

24 February 2006

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box H166
Australia Square NSW 1215

Dear Dr Tamblyn,

SUBMISSION ON NATIONAL ELECTRICITY AMENDMENT (TRANSMISSION LAST RESORT PLANNING POWER) RULE 2005

Thank you for the opportunity to place this submission on the Ministerial Council on Energy's request for a Rule change in relation to the creation of a transmission last resort planning power (LRPP). To improve the LRPP processes, NEMMCO suggests that:

- the AEMC be required to identify and report failures and causes that trigger the LRPP;
- the relevant transmission network service providers (TNSPs) or other TNSPs be directed to perform the Regulatory Test in preference to other parties;
- directed parties and the proposed industry panel be given access to sufficient information to perform their duties;
- the directed party be able to recover its costs if they are not the relevant TNSP;
- only feasible projects be proposed;
- the estimated timeframe recognise the issues associated with completing a Regulatory Test application;
- the AEMC clarify the extent to which the LRPP is intended to be consistent with existing Regulatory Test processes; and
- immediately following the completion of the Regulatory Test, the AER be required to determine whether the proposed network investment satisfies the Regulatory Test.

Further details regarding the background, issues and suggestions, and how they would contribute to the achievement of the National Electricity Market objective are in the Addendum to this submission.

NEMMCO would be pleased if the AEMC could consider these matters in their assessment of the proposed Rule changes. For further details, please contact me on (03) 9648 8709 or David Bones, Head of Power System Planning and Development on (07) 3347 3041.

Yours sincerely



Dr Charlie Macaulay
General Manager, Operations and Planning

ADDENDUM

In December 2003, the Ministerial Council on Energy (MCE) adopted four principles to underpin the transmission policy in the NEM. The development of a last resort planning power (LRPP) was within this package of principles.

This submission is directed at clarifying the proposed process for NEMMCO (and other involved parties) should the LRPP be implemented. From reading the MCE proposal NEMMCO has a role to play in the LRPP arrangements, inasmuch as NEMMCO has been proposed to provide technical support through a Panel of industry experts when defining the project to which the Regulatory Test will be applied.

NEMMCO makes these comments to ensure that the arrangements will be consistent with the policy intent outlined the MCE's request. In particular, that the parties conducting technical reviews have access to the necessary information and funding, and have sufficient time to complete those reviews.

Throughout this submission, we refer to the "relevant TNSP(s)". This is intended to mean the transmission planning body for any region connected by the national transmission flow path that would be augmented by the project to which the Regulatory Test is to be applied, and references to "directed party" is the body that is directed by the AEMC to conduct the Regulatory Test.

Statement of issue concerning the existing Rule

Identify the failure and causes triggering the LRPP

The MCE's proposed Rule change suggests that the AEMC may direct a party to undertake a Regulatory Test, if standard arrangements have failed to provide efficient and timely incentives for the assessment of transmission investments which may satisfy the Regulatory Test. The MCE recognised that while "regulatory best practice" dictates that the AEMC as LRPP should identify the failure to the standard arrangements and the causes of the failure, there exist no statutory requirements to identify the failure or its cause(s).

The possible remedies to the failure of the standard arrangements include directing a Registered Participant to run a Regulatory Test or the referral of the failure in the standard arrangements to the MCE where the failure is due to a policy setting.

NEMMCO believes that the prescribed remedy should address the causes of the failure triggering the remedy and hence it should be mandatory to identify the failure and its causes before implementing a remedy. In the absence of identifying the failure and its causes the LRPP risks that the costs involved in implementing a Regulatory Test may not ameliorate the underlying issues.

Parties able to apply the Regulatory Test

The MCE's drafting of clause 5.6.5B suggests that the AEMC may use its LRPP to direct a Registered Participant to apply the Regulatory Test. NEMMCO believes that applying the Regulatory Test requires significant understanding of the Regulatory Test and the technical capability of the transmission network by the directed party. In the first instance NEMMCO suggests that the relevant TNSP(s) should be the directed party, otherwise another TNSP

should be the directed party. Only when all these avenues have been exhausted should the AEMC resort to directing other parties to run the Regulatory Test.

NEMMCO therefore suggests alterations to the proposed Rule changes to clarify that the TNSP(s) should be directed in the first instance to run the Regulatory Test and only when these avenues have been exhausted should another party, apart from TNSPs, be considered for direction.

Access to information

Application of the Regulatory Test requires a high level of technical knowledge and data. In the MCE proposal, it has been suggested that parties other than the relevant TNSP(s) may be required to apply the Regulatory Test.

NEMMCO believes that, to make such an application of the Regulatory Test practicable, an applicant other than the relevant TNSP(s) must have access to appropriate information to allow them to apply the Regulatory Test. Therefore NEMMCO suggest that an obligation should be placed on the relevant TNSP(s) to supply all necessary information to the directed party who is to apply the Regulatory Test.

Cost recovery

The MCE proposes that a directed party's costs incurred in undertaking the Regulatory Test are to be borne by the directed party. Although this statement has been clearly expressed in the policy intent, it has not been included in the draft clause 5.6.5B.

NEMMCO supports the MCE's proposal that costs of undertaking the Regulatory Test should be borne by the directed party to the extent that the directed party is the relevant TNSP(s). However, NEMMCO believes that requiring a directed party who is not the relevant TNSP(s) to bear the costs of the application of the Regulatory Test would not be appropriate.

NEMMCO proposes that the final Rules should carefully clarify when the costs are to be borne by the directed party.

Defining the project

Draft clause 5.6.5B (b) requires a panel of industry representatives, including NEMMCO, to define the projects to which the Regulatory Test will be applied.

In the ANTS, NEMMCO develops conceptual augmentations relying on information supplied by IRPC members in accordance with clause 5.6.5 (f) of the Rules. Without this information from TNSPs, it would not be possible for NEMMCO to develop feasible conceptual augmentations.

Considerably more study is required to refine the conceptual augmentations published in the ANTS to projects able to be assessed under the Regulatory Test. This work is generally performed by the relevant TNSP(s). The Panel would need to have access to information held by TNSPs, to ensure any project put forward is sufficiently developed to allow assessment under the Regulatory Test. This information may also include information regarding the feasibility of the project (for example, information regarding existing easements, etc). Consideration should be given to providing a means of ensuring the Panel has access to the required information.

The following lists some of the additional work required to refine a conceptual augmentation identified in the ANTS into a “project”. The relevant TNSP(s) are in the best position to carry out this work, including:

- Refinement of the scope of the project – this step involves a detailed understanding of the existing network characteristics (age, performance, risk, etc.), asset refurbishment / asset replacement plans (to co-ordinate with planned new assets), the existence of easements and their condition, policies regarding new assets (in order for them to be efficiently maintainable by the TNSP), and detailed design. This step may also involve Environmental Impact Assessments, Cultural Heritage Impact Assessments, and engineering surveys, etc. to determine the feasibility of the project.
- Detailed identification of the impact of the project - this step will determine the actual market benefits that will be achieved. There are strong interactions between this step and the previous one, as the scope will determine the impact on relieving limits. Conversely, the required impact will drive the scope. This step requires detailed analysis of the existing and future¹ network (information residing with the TNSP) and the use of specialised software and techniques to assess the changes to the network limitations that would result (again, this expertise resides with TNSPs).
- Refinement of the cost of the project - this involves a detailed engineering estimate. TNSPs have access to information related to recent projects that can assist in this analysis. However, additional to this is a requirement for a detailed design of the substation, lines, communications and secondary systems including the interaction of the new assets with existing assets.

Timeframe

There are no guidelines in the proposed clause 5.6.5B relating to the establishment of the time frame in which the Regulatory Test is to be carried out by the directed party.

Some projects may be more advanced than others in terms of their specification of scope, impact on network limitations and costs, as well as in assessments of feasibility. Consideration should be given to all of these aspects in the establishment of the timeframe. NEMMCO suggests that the Rules require the AEMC to take advice from relevant parties such as the directed party and the panel of industry experts when deciding the timeframe.

Consistency with the AER’s Regulatory Test

Draft clause 5.6.5B would limit the application of the LRPP to directing the application of the Regulatory Test. The Regulatory Test itself is simply a cost-benefit comparison of options. Surrounding the Regulatory Test is a consultation process required in the Rules (specifically, clause 5.6.6 for new large transmission network assets). It is during this process that interested parties are able to comment on the project specifics (for example, consideration of alternative projects).

The MCE policy statement does not consider the consultation process. In fact, the proposed clause 5.6.5B (h) requires the publication of a report that sets out the results of the Regulatory Test. This report would appear to duplicate the final report prepared under clause 5.6.6 (f).

¹ Determining the impact of the project on network limits will need to consider the current network and planned extensions to the network that would be built by the time the project was commissioned.

However, proposed clause 5.6.5B (f) would require the directed party to comply with “any requirements in the Regulatory Test relating to consultation and the publication of the results”.

In drafting the final Rules, consideration should be given as to whether the consultation process is to be followed.

AER determination on the satisfaction of the Regulatory Test

Draft clause 5.6.5B (i) requires that the AER determines whether the potential transmission project satisfies the Regulatory Test. In its policy statement, the MCE state that this is to provide certainty to a potential investor that the AER would permit the investment to be rolled into a business’s regulated asset base. However, the proposed clause requires a written application by any Registered Participant or Intending Participant to trigger the AER determination.

NEMMCO suggests that, to provide the certainty to investors that is required by the MCE, that the requirement on the AER to make such a determination be (automatically) required immediately following completion of the Regulatory Test.

How alteration to the proposed Rule change address the issues consistent with the NEM objective

The MCE proposed Rule change grants the AEMC a LRPP. In this submission NEMMCO has suggested a number of alterations to the proposed Rule changes to clarify the process for applying the LRPP.

This clarification of the LRPP should serve to make the application of the LRPP clearer to interpret and apply and hence reduce the risk and cost that may result due to ambiguity in the process. NEMMCO’s suggested alterations should strengthen the MCE case toward better achieving the market objective and promoting efficient investment in, and efficient use of, transmission services for the longer-term benefit of consumers.