

17 April 2009

Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

By email: submissions@aemc.gov.au

ENA Response to AEMC Review of National Framework for Electricity Distribution Network Planning and Expansion – Scoping and Issues Paper

The Energy Networks Association (ENA) welcomes this opportunity to respond to the Australian Energy Market Commission (AEMC) Scoping and Issues paper *“Review of National Framework for Electricity Distribution Network Planning and Expansion* released on 12th March 2009.

Energy network businesses deliver electricity and gas to over 13 million customer connections across Australia through approximately 800,000 kilometres of electricity distribution lines. There are also 76,000 kilometres of gas distribution pipelines. These distribution networks are valued at more than \$52 billion and each year energy network businesses undertake investment of more than \$5 billion in distribution network operation, reinforcement, expansions and greenfields extensions. Electricity transmission network owners operate over 57,000 km of high voltage transmission lines, with a value of \$15 billion and undertake \$1.6 billion in investment each year.

ENA welcomes AEMC’s engagement in the development of a nationally consistent planning and reporting framework to apply to distribution network activity. However, as the changes to planning requirements being considered can fundamentally impact on network investment ENA draws AEMC attention to the need for an adequate timeframe to ensure that thorough consultation takes place with the industry.

In its submission (enclosed) ENA has listed four broad principles which it believes should underpin the Review going forward. These are:

1. A need for reduced compliance costs,
2. Appropriate information reporting by business,
3. Need for efficient planning and investment; and
4. Provision of certainty.

These principles form the basis for ENA’s response to the issues and many related questions raised in the Scoping Paper. Please contact me should you wish to discuss our responses further.



Andrew Blyth
Chief Executive

AEMC SCOPING & ISSUES PAPER – REVIEW OF NATIONAL FRAMEWORK FOR ELECTRICITY DISTRIBUTION NETWORK PLANNING & EXPANSION

ENA Submission
17th April 2009

Key Messages:

- **ENA considers that AEMC needs to establish its objectives in developing a new national planning framework, including the purpose and audience of each stage of the planning process, before discussing detailed information and reporting requirements for the framework.**
- **The AEMC also needs to consider the broader regulatory framework applying to network businesses, including the incentives they already face for efficient network investment.**
- **The Annual Planning Report should provide high level information on network investment needs and opportunities.**
- **Detailed information on network constraints, benefits and costs should be provided to individual proponents upon application.**
- **ENA supports a regulatory investment test for distributors which is consistent with the test applying to transmission assets but simplified to reflect the narrower range of likely market benefits.**
- **ENA is opposed to the application of mandatory requests for proposals which would impose a disproportionate and costly regime on distributors.**

Executive Summary

The Energy Networks Association (ENA) welcomes this opportunity to respond to the Australian Energy Market Commission (AEMC) Review of National Framework for Electricity Distribution Network Planning and Expansion- Scoping and Issues Paper.

ENA is the peak national body for Australia's energy networks. ENA represents gas distribution and electricity network businesses on economic, technical and safety regulation and energy policy issues.

ENA appreciates that the AEMC review of the National Framework for Electricity Distribution Network Planning and Expansion was preceded by a number of Ministerial Council on Energy (MCE) consultation processes. These processes have contributed to the terms of reference for the Review which in our view, although detailed, draws on previous work to set the

scope of the review. We do not consider that there is anything within the terms of reference that prevents the AEMC developing a best practice regulatory model for network planning.

In developing a best practice regulatory model for network planning it is important that the AEMC consider how network planning and expansion fits into the overall regulatory framework. This will enable a more accurate identification of the problem that regulation is seeking to address and the likely impact of possible solutions. In our view a best practice network planning and expansion regime should be underpinned by the following regulatory principles:

Principle 1: Need for reduced compliance cost

- The current State based regulatory regime gives rise to increased compliance costs for businesses operating in more than one jurisdiction. Moving to a national regime should reduce compliance costs for those businesses and encourage more efficient and effective outcomes.

Principle 2: Appropriate information reporting by business

- Information reporting requirements can improve the transparency of business decision-making under a regulated framework. However, the production of information is also costly to business. Therefore an effective regulatory regime will seek to balance the cost and benefits of information requirements, and recognise other incentives on the business to ensure efficiency.

Principle: 3: Efficient planning and investment

- The national planning framework should facilitate effective and efficient planning by network businesses. The framework should assist third parties to ascertain opportunities for non-network alternatives but only impose obligations where the expected benefits outweigh the costs of regulation.

Principle 4: Provision of certainty

- Developing a planning and information regime which provides certainty in relation to the approval of network expansion and augmentation.

Although the terms of reference set out minimum requirements for the framework, it is important these principles and related issues be kept in mind when designing the framework, especially when the AEMC is considering whether increased regulation is necessary or effective. For instance, to the extent that there is a perceived failure by Distribution Network Service Providers (DNSP's), in undertaking non network alternatives, it is important to examine whether this is because of current reporting and planning requirements or whether there are other reasons for the failure. Similarly in identifying possible solutions, the AEMC should have regard to requirements and incentives contained in the broader economic and regulatory framework.

ENA notes that the terms of reference require the AEMC to publish a scoping paper and that the paper is detailed and contains a large number of questions. In responding to these questions, ENA emphasises the following key points:

Scope of the National Framework

Regulation is appropriate where there is a market failure. Currently most distribution businesses are regulated because they are considered to be natural monopoly businesses. The AEMC should be careful not to extend the scope of regulation beyond directly controlled services. As has been recognised in other review processes being conducted by the AEMC, the industry is at a point of change and it is important that regulation be founded on sound economic principles in order to create the right investment incentives to take the industry forward.

Annual Planning Requirements

Distribution businesses are supportive of a move to a national framework but consider it vitally important to understand the purpose of the annual planning requirements, starting with clarification of what the planning requirements are trying to address, before considering the appropriate solution. More thorough problem identification will shape the scope of the annual planning requirements.

To the extent that the government is trying to encourage non-network solutions, distribution businesses do not consider that the answer lies solely in the planning requirements; rather the focus should be on the regulatory framework and shaping incentives to moderate the risk associated with non-network solutions and encourage their uptake.

Project Assessment and Consultation Process

Distribution businesses are concerned that the regulatory test be limited to assessing network augmentations. To expand the scope of the regulatory investment test (RIT) may impede flexibility needed to meet future industry challenges.

In ENA's view the RIT should only apply to standard control services relating to augmentation projects and to augmentation projects that have both augmentation and replacement components, where demand is the principle driver of the project. Distribution RIT should be consistent with the RIT for transmission investments, but simplified to reflect the narrower range of likely market benefits, the larger number of investment decisions undertaken and the generally shorter timeframe available to plan distribution investments. In the absence of a clear case for the materiality of market benefits, an important simplification would be to limit the consideration of market benefits from the RIT-D.

ENA also considers that the RIT applied to distribution should apply to augmentation projects initiated for the purposes of addressing a distribution need over a certain monetary threshold, and that the analysis should apply to the whole end-to-end project and cover distribution, transmission connection and shared transmission network components as appropriate.

Again, it is important to clearly understand the problem that is being addressed before considering whether consultation processes need to be amended and if so how they should be amended.

At this stage distribution businesses consider that the current planning consultation process provides sufficient flexibility for the businesses to reach efficient and timely solutions. Further requirements may impede planning and much needed investment and as a result would not be in the interests of consumers.

Timing

While ENA welcomes the steps taken by the AEMC towards implementing a nationally consistent planning and information disclosure regime for network businesses, ENA is concerned that the timeframes are insufficient to allow adequate industry consultation given the detailed approach taken by the AEMC. Changes to planning requirements can fundamentally impact investment and it is important that effective industry input is obtained. This can be achieved by the establishment of an expert industry group and more realistic timeframes for key milestones in the development process for a Planning framework.

Background

Energy network businesses deliver electricity and gas to over 13 million customer connections across Australia through approximately 800,000 kilometres of electricity distribution lines. There are also 76,000 kilometres of gas distribution pipelines. These distribution networks are valued at more than \$52 billion and each year energy network businesses undertake investment of more than \$5 billion in distribution network operation, reinforcement, expansions and greenfields extensions. Electricity transmission network owners operate over 57,000 km of high voltage transmission lines, with a value of \$15 billion and undertake \$1.6 billion in investment each year.

GENERAL COMMENT

As part of the overall review, AEMC have released a Scoping and Issues paper advising that the Paper commences the initial phase of the review. The Paper also outlines a number of key milestones for the Review and associated timeframes.

While ENA welcomes the steps taken by the AEMC towards implementing a nationally consistent planning and reporting framework for network businesses, ENA is concerned that the timeframes are insufficient to allow adequate industry consultation. Changes to planning requirements can fundamentally impact investment and it is important that effective industry input is obtained. This can be achieved by the establishment of an expert industry group and more realistic timeframes for key milestones in the development process for a Planning framework.

For ENA network business planning is about bringing together potential network elements, infrastructure investment options and demand scenarios to deliver an energy supply system that meets relevant network reliability, safety and security requirements. Demand forecasts are a critical part of this process, as they determine when network limitations relating to reliability, safety and security requirements are likely to be reached.

ENA agrees that there is a need to ensure efficient network planning and development and also to ensure a level playing field for non-network alternatives. This however will not be achieved by providing the market with information that does not achieve the objectives of the framework. Finding the appropriate level and type of information disclosure requires careful consideration by the AEMC. To be successful, it is critically important that

the information disclosure and planning regime be focused on stakeholder requirements including both network and non-network alternatives. These information requirements must be clearly understood to ensure that the planning information required is proportionate to the expected benefits that can realistically be achieved and therefore capable of facilitating the efficient and timely screening of potential projects.

At the outset the AEMC Review needs to clearly identify the audience and purpose of each stage of the planning process, particularly the Annual Planning Report (APR). The technical component of the information will depend on whether the audience is the general public, industry sector stakeholders or both. Another crucial issue is how the APR relates to other reporting and planning requirement obligations such as those imposed on DNSPs by the Australian Energy Regulator (AER) and jurisdictional technical and compliance reporting. This is crucial to ensure there is no overlap between the purpose and scope of the APR and other documents published by DNSPs, the AER or other regulatory entities.

A further key to the success of the AEMC process will be how it manages to coordinate the number of Rule Changes and Reviews which relate to distribution network planning so that an efficient and effective outcome is achieved. That is, an outcome which enables distribution businesses, not only to conduct their business-as-usual planning, but also to develop network development plans that ensure that distribution businesses remain responsive and sustainable. In this regard ENA views the AEMC recognition of this challenge as a positive sign.

Key Messages:

The AEMC must clearly identify at the outset the purpose and audience for each stage of the planning process.

The national framework requirements for electricity distribution planning needs to fit in with other distribution reporting requirements to avoid duplication and therefore unnecessary compliance costs.

Information disclosure should be limited to what is required to meet the objectives of the framework.

RESPONSES TO SPECIFIC AEMC QUESTIONS

The Commission is seeking stakeholder views on:

- 1. The proposed scope for the Review;**
- 2. Its proposed approach and assessment criteria for the Review; and**
- 3. The interaction between transmission and distribution network planning.**

ENA Response

Q1:

In terms of the proposed scope of the Review ENA proposes that:

- It is appropriate to consider a national approach for defining how the potential for non-network solutions are taken into consideration.
- The national framework should focus on outcomes sought from the planning process rather than define a prescriptive methodology.
- The decision-making criteria for the Review must also include measures of efficiency, to ensure that the levels of analysis and reporting (that is, the cost to provide information) are commensurate with the estimated value of the investment required.

ENA considers that there is a gap in the scope of the Review in relation to transmission assets arising from the implementation of the new RIT-T. In particular, the ENA considers that the RIT-D analysis would apply to a project identified to address a distribution network need and that the analysis would apply to the whole end-to-end project, including the distribution, transmission connection and shared transmission network components (see further discussion under section dealing with “Project Assessment and Consultation Process”).

Also, the AEMC has asked whether the scope of the national framework should be extended (beyond Direct Control Services that are Standard Control Services) to include negotiated distribution services and alternative control services (excluding connections).

ENA considers the review should be confined to standard control services. The outcome of a negotiated service is a market driven outcome.

Inappropriate regulation of these negotiated services may limit the effective negotiated outcome

Q2:

ENA believes that the assessment criteria should recognise that the planning framework needs to be proportionate to the benefits expected from conducting an open planning process. That is, the level of detail required and the costs of delivering this information reflect the expected benefits of a transparent planning process.

Q3:

Consistency in the approach between transmission and distribution is critical, particularly at the interface between distribution and transmission assets where they have the same characteristics as the transmission assets. Presently where projects are at or around this interface (that is, future constraints may be addressed by either transmission or distribution investment) or are subject to joint planning, the consultation and analysis process between transmission and distribution is broadly similar. However, there are differences in the detail of consulting and reporting. In these circumstances there appears to be no benefit, rather confusion, in applying different consultation and reporting processes for the solution to a constraint depending on whether the solution is distribution or transmission.

Requirements need to ensure that the outcome for either a distribution or transmission investment option is determined by the least cost solution and not as a result of having two different regimes for transmission and distribution planning methodologies.

ENA considers that the characteristics of distribution networks, with their direct connection to customers and their diversity of investment options warrant a dedicated regulatory test for efficient network investment, as opposed to the transmission tests which is designed to address large and potentially market-significant investment.

Key Messages:

The national framework should focus on minimum requirements that centre on outcomes sought from the planning process rather than define a prescriptive methodology.

There is a gap in the scope of the Review regarding the treatment of transmission and shared transmission components that come within projects identified as addressing distribution network needs.

ENA recommends that an additional assessment criterion include that the benefits of national planning regime requirements outweigh the costs of producing the information.

The scope of the planning framework be confined to standard control services

Annual Planning Requirements

In this Scoping and Issues Paper, the Commission is seeking stakeholder comment on the following aspects of the planning report requirements:

- **Which network assets and activities should be included in the planning requirements for the national framework?**
- **What should be the type and level of detail of information to be provided in the planning report?**
- **How should the planning and reporting process be implemented**

ENA Response

ENA considers that there should be consistent thresholds for economic analysis of options between transmission and distribution businesses. This is because the administrative costs of analysis and public review, and potential scope for non-network alternatives, are similar between transmission and distribution projects. It is not appropriate for a lower threshold for public economic analysis to apply in distribution, as this outcome is likely to expose an inefficient number of projects to analysis, leading to disproportionate costs compared with the benefits that can be derived.

In contrast, the methodology, that is economic test details, needs to be specific for distribution investments as considerations differ between distribution and transmission. This issue is discussed further in relation to the RIT-D below.

Distribution projects involving augmentation can be categorised as:

1. Projects addressing zone substation or sub-transmission system capacity issues,

2. Projects addressing capacity issues in the distribution system (11kV or 22kV feeders), and
3. Projects addressing distribution substation capacity.

Projects for item 1 are generally of a monetary value and have sufficient lead times so that inclusion in annual reports is appropriate. The distribution area associated with such augmentations is also sufficiently large that the prospects of non-network solutions are reasonable.

The project value for augmentation projects falling under item 2 may range from thousands to millions of dollars, however requirements in many cases are driven by individual customer requirements and timeframes are quite short (in the order of months for small projects and around 1 to 2 year for larger projects with capital expenditures in the order of \$10s of millions). The area for establishing demand management solutions is also confined to the immediate vicinity of the feeder route, therefore making prospects of deferral due to demand management initiatives low. Hence, it is generally inappropriate to include such projects in an APR.

Generally, augmentation requirements for projects falling under item 3 are below the threshold where annual reporting is appropriate.

In summary, the inclusion in the APR should be based on dollar value of the project and the system need timeframe. Generally APR should only consider category 1 projects.

As to the level of detail of information to be provided in the planning report, ENA believes that the type of information required from DNSP's should be consistent with that required from transmission.

Separately, ENA draws the AEMC's attention to Section 3.2 of the AEMC paper covering current planning requirements for DNSP's. The description of the NSW planning requirements is incorrect. ENA is not aware of any licence requirement for an "annual demand management plan". The NSW Demand Management Code of Practice is not in this category. On a number of occasions the AEMC paper incorrectly states that the NSW Demand Management Code of Practice is a requirement and also incorrectly quotes the Code. This error is repeated a number of times in the AEMC Scoping and Issues paper and should be corrected because it overstates the perceived value of the "Code" approach.

<p>The Commission is seeking comments on the scope of the planning and reporting process. In particular:</p>

- 4. In addition to emerging constraints, what other types of potential problems of the distribution network should be included in annual planning reports?**
- 5. How could the interaction between transmission and distribution planning be reflected in the annual planning and reporting process?**
- 6. Should the annual planning report include reporting on work carried out by DNSPs including reporting of actual network performance information and historical data?**

ENA Response

Q4:

The AEMC needs to identify the objectives of the APR. The scope of the APR will then flow on from the objectives. ENA considers that the APR scope should be limited to identifying emerging constraints, to allow for proponents of non-network solutions to identify potential opportunities.

ENA considers that there would be few if any benefits in including network replacement expenditure in an APR as there is very little scope for non-network alternatives to defer or remove the need to replace network assets. This expenditure is usually driven by asset condition rather than demand growth and therefore demand management will not defer the need for the expenditure.

ENA also notes that as part of the price review process, network businesses are required to provide to the AER detailed forecasts of their capital and operating expenditure, and to justify that expenditure on the basis of efficiency and prudence. This includes explicit reference to non-network alternatives and potential trade-offs available between capital and operating expenditure. Network business' proposals are subject to extensive consultation and expert analysis throughout the review process. It is unlikely that inclusion of replacement expenditure in an APR would therefore lead to further benefits to customers through transparency in decision-making or by providing scope for non-network alternatives.

Q5:

The solutions discussed in the APR should reflect the outcomes of joint annual transmission and distribution planning processes. The APR should include both distribution and transmission network options, as should any

consultation. It is counter productive that reporting thresholds or requirements should differ between transmission and distribution systems for different outcomes to the same issue.

Q6:

It would be inappropriate for annual planning reports to be required to include historical data and network performance information for a number of reasons.

Firstly, ENA envisages the annual planning report would be focused on current and future network development. As such, it should be a forward looking plan which provides information to both inform market participants of planned projects and allow non-network proponents to identify any opportunities for alternative solutions. In light of this objective, there is no reason for the annual planning report to include historical information.

Secondly, requiring the annual planning report to include historical information and data would duplicate current reporting obligations and significantly increase the reporting and regulatory burden on distributors for no clear benefit. Distributors currently publish network performance data at a jurisdictional level for performance reports and the AER will publish historical data and performance information as part of its annual performance and regulatory reports. As this information will already be publicly available, it is not necessary to impose further duplicative reporting obligations for the annual planning report, possibly imposing different reporting timetables.

Further, ENA considers that any reporting requirements must ensure there is consistency in definitions and reporting periods between the national and jurisdictional frameworks.

Key Messages:

The AEMC needs to identify the objectives of the APR in order to determine its scope.

Only distribution projects of sufficient monetary value and having the required lead times should be included in the APR.

The APR should be confined to projects dealing with emerging constraints.

The solutions discussed in the APR should include the results of distribution and transmission planning processes.

ENA is opposed to incorporating historic data into the APR.

The AEMC needs to ensure that reporting requirements are consistent with respect to definitions and reporting periods across national and jurisdictional frameworks.

The Commission is seeking comments on the appropriate content of the annual planning report, and especially on:

7. What factors need to be considered to ensure the level of detail of the information provided is useful and appropriate to stakeholders?

8. For the areas that are to be reported on, what specific factors should be considered? For example for emerging constraints, how should emerging constraints be classified and how could they be consistently set out?

9. Should a distinction be made between general information that is publicly available and more detailed information for embedded generators and demand side response proponents?

ENA Response

Q7:

In its response to the NERA/Allen Consulting Group *Network Planning and Connection Arrangements*¹ report on specific issues relating to information disclosure, ENA raised concerns that the detailed information provision proposed in the report, including the supply of marginal loss factors, did not adequately balance the costs with the perceived benefits.

ENA's view is that a more balanced approach would involve placing an obligation on network businesses to publish high level assessments of network augmentation investment needs and opportunities, coupled with an obligation to provide more detailed information on network constraints, costs and benefits to individual proponents upon application, on a fee for service basis where the information is not readily available.

As to the types of information that should be incorporated in a national framework, ENA notes that many jurisdictions require DNSPs to provide and publish information to assist non-network proponents to identify

¹ NERA/Allens Consulting Group Report released by the MCE-SCO in August 2007

opportunities but that significant differences occur. These differences can lead to confusion among demand management proponents as to the information disclosure and decision making procedures that apply in each jurisdiction.

A nationally consistent approach would need to streamline the different jurisdictional approaches, and ensure that the national approach adopted was in the long term interests of consumers. The approach must therefore consider the benefits and costs across jurisdictions with different network and demand characteristics and resist the temptation to apply the most detailed and prescriptive scheme nationally. ENA recommends that AEMC consult with DNSPs to develop a single national requirement for information.

Q8:

The response to this question depends on the objective of the APR. ENA requires clarification on its objectives.

Q9:

ENA believes a distinction should be made between general information that is publicly available and more detailed information which has to be gained by individual network businesses. The APR should provide broad high level information. More detailed information should be made available in other documentation with the DNSP having the discretion to provide some of this material on a fee for service basis where it relates to a specific request for information that is not readily available.

Key Messages:

ENA's view is that the APR should provide high level information on network investment needs and opportunities coupled with an obligation to provide detailed information on network constraints, benefits and costs to individual proponents upon application. The DNSP should have the discretion to charge a fee for service.

ENA recommends that AEMC consult with distributors on addressing jurisdictional differences to ensure a nationally consistent planning approach is developed that balances costs and benefits for all jurisdictions.

The Commission is seeking comments on the implementation of the planning and reporting process. In particular:

10. Would the Australian Energy Market Operator's website be the appropriate central location for the planning reports to be stored and published?

11. What would be the appropriate timeframe for the publication of the DNSP annual planning report (noting the relationship between the timeframe for the publication of the TNSP annual planning report and the DNSP/TNSP joint planning requirements)?

ENA Response

Q10:

It is appropriate that a link to APRs is available from a central location, however, it should be clear that responsibility for the reports remains with the individual businesses. It would be appropriate to manage the process of making available distribution reporting in a similar manner to transmission. That is, the reports themselves are only available from the DNSPs.

Q11:

It would be appropriate to synchronise the publication of transmission and distribution APRs. In doing this it is important to ensure that the information requirements in the APR do not mean that distribution businesses must pre-empt information gathering and reporting required for other regulatory processes.

Project Assessment and Consultation Process

The Commission is seeking comments on the following elements to the project assessment framework:

- **What should be the scope of projects subject to the RIT-D process?**
- **What are the requirements for identifying and consulting upon the range of options?**
- **What costs and benefits should be recognised and quantified in the assessment?**
- **What should be the decision-making criteria used to determine which option passes the test?**

ENA Response

ENA's position is that a distribution specific regulatory test should recognise the relatively narrow scope for distribution investment to impact on broader market benefits. , Therefore, a simpler test to that applying in transmission is more appropriate. This view takes account of the largely reliability-based augmentations that are undertaken, while still providing scope for market benefits to be considered in the very small number of cases where this is relevant.

The ENA considers that the RIT-D should cover augmentation projects initiated for the purposes of addressing a distribution need over a certain monetary threshold, and that the analysis should apply to the whole end-to-end project and cover distribution, transmission connection and shared transmission network components. In these situations joint planning should occur where appropriate, but generally the regulatory test analysis should be led by DNSPs as they are responsible for delivering solutions required to address the needs of their networks.

The Rules should also reflect the principle that transmission charges (including TUOS and transmission connection asset costs) incurred by DNSPs should be able to be passed through via distribution tariffs.

The Commission is seeking comments on the design of the project assessment process. In particular:

12. What types of investments should be subject to the project assessment process?

13. What are the appropriate thresholds to trigger the project assessment process?

14. Should the thresholds be indexed in accordance with the CPI or subject to a periodic review?

ENA Response

Q12:

ENA notes that the AEMC has just released a new draft rule for the RIT for Transmission.

ENA's position is that a distribution RIT should be consistent with the RIT for transmission investments, but simplified to reflect the narrower range of likely market benefits, the larger number of investment decisions undertaken

and the generally shorter timeframe available to plan distribution investments.

In the absence of a clear case for the materiality of market benefits, an important simplification would be to exclude the consideration of market benefits from the RIT-D.

The RIT-D must be limited to a least-cost assessment but also needs to be capable of accommodating different jurisdictional approaches. In particular, it must provide an appropriate economic basis for decisions based on both explicit technical ('deterministic') reliability drivers and probabilistic planning approaches where the value of unserved energy is the determinant (for example using the Value of Customer Reliability).

ENA considers that the RIT-D and any associated project assessment process should continue to only apply to augmentation projects, and the augmentation component of projects that have both augmentation and replacement expenditure. It is not reasonable to apply the regulatory test to replacement expenditure, as these investments have already been justified as regulated assets. In any case, the efficiency of replacement expenditure is determined by AER through the Price Determination process. Further, applying the RIT-D to replacement expenditure would result in significant administrative costs that would far outweigh any possible benefits.

The scope of the regulatory test should only apply to standard control services and should not extend to negotiated services. As stated earlier in this paper regarding the scope of the review, the concept of negotiated services for distribution businesses is not a well understood term. In fact it is difficult to understand what, if any services provided by a DNSP relating to access to the network would be anything other than a standard control service. In the absence of a more transparent service definition framework, the scope of project assessment and consultation should not include negotiated services.

Q13:

ENA's response to this question depends on a better understanding of what the AEMC is trying to achieve with the APR process.

In setting thresholds to trigger the project assessment process it is useful to understand

1. the purpose of the RIT-D, and
2. the scope of the requirements once the assessment trigger is reached.

ENA understands the primary purpose of a RIT-D is to provide a common methodology, across all regions of the NEM, to demonstrate efficiency in investment (network or non-network).

The NERA/Allen paper recommended that once the estimated cost of the preferred option meets an assessment threshold, the project will be subject to public consultation and a requirement to issue a Request for Proposal (RFP) for non-network solutions.

ENA considered that the NERA/Allen paper thresholds (they proposed RFPs for projects over \$2 million and cost benefit analysis for projects over \$0.5 million) were based on incorrect assumptions and therefore were not appropriate (see response to Q15). ENA's response stated that these thresholds would impose a disproportionate and costly regime on DNSPs that was not justified by the benefits available to customers. It was also argued that such arrangements would act to undermine the incentives for DNSPs to create innovative solutions to network augmentations.

ENA agrees with the AEMC that the approach of defining cost thresholds has the risk of being too simplistic and imposes significant costs on the DNSP in circumstances where the potential benefits of performing the requirements (that is, consultation and RFP processes) are small, if non-existent.

ENA hence proposes that the approach should have regard to what is proposed for transmission businesses. Overall, any threshold(s) adopted should take into account:

- experience of distribution and transmission businesses to date on the success of consultation and RFP processes in identifying and delivering non-network alternatives, and
- achieving an appropriate balance between the potential benefits of performing the RIT-D assessment process requirements and the costs of undertaking those requirements.

For projects of smaller investment cost, the delay caused as a result of consultation and a RFP process could nullify any benefits potential demand management options could provide.

The second component could specify the broad principles that need to be applied by a DNSP in the consideration of non-network alternatives. Some of the principles of the NSW Demand Management Code are provided as an example and these may be summarised as:

- DNSP to use formal processes for determination of the need for demand management investigations;
- effective demand management investigations, including public participation;
- transparent and equitable treatment in comparing augmentation and demand management options; and
- implementation of cost effective demand management options.

Q14:

Thresholds should be indexed and subject to periodic review in the same way it applies to transmission businesses.

Key Messages:

ENA supports an RIT-D which is consistent with the RIT-T but simplified to reflect the narrower range of likely market benefits.

The assessment of a project should apply to the whole project including distribution, transmission connection and shared transmission components where this applies.

The RIT should apply to augmentation projects but not replacement expenditures and the scope of the RIT should apply to standard control and not negotiated services.

ENA needs to acquire a better understanding of what the AEMC objectives are for the APR process before providing a definitive position on the thresholds to apply.

The Commission is seeking stakeholder comments on the RFP process. In particular:

15. What factors should be considered in a RFP process and how should this be specified in the Rules compared to AER guidelines? Including:

- what defines a credible option?
- what information is needed to enable market participants to raise alternatives?
- how long should the consultation take place?
- should an RFP process include elements to deal with the potential issue of DNSPs seeking assurance from non-network proponents for the performance of a non-network option?

ENA Response

Q15:

ENA does not support the mandatory application of RFPs. DNSPs should have the flexibility to use whatever processes they consider give them the most efficient solution.

DNSPs are incentivised through the Rules to undertake efficient investment, including consideration of demand management. Therefore DNSPs should be able to choose the appropriate method to procure services to undertake the proposed investment, whether through the use of RFPs or alternative options subject to their meeting the criteria in the Rules. Rather than contemplating the application of a formal mandatory RFP process to encourage non-network solutions the AEMC should give consideration to why there is insufficient take up of non-network solutions.

The NERA/Allen paper, *Network Planning and Connection Arrangements*, proposed that DNSPs conduct RFPs for projects over \$2 million. These obligations were intended to improve opportunities for non-network project proponents and involved the implementation of an extensive information disclosure and planning regime to apply to DNSPs. The NERA/Allen paper rationale was that network businesses in the absence of prescriptive and intrusive regulatory obligations, are poorly incentivised to pursue least cost options to meet reliability and safety obligations, including using non-network options such as embedded generation and demand management.

In its submission in response to the NERA/Allen paper ENA contended that there were significant flaws in the NERA/Allen rationale which lead NERA/Allen to recommend an information and planning regime that was disproportionate to the benefits available to the community from that regime. In particular, NERA/Allen assumed that in the absence of intrusive and prescriptive regulation DNSPs would be poorly incentivised to pursue least cost options.

The underlying incentives to pursue the most efficient options to deliver regulatory requirements are part of the fundamental regulatory structure. Central to these incentives is the ex ante regulatory approach, which allows network businesses to retain for a period the benefits arising from the capital efficiencies they achieve. This approach offers significant incentives for efficient network service delivery, such as not to require ex poste prudency review of expenditure. This incentive works alongside the demand

management incentive scheme established in Chapter 6 of the Rules, which seeks to remove disincentives to demand management options and provides a level playing field for non-network alternatives.

The ENA response to the NERA/Allen information and planning recommendation reflected:

- A failure of the NERA/Allen paper to take account of the basic incentives faced by network businesses in pursuing non-network options as an alternative to network augmentations,
- The lack of recognition of the role of DNSPs in providing non-network options. While external proponents can be an important contributor to demand management, the vast majority of demand management projects are conceived and developed by the distribution business itself, directly seeking demand side response from its customers, and
- A lack of assessment of the evidence from current jurisdictional arrangements, evidence which suggests that the provision of detailed information of the type described in the paper has not delivered improved uptake of non-network options.

ENA contends that proposals seeking mandatory RFP requirements do not recognise the significant investment that network businesses have made, and are continuing to make, in research and development to increase their understanding of demand management opportunities and risks.

In terms of the evidence of the effectiveness of the provision of date, there is currently in place a detailed information disclosure and planning regime in South Australia. However, the South Australian regime was reviewed in light of the fact that, despite ETSA Utilities being in full compliance with the disclosure and planning requirements, no project proposals had successfully been adopted to defer a network augmentation.

Whilst there may be circumstances where a RFP is appropriate, DNSPs' experience is that compulsory and prescriptive RFP processes will not deliver useful, cost effective demand management options.

The Commission is seeking stakeholder comments on the application of the project assessment process. In particular:

16. What is the appropriate list of costs and benefits associated with distribution projects, and should that list be mandated in the NER?

17. How should the range of benefits to be quantified under the project assessment process be determined?

18. How can the project assessment process ensure that environmental benefits are appropriately treated and quantified?

ENA Response

Q16:

ENA's view is that the NER is not the appropriate place to specify costs and benefits. It is important to provide a manageable process which does not involve significant resources trying to identify benefits which may not exist.

Q17:

ENA's position is that only those benefits that have clear links to legislative requirements should be specified under the project assessment process.

Q18:

Treatment of environmental benefits should be treated on the basis of costs and benefits that accrue to the electricity supply system, as mandated by legislation.

The Commission is seeking stakeholder comments on the application of the project assessment process. In particular:

19. How should a net benefit test be designed for distribution investment assessments? What are appropriate circumstances where a least cost assessment should be applied, and if so, should the two limbs of the regulatory test be maintained?

20. Is there a need for a more specific decision making criterion compared to the existing regulatory test?

ENA Response

Q19:

ENA is opposed to heavy handed regulation imposes such as the application of imposed criterion based on either maximising or minimising ratios of net benefits to net costs or net costs to net benefits respectively. Regulators should not be put in the position of determining whether a business case exists for a particular project. This is best left to the private sector. DNSPs should have the discretion to apply their assessment across a range of

scenarios and apply their own judgement of the appropriate option (refer to response to Q12 for further discussion).

Q20:

See response to [Q12](#).

Key Messages:

ENA considers that mandatory and prescriptive RFP arrangements would impose a disproportionate and costly regime on distribution network businesses that is not justified by the benefits available for customers from that regime. Further, such arrangements would act to undermine the incentives for these businesses to create innovative solutions to network augmentations.

Treatment of environment costs under the RIT-D should only be included where there are clear links to legislative requirements.

Dispute Resolution Process

The Commission is seeking stakeholder comment on how the dispute resolution process should operate. In particular:

- 23. Who should be able to initiate the dispute resolution process?**
- 24. What process should be followed to resolve disputes and what should be the timing for this process? Should parties be required to undertake a formal mediation process before the dispute is referred for a binding determination? What aspects of the proposed process for transmission should apply to distribution?**
- 25. Who should make binding determinations to resolve disputes? Is the AER the most appropriate body? If a mediation process is used, who should be the mediator for disputes?**
- 26. Should the appointed arbiter have the ability to reject disputes immediately if the grounds for the dispute are invalid, misconceived or lacking in substance?**
- 27. Should the dispute resolution process be restricted to reviewing the DNSP's compliance with the NER and requiring the DNSP to amend its analysis in its project assessments or annual planning report if it is found**

that it has not fully complied (i.e. compliance review)? Or, should the dispute resolution process provide for a review of the outcomes of the DNSP's project assessments or annual planning report and if it is found that the DNSP has not reached the best outcomes, direct the DNSP to implement the most suitable outcomes (i.e. merits review)?

ENA Response

Q23 to Q27:

ENA considers that the dispute resolution process established for the RIT-T should be mirrored for distribution. ENA opposes any extension of the scope of dispute resolution to the merits of a regulatory test analysis and considers it should remain limited to due process, namely, the distributor's compliance with the NER and the test itself. In addition, ENA considers that it is highly problematic if disputes could be raised as to the content of an annual planning report. These reports are forward looking documents intended purely for information purposes. Distributors cannot be held responsible for any commercial decisions made by market participants based on information in the annual planning reports, and dispute resolution arrangements should reflect this principle.

Common Issues

The Commission is seeking stakeholder comment on:

28. The appropriate balance of specification in the national framework between the Rules and supporting guidelines.

29. Should "urgent" investments be exempt from aspects of the national framework? If so, how should "urgent" be defined?

30. What consequential amendments should be made to other arrangements to reflect the implementation of the national framework?

ENA Response

Q28:

We note the AEMC's comments that "*Prescription in the NER promotes certainty and stability of regulatory outcomes, but it may reduce the regulator's ability to accommodate the particular circumstances of individual market participants in regulatory decisions.*" However the development of guidelines by the AER does

not resolve this limitation, unless they are developed separately for different jurisdictions or businesses. The use of guidelines rarely adds value to the approach specified through principles in the Rules. They are also more inflexible. A DNSP cannot formally initiate a change in the guidelines if there is a problem with complying with them or if market circumstances change.

It is far better for adequate principles to be established in Rules and for DNSPs to demonstrate compliance with those principles (and AER assess compliance) rather than adding an additional layer of guidelines on top.

Q29:

ENA members often have customers which require work within tight deadlines and that therefore need to be done outside the formal process. ENA's view is these urgent investments should be exempt from the national framework.

The issue of how to define "urgent" is a matter for further consideration.

Q30:

We would be interested in understanding what processes the AEMC is undertaking with the MCE on issues where there is considerable overlap in reform.

Key Messages:

ENA is comfortable with the current dispute resolution process which should remain focused on administrative and compliance issues and not be extended to merit assessments.

ENA supports enunciation of principles in the Rules rather than amendment to Guidelines

Urgent investments should remain outside the national framework.