Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

12 June 2014

Email: submissions@aemc.gov.au

Dear Mr Pierce

ERC0158: CONNECTING EMBEDDED GENERATORS UNDER CHAPTER 5A CONSULTATION

The Victorian Distribution Network Service Providers (**Victorian DNSPs**), namely CitiPower, Jemena Electricity Networks, Powercor Australia, SP AusNet and United Energy Distribution, welcome the opportunity to respond to the consultation by the Australian Energy Market Commission (**AEMC**) in relation to the proposed amendments to Chapter 5A of the National Electricity Rules (**NER**) regarding negotiated connections for embedded generators.

As the AEMC is aware, Victoria has not yet adopted the National Energy Customer Framework (**NECF**), and therefore Chapter 5A of the NER does not currently apply. That said, the Victorian DNSPs consider that their views are relevant as it is anticipated that Chapter 5A will ultimately be adopted in Victoria.

The Victorian DNSPs recognise that Chapter 5A of the NER has been implemented for a limited time in some jurisdictions. The Clean Energy Council (**CEC**) submitted its rule change request on 19 April 2013, when the NECF had been in place for around nine months in Tasmania and the Australian Capital Territory, and around two months in South Australia. The Victorian DNSPs therefore query whether there was sufficient evidence at the time the rule change was lodged that the new Chapter 5A rules and procedures were not working to achieve the National Electricity Objective (**NEO**).

It is also noted that since the CEC lodged this rule change request various regulatory developments have been made which will facilitate information provision to potential embedded generators, including the national distribution network planning framework. This requires the publication of the Distribution Annual Planning Report and the Demand Side Engagement Strategy.

The Victorian DNSPs generally consider that the process under Chapter 5A should replicate the processes under Chapter 5.3A of the NER to the extent possible. This will allow similar processes to be run for connections above or below 5 MW, thereby allowing a simpler compliance framework and easing internal administrative burden. On this basis, the Victorian DNSPs would support the AEMC should it propose a preferable rule change to reflect the Chapter 5.3A processes in Chapter 5A of the NER.

Our comments on other matters raised by the consultation are provided below.

Alignment in connection processes between Chapter 5.3A and Chapter 5A

Once Victoria adopts the NECF, it is likely that the majority of non-basic connections will be negotiated connections. This is because each connection point in the network is unique, and this drives differences in the process and ability to connect.

Complexity can also vary with the size of the connection. Whether a connection is 1 MW or 6 MW in a constrained part of the network, the process for the connection is likely to take time to undertake the necessary technical analysis given the higher potential to impact on other network users.

As such, the Victorian DNSPs support general alignment of the processes for all embedded generator connections with the exception of micro embedded generation. Alignment of delivery timeframes and content deliverables would be greatly beneficial for better management of compliance and to reduce administration.

Comments on specific matters raised by the CEC's rule change request

Structure and timing of the negotiated connected process

The Victorian DNSPs note that the structure and timing of embedded generation connection processes were considered in detail by the AEMC as part of the rule change under Chapter 5.3A of the NER. To minimise administrative burden, any changes to the structure and timing of embedded generator connection arrangements in Chapter 5A should align with those recently adopted in Chapter 5.3A.

The Victorian DNSP's do not support the CEC's proposal that the connection application is deemed to have been accepted if the DNSP does not respond within 65 business days. When coupled with the requirement that DNSPs must make a connection offer within 65 business days from acknowledgment of a completed connection application, this may give rise to a situation where the connection application is deemed to have been accepted, but there is no connection offer to go with it. These two requirements do not interact well. The Victorian DNSPs also do not consider that an acceptance step is necessary for a connection application in the connection process.

DNSP's need to ensure the safety of the network to other users, and therefore appropriate time should be provided to allow necessary studies or investigations. For this reason, timeframes should be able to be extended with the agreement of both parties. This issue was considered by the AEMC in the rule change under Chapter 5.3A, and the Victorian DNSPs support the AEMC's conclusion.

The CEC's proposal that the DNSP provides an embedded generator connection applicant with access to their legal personnel in order to negotiate the terms and conditions of an offer, after the offer has been made, is not appropriate. The Victorian DNSPs consider it is inappropriate for a connection applicant to prescribe the skill set of the person they wish to have access to negotiate the terms and conditions of an offer.

Information available to embedded generators during the negotiated connection process

The AEMC notes that under the Chapter 5.3A rule change process, DNSPs are required to publish a register of generating plant. If the AEMC is considering requiring DNSPs to similarly provide this for negotiated connections under Chapter 5A, then it would be useful to narrow the period to less than 5 years given the rate of technical obsolescence in the industry and to reduce the burden of maintaining such a list, only maintain such a register for connections greater than 1 MW.

However, the Victorian DNSPs note that the CEC seeks that all information exchanged as part of the negotiation process is treated as confidential information. In this context it is unlikely that the publication of a register would be workable for this capacity of embedded generator.

Power transfer capability

The CEC's rule change request seeks DNSPs to use reasonable endeavours to make a connection offer that "complies" with the embedded generator applicant's requirements in respect of power transfer capabilities.

The Victorian DNSPs consider the level of power transfer capabilities should be a matter that is subject to negotiation, given that there are genuine reasons why DNSPs may not be able to accommodate the commercial objectives of the embedded generator. In particular, DNSPs must assess the appropriateness of the proposed connection in terms of the risks to the safety, security and reliability of the network and the supply of services to other network users.

Process fees and connection charges

During the Chapter 5.3A rule change process, the AEMC determined that embedded generators should not be exempt from paying for augmentation to the shared network. The Victorian DNSPs support the AEMC consistently applying that position to the Chapter 5A rule change request. The CEC seeks to limit connection costs that DNSPs can charge embedded generator connection applications to those which could have been reasonably identified by the applicant from the information initially provided by the DNSP. This proposal is inappropriate, given that network studies would not have been carried out at that stage to estimate the full impact of the connection on the network. The connections charges are generally set out in the connection offer.

Additionally, in its rule change for the Chapter 5.3A process, the AEMC provided DNSPs the ability to charge a fee to recover the reasonable costs to respond to a detailed enquiry, but not the preliminary enquiry. The Victorian DNSPs support the AEMC applying a consistent approach to the Chapter 5A rule change request.

Embedded generator liability to a DNSP

The Victorian DNSPs consider that the liability of an embedded generator to a DNSP should remain a commercial matter to be negotiated between the parties, rather than prescribed in the NER.

In commercial transactions, including the connection of embedded generation, the allocation of risk is a matter that needs to take into account a variety of factors. Principal among them is that the party best able to manage the risk be responsible for it. Embedded generators may be best placed to manage the risk relating to their quality and reliability of supply. Therefore unlimited liability may be appropriate in some specific circumstances.

The Victorian DNSPs consider that the allocation of risk should be considered on a case by case basis, and thus remain a matter for commercial negotiation.

Dispute resolution arrangements

The Victorian DNSPs consider that the existing dispute resolution framework is not too narrow, rather that appears to be sufficient to facilitate the resolution of a wide range of disputes that may arise between a DNSP and a connection applicant. The Victorian DNSPs also query the value of the new proposed sub clause (iii).

Drafting comments

As a general comment, the Victorian DNSPs do not consider that the proposed drafting by the CEC meets the standard required for the NER. The drafting of the proposed rule does not always appear to be clear and coherent, and as such does not provide a balanced set of regulatory arrangements that are directed towards the achievement of the NEO. The Victorian DNSPs would therefore support the AEMC should it propose a preferable rule change to reflect the Chapter 5.3A processes in Chapter 5A of the NER.

The Victorian DNSPs would be pleased to discuss any aspect of this letter with the AEMC. Please contact Elizabeth Carlile on 03 9683 4886 or ecarlile@powercor.com.au.

Regards

Renate Tirpcou
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On behalf of the Victorian DNSPs