

2 October 2014

Mr John Pierce
Chairman
Australian Energy Market Commission
Level 5, 201 Elizabeth Street
Sydney NSW 2000

Dear Mr Pierce

The NSW DNSPs' response to the *National Electricity Amendment (Connecting Embedded Generators Under Chapter 5A) Rule 2014 Draft Determination*

The NSW Distribution Network Service Providers, Ausgrid, Endeavour Energy and Essential Energy (the NSW DNSPs) welcome the opportunity to provide this joint submission in response to the *National Electricity Amendment (Connecting Embedded Generators Under Chapter 5A) Rule 2014 Draft Determination*.

We support the draft Rule and consider it more preferable to the original rule proposed. We note that the draft Rule applies to proponents of non-registered embedded generators (generators with a generating capacity of less than 5MW). Where these proponents are not eligible for a basic or standard connection offer made by a DNSP, they may use either the detailed Chapter 5 embedded generator connection process or the less prescriptive and more flexible negotiated connection process set out under Chapter 5A. In this respect, we note that the draft Rule does not replace the existing Chapter 5A process, or create any new connection processes in the NER.

Overall the draft Rule is more preferable because the original Rule as proposed was problematic from a practical and legal perspective. This was because the proposed drafting of the Rule restricted the current design and framework of Chapter 5A by mixing substantive and procedural requirements. This was of concern because Chapter 5A was introduced as a means of streamlining the connection process for customer and generator connections.

We are pleased that the draft Rule has addressed our concerns and removed the "negotiated connection application" stage. As noted in our consultation paper submission, a DNSP will not be able to provide all the relevant information needed to support a "negotiated connection application" before the connection applicant has provided a detailed project scope including the type and nature of the equipment to be used. In addition, we support that the draft Rule does not include the provision of connection applicants' access to our legal advisers due to conflict of interest concerns.

We also support the AEMC's conclusions that the proposed amendments to power transfer capability, exemptions from charges for forecast load growth, dispute resolution and distributor liability are not required as the relevant Chapter 5A provisions are "sufficiently clear in their scope and intent or are otherwise appropriate". In relation to fees and charges, we support that the AEMC has removed the proposed limitation of DNSPs being able to charge fees to cover the cost of negotiation. This is because it is appropriate for the DNSP to charge for the reasonable costs of all work anticipated to arise from investigating the application to connect and preparing the associated offer to connect, including the extraction and interpretation of modelling data.

We note and support the policy intent that the ability to select the Chapter 5 embedded generator connection process is only available to non-registered embedded generators (to whom a basic or standard connection offer is not available).

However, we are concerned that the current drafting of clauses 5A.A.2(b-c) may inadvertently allow non-registered embedded generators that have a basic offer available to elect to use the Chapter 5 process. This is because clause 5A.A.2(b) makes no reference to availability of a *basic connection service* as a reason to preclude the use of the Chapter 5 process.

In relation to when the proponent chooses which Chapter to negotiate under, we understand that the policy intention is that the election can only be made before a preliminary enquiry has been made under Chapter 5A. However, a preliminary enquiry is an optional stage so it is arguable that even if an applicant has commenced the Chapter 5A process (but has not made a preliminary enquiry), it is still eligible to make an election that Chapter 5 applies. We therefore submit that the more appropriate threshold as to when a proponent can elect for Chapter 5 to apply may be "when a connection application has been submitted or preliminary enquiry is made (whichever occurs first)". Furthermore, draft clause 5A.A.2(e) refers to a valid election under paragraph (c). A more accurate description would be to refer to paragraphs (c) and (d).

We note that the draft Rule requires all completed Chapter 5A embedded generator projects other than micro-embedded generation projects to be included in a public register and that DNSPs will be able to choose whether two separate registers or one single register is preferable. We also understand that the information in the register is to be made available regarding successfully connected embedded generation projects that occur following the commencement of any final Rule for an initial five year period. After this time, the register will also be a rolling five year register.

However, we are concerned that the drafting does not specifically support the policy intent that DNSPs are able to choose whether to maintain a single register (for the purposes of Chapters 5 and 5A) or two separate registers. As currently drafted, DNSPs would be required to establish two separate registers; a Chapter 5 register from 1 October 2014 and a separate Chapter 5A register from the time the draft Rule commences. We therefore submit that the drafting should be amended to make clear that the register requirements under Chapters 5 and 5A can be addressed by the same register. In addition, we submit that amendments are also required to clause 5A.D.1A(b)(5) to remove the requirement for the publication of single line diagrams in the register of completed embedded generation projects. Single line diagrams are not informative for this level of network connection¹ and would be difficult to administer from an operational perspective.

We are also concerned that the AEMC considers that all provisions of Chapter 5 apply if the Chapter 5 process is followed. We submit that while this should be generally true, non-registered embedded generators should not be eligible for the locational component of prescribed TUOS services that would have been payable by the DNSP to a TNSP had the connection applicant not been connected to its distribution network.

Avoided customer TUOS charges for the locational component of prescribed TUOS services are specifically designed for larger registered generators which have a defined impact on load on the distribution network. As generators under 5MW generally do not have such an impact, a requirement to pay avoided TUOS and the administrative burden and costs associated with the calculation and payment of an avoided customer TUOS charge would not be not proportionate to

¹ Single line diagrams supplied as part of a customer application only depict that customer's local connection and not how that generator is connected within our network. In addition, these installations are typically associated with a load, and it may be unclear from the diagram to those unfamiliar with the installation which elements are required for the generator and which are required to supply the load.

the amount avoided. Accordingly, we believe it is necessary to make amendments to Rules 5.5(a) and 5.5(h) to exclude the application of avoided TUOS charges from non-registered generators. We propose some alternative drafting to address this issue as well as the issues identified above in Attachment A.

If you would like to discuss our submission further or arrange a meeting with NSW DNSP representatives, please contact Ms Jane Smith, Manager Network Regulation at Ausgrid on (02) 9269 2023 or Mr Mike Martinson, Group Manager Regulation at Networks NSW on (02) 9249 3120.

Yours sincerely



Vince Graham
Chief Executive Officer
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Attachment A – Drafting amendments to the AEMC’s proposed amendments to the NER

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Generally the draft Rule is consistent with the Draft Determination. However, we recommend the following changes (identified in **bold** and with reference to the Draft Determination subheadings):

Who can choose?

The following amendments to draft clause 5.A.A.2 are required to ensure that only non-registered embedded generators, who are not micro embedded generators, and for whom a basic or standard connection offer does not exist, are eligible to elect to negotiate under Chapter 5.

“(b) Where a non-registered embedded generator wishing to *connect* an *embedded generating unit* to a *Distribution Network Service Provider’s network*:

(1) falls within a particular class (or subclass) of *connection applicant* for which that *Distribution Network Service Provider* provides a **basic connection service or standard connection service** this Chapter will apply;

(2) does not fall within a particular class (or subclass) of *connection applicant* for which that *Distribution Network Service Provider* provides a **basic connection service or standard connection service**, paragraph (c) will apply.

(c) A non-registered embedded generator that meets the requirements in paragraph (b)(2) may elect to seek *connection* of the relevant *embedded generating unit* under rule 5.3A instead of this Chapter.”

What is an embedded generator proponent choosing?

Eligibility for avoided TUOS charges

The draft Rule amends the definition of 'Generator' to include non-registered embedded generators who elect for Chapter 5 to apply and as a result, those embedded generators will be eligible for avoided TUOS charges under rule 5.5(h). To exclude the application of avoided TUOS charges from non-registered embedded generators, we recommend making the following amendments to Chapter 5 Rules 5.5(a) and 5.5(h) as in force from 1 October 2014:

“...(2) **subject to paragraph (h)**, the references to a *Connection Applicant* are to an *Embedded Generator* or *Market Network Service Provider* who makes a *connection enquiry* under clauses 5.3.2 or 5.3A.5 or an application to *connect* under clauses 5.3.4 or 5.3A.10 in relation to any *generating units* or group of *generating units*, or any *network elements* used in the provision of *network service*, as the case may be.”

“...(h) A *Distribution Network Service Provider* must pass through to a *Connection Applicant*, **except a non-registered embedded generator as defined in clause 5A.A.1**, the amount calculated in accordance with paragraph (i) for the locational component of *prescribed TUOS services* that would have been payable by the *Distribution Network Service Provider* to a *Transmission Network Service Provider* had the *Connection Applicant* not been connected to its *distribution network* (**'avoided charges for the locational component of prescribed TUOS services'**).”

When does an embedded generator choose?

Amendments to draft clause 5A.A.2(d) are required to make clear that once an enquiry has been submitted under clause 5A.D.2 or a connection application is submitted (whichever is earlier), the non-registered embedded generator cannot elect to opt into Chapter 5:

"...(d) Any election made by a non-registered embedded generator under paragraph (c) must be:

(1) made before an enquiry is made under clause 5A.D.2 **or in the absence of an enquiry, before a connection application is submitted to the relevant Distribution Network Service Provider;**

(2) in writing; and

(3) delivered to the relevant *Distribution Network Service Provider*."

In addition, amendments to draft clause 5A.A.2(e) are required to make clear that a valid election must meet the requirements of both clauses 5A.A.2(c) and (d):

"...(e) If a non-registered embedded generator:

(1) makes a valid election under paragraphs (c) **and (d)**; and

(2) lodges an enquiry under clause 5.3A.5."

Information to make a choice

Register of generating plant

Amendments are required to draft clause 5A.D.1A to make clear that the requirement to establish a register under Chapter 5 and 5A can be addressed by the same register:

"...(e) The *Distribution Network Service Provider* may establish and update the register referred to paragraphs (b) and (d) by incorporating the required information into the register established under clause 5.4.5."

In addition, in order to clarify the meaning of review date in draft clause 5A.D.1A(d)(2) and to also make the same consequential change to clause 5.4.5(d)(2) the following amendment is required,

"...(2) in the fifth year after the establishment of the register (**review date**), and in each year thereafter, update the register by the DAPR date with details of all completed non-registered embedded generation projects in the 5 year period preceding the review date."

We submit that amendments are also required to clause 5A.D.1A(b)(5) to remove the requirement for the publication of single line diagrams in the register of completed embedded generation projects.

“(b) In relation to completed non-registered embedded generation projects, a *Distribution Network Service Provider* must establish and *publish*, on its website, a register of the *plant*, including but not limited to:

- (1) technology of *generating unit* (e.g. *synchronous generating unit*, induction generator, photovoltaic array, etc) and its make and model;
- (2) maximum power *generation* capacity of all *embedded generating units* comprised in the relevant *generating system*;
- (3) contribution to fault levels;
- (4) the size and rating of the relevant *transformer*;
- ~~(5) a single line diagram of the connection arrangement;...~~”

Implementation and Transitional Arrangements

In our view, draft clauses 11.69.1 and 11.69.2 do not provide clarity but instead create confusion. This is because an enquiry made before the draft Rule commences would not give a non-registered embedded generator any right to elect to opt in to the Chapter 5 process after the Rule commences. Therefore clause 11.69.2, which would seek to ensure the Chapter 5A process continues, is superfluous.