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Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Sir

**CONSULTATION PAPER: NATIONAL ELECTRICITY AMENDMENT
(DISTRIBUTION NETWORK PLANNING AND EXPANSION FRAMEWORK)
RULE 2011**

Thank you for the opportunity to provide input to the *Consultation Paper, National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011* released on 29 September 2011.

Aurora Energy Pty Ltd, ABN 85 082 464 622 (Aurora) is an incorporated, State Government owned fully integrated energy and network business, with complementary activities in telecommunications and energy-related technologies. Aurora provides electricity generation, retail and distribution services to more than 270,000 customers in the Tasmanian jurisdiction. In this document, reference to Aurora should be taken as reference to Aurora in its capacity as the provider of distribution services licensed by the Regulator under the Electricity Supply Industry Act 1995.

Aurora is keenly aware of the effect of rising electricity prices on its customers. To this end, Aurora has implemented a business-wide strategy to ensure that it provides its services to its customers at the lowest sustainable price. Planning and expansion of the distribution network is a key cost consideration in the provision of Aurora's services and those provided by all DNSPs. Aurora therefore welcomes any changes within the national electricity market that will lead to better and efficient outcomes for its customers.

Aurora has provided detailed answers to the questions posed in the AEMC's consultation paper in the attachment to this letter. If you have any questions, please address them to the contact noted above.

Yours sincerely

A handwritten signature in black ink, appearing to read "Warren Batchelor".

Warren Batchelor
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Response to Questions

The following sections provide Aurora's answers to the questions posed by the Australian Energy Market Commission (AEMC) in their consultation paper *National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011* published on 29 September 2011 (the Consultation Paper).

For ease of identification the questions posed by the AEMC are highlighted and numbered as per the consultation paper.

Annual planning process

1.1 What are the implications of allowing each jurisdiction to determine the start date for the annual planning period?

Aurora considers that there are no major implications in allowing each jurisdiction to determine the start date for its annual planning period¹.

1.2 Is it necessary to include a default start date for the annual planning period in the Rules?

Aurora considers that the most appropriate approach would be to provide a default start date for the annual planning period in the Rules, with the option for a jurisdictional variation where necessary.

Demand Side Engagement Strategy

2.1 To what extent would potential investors, non-network providers and any other interested parties find the information provided by the proposed Demand Side Engagement Strategy (specifically, the Demand Side Engagement document, the database of non-network proposals/case studies and the Demand Side Engagement register) useful?

Aurora considers that the publication of a Demand Side Engagement Strategy may provide interested parties with a singular reference point for the identification of available distribution system limitations that may be addressed via non-network solutions. This document should also provide these parties with the processes that would be adopted by a DNSP to assess the viability of any non-network proposal.

Interested parties are therefore likely to find this information a useful tool in their business operations.

¹ Proposed clause 5.6.2AA(q).

2.2 To what extent would DNSPs incur additional costs in developing and maintaining the various components of the proposed Demand Side Engagement Strategy?

Aurora understands that, from the proposed clauses 5.6.2AA(l) to 5.6.2AA(p), inclusive, DNSPs will be required to:

- prepare, publish and maintain a comprehensive Demand Side Engagement Strategy document incorporating processes, and procedures to be used in the submission and assessment of non-network solutions;
- prepare, publish and maintain a database of non-network solution proposals and subsequent economic assessments; and
- prepare, publish and maintain a Demand Side Engagement Register.

These requirements give rise to three categories of cost:

- costs associated with preparation of the documentation, database and register;
- costs associated with the necessary publication of information; and
- costs associated with the maintenance of the documentation, database and register.

In the first instance, Aurora notes that all of the costs will be primarily operating in nature and, as such, have an immediate and direct impact on customer prices. As the DNSP in a jurisdiction with relatively low *per capita* income but relatively high *per capita* cost of living expenses, Aurora is unconvinced that its customer-base would be willing to meet costs associated with a scheme that is designed to address a “perceived failure”² rather than an actual failure in a DNSP process.

In response to the question, Aurora estimates that the costs for:

- the preparation of the documentation, documentation, database and register would be those associated with additional staffing requirements, plus minor IT expenses;

² Ministerial Council on Energy 2010, Review of National Framework for Electricity Distribution Network Planning and Expansion: Response to the Australian Energy Market Commission’s Final Report, September 2010

- the initial and on-going publication of the necessary information would be a small incremental operating cost, provided that the given the proposed extension of the definition of “publish” in the Rules to permit DNSPs to use their web-sites to publish information relating to this subject is successful. In the event that the definition is not extended as proposed, the costs for production of printed documentation will be greater; and
- the ongoing maintenance of the documentation, database and register would be those associated with additional staffing requirements and associated IT costs per annum.

Distribution Annual Planning Report

3.1 What are the implications (positive and negative) of providing DNSPs with the opportunity to apply for exemptions or variations to the annual reporting requirements?

Given that the AEMC must make Rules to further the NEO, it follows that any information required as part of a Rules-based reporting regime must be required to further the NEO and must, therefore be necessary. In consequence, Aurora considers that there is no reason for exemption from or variation to the annual reporting requirements, unless the information is not available.

Aurora is, however, as yet unconvinced that all of the information required in the DAPR as detailed in proposed schedule 5.8 is required for planning purposes. Some of the information sought in the proposed clauses³ resembles that information requested by the AER in assessing a DNSP’s forecast capital expenditure as part of its assessment of the Regulatory Proposal for the Regulatory Control Period. Some of the information is also similar to that which the AER was proposing to obtain from DNSPs in an annual regulatory information order for performance reporting purposes⁴. Aurora considers it inappropriate for a planning document to request information extraneous to that required for necessary planning purposes.

3.2 Do you consider the proposed process for applying for and granting an exemption or variation to the annual reporting requirements is appropriate?

Aurora considers that the rudimentary process for exemption in proposed clauses 5.6.2AA(u), (v) and (w) is inadequate in, at least, the following areas:

³ For example, proposed clauses S5.8(10), S5.8(11) and S5.8(13).

⁴ See the Issues Paper Electricity distribution network service providers Annual information reporting requirements published by the AER in August 2008

- there are no indications of when such an application may be made by a DNSP;
- there are no criteria to be considered by the AER in ascertaining whether or not an application by a DNSP for exemption or variation from reporting satisfies the requirements of proposed clause 5.6.2AA(v); and
- there are no indications as to a dispute process surrounding the application.

3.3 How might a DNSP demonstrate, and the AER determine, whether the costs of preparing certain reporting data would "manifestly exceed any benefit that may reasonably be obtained from reporting the relevant data in a national regime"? Is there a need to define a set of criteria to assist both parties in this assessment?

Aurora is concerned that the costs associated with reporting are borne almost entirely by the DNSP, while benefits accrue almost entirely to a party other than the DNSP. So, while the benefits may be realised by the community at large, the DNSP must bear additional costs, which are passed back to the consumers in the form of higher power prices.

Aurora notes further a potential issue in the event that it was decided to implement a cost-benefit-analysis-based waiver assessment process.

Each of the two parties involved have an incentive to skew assessment of costs and benefits to gain precedence. It is in the interests of the DNSP to inflate the estimated costs and deflate the estimated benefits associated with reporting to lessen the possibility of acquiring an extra reporting requirement, especially since the benefits do not obviously accrue to the DNSP. On the other hand, it is in the interest of the AER to deflate the estimated costs and inflate the estimated value of the benefits associated with the reporting so that policy objectives are met.

Additionally, neither party has access to a complete set of information to allow a fair assessment. The DNSP is more able to accurately assess the cost of reporting, but is less able to acquire information to assess the benefits of reporting. The AER, on the other hand, is more able to acquire information to allow a more complete assessment of the benefits of reporting, but is not as capable of assessing the costs associated with the reporting, if only because the AER view the DNSP from outside and may not be fully aware of the dynamics of the DNSP's operations.

A set of criteria to assist both parties in the assessment of the costs and benefits of the aspects of reporting for which waiver is sought would be of great assistance.

Further, to recognise the differences in information availability to each party, it would appear appropriate that:

- in the assessment of costs associated with reporting, more weight should be given to the DNSPs assessment, and
- in the assessment of benefits, more weight should be given to the AER's assessment of benefits.

A problem with this process is that the party making the final decision as to the net benefit of reporting, the approval or otherwise of the waiver, is also one of the parties providing an estimate of the net benefit.

To resolve this problem, it would be advantageous for the values of the benefits associated with each aspect of reporting to be assessed before the commencement of the reporting. This assessment should take public input as to the process and the values, and the benefit values should be reviewed regularly to account for changing industry conditions.

Such an approach would essentially fix one side of the cost-benefit equation, reducing waiver assessment to a decision as to whether the costs associated with reporting suggested by the DNSP seeking a waiver are reasonable.

3.4 Are there any alternative solutions which may better balance the benefits of maintaining consistency across the NEM with the costs of preparing and reporting the data under a national framework?

Aurora considers that no alternative solution may better balance the benefits outlined by the AEMC.

3.5 Do DNSPs face sufficient business and regulatory drivers to ensure that they carry out appropriate planning and produce accurate forecasts in their DAPRs?

Aurora considers that DNSPs already face sufficient business and regulatory drivers to ensure that they carry out appropriate planning and produce accurate forecasts in their DAPR. The AER is likely to use the information provided by DNSPs in their DAPRs to assist in the assessment of capital and operating expenditure forecasts for a DNSP's Regulatory Proposal for a Regulatory Control Period. It is in the interests of the DNSPs to therefore provide appropriate planning and accurate forecasting in the DAPRs that they prepare.

3.6 Is there a need to consider additional measures to ensure DNSPs deliver robust, high quality DAPRs? If so, what additional measures could be put in place?

Aurora does not consider that additional measures are required for a "robust" and "high quality" DAPR.

Joint planning requirements

4.1 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs and TNSPs?

Aurora considers the proposed Rule 5.6.2AA(h) to be appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs and TNSPs.

4.2 In what circumstances would DNSPs be required to undertake joint planning with other DNSPs?

Aurora considers that the proposed Rule 5.6.2AA(i) provides adequate guidance on this matter.

4.3 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs?

Aurora considers that the proposed Rule 5.6.2AA(i) does not clarify sufficiently the arrangements for joint planning between DNSPs. Aurora expects that 5.6.2AA(i) would contain information analogous to parts (2) and (4) of Rule 5.6.2(h).

Regulatory Investment Test for Distribution

5.1 Do you consider the proposed RIT-D design parameters are likely to work together to provide an effective decision making framework for DNSPs, consistent with the NEO?

Aurora is concerned that the changes to the investment test appears to be driven by a “perceived” failure of DNSPs to address the business needs of third party generators rather than an actual failure of the existing Regulatory Test. Aurora considers that the existing Regulatory Test for distribution investment provides an effective decision making framework for DNSPs, consistent with the NEO.

The proposed RIT-D incorporates more administratively onerous requirements for assessment of projects on the DNSPs, increased audits of projects proposed by DNSPs, and greatly increased range of parties that are able to dispute RIT-D assessments. Aurora expects that these will all increase the end cost to consumers, thereby failing to address the price component of the NEO.

Aurora is also unconvinced that the introduction of non-network solutions which have become “preferred” by an alteration of the Rules will add to the long-term reliability and security of the supply of electricity. Aurora notes that network investment will still be required to maintain supply to all customers in the event of the failure of a non-network solution because neither the current electricity laws nor the propose National Energy Customer Framework exempt a DNSP from providing supply due to the failure of a third party non-network solution provider.

5.2 Do you consider it is necessary to provide the AER with additional powers to (1) review a DNSPs policies and procedures with regard to the consideration of non-network alternatives and (2) audit projects which have been identified by DNSPs as not meeting the threshold for the RIT-D?

The AER already possesses significant information gathering powers to review a DNSP's policies and procedures with regard to the consideration of non-network alternatives and to audit any projects. Indeed, there are already AER guidelines on the operation of the Demand Management Incentive Scheme enacted as part of a DNSP's Distribution Determination.

In consequence, Aurora considers that the proposed amendment to provide additional powers⁵ is unnecessary.

5.3 Should the AER be required to publish a separate annual report detailing the results of any audit undertaken in the preceding 12 months?

Aurora considers that, in the interests of regulatory transparency, the AER should be required to publish a report detailing the results of any audit undertaken in the preceding twelve months⁶. Aurora has no preference as to whether such a report be incorporated into existing AER reporting requirements or otherwise.

Dispute resolution process

6.1 Do you consider the proposed scope of parties who could raise a dispute to be appropriate?

Aurora considers the proposed scope of parties who could raise a dispute⁷ to be appropriate, although is uncertain why the AEMC should have occasion to raise a dispute against a DNSP investment proposal.

⁵ Proposed clauses 5.6.5CB(f) and 5.6.5CB(g).

⁶ Proposed clause 5.6.5CB(h).

⁷ Proposed clause 5.6.6AC(a).

6.2 What are the implications (positive and negative) of allowing the AER to grant exemptions from the proposed dispute resolution process?

Aurora supports the inclusion of a mechanism to permit the AER to grant exemptions from the proposed dispute resolution process⁸. Such a mechanism restricts the process to bona fide disputes, thereby limiting an administrative burden to be borne by, ultimately, by the customer base.

A negative implication of such a mechanism, however, is that it allows accusations of “favouritism”, “cronyism”, etc., in cases where disputants’ cases have been summarily dismissed at the beginning of the process. Such accusations can be mitigated by careful and transparent application of a set of guidelines to each case, especially if such guidelines are developed using a consultative process.

6.3 Is there a need to develop detail or specification around the process for applying to the AER for, and the AER approving, exemptions to the dispute resolution process?

Aurora considers that there is a need to develop detail or specification around the process for applying to the AER for, and the AER approving, exemptions to the dispute resolution process. Such detail or specification would provide confidence to parties in a dispute that the dispute would proceed in an equitable and appropriate manner. Aurora notes that were such detail or specification developed using a public consultation process; the degree of confidence would be commensurately greater.

Implementation and transition

7.1 Are there any issues in respect of the rolling back of jurisdictional requirements that may need to be supported or provided for by transitional provisions in the Rules?

Aurora is unaware of any issues in respect of the rolling back of jurisdictional requirements that may need to be supported or provided for by transitional provisions in the Rules.

⁸ Proposed clause 5.6.6AC(j).

7.2 If the proposed national framework was to be introduced, are the proposed timeframes appropriate to allow for the transition to the national framework?

Whilst Aurora cannot foresee any internal issues with the proposed timeframes, Aurora is concerned that the proposed timeframes are not appropriate to allow for all jurisdictions to transition to the national framework. Aurora considers that each jurisdiction is best placed to provide advice on these matters and should form part of the AEMC's transition planning.

7.3 Are there any other factors that should be taken into account in developing transitional provisions to enable the efficient potential application of the proposed Rule to all DNSPs?

Aurora is not aware of any other factors that should be taken into account.

7.4 From a market participant perspective, are there any implications in not aligning the proposed introduction of the national framework with the commencement of the NECF?

Aurora cannot identify any implications, other than the timing previously highlighted, for aligning the proposed introduction with the commencement of the NECF.