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Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box H166
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Email: submissions@aemc.gov.au

Dear Dr Tamblyn

Issues Paper
Enforcement and Compliance with Technical Standards under
the National Electricity Rules

Thank you for the opportunity to comment on the Australian Energy Market Commission's (AEMC) *Issues Paper, Enforcement and Compliance with Technical Standards under the National Electricity*. CitiPower and Powercor Australia (**Powercor**) are Victorian electricity distributors who are registered with NEMMCO as Distribution Network Service Providers and hence will be directly affected by the outcomes arising from this review.

CitiPower and Powercor are mindful that the concerns which have triggered this review are based on generation, or generation connection incidents involving large market generators which have impacted system security. In general, CitiPower and Powercor are not aware of similar concerns relating to distribution systems, however, the following comments to the questions raised in the issues paper are offered from the perspective of a Distribution Network Service Provider.

Issue 2 *Is the process for establishing new performance standards effective in achieving desired outcomes for the power system. Is NEMMCO's role in the process effective or does it need to be more clearly defined?*

CitiPower and Powercor are not aware of any major deficiencies in the process for setting the performance standards.

Issue 3 Are performance standards for existing plant, which were defined with reference to a derogation, an accurate representation of the capability of the plant? Are there events that should trigger a review?

CitiPower and Powercor are not aware of how closely the capability of plant is reflected in performance standards. However, if planned works for refurbishment or upgrade can also economically affect the performance standards, then this opportunity should also be taken to review the need for any existing derogation.

Issue 7 Is it reasonable to expect a participant to meet an absolute standard of compliance when this cannot be guaranteed through a compliance program?

Compliance programs provide a reasonable level of assurance that the plant complies with the standard. To the extent that an absolute standard is necessary it is reasonable to expect participants to meet that standard even though compliance is not guaranteed through the compliance program. The risk of penalty for non-compliance remains with the participant and unless there are perverse incentives it is reasonable that once the participant has invested in achieving compliance it is likely to be maintained between monitoring periods.

Issue 9 Is the AER the appropriate body to monitor compliance? Is the AER's current approach to its monitoring role appropriate? To what extent should it monitor reactively or proactively? What other approaches to the monitoring role may be cost effective?

The AER is the appropriate body to monitor compliance.

Investigation of incidents can provide useful reactive monitoring, however, a purely reactive monitoring regime may not be appropriate when dealing with compliance issues where the problem may remain dormant until triggered by a specific event or series of events. A pro-active approach should remain as light handed as possible and could involve the use of spot sample monitoring audits.

Issue 10 Should there be some form of public reporting on the outcome of the AER's monitoring role, including identifying non-compliance instances and what action has been taken to correct those non-compliances?

Reporting of non-compliance needs to be considered with great care, particularly where such reporting can provide "market intelligence" by exposing limitations that could be exploited by other participants in the competitive electricity market.

Issue 12 Is the enforcement regime, including the powers of the AER adequate for the effective enforcement of breaches of performance standards?

It is not evident to CitiPower and Powercor that the enforcement regime is inadequate.

Issue 15 Are there good reasons for having two investigations into power system incidents? Does this dual process assist in resolving issues by separating operational matters from enforcement matters, or does it place an inappropriate burden on participants? Do the AER and NEMMCO have appropriate power to conduct their investigations?

Two investigations would seem to be necessary given that the aim for each investigation is different.

Issue 16 Does the threat of enforcement action by the AER act as a disincentive to provide information to NEMMCO on a co-operative basis, if it is to be shared between the two organisations?

The threat of enforcement action by the AER is likely to act as a disincentive to provide information to NEMMCO on a co-operative basis if it is likely to be shared between the two organisations. The impact of this disincentive may be difficult to measure as participants would be obliged to provide any information specifically requested by NEMMCO but be more reticent about providing any additional information which may have been useful.

Similarly, commercial incentives of the type discussed in section 4.6 of the issues paper may also act as a disincentive to provide information to NEMMCO.

Issue 17 Are the penalties for breaches of performance standards adequate?

The penalties for breaches of the rules are already very substantial. If the AEMC finds that the current incentives are insufficient to deal with perverse incentives then any increase contemplated should be restricted to breaches of performance standards where such a breach has been used to gain direct commercial advantage through distortion of the wholesale market.

Should you have any further questions in relation to this submission, please do not hesitate to contact me on (03) 9683 4282.

Yours sincerely

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