

12 November 2007

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

Dear John

Draft Rule Determination on Process for Region Change

Thank you for the opportunity to provide a written submission on the draft Rule Determination on Process for Region Change. The draft Rule Determination has been valuable in conveying how the Commission has appraised the Ministerial Council on Energy's region change proposal, considered stakeholder written submissions and reflected on lessons learnt from the Abolition of the Snowy Region.

The following comments are made on the draft Rule Determination:

- The criterion for defining a technically competent region change application is appropriate;
- A number of measures in relation to an intending applicant's request for NEMMCO to provide information, such as: giving NEMMCO discretion in certain circumstances, and confidentiality, may require further development;
- Clarification on the interaction between the draft Region Change Implementation Procedure and General implementation functions is requested; and
- One of the Implementation functions requires NEMMCO to amend the Loss Factor Publication as necessary for the implementation of region change and future physical changes to the network. NEMMCO presumes that this clause is giving it the responsibility for keeping the boundary information up to date, including the allocation of new connection points to a region.

In most cases allocating new connection points to a region when there are physical changes to the network should be straightforward. However, conditions may arise where there could be uncertainty as to which region the new connection point should be allocated. This could be brought into sharper focus if the allocation decision causes material financial implications to arise for investors and the NEM.

NEMMCO

The scope of the Rule may have to be extended to define a process to resolve assignment of new connection points to a region arising from physical changes to the network.

Detailed comments are provided in the attachment.

Yours faithfully,


Brian Spalding
Chief Operating Officer

Comments on the Draft National Electricity Amendment (Process for Region Change) Rule 2007

Draft Rule 2A.2.2 Identify a congestion problem, 2A.2.3 Explanation of proposed region solution, 2A.6.2 Matters for consideration in making region determination

When addressing economic efficiency all three clauses above state economic efficiency as including, but not limited to: productive efficiency, efficiency in relation to the management of risk and long term dynamic efficiency. The draft Determination at section 3.5.2, page 40, sets out the criteria applied in respect of the Abolition of the Snowy Region Rule ("**Abolition**"). When discussing the NEM Objective and economic efficiency in the Abolition Determination, one of the three elements of economic efficiency directly referred to was Allocative efficiency:

*meaning electricity production and consumption decisions are based on prices that reflect the opportunity cost of the available resources;*¹

No explicit mention has been made of Allocative efficiency in the draft Rule or Determination. NEMMCO has made the assumption that the pricing aspects of Allocative efficiency is addressed through the efficiency category of, "risk management".

Draft Rule 2A.2.4 Region change application must be technically competent

This clause has adequately addressed NEMMCO's letter, Technical Considerations for Region Boundary Changes, of 29 June 2007², except that draft Rule 2A.2.4(a)(1)(ii), reproduced below:

a nominated major transmission substation located at the largest generation centre within the region

could be amended to read:

*a nominated major transmission substation located at **or close to** the largest generation centre within the region*

Draft Rule 2A.2.5(b)(2) Alternative congestion management options

Draft Rule 2A.2.5 (b)(2) is reproduced below:

(2) changes in the configuration of the transmission network including as a consequence of the application of the last resort planning power regime;

There could be scope to expand the above clause to recognise that planned network expansion could relieve congestion in the normal course of events which would not require the application of the last resort planning power regime.

Draft Rule 2A.2.7 NEMMCO to provide information to intending applicants

¹ Pg7 AEMC 2007, Abolition of Snowy Region, Rule Determination, 30 August 2007, Sydney.

² <http://www.aemc.gov.au/pdfs/reviews/Region%20Boundaries/submissions/014NEMMCO%20Supplementary%20Submission%20-%2029%20June%202007.pdf>

In principle providing information to prepare a technically competent application by NEMMCO prescribed in draft Rule 2A.2.4 is expected to be a straightforward task. However there are a number of additional matters listed below that could be considered for smooth operation of draft Rule 2A.2.7.

Recognising potential involvement of Transmission Network Service Providers

There may be occasions where information is needed from the transmission network service provider (“**TNSP**”) to satisfy a request. For instance TNSPs may hold data necessary to determine metering arrangements. A Rule clause equivalent to 2A.5.2(c) would assist NEMMCO’s response where data is required from TNSPs.

Explicitly defining NEMMCO’s obligations

One component of the region change application at draft Rule 2A.2.1 A is that a preliminary case must be presented on the economic efficiency of a proposed region solution. Even though the draft Rule and draft Determination at section 3.3.3.3 on page 32 indicates the request will be to prepare a technically competent region change application, there is no acknowledgement that an intending applicant may also require information from NEMMCO such as loss factors and constraints to make a preliminary case for economic efficiency.

NEMMCO supports providing information such as constraints, at draft Rule 2A.5 where the advanced stage of the region change process justifies more resource intensive tasks. NEMMCO would appreciate clarification that even if an intending applicant viewed loss factor or constraint information as necessary to make a preliminary case for economic efficiency, such requests would exceed the scope of draft Rule 2A.2.7.

Developing an administrative framework

An administrative framework could provide clarity on the matters below:

- Time-frames for delivery - based on NEMMCO’s experience with the Abolition, a minimum of 20 business days per request would be required, while requests to a TNSP could extend this time;
- Draft Rule 2A.2.8 allows the Commission to refuse acceptance of incomplete applications. One benefit of this filtering role is that resources are not spent upfront if the application is fundamentally lacking. There does not seem to be parallel discretion for NEMMCO to refuse to accept requests. Although it is sensible that an intending applicant approach NEMMCO to assist with preparation of a technically competent application there is a risk that:
 - Applicants may not be clear in what they are trying to achieve, which may require NEMMCO assistance on how to express the request;
 - NEMMCO may respond to a request, only for the applicant to discover they may need to make another request, or may require information for several options; or
 - A request may be clearly flawed.

It is expected that in most cases requests would be professionally prepared. However, on the rare occasion that resources could be unnecessarily drawn upon, it would be prudent if NEMMCO was given the discretion to refuse a request. The refusal could be supported by a written reason. Where the intending applicant does not accept NEMMCO’s reason, the intending applicant could seek review of this decision by an appropriate body.



This measure would also give the intending applicant an incentive to conduct reasonable due diligence on their application before approaching NEMMCO with a request.

Confidentiality

There could be a small possibility that provision of information to an intending applicant could be confidential, such as connection point loads for the determination of the Regional Reference Node (“RRN”). This raises a number of issues:

- NEMMCO may need to release confidential data to satisfy these requests;
- It is not clear that NEMMCO is obliged to preserve the confidentiality of the intending applicant, nor the particulars of their request;
- Participants could use this intending applicant power to access confidential data for reasons other than a region process; and
- An intending applicant could be given access to information that is not generally available, but at a cost to NEMMCO and ultimately to the NEM.

Options to address these confidentiality related matters could range across:

- Providing a mechanism for NEMMCO to release confidential information or alternatively exclude confidential information from NEMMCO's obligations; or
- Making all requests made to NEMMCO and NEMMCO's responses, publicly available including the identity of the applicant.

Draft Rule 2A.4.3 Alternative region solution put forward by third parties

NEMMCO obligations to provide information for a technically competent alternative

Draft Rule 2A.4.3(c)(2) requires an alternative region solution put forward by third parties during the first round consultation to be technically competent. It is unclear whether a third party will be afforded the same opportunity as an intending applicant to make an information request equivalent to draft Rule 2A.2.7.

If it is intended that third parties be entitled to request information from NEMMCO to prepare a technically competent alternative region solution, then thought should be given to placing a clause equivalent to draft Rule 2A.2.7, for third parties who intend to submit an alternate region solution. Should this action be adopted, it would also be appropriate that comments made above for draft Rule 2A.2.7 be taken into consideration.

Explaining the process for considering a technically competent alternative

Seventy-five business days is given for written submissions to be made on an accepted region change application. Draft Determination discussion under section 3.4.1, page 37, on a “parallel” assessment process did not address the approach that would be taken to allow written submissions to be made on the alternative region solution, such as if seventy-five business days would also be given for written submissions. While it may not be practical to prescribe detail, to clarify this matter it would

be valuable if an in-principle approach to handling written submissions for complete alternative region solutions could be explained.

Clarification required of the Commission's role in putting forward an alternative

Under section 3.4.1 on page 37 of the draft Determination the following statement is made:

Similarly, the Commission would be able to identify alternatives other than those advocated by stakeholders.

In draft Rule 2A.4.3 it was difficult to see where the Commission is permitted to put forward an alternative region solution.

2A.5 Provision of supplementary economic analysis

Under Section 3.4.2, page 38, the draft Determination states that supplementary economic analysis will strengthen and deepen the information base for the assessment. The Abolition Rule Determination at Appendix B described the approach, assumptions, and data sources used in the modelling undertaken by the Commission's consultants of the various Rule change proposals submitted by participants in relation to the Snowy region.

For transparency purposes it would be beneficial if it could be also stated that where practical, supplementary economic analysis will be published with a region change draft Determination.

2A.5.2 AEMC may direct NEMMCO to provide information

Draft Rule 2A.5.2 requires NEMMCO to provide information directly to the applicant, alternative proponent or directly to the Commission as soon as practical. The draft Determination under 3.4.2 on page 38 states that the Commission will consult informally with NEMMCO on what constitutes a reasonable period. Allowance for NEMMCO to provide this information will need to be recognised in any timetable for the region change process.

NEMMCO's experience of the Abolition is that an indicative time-frame to respond to this type of request would be a minimum of 40 business days, although this could be extended if the tasks were for a region change more complex than the Abolition. Involvement of the transmission network service provider could also extend the time-frame.

2A.6.2 Matters for consideration in making region determination

The matters required for the Commission to consider when making a region determination range across: identifying a congestion problem, the region change solution being technically competent and that the region change will improve economic efficiency. The draft Determination at Section 3.6 and 3.7 on page 41, outlined that both draft and final region change determinations will use the cumulative information gathered from the preliminary, first and second round consultations. There did not seem to be corresponding draft Rule clauses acknowledging the role that written submissions will have in making the region determination.

Rules Consultation Procedures at clause 8.9 requires that any material submitted to the consulting party, and conclusions of the consulting party's considerations of all valid submissions must be made available. While the role of written submissions is mentioned in the draft Determination, it is suggested that the region change process Rule clauses explicitly address the treatment of written submissions which would be consistent with the approach taken at Rule clause 8.9.

2A.11.1 Submission of draft Region Change Implementation Procedure and 2A.12.1 General implementation functions

Draft Rule 2A.11.1(b) requires that a draft Region Change Implementation Procedure must set out:

(2) an implementation plan that identifies the key implementation steps to be taken during the implementation period;

(3) the proposed exercise by NEMMCO of the region change implementation functions referred to in rule 2A.12.

The distinction between an implementation step and implementation function is not entirely clear to NEMMCO from a reading of either the draft Rule or the draft Determination, nor is the operation of proposed Rule clause 2A.12.1.

In contrast the implementation of the Snowy Region Abolition comprised:

1. A Snowy Region Abolition Project Plan³ – being a schedule of the necessary generic steps and timeframes; and
2. A new Savings and Transitional Rule which put in place an implementation regime specifically designed for the circumstances of abolishing the Snowy region. Matters addressed included the Australian Energy Regulator authorisation for modifying computer software, recalculating network constraints, managing the transition of settlements residue auctions etc.

One interpretation of the implementation steps and implementation functions is that:

- Implementation steps are equivalent to the Snowy Region Abolition Project Plan, being generic implementation steps and timeframes; while,
- Implementation functions will be equivalent to the Abolition Savings and Transitional Rule which would address how the implementation may affect Rule clauses.

Clarification of the interaction between the draft Region Change Implementation Procedure and General implementation functions is requested.

2A.12.3 Amendment of current or subsequent Regions and Loss Factors Publications

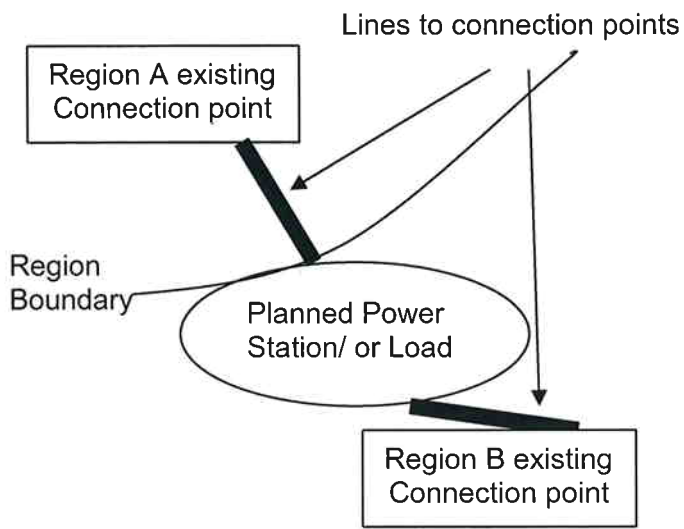
Draft Rule 2A.12.3(b)(ii) identifies that NEMMCO may have to amend the Loss Factor Publication as necessary for the implementation of region change and future physical changes to the network. NEMMCO views this clause as giving it the responsibility for keeping the boundary information up to date, including the allocation of new connection points to a region.

Currently the transmission lines that form region boundaries and the point along these lines where the region boundary is located are specified. This makes it relatively straightforward for NEMMCO to determine where a new connection point should be located.

³ http://www.nemmco.com.au/transmission_distribution/170-0055.pdf

If there was a region change it is likely that assignment of connection points to regions would be resolved by the Determination. In most cases assignment of a new connection point as physical changes are made to the network, after region change, is likely to continue to be straightforward.

However, tension may arise where a load (aluminium smelter), or a power station is planned to be built close to a boundary connected by a new line running to a existing connection point in one region and a second new line running to a existing connection point in the other region as detailed below.



In these types of cases the process for assignment could be complex and may even need to adopt some of the criterion used to make a boundary change. Under these conditions process for assignment of a new connection point could come into sharper focus if it causes material financial implications to arise for investors and the NEM.

It is recommended that the scope of the Rule be extended to support the operation of draft Rule 2A.12.3. to define a process to resolve uncertainty that could arise on regional allocation of a new connection point. One aspect of the assessment could consider the relative strengths of the electrical connections between the new point and the RRN. In this case the point could be allocated to the RRN with the strongest connection because that could minimise the variance of the point's transmission loss factor over the full range of operating conditions.