection enquiry may be lodged with more intent in some regions than others.

The CEC believes the greatest value from connection enquiry information that will assist developers to make informed decisions will be in trends identified in each update of the generator information page. We suggest AEMO or TNSPs focus connection enquiry information on a brief trend analysis alongside the quarterly publication of the generator information page. This could include an assessment of the number of new enquiries, removed or expired enquiries, enquiries that have not progressed and enquiries that have progressed to connection application, on aggregate for a TNSP and again broken down by technology types and for particular connection points or regions.

Generator information guidelines

The draft determination notes that AEMO will be tasked with producing guidelines that will govern the generator information page, the types of information published and the flow of information between TNSPs and AEMO.⁷ The CEC understands that AEMO will follow the an amended consultation process to seek stakeholder feedback on this document.⁸ Given the draft rule determination states that the guidelines must be published by 6 February 2020 and the consultation will be the amended process, the CEC would like to proactively make several comments we believe will strengthen the forthcoming guideline development.

Our first comment relates to the draft determination requirement for developers to notify AEMO, via TNSPs, of ‘material change’ to key connection information.⁹ These thresholds will likely need to be set separately for each category of key information as a standard material change definition for maximum power generation and forecasted completion date would not be suitable. The CEC suggests this threshold must be set at a level that adequately balances the need for relevant and up to date information to be made available to the market and the added administrative burden placed on industry and TNSPs. We also suggest the AEMC ensure that the definition of material is consistent across the NEM. For example, it would be an inefficient outcome if developers operating in more than one state had differing reporting requirements for their projects in different jurisdictions.

The draft determination states that AEMO will be required to update the generator information page on a quarterly basis and that stakeholder support for the update timing was split between monthly and quarterly.¹⁰ We also note that AEMO stated it would be possible to conduct the update quarterly without major system reform and that a monthly requirement may require a longer implementation timeframe.¹¹ The CEC suggests that a quarterly update cycle is set initially with an expected transition to a monthly update within a certain period. This will allow the current information to become initially available with minimal changes required by AEMO whilst also allowing it time to implement the changes needed to increase the frequency of publication. A monthly update cycle would be more valuable to developers and would support the current rate of the transition.

The CEC also suggests that AEMO be required to incorporate the information collected as a result of this rule change on their NEM region generation information maps.¹² These are already a valuable resource for industry that would be further strengthened with a connection information overlay. As detailed above for connection enquiries, it would also be beneficial for AEMO or TNSPs to provide some analysis alongside the publication updates noting key trends in both connection enquiries and connection applications. It is our understanding some TNSPs are already considering this level of analysis to facilitate collaboration between proponents in advance of the final rule.

⁷ Ibid., p 11

⁸ Ibid., p iv

⁹ Ibid., p 10

¹⁰ Ibid., p 37

¹¹ Ibid., p 34

¹² AEMO, NEM generation maps, available at <https://www.aemo.com.au/Electricity/National-Electricity-Market-NEM/Network-connections/NEM-generation-maps>

The CEC looks forward to engaging with AEMO on the consultation for the generator information guidelines ahead of the 6 February 2020 guideline publication.

Distribution Network Service Provider framework

The CEC notes the AEMC has decided not to extend the draft rule to include the Distribution Network Service Providers (DNSP) as the National Electricity Rules (NER) provisions for DNSPs would require a separate wholistic review.¹³ We suggest the AEMC should clarify their position regarding transparency of generators connecting to the DNSP network. Does the AEMC believe transparency of projects at the DNSP level is important? If so, will a review of the required NER frameworks begin as a result of this final rule?

The clean energy industry believes that transparency of projects at the DNSP level is very important. We understand that in some regions up to 35 percent of projects are connecting to the distribution network rather than the transmission network. Providing developers with only two thirds of the potential future generation picture cannot support fully efficient investment decisions in new projects.

We also suggest the AEMC consider the transparency of new loads/customers that are connecting to the transmission and distribution networks as this information could further assist developers when making locational decisions for new generation projects.

Implementation

The CEC understands that connection enquiries and applications made:

- Before 31 October 2019 – will not be subject to the new rule.
- After 31 October 2019 and before 20 February 2020 – may be subject to the new rule as the draft determination indicates these will be made transparent if the proponent gives consent to the TNSP to pass the information to AEMO for publication.
- From 20 February 2020 – will be subject to the new rule.

We are concerned this implementation will not provide visibility of the significant pipeline of projects associated with connection enquiries and applications that have already been lodged or will have been by 31 October 2019. While we appreciate that new rule requirements cannot be placed on existing enquiries and applications that will have been lodged before the final rule is made, having no visibility of this information does not provide an accurate picture of the market reality. The AEMC should consider how information on these can be made more transparent, perhaps through some form of aggregation alongside a requirement that TNSPs contact existing enquires and applications asking if they would approve their information being made transparent in accordance with the new rules.

We also believe amendments are appropriate for connection enquiries and applications made in the interim period between 31 October 2019 and 20 February 2020 as proponents may not provide consent under the proposed rule. The CEC suggests that the final rule require developers to ‘opt out’ of providing project details to AEMO for enquiries and applications received in this interim transition period. Requiring proponents to opt out

¹³ AEMC, Transparency of new projects draft determination, 1 August 2019, p 41, available at <https://www.aemc.gov.au/sites/default/files/2019-07/ERC0257%20-%20Draft%20determination%20-%20for%20publication.pdf>

rather than opt in may increase the number of projects that are transparent to the market during this period.

Finally, we ask the AEMC to clarify the treatment of existing connection enquiries and those made up until 20 February 2020. In particular, we would like to understand whether these would fall under the requirements of the old rule or new rule if they progress to application. While it may be the AEMC's intent that they fall under the requirements of the new rule, and the CEC agrees that this would be appropriate, this should be explicitly stated to avoid any doubt. Relatedly, once the final rule is made, TNSPs should be required to write to all connection enquires and applications explaining how the changed requirements apply to that particular project.

Thank you for the opportunity to comment on this consultation. The CEC believes that transparency of new projects can be valuable to developers and investors in the renewable energy sector and looks forward to working with the AEMC to ensure the full value of the proposed rule is realised. If you would like to discuss any of the issues raised in this submission, please contact Tom Parkinson, Policy Officer, on (03) 9929 4156 or tparkinson@cleanenergycouncil.org.au, or myself, as outlined below.

Yours sincerely,



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