



30 April, 2007

Australian Energy Market Commission
PO Box H166
Australian Square NSW 1215

submissions@aemc.gov.au

Dear Sir/Madam,

Proposed Last Resort Planning Power Guidelines

Please find attached Powerlink Queensland's submission to the Australian Energy Market Commission Proposed Last Resort Planning Power Guidelines. This response was submitted electronically on the 30 April 2007.

If you have any questions regarding this document, please contact Carmen Yip.

Yours sincerely,

A handwritten signature in black ink that reads "Carmen Yip". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

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RESPONSE TO

AEMC Proposed Last Resort Planning Power Guidelines

May 2007

Powerlink Queensland appreciates the opportunity to comment on the Proposed Last Resort Planning Power Guidelines. This submission provides Powerlink's view relating to the Proposed Last Resort Planning Power Guidelines (the Guidelines), that the Australian Energy Market Commission (the Commission) sought comment on by 1 May 2007.

1. Advice from the Inter-regional Planning Committee

- (a) Powerlink supports the Commission in appointing additional suitable persons to the Inter-regional Planning Committee (IRPC). However, Powerlink is concerned the guidelines will result in a lack of transparency in the appointment to the IRPC if NEMMCO were unilaterally able to reject the appointment identified by the AEMC. This could effectively be seen as a power of veto by NEMMCO, which Powerlink considers would be inappropriate. Powerlink recommends the IRPC itself is the appropriate body to be consulted before any formal request for an appointment of a person to the IRPC is made.

In the interests of transparency, Powerlink suggests amending the third dot point;

- Consult with the jurisdictional planning bodies, currently represented by the IRPC, before making the formal request for appointment of a person to the IRPC¹.
- (b) Powerlink notes there is an inconsistency in one dot point when referring to timeframes. Powerlink therefore suggests the following dot point, that includes the wording, "which is at least", be changed to "not less than" for consistency with the wording in the rest of the Guidelines and with the Rules.
- A date by which the advice is to be provided to the AEMC **not less than** 3 months from the date of the request²;
- (c) The guideline includes arrangements whereby the Commission will publicise its actions associated with seeking advice from the IRPC. Powerlink considers the same level of transparency should exist when the Commission approves a timeframe extension. Section 4.4 should be amended to include the Commission should publishing its reasons for approving a timeframe extension.

¹ Proposed LRPP Guidelines, Section 4.2, p2.

² Proposed LRPP Guidelines, Section 4.3, p3.

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2. Consultation on IRPC advice

Section 5.3 of the Guidelines provides that the Commission may notify other parties if it considers the advice of the IRPC affects them. Powerlink considers the Commission should be required to notify the other parties under these circumstances. Powerlink suggests, “may” be changed to “must” in this clause.

If the AEMC considers that the advice of the IRPC affects other parties, it **must** notify those persons in writing of the IRPC advice and invite comment³.

3. Provision of information for the exercise of the last resort planning power

While Powerlink believes the Commission would initiate communications and try to resolve issues with affected participants before commencing the more formal process leading up to its use of the LRPP, such as seeking advice from external parties, Powerlink considers these Guidelines should formalise such communications by making it a requirement on the Commission. Replacing Clause 6.2 of the Guidelines with the following would achieve this, listed in order of sequence:

6.2 Preliminary Investigation in seeking advice on exercising the LRPP.

The Commission in determining the exercising of LRPP must;

- Notify and consult with relevant jurisdictional planning body/s.
- Notify and consult with all jurisdictional planning bodies.

6.2.1 Formal Process in seeking advice on exercising the LRPP.

If the Commission requires further information after the execution of 6.2 the Commission must;

- Notify and consult with the IRPC, as constituted by the LRPP.
- Invite comments from other Registered Participants.
- Publish the Commission’s determination.

4. Confidential Information

The Guidelines, while developed in accordance with the transmission consultation procedures in rule 6A.20 of the Rules, and having regard to the requirements of clause 5.6.4 of the Rules, are not informative of the treatment of confidential data provided to the Commission in it’s determination of exercising the LRPP.

Powerlink recommends the Guidelines be amended to formalise the treatment of confidential data used by any party in fulfilling their responsibility under the Guidelines.

5. Reporting of the AEMC’s exercise of the last resort planning power

While reporting on the Commission’s use of the Last Resort Planning Power is very important for the market, Powerlink considers the Commission needs to take great care in reporting information under this power, particularly in relation to publicising participant’s names before any formal process begins. Reporting alone may result in reputational harm to an organisation irrespective of whether or not it is subsequently found that the Commission does not need to use the last resort planning power.

³ Proposed LRPP Guidelines, Section 5.3, p3.

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Powerlink therefore considers information published on preliminary investigations carried out by the Commission (suggested 6.2 above) should be aggregated. The use of aggregated information would be consistent with both the AER's and NEMMCO's approach to publishing sensitive data. The Commission should only publicise participant information once a formal process in seeking advice on exercising the LRPP begins (see 6.2.1 above).

6. AEMC's Proposed LRPP Guidelines Explanatory Statement

Powerlink believes the LRPP Guidelines is the most appropriate place to document guidance from the Commission which would inform participants on the cost recovery process of a LRPP directive. While the Commission's Rule determination provides that assessments of claims for cost recovery will be determined on a case-by-case basis⁴, the Commission should provide guidance for directed participants on the cost recovery arrangements in these guidelines.

Powerlink considers the LRPP Guidelines be amended to include criteria for assessment of cost recovery for a directed party and, at a minimum, should contain the following:

- timeframes
 - for AER's approval of costs;
 - for the recovery of payment of the AER's approved costs; and
 - for appeals;
- treatment of the payment (e.g. that a directed party would treat expenses for a direction under LRPP as capital expenditure); and
- rights for appealing against a decision in relation to costs.

⁴ Proposed LRPP Guidelines Explanatory Statement, p2