

13 August 2009

Australian Energy Market Commission
PO Box A2449
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Email: submissions@aemc.gov.au



Dear Dr Tamblyn

EPR0015 - Review of National Framework for Electricity Distribution Network Planning and Expansion

ENERGEX Limited (ENERGEX) welcomes the opportunity to respond to the Australian Energy Market Commission's (Commission) Draft Report titled *Review of National Framework for Electricity Distribution Network Planning and Expansion* (Draft Report). ENERGEX provides this response as a Distribution Network Service Provider (DNSP) operating in Queensland.

ENERGEX supports the objectives of the Commission's review and the development of a national framework for network planning that delivers a reduction in barriers for non-network alternatives and a distribution specific test for project assessment. In addition to developing supply solutions, ENERGEX pursues efficient management of the network by utilising demand management and recognises that its demand management strategies are fundamental to stemming electricity demand, conserving resources and reducing the environmental impacts of today's energy-intensive living.

ENERGEX is supportive of the Ministerial Council on Energy's (MCE) objective to achieve a national framework that delivers reduced compliance costs for participants. ENERGEX appreciates that in designing the framework the Commission is attempting to introduce flexibility for DNSPs. However, ENERGEX is concerned that the proposed national framework is overly complicated and given the number of projects ENERGEX has to undertake, it may delay the implementation of critical projects, and place an unacceptable risk to the network. The duplication of reporting requirements will also increase the regulatory compliance burden for DNSPs.

The Commission is making its recommendations based on the assumption that jurisdictional planning and reporting requirements will be rolled back once the national framework is in place. ENERGEX is of the view that this may be a difficult process to achieve as the existing reporting is governed by jurisdictional regulatory instruments which will take considerable time to amend for removal of any duplication.

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Annexure A to this submission contains ENERGEX's comments in response to the recommendations and questions raised by the Commission in the Draft Report.

Annexure B to this submission contains further comments that were not specifically raised by the Commission in the Draft Report, but ENERGEX believes should be brought to the Commission's attention.

At a high-level, ENERGEX provides the following comments:

- ***Preparation of the Distribution Annual Planning Report (DAPR) should not result in an unwarranted cost burden for DNSPs, and ultimately customers***
 The proposed DAPR will impose reporting obligations on ENERGEX that are in addition to and replicate current Queensland jurisdictional reporting requirements. In preparing two separate distribution planning reports, for a similar purpose and audience, ENERGEX will be required to incur additional costs but with little or no benefit. In addition, the Commission is recommending that the DAPR is published by 31 December each year, whereas the jurisdictional requirement is to publish a final Network Management Plan by 31 August each year. Assuming both reports will continue to be required, this difference in publication dates will mean that information provided to the public may be different due to the time lag involved and may be potentially confusing.
- ***Demand Side Engagement Strategy – Public Database of Proposals***
 The Commission has recognised that non-network proposals and case studies may contain commercially sensitive information and as such ENERGEX does not support the requirement to publish a public database of both successful and non-successful proposals. The necessary "sanitising" of this information will restrict the content as to render it of extremely limited value to any potential non-network proponent. It is ENERGEX's preference to work one-on-one with potential non-network proponents and thus provide more useful information as and when requested.
- ***The project specification threshold of \$2 million is inappropriate***
 ENERGEX is greatly concerned that the proposed \$2 million threshold is quite low, and proposes that a \$5 million threshold may be a more appropriate level given the current market costs and the number of projects being undertaken by some DNSPs. The level of an appropriate threshold is a particular issue in Queensland given the high growth and high asset utilisation compared to other jurisdictions. ENERGEX is required to be increasingly responsive in delivering investments to meet increasing demand.

In particular, in ENERGEX's case, a threshold of \$2 million would require a substantially greater number of projects to be assessed under the RIT-D than would be required under a \$5 million threshold. In addition, due to the substantial growth in South East Queensland, ENERGEX would be required to complete a significantly greater number of projects under this test, compared to most other DNSPs. In setting the threshold, the Commission needs to balance the costs to be incurred by the DNSPs versus the likely benefits to be achieved by the market. A threshold that is too low will inhibit a DNSP's ability to deliver critical network projects in a timely manner and will require considerable additional resources to implement. ENERGEX is concerned that given the large number of projects to be assessed, this proposed test has the potential to unnecessarily protract ENERGEX's planning processes.

- ***Simplifying the RIT-D process***

The Commission has recognised that the proposed RIT-D process is complex and has increased the reporting requirements compared to the current Regulatory Test. At the recent workshop held in Melbourne on the 5 August 2009, the Commission requested suggestions to improve the RIT-D process and remove the perceived complexity.

ENERGEX's suggestion is to remove the accelerated consultation option (one month) as well as the alternative six month consultation timeframe as it appears to be redundant as DNSPs will be required to publish a Demand Side Engagement Facilitation Document as well as consult with non-network proponents as part of a Demand Side Engagement Strategy. As such, by removing this stage, DNSPs would proceed directly to the Project Assessment Process stage.

In this regard, ENERGEX supports the ENA recommendations for simplification of the process.

- ***The current definition of 'interested party' is unclear***

Throughout the Draft Report, 'interested parties' and 'non-network proponents' are referred to interchangeably. ENERGEX believes that this definition needs to be clarified to ensure DNSPs can adequately comply with the new national framework. The Commission has proposed a range of consultation processes with interested parties as well as further proposing that interested parties are now able to raise a dispute under the dispute resolution process. These changes therefore highlight the importance for the Commission to clearly define the term 'interested party'.

This process is an *economic* assessment of a DNSP's planning and expansion investments and the objective of this Review is to increase non-network engagement. ENERGEX proposes that the definition of 'interested party' be limited to Registered Participants and intending Registered Participants. ENERGEX has concerns with adopting the current definition of 'interested party' used for transmission purposes as it appears overly legalistic with some of the terminology open for interpretation.

ENERGEX proposes that a new classification for Registered Participants should be created under the National Electricity Rules (Rules) for non-network proponents. As Registered Participants, non-network proponents would be provided the status of 'interested party' and thus be allowed to raise disputes under the Rules.

- ***DNSPs should not be required to keep a register of interested parties***

Following on from the comments above, ENERGEX believes that AEMO's register of Registered Participants is the appropriate register of interested parties. By requiring non-network proponents to register with AEMO as a Registered Participant, ENERGEX believes that it would encourage and facilitate the establishment of a *national market* rather than separate jurisdictional or DNSP markets for non-network solutions.

ENERGEX believes that the recommendation for DNSPs to maintain individual registers of interested parties will increase the regulatory compliance burden because of the following risks associated with the register:

- (i) *logistical maintenance of such a register.* The register will have to be updated and contact details continuously checked to ensure all aspects of the register are current. ENERGEX queries whether it will be the

- responsibility of DNSPs or the individual interested party to ensure details on the register are current and correct;
- (ii) *lack of timeframes for registration by interested parties.* The AEMC have not recommended any timeframes as to when an interested party must register with a DNSP. Failure to provide clear timeframes could result in increased disputes being raised by interested parties;
 - (iii) *perception of preferential treatment.* ENERGEX is concerned that, given the lengthy period for consultation, the potential for perceived preferential treatment of certain non-network proponents may be raised in disputes, should unknown interested parties not be listed on a particular DNSPs register of interested parties at the time of consultation. This could be overcome by a registered list being held by an independent party ; and
 - (iv) *compliance with the Privacy Act.* If the term 'interested party' is to include all end use customers (which ENERGEX does not support), DNSPs will also need to expand compliance obligations under the *Privacy Act*.

Compliance costs would be minimised if a national register was established with AEMO.

Finally, in addition to the comments raised above, ENERGEX provides the following to assist in the drafting of the Rules:

- (i) The proposed threshold definition is confusing and should relate to the value of the preferred investment option, rather than the most expensive option. In addition, the term '*technically and commercially feasible*' needs to be clearly defined to avoid unnecessary disputes being raised;
- (ii) *The term 'augmentation'* should not apply to secondary system projects, IT and communication projects, land acquisition and conduit/duct instalments for future networks. Such expenditure is not associated with the expansion of the network to meet demand and would not provide opportunities for non-network alternatives;
- (iii) There appears to be some ambiguity in the Draft Report concerning whether investment in asset replacement would be exempt from the RIT-D. ENERGEX supports the exemption of replacement expenditure from the RIT-D and accepts that where such investment also has the effect of materially augmenting the capacity of the network, only the proportion of such investment attributable to the capacity augmentation should be subject to the RIT-D. The AEMC should ensure that no ambiguity exists in the drafting of the Rules;
- (iv) Assuming that the accelerated consultation stage remains (refer to suggestion for simplifying the RIT-D process above) DNSPs would only have to consult on project specification reports for one month if the DNSP has '*constructively engaged*' with non-network proponents. ENERGEX believes that because the term *constructively engaged* is open to interpretation, it should be removed to avoid unnecessary disputes. Rather a DNSP should be entitled to accelerated consultation if it has demonstrated compliance by following its Demand Side Engagement Facilitation Document; and
- (v) Following publication of the DAPR, the Commission has recommended that a DNSP conduct a public forum within two months of publication. To minimise costs, ENERGEX believes that the Rules should not mandate a public forum but rather a public forum should only be conducted upon request by an interested party.

ENERGEX appreciates the opportunity to respond to the Commission's Draft Report and if possible, commenting on the Draft Rules. In the meantime, should you have any enquiries please do not hesitate to contact me on (07) 3407 4161.

Yours sincerely

A handwritten signature in black ink, appearing to read 'L. Dwyer', written in a cursive style.

Louise Dwyer
Group Manager Regulatory Affairs

Attach.

ANNEXURE A

COMMENTS ON PROPOSED NETWORK PLANNING AND EXPANSION ARRANGEMENTS

The following table contains ENERGEX's comments in response to the questions raised in the AEMC's Draft Report.

Question for Comment	ENERGEX Response
Annual Planning Process	
<p>1. Comments on whether the proposed content of the facilitation process document provides useful information and can be provided by DNSPs at a reasonable cost.</p>	<p>It is proposed that the Demand Side Engagement Facilitation Document include information on how a non-network proponent may register with the DNSP as an interested party and the process for updating the parties registered on the Register of Interested Parties.</p> <p>ENERGEX believes that an independent body such as AEMO should be required to maintain the register of interested parties rather than each DNSP as currently proposed. A new classification for Registered Participants should be established under the Rules for non-network proponents. Non-network proponents (i.e. interested parties) would then register with AEMO as a Registered Participant, and by doing so, ENERGEX believes that it would encourage and facilitate the establishment of a <i>national market</i> rather than separate state or DNSP markets for non-network solutions.</p> <p>ENERGEX believes that the recommendation for DNSPs to maintain individual registers of interested parties will increase the regulatory compliance burden through the:</p> <ul style="list-style-type: none"> - <i>logistical maintenance of such a register.</i> The register will have to be updated and contact details continuously checked to ensure all aspects of the register are current. ENERGEX queries whether it will be the responsibility of DNSPs or the individual interested party to ensure details on the register are current and correct. - <i>lack of timeframes for registration by interested parties.</i> The AEMC have not recommended any timeframes as to when an interested party must register with a DNSP. Failure to provide clear timeframes could result in increased disputes being raised by interested parties. - <i>perception of preferential treatment.</i> ENERGEX is concerned that the potential for perceived preferential treatment of certain non-network proponents may be raised in disputes should unknown interested parties not be listed on a register of interested parties, and - <i>compliance with the Privacy Act.</i> If the term 'interested party' is to include all end use customers (which ENERGEX does not support), DNSPs will also need to expand their compliance with the <i>Privacy Act</i>.

Question for Comment	ENERGEX Response
	<p>ENERGEX does not support the Demand Side Engagement Facilitation Document including details relating to proposals and the criteria used for developing payment levels as these details cannot be generic and may vary according to each proposal.</p>
<p>2. Comments on whether explicit protocols for Demand Side Engagement Facilitation Document would be beneficial.</p>	<ul style="list-style-type: none"> • ENERGEX supports the principle that the national framework and Demand Side Engagement Facilitation Document should accommodate differences in operating environments and network conditions. • However, ENERGEX can see the benefit in explicit protocols as they may reduce any uncertainty around interpretational issues and may reduce disputes and the corresponding delay in resolving disputes. • The AEMC is proposing that disputes may be raised in relation to any aspect of the RIT-D process. ENERGEX assumes that this would include the Demand Side Engagement Facilitation Document, as this document will be used by DNSPs to undertake a fast tracked project specification report consultation as part of RIT-D. ENERGEX is concerned that with the term 'constructively engaged' and without explicit protocols there will be unnecessary disputes raised by interested parties caused by lack of clarity as a result of conflicting interpretations.
<p>3. Comments on whether the publication date of 31 December is appropriate.</p>	<p>ENERGEX supports the proposed DAPR publication date of 31 December but recognises that this date is not in alignment with the current jurisdictional requirement to publish the Annual Network Management Plan by 31 August.</p> <p>ENERGEX supports the removal of duplication of planning and expansion reports at both a state and federal level to reduce compliance costs and regulatory burden.</p>
<p>4. Comments on whether additional requirements should be provided to clarify the joint planning processes between TNSPs and DNSPs in Victoria.</p>	<p>ENERGEX considers that any additional requirements provided to clarify the joint planning process between TNSPs and DNSPs in Victoria, should clearly state that those additional requirements <i>only</i> apply in Victoria.</p>
Reporting Requirements	
<p>5. Comments on the definition of sub transmission assets and primary distribution feeders as to whether the proposed definitions would capture all the sub transmission assets owned and operated by DNSPs and relevant primary distribution feeders.</p>	<p>ENERGEX proposes that the current definition of sub transmission assets and primary distribution feeders require further drafting changes to ensure the definitions are clear:</p> <ul style="list-style-type: none"> • The AEMC proposed definition of sub transmission asset should be amended to read: <p><i>Subtransmission assets includes lines and cable which operate at voltages of 132, 66 and 33 kV and substations and switching stations connected with primary voltages of 132, 66 and 33 kV and having secondary voltages of</i></p>

Question for Comment	ENERGEX Response
	<p><i>11 kV or greater. Subtransmission assets exclude a transmission asset</i></p> <ul style="list-style-type: none"> The AEMC proposed definition of primary distribution feeder should be amended to a “<i>distribution line or cable operating at a voltage of 11kV or greater that is not a sub transmission asset</i>”.
<p>6. Comments on how significant investments in smart metering should be captured by the annual reporting requirements and specified in the Rules.</p>	<p>ENERGEX believes that smart metering should not be included in the discussion of this Review as a separate review into smart metering is currently taking place with the MCE.</p>
<p>7. Comments on whether the national framework should include a requirement for DNSPs to develop regional development plans.</p>	<p>ENERGEX does not prepare a regional development plan because the ENERGEX network is contained within the one region, making a regional development plan unnecessary. Therefore, it should not be mandatory for all DNSPs to develop a regional development plan.</p>
<p>Regulatory Investment Test for Distribution</p>	
<p>8. Comments on the proposal to exclude primary distribution feeders from RIT-D and the wording of the proposed exemption in section 2(a)(vii) of the framework specification in Appendix B.</p>	<p>ENERGEX comments that:</p> <ul style="list-style-type: none"> The AEMC proposed definition of primary distribution feeder should be amended to a “<i>distribution line or cable operating at a voltage of 11kV or greater that is not a sub transmission asset</i>”. If this amendment is made, ENERGEX supports the proposal to exclude primary distribution feeders from RIT-D.
<p>9. Comments on the practical application of the STT and whether the STT provides an appropriate degree of discretion to DNSPs.</p>	<p>ENERGEX believes that:</p> <ul style="list-style-type: none"> The STT is an appropriate mechanism for filtering projects that are likely to lead to a demand management solution. To ensure consistency across DNSP's, the AER should publish (or approve) a standard set of measures (ie \$/KVA) for the STT test. These measures would be adjusted annually to keep pace with market costs.
<p>10. Comments as to whether prescription is required in the Rules regarding the actions that DNSPs must have undertaken to qualify for accelerated consultation on their project specification reports.</p>	<p>ENERGEX is concerned as to how DNSPs will be able to adequately demonstrate ‘constructively engaged’ with non-network proponents in order to qualify for the accelerated consultation stage.</p> <p>Assuming that the accelerated consultation stage remains, ENERGEX believes that the term ‘constructively engaged’ should be removed to avoid unnecessary disputes. Rather, a DNSP should be entitled to accelerated consultation if it</p>

Question for Comment	ENERGEX Response
<p>An alternative to greater prescription in the Rules would be to provide the AER with greater discretion in its development of the RIT-D Application Guidelines to determine the appropriate actions DNSPs must undertake to comply with the Rules requirements for accelerated consultation.</p>	<p>has demonstrated compliance by following its Demand Side Engagement Facilitation Document.</p>
<p>11. Comments regarding the list of market benefits and costs that DNSPs should consider under the RIT-D and whether it would be appropriate to require DNSPs to consider any market benefits and costs in addition to those currently proposed.</p>	<p>ENERGEX believes that a list of market benefits and costs is appropriate. However, DNSPs should be left to assign their own value to each benefit, as values differ between jurisdictions.</p>
<p>Dispute Resolution Process</p>	
<p>12. Comments on the proposed scope of the dispute resolution process</p>	<p>ENERGEX strongly urges the AEMC to:</p> <ul style="list-style-type: none"> • Clearly define the term ‘interested party’ in the Rules. ENERGEX is concerned that the lack of clarity as to who currently is an interested party could result in potential disputes being raised by parties that will not contribute to the process. The AEMC uses the terms ‘non-network proponents’ and ‘interested parties’ interchangeably throughout its Draft Report thereby creating confusion as to who it actually intends to be an interested party. <p>ENERGEX proposes that:</p> <ul style="list-style-type: none"> • Disputes should only be raised by Registered Participants (and intending Registered Participants). A new registration classification should be provided for under the Rules specifically for non-network proponents. This would then provide for a national register of non-network proponents (on AEMO’s website) and allow non-network proponents as Registered Participants to raise a dispute under the Rules.

ANNEXURE B

ADDITIONAL COMMENTS ON PROPOSED NETWORK PLANNING AND EXPANSION ARRANGEMENTS

The following table contains ENERGEX’s additional comments in response to the AEMC’s Draft Report.

Issue	ENERGEX Response
Annual Planning Process	
<p>1. Failure to align jurisdiction annual planning report to the Distribution Annual Planning Report (DAPR)</p>	<p>ENERGEX is concerned that:</p> <ul style="list-style-type: none"> • Preparation of the Distribution Annual Planning Report (DAPR), in conjunction with the jurisdictional requirement to prepare and publish an annual Network Management Plan (NMP) will result in an unnecessary and increased cost for ENERGEX, and ultimately customers. • In addition, ENERGEX has concerns regarding its ability to provide the following reporting requirements proposed in the DAPR: <ul style="list-style-type: none"> ➢ Load transfer capabilities – ENERGEX currently has no mechanism in place to report on these capabilities for the full 5 years. Under its NMP, ENERGEX provides reports for this capability for 1 year only. ➢ Forecasts of future connection points and zone substations including location, future loadings, and estimate timing (month, year) of the connections – ENERGEX currently does not report on a monthly basis but rather twice a year, pre summer (October) and pre-winter (April). ➢ Fault levels, voltage levels, other systems and requirements and ageing and potentially unreliable assets that may have a major affect on the ENERGEX network. ENERGEX only reports on these factors as part of the 5 yearly determination. ➢ The forecast load in the next 2 years, and identifying the extent the forecast load would exceed the normal cyclic rating (summer or winter) – ENERGEX cannot publish the actuals as primary distribution feeders which are difficult to forecast due to their large volume and considering the number of changes to the network.
<p>2. Requirement of DNSPs to establish and maintain a</p>	<p>ENERGEX is concerned that by requiring DNSPs to establish and maintain a public data base of proposals/case</p>

Issue	ENERGEX Response
public database of proposals/case studies.	studies the unnecessary “sanitising” of this material will require careful scrutiny to ensure no commercially sensitive information is published and will render the information of little value to non-network proponents.
3. Conducting a public forum within two months of publication of DAPR	ENERGEX does not believe that DNSPs should have a mandatory obligation to host a public forum following the publication of its DAPR. Rather the public forum should only be conducted following a specific request by an interested party. The reason being is that all DNSPs will be hosting a public forum around the same time and unless there is a specific request or need, it will require each DNSP to incur additional costs for little benefit, particularly if no-one attends the forum.
Reporting Requirements	
4. Replacement and refurbishment projects	<p>The AEMC is proposing that the DAPR contain information on refurbishment and replacement projects where the capital cost of the augmentation component of the project was \$2 million or more.</p> <p>ENERGEX’s refurbishment and replacement planning process involves programs that are made up by a number of different projects. For example, a program of pole replacements will involve the replacement of thousands of poles rather than individual poles. As such ENERGEX considers that the AEMC needs to clarify how a DNSP should treat replacement / refurbishment projects.</p>
Regulatory Investment Test for Distribution	
5. What is capitalised expenditure?	<p>ENERGEX believes that:</p> <ul style="list-style-type: none"> The AEMC should clarify what it considers ‘capital cost’ to be. Is the AEMC referring to the net present value or the initial capital cost of the augmentation component of a project?
6. What is meant by the term ‘augmentation’	ENERGEX believes that the term ‘augmentation’ should be clarified. For example, it should not apply to communications systems/SCADA projects, secondary system projects, where there is no augmentation aspect or land acquisition and conduit/duct instalments which are for future network augmentations.