



16 October 2006

Dr John Tamblyn
Chair
Australian Energy Market Commission
PO Box H166
AUSTRALIA SQUARE NSW 1215

Dear Dr Tamblyn

Rule Change Proposal – Obligations of Network Service Providers – Connection Applications

The Energy Networks Association (ENA) welcomes the opportunity to respond to the Rule change proposal - *Obligations of Network Service Providers: Connections Applications*. This Rule change proposal has been initiated by Energy Solutions Australia under s 96 of the National Electricity Law (NEL).

The proposal as provided by Energy Solutions fails to consider a number of detrimental and unsatisfactory impacts of the proposed rule change. The proposal obligates the Network Service Provider (NSP) to act as the manager and administrator of a contestable services scheme.

The ENA considers it is highly inappropriate for resources of network businesses to be diverted for use as an administrative and marketing vehicle for Connection Service Providers (CSPs). The competitive provision of contestable services is beneficial to consumers and should be maintained. Current arrangements under clause 5.2.3 of the National Electricity Rules, however, appropriately and effectively facilitates this.

Consistency of proposal with National Electricity Market objective

Energy network businesses consider the proposed Rule change imposing the responsibility of managing and administering CSP and Connection Applicant registers on network businesses is inconsistent with the national electricity market objective.

Energy Solutions has provided several reasons for why the proposed Rule change contributes to the NEM objective. Network businesses do not consider that the reasons advanced to support the proposal's consistency with the Rule making criteria of the Commission are sufficiently robust, or that the proposal adequately considers the harm to the long term interests of consumers of this proposed regulatory intervention in the operation of a contestable market. It is not clear how the network businesses are to ascertain whether the CSPs have the requisite skills and experience for performing any particular type of connection work. The four reasons for why the proposed Rule contributes to the NEM objective as provided by Energy Solutions are briefly analysed in [Attachment 1](#).

Energy Networks Association Limited ABN: 75 106 735 406
Level 3/40 Blackall Street BARTON ACT 2600
T: 61 2 6272 1555 **F:** 61 2 6272 1566 **E:** info@ena.asn.au **W:** www.ena.asn.au

Costs and responsibilities that would result from the proposed Rule change

The proposed Rule would impose significant costs and responsibilities on electricity network businesses, including:

- diversion of network businesses staffing and other resources to maintain the CSP Register and Connection Applicant Register and to ensure compliance with the rule change;
- managing all legal liabilities that may arise from administering and managing the lists;
- diversion of resources within call centre facilities to inform Connection Applicants of the registers that the NSP has available and ascertain whether the Connection Applicant approves for its name and contact details to be made available on its Connection Applicant's register;
- re-training across relevant operations and customer service areas to incorporate this proposed new suite of services.

The above costs are not balanced by any substantial benefits. This issue is further discussed within Attachment 1.

Inconsistency of proposed Rule change with current jurisdictional arrangements:

Energy Solutions' proposal is inconsistent with current jurisdictional arrangements. For example, in NSW, under the NSW Electricity Supply Act 1995, the Department of Energy, Utilities and Sustainability (DEUS) provides a list of accredited service providers on its website and related information on how a service provider can become accredited. ENA does not consider it appropriate for a Rule change proposal to be inconsistent and in conflict with current jurisdictional arrangements.

If the AEMC considers the provision of a CSP and Connection Applicant list would be beneficial to Connection Applicants, in spite of the strong arguments to the contrary, the ENA considers such a list should be managed and administered by an independent and neutral body with competition responsibilities, such as the ACCC, once the regulation of energy has formally moved to a national level.

Please feel free to contact me on (02) 6272 1555 if you have any queries relating to this letter, or wish to discuss any aspect of ENA's comments further.

Yours sincerely



Andrew Blyth
Chief Executive
Energy Networks Association

Inconsistency of proposed Rule change with market objective

This attachment considers the four rationales proposed by Energy Solutions for the proposed Rule change. Energy Solutions has claimed that the CSP and Connection Applicant registers:

1. ‘promotes efficient investment in electricity services *‘provided by means of, or in connection with, a transmission system or distribution system;’*

The above statement is a misrepresentation of the intention of the National Electricity Market objective and does not demonstrate why the proposed Rule would provide a contribution to the NEM objective. The italicised section above only forms part of the definition of electricity services, the full definition states:

‘electricity services means services that are *necessary or incidental* to the supply of electricity to consumers of electricity, including –

- (a) the generation of electricity;
 - (b) services provided by means of, or in connection with, a transmission system or distribution system;
 - (c) the sale of electricity;
- (underline added to definition)

Requiring NSPs to be responsible for managing and administering the registers is neither ‘necessary’ nor ‘incidental’ to the supply of electricity to consumers of electricity. For an electricity service to be deemed necessary, it must be essential for the supply of electricity to consumers, forcing NSPs to manage and administer CSP and Connection Applicant lists is not an essential component of providing electricity services. The registers also cannot be deemed to be incidental, incidental services are services that are occasional, unimportant and of minor expense. In contrast the management and administration of the registers will be costly and require significant resources.

2. ‘provides improved incentives for efficient network investment and for the competitive supply of network services;’

There is no evidential basis for why the proposed Rule would result in an increased level of promotion of efficient investment in electricity services compared to the benefits of the current sections 5.2.3 and 5.3.3 of the National Electricity Code. To the contrary, the scheme will result in a significant administrative burden on all NSPs, the costs of such a scheme will be substantial on all NSPs. These costs would eventually be borne by all electricity consumers connected to the distribution grid, effectively resulting in the smearing of the cost of a marketing function for a contestable service in a non-transparent and inefficient manner across all network customers. The costs of the proposed Rule change far outweigh any potential benefit.

3. ‘reduces the potential for the exercise of market power in the provision of network services by the incumbent network owners;’

This rationale appears to overlook the fact that the provision of connection services is a competitive industry. The current National Electricity Rules provide a platform for the competitive provision of connection services. Under clause 5.3.3, the NSP must within 10 days after receipt of the connection enquiry advise the Connection Applicant in writing, whether any service it proposes to provide is contestable. At this point, it is the choice of the customer how she/he wants to test the competitiveness of the connection services.

As with normal contestable services and products, it is a choice of the consumer as to whether to contact only one service provider and accept their initial proposal, or whether to investigate and judge numerous service providers. Normally, competitive markets rely on consumer’s private incentive to search for competitive offerings. Common avenues for searching for competitors include yellow pages, business pages, internet, newspapers or word of mouth. This search process is no different for connection services compared to any other services offered.

No service provider should be forced to be responsible to undertake the investigations on behalf of the consumer, such an agency relationship is inappropriate and unjustified under the National Electricity Law. In essence, this proposal conflates costly regulatory intervention to assist market competitors with the promotion of competition. As an example, this proposal would be equivalent to banking providers being forced to provide a list of all competing financial service providers prior to a major transaction such as a loan. In reality, this outsourcing of a key marketing responsibility of providers of contestable services is likely to result in less innovative and effective competition in the market, not more.

4. ‘provides for greater scope for the provision of contestable services.’

If a list of CSPs is provided to the consumer, the Connection Applicant’s scope to engage a CSP that is not the NSP has not increased at all, the scope remains identical. Instead, the proposed Rule would be a significant administrative burden on all NSPs.