

Ref.: JD/TF/AC



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Mr John Pierce  
Australian Energy Market Commission  
PO Box A2449  
**SYDNEY SOUTH NSW 1235**

Dear Mr Pierce

**Re: ERC0147 Submission on the *Draft Rule Determination – National Electricity Amendment (Connecting Embedded Generators) Rule 2013* and *Draft National Electricity Amendment (Connecting Embedded Generators) Rule 2013***

Ergon Energy Corporation Limited (Ergon Energy) welcomes the opportunity to provide comments to the Australian Energy Market Commission (AEMC) on its *Draft Rule Determination – National Electricity Amendment (Connecting Embedded Generators) Rule 2013* (the Draft Determination) and the associated *Draft National Electricity Amendment (Connecting Embedded Generators) Rule 2013* (the Draft Rule). This submission, which is available for publication, is made by Ergon Energy in its capacity as a Distribution Network Service Provider (DNSP) operating in Queensland. Ergon Energy is available to discuss this submission or provide further detail regarding the issues raised, should the AEMC require.

Ergon Energy generally supports the enhancement of the connection framework that governs the connection of the Embedded Generators (EG) to the network and looks forward to providing continued assistance to the AEMC in this regard. However, Ergon Energy does have some concerns about particular aspects of the Draft Determination and Draft Rule and these are addressed below.

**Connection Processes**

Ergon Energy considers that Chapter 5A of the National Electricity Rules (NER) developed as part of the National Energy Customer Framework (NECF) may be sufficient to address the perceived barriers identified by EG proponents. However, as Chapter 5A has only recently been applied in a number of jurisdictions and not yet applied in others it essentially remains unproven as to whether it will be sufficient to deal with these barriers or not. Consequently Ergon Energy strongly recommends that changes to the connection framework such as those contemplated in the draft determination are not made until such time as Chapter 5A has been sufficiently tested by the market.

Ergon Energy is concerned that the entire connections framework, which includes Chapter 5 and Chapter 5A, allows EGs to 'shop' between various connection processes. For example, non-registered EGs can apply under existing clause 5.3 and the new clause 5.3A, and also under Chapter 5A as a standard or negotiated connection. This creates uncertainty for DNSPs which will inevitably increase compliance costs. Ergon Energy does not consider that evidence has been

presented, to support the notion that providing a number of different connection processes will provide greater clarity or facilitate cost effective and timely connections for EG proponents.

Ergon Energy is also concerned that under the proposal, EGs are provided with different timeframes within which to receive responses from DNSPs and acknowledgement receipts from DNSPs as compared to other registered participants. Ergon Energy does not consider that EG applicants should be treated differently to other registered participants. Ergon Energy considers that the practical impact of imposing different timeframes adds another layer of administrative burden on DNSPs, thereby increasing compliance costs.

### **Connection Enquiry Fees**

Ergon Energy supports the AEMC's decision that EGs should not be exempt from paying their proportion of shared network augmentation costs. As highlighted in our previous submission, EGs should be provided with user pays signals and should not be cross-subsidised by other users.

Ergon Energy disagrees with the following statements / assumptions made by the AEMC:

- "An enquiry fee would be one of these services that falls outside of the oversight of the Australian Energy Regulator (AER)",<sup>1</sup> and
- "To facilitate this position, the draft rule includes provisions that acknowledge what is currently permissible under the National Electricity Rules (NER): that DNSPs are able to charge connection applicants an enquiry fee".<sup>2</sup>

The AEMC appears to be of the view that the enquiry fee (and application fee) is outside the classification of services and a DNSP's Distribution Determination as there is a reference to a DNSP's ability to charge for these activities in the NER. Ergon Energy does not believe this is correct. While the NER may outline activities which a DNSP may be entitled to charge for in the connection process, how and what charges a DNSP applies to a customer for services it provides still needs to be consistent with the DNSP's Distribution Determination (which, among other things, includes a decision on the classification and form of price control that applies to particular services).

The AEMC also seems to be pre-empting the AER's assessment and decision on how a DNSP's services (including enquiry and application fees) may be classified through the Distribution Determination process. As outlined in our previous response, there is currently nothing preventing a DNSP charging an EG (or any other type of customer) an enquiry fee, provided this is consistent with the DNSP's Distribution Determination and Pricing Proposal approved by the AER. Also, there will invariably be differences between DNSPs, depending on the AER's service classification and/or form of control.

In summary, the AEMC cannot assume enquiry and application fees will be unclassified or negotiated distribution services. We seek clarification from the AEMC as to why they consider that these fees fall outside of the oversight of the AER. It is more appropriate that the AER make the assessment of classification and control mechanisms that apply to services the DNSP provides to all customers during connection enquiry and application stages. The AER may very well classify these as direct control services, and in the current regulatory control period have done so (or at least for Ergon Energy).

### **Dispute Resolution**

It is unfortunate that stakeholders indicated to the AEMC that the "Chapter 8 Dispute Resolution process was not working adequately".<sup>3</sup> It is especially disconcerting that EG proponents think that DNSPs will "black list" them if they utilise the Dispute Resolution process. Ergon Energy believes that there is no evidence to support this notion, and considers that the Dispute Resolution provisions that exist under Chapter 8 of the NER are appropriate and should be considered as the correct avenue to settle disputes between an EG applicant and a DNSP.

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<sup>1</sup> AEMC, Draft Determination, p 78.

<sup>2</sup> Ibid p 79.

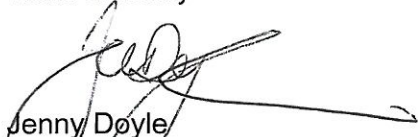
<sup>3</sup> Ibid p 46.

### Comments in relation the draft rule

- *Draft Rule 5.9A.8.* Ergon Energy recommends that “the” be deleted from “The fees and costs of the expert must be borne equally by the both parties”.
- *Draft Rule 5.3A.3(a)(3)* – Ergon Energy agrees in principle with the development of an information pack. However, Ergon Energy has concerns with the requirement that the information pack includes example costs. This is because there will inevitably be variations between applicant’s connection requirements. DNSPs will therefore be required to keep a “range” of example costs to cater for all the different connection applications. This will be administratively onerous.
- *Draft Rule 5.3.6(b2)(1)* - Ergon Energy seeks clarification from the AEMC on what level of detail is required to meet the obligation outlined under sub-rule (iii) of Rule 5.3.6(b2)(1), which requires the costs of network extension to be included in the schedule of connection costs that must accompany an offer to connect. This could include hundreds of items of equipment. We query whether the cost of the network extension is intended to be a total cost or itemised costs. Ergon Energy also notes that “network extension” is italicised thereby inferring it’s a defined term. Ergon Energy notes that it is not a defined term in Chapter 10 of the current version of the Rules and suggests that the AEMC define this term.
- Ergon Energy believes that DNSPs should be able to refer Connection Applicants to existing pricing documents (with more detailed information, specific to the enquiry, available at the detailed response stage). Ergon Energy agrees that detailed examples of potential costs should not be binding on the DNSP.
- *Draft Rule 5.3A.7(a)* - Ergon Energy does not consider that EG applicants should be treated differently to other registered participants. Ergon Energy considers that 20 business days is more reasonable and does not agree with the AEMC’s assertion that 15 business days is a reasonable timeframe to allow the information to be compiled and provided.<sup>4</sup> Ergon Energy requests that the AEMC provide reasoning as to why 15 days is considered appropriate.

Ergon Energy looks forward to providing continued assistance to the AEMC in its consultation on this Rule Change request. Should you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact either myself on (07) 4092 9813 or Trudy Fraser on (07) 3851 6787.

Yours sincerely



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<sup>4</sup> AEMC, Draft Determination, p.33.