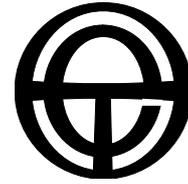


TOTAL ENVIRONMENT CENTRE INC.
LEVEL 4, 78 LIVERPOOL STREET, SYDNEY, NSW 2000
PO BOX A176, SYDNEY SOUTH 1235
Ph: 02 9261 3437 Fax 02 9261 3990
www.tec.org.au



SUBMISSION

to

AEMC

Draft Rule Determination

**National Electricity Amendment
(Demand Management) Rule 2009**

March 2009

For further information contact:

Jane Castle or Glyn Mather
Ph 02 9261 3437
Email jane.castle@tec.org.au

AEMC Draft Demand Management Rule Determination

1. Introduction

1.1 The Draft Rule Determination

Although Total Environment Centre (TEC) welcomes the opportunity for input to the AEMC's Draft Determination on the National Electricity Amendment (Demand Management) Rule, we are very disappointed that the AEMC has seen fit to reject most of our proposed Rule changes.

We are firmly convinced that the main argument used that our proposals do not meet the NEL Objective is a spurious one. Further, the claim by the AEMC that there is only 'perceived bias' against demand management (DM¹) - with the implication that bias does not exist in reality - is contradicted by the simple fact of continued vast under-utilisation of DM and the ongoing and unnecessary expansion of infrastructure by networks at the expense of electricity consumers. There is not equal access for supply and demand in the NEM; DM can assist with reliability (and in fact the AEMC is directly targeting this in another review); it is not efficient to overlook non-network solutions.

The AEMC's draft decision is sending the wrong signals to market participants and the Australian Energy Regulator (AER) – businesses such as DM aggregators are forced to register as generators to operate at all, and the barriers to incentives for businesses to undertake DM investigation and implementation still remain in the Rules (and the AER's attempts to develop DM incentive schemes fall well short of significant inducement). These barriers also operate against embedded renewable energy generators, a subset of DM.

TEC does support the minor Rule changes the AEMC proposes and consider they may slightly enhance uptake of DM, as well as removing some inconsistencies in the treatment within the current Rules between transmission and distribution businesses (such as broadening the detail required for annual planning reports; and the recognition of non-network expenditure). We appreciate the effort the AEMC has gone to, to identify gaps in the existing Rules, but it still fails to redress the overwhelming an inefficient dominance of supply. It is particularly disappointing that the notion of incentive schemes was rejected, since it has been accepted within the Rules for distribution businesses.

1.2 Importance of demand management in the NEM

DM in all its forms can deliver an array of benefits to all consumers. The NEL Objective is set up to cater for "the long term interests of consumers"; without effective DM this is

¹ DM in this submission can be read to include 'demand response', 'demand side management', 'demand side response', 'energy efficiency' and 'non-network solutions'. In general, DM can include both the management of peak loads and energy efficiency as a way of meeting capacity requirements most cost effectively. It includes a diverse array of activities that meet energy needs, including cogeneration, standby generation, power factor correction, fuel switching, interruptible customer contracts, and other load shifting mechanisms.

not being achieved. For example, when each kilowatt of extra demand is met by building more infrastructure (instead of DM or energy efficiency) it costs²:

- \$1500 worth of distribution infrastructure
- \$700 worth of transmission infrastructure
- \$800 worth of generation infrastructure

With the blessing of the AEMC, networks stuck in the 'build and send' mentality and are spending unnecessary billions, which all electricity consumers pay for. In the current regulatory period, networks have gained the approval to spend \$22.9 billion on hardware, which will be paid for by electricity consumers.³ Transmission network (the 'big' poles and wires) investments have already dramatically increased by⁴:

- 80% - Queensland
- 60% - Victoria
- 60% - South Australia

Network charges for Energy Australia's customers in Newcastle and Sydney, for example, are set to increase by 80% over the next 5 years.

We are all paying for this polluting waste. Unless the AEMC requires electricity businesses to invest in efficiency, prices will continue to rise, along with greenhouse emissions. Networks have proposed spending **another \$17 billion on new infrastructure in NSW alone** over the next 5 years.⁵ Most of this could be avoided, along with the costs of new generation, if electricity companies invested were required by the regulations set by the AEMC to invest in energy efficiency instead. Demand management projects already carried out in NSW have proven to be almost **4 times more cost-effective** than the 'build' initiatives⁶.

If TEC's Rule Change Package had been approved by the AEMC, much of this unnecessary spending could have been saved, along with greenhouse emissions and the extra carbon costs. The graph over the page shows estimates by the COAG National Framework on Energy Efficiency for energy reduction potentials across different sectors. With an average 4 year pay-back period, the residential and commercial sectors could reduce consumption by up to 70%⁷.

² Queensland Government, *Review of the Queensland Government climate change strategy*, 2008, p.11.

³ Australian Energy Regulator, *State of the Energy Market 2008*, p. 123 and p. 129.

⁴ Australian Energy Regulator, *State of the Energy Market 2008*, p. 124.

⁵ TransGrid, *TransGrid Revised Revenue Proposal 2009 - 2014*, Jan 2009, p. 4; EnergyAustralia, *Revised Regulatory Proposal, January 2009*, p. 21; Integral Energy, *Revised Regulatory Proposal to the Australian Energy Regulator 2009 to 2014*, January 2009, p 27; Country Energy, *Country Energy's Electricity Network Revised Regulatory Proposal 2009-2014*, January 2009, p. 47; ActewAGL *Distribution Determination 2009-14, Revised Regulatory Proposal to the Australian Energy Regulator*, January 2009, p. x.

⁶ Institute for Sustainable Futures, *Win Win Win: Regulating Electricity Distribution Networks for Reliability, Consumers and the Environment - Review of the NSW D-Factor and Alternative Mechanisms to Encourage Demand Management*, 2008, p.6

⁷ Energy Efficiency and Greenhouse Working Group (a joint initiative of the Governments of: Australia,

**Percentage cost-effective energy consumption reduction
potential across different sectors**

QuickTime™ and a
decompressor
are needed to see this picture.

When the cost of carbon is factored in, these reductions become even more significant, presenting 'negative-cost' opportunities for abatement. Full utilisation of energy efficiency would allow Australia to reduce emissions in 2020 by **20 percent below 1990 levels at no net cost to the economy**⁸. Considering that the AEMC is currently conducting a Review of Energy Market Frameworks in light of Climate Change Policies, its neglect of the co-benefits of DM in respect of its ability to complement climate change policies is a bizarre and disappointing outcome that reflects poorly on the AEMC's ability to deliver benefits to the long-term interests of consumers.

Australian Capital Territory, New South Wales, Northern Territory, Queensland, South Australia, Tasmania, Victoria, Western Australia), *Towards a National Framework for Energy Efficiency - Issues and Challenges*, Discussion Paper, November 2003, p. 5.

⁸ McKinsey and Company, *An Australian Cost Curve for Greenhouse Gas Reductions*, 2007, p.15.

2. AEMC Demand Side Participation Review

2.1 Timing and results

We note that the Draft Determination in response to some of our proposed Rule changes (for instance, Proposals 4 and 9) is that they will be dealt with in the AEMC's Demand Side Participation (DSP) Review. That may be a sensible approach in principle, but there are drawbacks to that approach.

One of these is timing. The DSP Review has been running for quite a while (since late 2007) and has yet to recommend any concrete changes. When recommendations are finally produced the next step would be beginning a Rule change process. This will add at least another six months to the process. It should be noted in this context that the AEMC took more than a year to develop this draft Rule determination in response to TEC's proposed changes (in part because it became tied to the DSP Review process).

Moreover only Stage 1 of the DSP Review has been completed (though without any discernible results) and this addressed a limited set of transmission issues, namely (from the AEMC website):

- The Congestion Management Review;
- The Reliability Panel's Comprehensive Reliability Review; and
- The National Transmission Planner and related projects

By the time Stage 1 was under way the first two processes had fairly substantially been signed off and so had little influence on them. The only response possible then for the AEMC at this point is to initiate Rule changes, or invoke Ministerial orders, both of which add to the time until final changes are in place.

These delays are unacceptable, particularly considering the longstanding problem of lack of DM utilisation, and it is inappropriate for the AEMC to effectively continue to stall by diverting the issue to another process that may or may not deal with the problems.

2.2 Coverage of issues

TEC is pleased that the AEMC has commissioned a number of reports investigating particular factors that we consider of primary importance to facilitating DM (that is, on wholesale markets; and using DSP for reliability). We agree that these will shed some light on our proposals and advance the development of better solutions within the Rules.

However, Stage 2 of the DSP Review is labouring under similar drawbacks as Stage 1, and it is difficult to see how the Review will coherently address our proposals. The issues relevant to Stage 2 (again from the AEMC website) are:

- the economic regulation of networks;
- network planning;
- network access and connection arrangements;
- wholesale markets and financial contracting; and
- using DSP for reliability purposes.

Although the matters raised in the two stages are certainly of relevance to DSP and to the TEC proposals, our concern is that they are not framed within the need to rapidly and

effectively advance the uptake of DM across the NEM, which of course was our primary purpose in proposing the suite of changes.

3. The specific draft Rules

3.1 Those rejected completely

3.1.1 Promotion of DM

Rule proposals 1 and 2 both deal with consideration by TNSPs of DM (or non-network) solutions before network options. The AEMC has rejected these on the basis that they do not meet the Objective; and actual bias – as against our “perceived need to balance a bias” – should not be introduced into the Rules.

As noted above, both the extensive benefits of DM for the long-term interests of consumers and its vastness of its untapped potential in the electricity market show that there is currently a bias against DM that the AEMC is stubbornly refusing to admit. Until this bias is corrected, the interests of consumers – and the unnecessary costs they bear – will continue to be harmed.

3.1.2 Investment and prudence

In their decision on Proposals 7 and 8, the AEMC presented the argument that “the existing regime aims to ensure that the most cost-effective and efficient option is chosen in meeting regulatory obligations”. Using such disingenuous jargon to create a veneer of regulatory authority is unconvincing.

Network inefficiencies when it comes to ignoring DM are almost never picked up by regulators due to the lack of rigorous oversight. The one notable exception was when the ACCC fined TransGrid and EnergyAustralia \$30 million for ignoring DM opportunities in the Sydney CBD due to ‘...inadequate analysis of the investment choices available to efficiently meet the investment need.’⁹ However this is the isolated example: the decision followed a long campaign by TEC and other stakeholders over several years, the resources for which most electricity consumers simply do not have.

3.2 Those deferred to the DSP Review

3.2.1 TNSP incentive scheme

The AEMC’s rejection of a DM incentive scheme for transmission (Proposal 4) – without even the possibility of proper further investigation – is mystifying. The Rules now allow the AER to develop incentive schemes for distribution businesses and they have acted that intent. Incentive schemes are systematically being designed for each jurisdiction and they have signalled they will eventually develop a national methodology. It is wholly inconsistent to disallow this for transmission.

The justification presented relies on the use of the revenue cap form of regulation used for transmission, which allegedly already allows sufficient incentive. The reality proves otherwise since TNSPs undertake limited DM activity. An even greater flaw with this argument is that the AER has seen fit to develop incentive schemes even for those distribution businesses that operate under a revenue cap, not only for those under a price cap form of regulation.

⁹ http://www.tec.org.au/index.php?option=com_content&task=view&id=635&Itemid=327

On the basis of the scope of the DSP review (as listed earlier), and on the basis of discussions and papers in that Review to date, there are discussions which offer some hope that incentives may arise out of that process. They will only be derived as peripheral to the main issues, however, and there is no clear focus in this Review on incentives as such. We are not convinced that the intent of our Rule change proposal will be fully addressed.

3.2.2 Wholesale market

We accept that it is appropriate for this issue (Proposal 9) to be dealt with in the DSP Review, and we note that the AEMC has commissioned reports to investigate this further. Our concern here is that the concept of any kind of DM price may be rejected, since the AEMC has not publicly reached a position on this. We look forward to seeing the discussion of this issue in the paper due out soon on Stage 2 of the DSP Review.

3.3 Those accepted

3.3.1 Data on forecast constraints

The draft Rule described by the AEMC in order to respond to the intent in Proposal 3 will certainly improve the planning procedures for TNSPs, as well as signalling the potential for investment in DM solutions. Although it does not include all the details we recommended, nonetheless it does recognise the need for comprehensive reporting by TNSPs on potential problems with constraints. It also makes their intentions regarding investigation of the potential for non-network solutions more transparent.

3.3.2 Consideration of DM expenditure

Proposals 5 and 6 deal with proper consideration of TNSP expenditure on non-network activities within their revenue determinations. We note that the AEMC has accepted that this had been overlooked within the Rules and required rectification, and that a number of small changes have been made to a variety of Rules in order to redress the situation. We support the changes as set out in the draft Rules to allow for network support payments to carry through to the next regulatory period; and for TNSPs to explicitly report on their consideration and provision for non-network alternatives.