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24 November 2011

Australian Energy Market Commission
PO Box A2449
Sydney NSW 1235

www.aemc.gov.au

Dear Sir

AEMC Consultation Paper – Distribution Network Planning and Expansion Framework (Reference code “ERC0131”)

Essential Energy appreciates the opportunity to respond to the Australian Energy Market Commission’s (AEMC’s) consultation paper – Distribution Network Planning and Expansion Framework.

Essential Energy would be pleased to discuss this matter further. Should you require further information or clarification please feel free to contact Natalie Lindsay, General Manager Regulatory Strategy and Compliance, on 02 6589 8419.

Yours sincerely

A handwritten signature in black ink, appearing to read "P. Brazier", written over a printed name and title.

Paul Brazier
**Acting Executive General Manager
Infrastructure Strategy**

Essential Energy's response to the AEMC's consultation paper:

National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011

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Overview

Essential Energy is pleased to provide a response to the Australian Energy Market Commission's (AEMC's) *Consultation Paper – National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011* (the consultation paper).

Essential Energy is a NSW Government-owned Distribution Network Service Provider (DNSP), with responsibility for building, operating and maintaining Australia's largest electricity network – delivering network services to more than 800,000 homes and businesses across 95 per cent of NSW, parts of southern Queensland and northern Victoria.

Essential Energy generally supports the approach outlined by the AEMC in the consultation paper.

Essential Energy recognises the objectives in introducing the Rule change. The comments offered in this submission are intended to assist in an effective outcome being achieved without an undue increase in the burden of compliance and delays in the delivery of required projects.

Essential Energy has provided input to the Energy Networks Association's (ENA's) submission and generally supports the comments and specific suggestions made in the ENA submission in the context of an overall industry position for the Rules change proposal.

The comments and suggestions included in this submission endorse Essential Energy's support of the ENA submission, expanding on the points made in it or adding further comment from Essential Energy's and the NSW jurisdictional situation. In particular, Essential Energy emphasises the following points:

- The importance of the data base associated with the demand side engagements strategy being illustrative rather than comprehensive.
- The need for minimal extension/increase in the prescription for the Australian Energy Regulator role in the exemption and audit process.
- The need for a realistic definition of prime feeder and loading drivers for network investment relative to other drivers.
- The need for the Specification Threshold Test (STT) to be a screening step in the RIT-D process.
- The need to ensure a relevant and material basis for the initiation of disputes in relation to final project assessment reports.
- The need to have a realistic timetable for the implementation of/transition to the Rule change outcomes, with a mid 2014 date being applicable for the NSW jurisdiction to minimise DNSP work demands from both the regulatory submission and DAPR/RIT-D introduction programs.

Essential Energy submits that a further workshop on the proposed Rule changes prior to their finalisation would be beneficial in both clarifying the objectives and ensuring effective outcomes for the key points made in submissions, and particularly in relation to the RIT-D process.

Annual Planning process

- 1.1 What are the implications of allowing each jurisdiction to determine the start date for the annual planning period?
- 1.2 Is it necessary to include a default start date for the annual planning period in the Rules?

Essential Energy supports allowing each jurisdiction to determine the start date for the annual planning period. This will be advantageous in achieving the most relevant outcomes in terms of seasonal variability of electricity demand for each DNSP.

Although transparency is reduced under nationally consistent planning periods, Essential Energy considers jurisdictionally based planning periods will provide more robust and better information. For example, a view has been expressed that the end of October could be a preferred date for Essential Energy as it aligns with the end of year financial review for the preceding budget period and framing of the budget for the following financial year. It would also allow the evaluation and inclusion of network loads recorded for the previous summer season which have the most significant network rating impacts.

Essential Energy doesn't believe that it is necessary to include a default start date for the annual planning period.

Demand Side Engagement Strategy

- 2.1 To what extent would potential investors, non-network providers and any other interested parties find the information provided by the proposed Demand Side Engagement Strategy (specifically, the Demand Side Engagement document, the database of non-network proposal/case studies and the Demand Side Engagement register) useful?
- 2.2 To what extent would DNSPs incur additional costs in developing and maintaining the various components of the proposed Demand Side Engagement Strategy?

It is Essential Energy's view that the Demand Side Engagement document is a necessary and useful document in assisting potential investors, non-network providers and any other interested party in understanding the requirements and basis for assessing the provision of non-network options as an alternative to network options.

Essential Energy envisages that there may be issues in maintaining a database of non-network proposals/case studies. These limitations include:

- an increased work load in managing the number of studies to be included
- the information being meaningful after editing for commercial confidentiality

Ensuring the data base provides an illustration of non-network proposals and case studies by providing a selected sample of those considered (rather than all) as indicated in Rule 5.6.2AA(o) will assist in addressing the workload created by this requirement.

Essential Energy has not identified any specific issues with the requirement for a Demand Side Engagement register other than the requirement for the disclosure of parties and their interests/activities and the commercial confidentiality considerations which this may involve.

Essential Energy is unable at this stage to quantify what additional costs would be incurred in developing and maintaining the proposed Demand Side Engagement Strategy data base until details of the data base specifications have been developed.

Distribution Annual Planning Report

- 3.1 What are the implications (positive and negative) of providing DNSPs with the opportunity to apply for exemptions or variations to the annual reporting requirements?
- 3.2 Do you consider the proposed process for applying for and granting an exemption or variation to the annual reporting requirements is appropriate?
- 3.3 How might a DNSP demonstrate, and the AER determine, whether the costs of preparing certain reporting data would "manifestly exceed any benefit that may reasonably be obtained from reporting the relevant data in a national regime? Is there a need to define a set of criteria to assist both parties in this assessment?
- 3.4 Are there any alternative solutions which may better balance the benefits of maintaining consistency across the NEM with the costs of preparing and reporting the data under a national framework?
- 3.5 Do DNSPs face sufficient business and regulatory drivers to ensure that they carry out appropriate planning and produce accurate forecasts in their DAPRs?
- 3.6 Is there a need to consider additional measures to ensure DNSPs deliver robust, high quality DAPRs? If so, what additional measures could be put in place?

The proposal to allow DNSP's to make application for exemption or variation to the annual planning requirements is appropriate. This option provides a mechanism to allow a balance between DNSP circumstances and jurisdictional requirements and will provide DNSP's with time to develop systems to comply at a later date with the agreed national guidelines. The proposed process for applying for and granting and exemption or a variation to the annual reporting requirements is also appropriate.

Essential Energy does not support the setting of criteria for the establishment of AER approval processes for exemption or variation. As an alternative, Essential Energy suggests that their maybe a benefit in the establishment of a guideline for an exemption application on the basis of demonstrating that the cost of compliance will exceed the benefit.

Essential Energy believes that as a DNSP in the national market we face sufficient business and regulatory drivers to ensure appropriate planning and accurate forecast are prepared.

The reporting and review requirements and conditions currently in place are comprehensive with strong scrutiny of outcomes and business performance. This is evidenced by current jurisdictional reporting requirements and by the AER's ability to require DNSP's to report under the regulatory information notice regime.

Essential Energy suggests that further consideration needs to be given to the definition of a "primary feeder" as the present definition will result in significant reporting demand for a large number of distribution feeders which will provide little benefit. DNSP's have very different network configurations regarding the number and capacities of zone substations and associated distribution feeders. These range between a few megawatts (rural area) to tens of megawatts (larger urban commercial areas) which result in a large range of distribution feeder construction, loadings and supply impacts. Essential Energy suggests that relating the "primary feeder" definition reporting requirements to the NSW jurisdiction "N-1" distribution feeder security reporting could be an appropriate option and be consistent with the current jurisdictional requirement. This definition

would include 20 per cent of the (approximate) 2000 distribution feeders which connect to the (approximate) 350 zone substation within Essential Energy's distribution network.

Additionally Essential Energy suggests that the 'month and year' requirement for timing of identified constraints is unrealistic in that maximum demands can vary from year to year and month and season for any element of regional distribution networks (for example: a summer peak can occur as early as November or as late as March the following year but in the same summer season). Essential Energy suggests that a 'season of year' is the only reasonable indication that could be given.

(Note – the this time reference is to when network load peaks occur – the timing of the DAPR is relevant to Section 1 questions and I have added the comment reference there)

Further, Essential Energy suggests that there is an imbalance between the reasonably detailed requirements listed in Schedule 5.8 for "loads" as a driver for network investment and the other for drivers included in Schedule 5.8(2)(v)(A)(B)(C)(D) being fault levels, voltage levels, other power system security requirements and ageing and potentially unreliable assets. The other drivers all involve a significant range of consideration and are likely to become more influential in determining future network investment needs. A better balance would be achieved by reducing the prescription currently included for load considerations and perhaps including some summary references to the others.

Essential Energy also notes that the Rule change proposal requires information reported in the DAPR to be certified by the Chief Executive Officer, and a Director or Company Secretary of the DNSP. Essential Energy believes that the nature and scope of the information required in the DAPR is such that it would be more appropriate to be certification by the relevant executive manager representative of the DNSP.

Joint planning requirements

- 4.1 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs and TNSPs?
- 4.2 In what circumstances would DNSPs be required to undertake joint planning with other DNSPs?
- 4.3 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs?

Essential Energy currently undertakes, business as usual, joint planning with Transgrid. This joint planning history has demonstrated an effective cooperation with the results that have been achieved to date. The proposed Rule only clarifies an arrangement that currently exists and operates successfully between Essential Energy and Transgrid.

Joint planning between DNSPs is required where one DNSP takes a service from or provides a service to another DNSP, or there is potential to address an emerging network constraint or service load development. Examples of this on the Essential Energy distribution network include the Dareton/Buronga supply from Powercor and Tweed interconnection with Energex.

Essential Energy agrees that the proposed Rule change is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs (business as usual).

Regulatory Investment Test for Distribution

- 5.1 Do you consider the proposed RIT-D design parameters are likely to work together to provide an effective decision making framework for DNSPs, consistent with the NEO?
- 5.2 Do you consider it is necessary to provide the AER with additional powers to (1) review a DNSPs policies and procedures with regard to the consideration of non-network alternatives and (2) audit projects which have been identified by DNSPs as not meeting the threshold for the RIT-D?
- 5.3 Should the AER be required to publish a separate annual report detailing the results of any audit undertaken in the preceding 12 months?

The following issues have been identified as impacting on an effective decision making process:

- The contradiction/lack of clarity in the reference to “...*the most expensive option to address the relevant identified need which is technically and economically feasible.*” which should perhaps more meaningfully relate to the “credible option” definition and use.
- The implication for the use of the RIT-T where any resulting solution involves a transmission project rather than allow the option for RIT-D if appropriate.
- The requirement for an “urgent and unforeseen” solution to be in service within six months is unrealistic with a minimum of 12 months suggested as being more reasonable. The nature of the issue and proposed solution should determine whether it is “urgent and unforeseen” to the extent that the best interests of the community are served by bypassing the otherwise applicable project approval process.

The intent and application of the Specification Threshold Test (STT) is a key element in the project consultation/approval process and is supported as a “screening test” to provide for the DNSP to determine if a non-network option/solution is considered likely to be able to address the constraint.

Application of the STT should be consistent with the Demand Side Engagement Strategy, noting that a ‘yes’ result initiates the full process of project specification, consultation, draft/final project assessment report whilst a ‘no’ result leads directly to the preparation of a project assessment report; that is the omission of the preparation of a project specification report.

This test and subsequent application of the project approval process needs to be clearly understood and consistently applied and would benefit from being a specific topic in a stakeholder workshop on the Rules change process to be held as a desirable step prior to finalising the Rule change proposal.

The AER currently has a role to monitor DNSP’s compliance on a regular basis along with the authorisation to issue Regulator Information Notices as required, additional powers would appear excessive and unnecessary.

The publication by the AER of a separate annual report outlining the results of audits would be unnecessary as the AER currently issues DNSP compliance reports on a regular basis.

Dispute resolution process

- 6.1 Do you consider the proposed scope of parties who could raise a dispute to be appropriate?
- 6.2 What are the implications (positive and negative) of allowing the AER to grant exemptions from the proposed dispute resolutions process?
- 6.3 Is there a need to develop detail or specification around the process for applying to the AER for, and the AER approving, exemptions to the dispute resolution process?

Essential Energy believes that the scope of parties (and subject matter) is presently too broad and loosely defined. There is benefit to 'relevant and substantive interest' provisions being included to ensure that only valid concern can be used to raise a dispute. Without some limits on the scope of parties and subject matter there will be opportunity for disputes which are not related to compliance with the Rules (even being vexatious or frivolous disputes) which will lengthen the project approval process. In this regard, Essential Energy notes that there is significant scope for parties to make submissions on draft reports at the various stages of the RIT-D process which supports some qualification re the parties and basis for disputes related to any final project report assessment report (FPAR).

Proposed 5.6.6AC(j) is seen as a positive implication in allowing the AER to grant exemptions for projects where it believes that the need for the investment to proceed outweighs the likely benefits from conducting the dispute resolution, particularly those projects which are time sensitive and essential in securing supply continuity and meeting licence requirements.

Essential Energy believes that the Rules would be detailed enough if limitations were placed on the scope of parties and subject matter that could be raised was included in the Rules.

Implementation and transition

- 7.1 Are there any issues in respect of the rolling back of jurisdictional requirement that may need to be supported or provided for by transitional provisions in the Rules?
- 7.2 If the proposed national framework was to be introduced, are the proposed timeframes appropriate to allow for the transition to the national framework?
- 7.3 Are there any other factors that should be taken into account in developing transitional provisions to enable the efficient potential application of the proposed Rule to all DNSPs?
- 7.4 From a market participant perspective, are there any implications in not aligning the proposed introduction of the national framework with the commencement of the NECF?

Transitional provisions would be appropriate in order to transition from the current jurisdictional requirements to the National Electricity Rules. For example, in the NSW jurisdiction there will need to be a smooth transition from the current requirements of the Electricity System Development Review (ESDR) and any other related reporting requirements to the DAPR. The requirement to produce both reports will add no additional benefit.

The proposed transition timeframes will create significant challenges for NSW DNSP's particularly as each of the businesses is currently preparing their next regulatory proposal which is due for lodgement in May 2013. A mid 2012 completion of the Rule change process would indicate a mid 2013 timing for the implementation of the Rule change. This will add substantially to the information and reporting preparation workload in completing the DAPR and the regulatory submission. A more appropriate commencement for NSW DNSP's would be mid 2014 which would allow the inclusion of

the network planning information and project outcomes associated with the final regulatory determination for the next period (2014-19).

A mid 2014 commencement would allow the projects that have been identified in the current regulatory period to be largely completed or at least initiated under the present procedures. This timing would also allow for the “phase out” of the current jurisdictional reporting requirements and the “ramp-up” of the preparation and production of a fully compliant DAPR.

This timing is also consistent with the likely implementation that will result from the provision for the AER to publish a RIT-D guideline (within 12 months of commencement) and the provision of an introductory period for DNSP compliance (6 months from publication).

The draft Rule changes are silent as to the transition from the current Regulatory Test to the proposed RIT-D. Essential Energy believes that the transition to the RIT-D should be clearly spelt out in the transitional Rules. Projects commenced under the current Regulatory Test should be completed under the Regulatory Test. Once the guidelines for the RIT-D have been finalised and introduced all projects commenced from that date should be reviewed using the RIT-D.

Essential Energy sees no implications with not aligning the proposed national framework with NECF as there is no obvious relationship between the two packages.