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**Australian Energy Market Commission**

# **DRAFT LAST RESORT PLANNING POWER GUIDELINES**

## **Commissioners**

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10 March 2010

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**GUIDELINES**

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## **Citation**

AEMC 2010, *Investigation Into the Exercise of the Last Resort Planning Power*, Draft Rule Determination, 17 March 2010, Sydney

## **About the AEMC**

The Council of Australian Governments, through its Ministerial Council on Energy, established the Australian Energy Market Commission (AEMC) in July 2005 to be the Rule maker for national energy markets. The AEMC is currently responsible for Rules and policy advice covering the National Electricity Market. It is a statutory authority. Our key responsibilities are to consider Rule change proposals, conduct energy market reviews and provide policy advice to the Ministerial Council as requested, or on AEMC initiative.

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These Guidelines may be referred to as the "Last Resort Planning Power Guidelines" (the Guidelines) and are made under clause 5.6.4 of the National Electricity Rules (the Rules).

## 1. Purpose and scope of the Guidelines

1.1 The Australian Energy Market Commission (AEMC) is responsible for the exercise of a "last resort planning power" (LRPP) under clause 5.6.4 of the Rules. The purpose of the LRPP is:<sup>1</sup>

"to ensure timely and efficient inter-regional transmission investment for the long term interests of consumers of electricity"

1.2 The LRPP enables the AEMC to direct one or more Registered Participants to:

- identify a potential transmission project and apply the Regulatory Investment Test for Transmission (RIT-T) to that project; or
- apply the RIT-T to a potential transmission project that has been identified by the AEMC.<sup>2</sup>

1.3 The Guidelines provide further information to Registered Participants and other interested stakeholders about the AEMC's processes when considering the exercise of the LRPP.

1.4 The Guidelines have been developed and published by the AEMC in accordance with the transmission consultation procedures in clause 6A.20 of the Rules, having regard to the requirements of clause 5.6.4 of the Rules, including:

- the purpose of the LRPP
- the advisory role of the Australian Energy Market Operator (AEMO);
- the need for consideration of matters that are relevant to the exercise of the LRPP;
- the requirement for procedural fairness to be afforded to a Registered Participant when the AEMC is considering whether or not a participant is to be nominated as a directed party; and
- the annual reporting role on the matters considered by the AEMC in exercising the LRPP.

1.5 In addition to providing guidance to Registered Participants and other interested stakeholders about the AEMC's obligations when exercising the LRPP, the Guidelines also provide further information to:

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<sup>1</sup> National Electricity Rules, 5.6.4(b)

<sup>2</sup> The RIT-T and RIT-T application guidelines will first be published by the AER by 1 July 2010 under clause 5.6.5B(g) of the Rules.

- AEMO regarding what advice it may provide to the AEMC in relation to the exercise of the LRPP; and
- other persons from whom the AEMC may request information relevant to the exercise of the LRPP.

## **2 Date of commencement of the LRPP Guidelines**

The date of commencement of these amended Guidelines is 4 June 2010.

## **3 Interpretation**

- 3.1 Any term used in the Guidelines that is defined in the Rules has the same meaning as it has in the Rules.
- 3.2 Where the Guidelines refer to “a directed party” this may be taken to include more than one directed party, where relevant.
- 3.3 Where the Guidelines refer to a “potential transmission project” this has the same meaning as in the Rules, ie. “New network investment only in respect of a transmission network which the AEMC identifies as likely, if constructed, to relieve forecast constraints in respect of national transmission flow paths between regional reference nodes.”

## **4 Request for advice from AEMO on the LRPP**

- 4.1 This section of the Guidelines sets out the processes that apply where the AEMC requests advice from AEMO under clause 5.6.4(e) of the Rules.
- 4.2 The AEMC may include in any terms of reference in relation to a request to AEMO for advice under clause 5.6.4(e) of the Rules:
  - a description of a problem relating to constraints in respect of national transmission flow paths between regional reference nodes (“the problem”) or a potential transmission project that will address a problem (“the project”);
  - the findings of the AEMC in respect of the matters listed in clause 5.6.4(h) of the Rules and any other relevant considerations;
  - a request for AEMO’s view as to whether it is appropriate for the AEMC in all the circumstances, to exercise the LRPP in relation to that project or problem and the reasons for those views;

- a request for AEMO to provide recommendations as to which Registered Participants (if any) may be an appropriate directed party in the particular circumstances; and
- a date by which the advice is to be provided to the AEMC, which is not less than at least 60 business days from the date of the request.

4.3 If AEMO, in preparing advice to the AEMC, forms the view that it requires further time, it may with the agreement of the AEMC, provide its advice on a later agreed date.

4.4 The AEMC must publish on its website:

- any terms of reference in relation to a request to AEMO for advice under clause 5.6.4(e) of the Rules; and
- any extension of the time for the provision of that advice, as agreed between AEMO and the AEMC, and the reasons for the extension.

## **5 Consultation on advice received from AEMO**

5.1 The AEMC must publish on its website a copy of AEMO's advice to the AEMC in relation to the exercise of the LRPP and invite comment from interested persons.

5.2 If advice from AEMO includes a recommendation as to a person who has been nominated as a directed party, the AEMC must invite comment from that person on AEMO's advice, or on any other matters that the AEMC believes are relevant.

5.3 If the AEMC considers that AEMO's advice to the AEMC affects any other person, it may invite comment from that person on AEMO's advice.

5.4 Any consultation under this section in relation to advice from AEMO is to be for a period of not less than 20 business days.

## **6 Provision of information for the exercise of the LRPP**

6.1 The AEMC may, from time to time, request persons to provide information to inform the AEMC's decision making in relation to the exercise of the LRPP.

6.2 The AEMC may request information from:

- Registered Participants under consideration by the AEMC as a potential directed party; and
- other persons who may be affected by the exercise of the LRPP or who may be capable of providing relevant information to assist the AEMC in its decision making.

6.3 The AEMC may seek expert advice where it considers this necessary.

## **7. Treatment of confidential information**

7.1 The AEMC's usual practice is to publish information on its website. However, where information is provided in relation to the exercise of the LRPP, the AEMC will take all reasonable measures to protect from unauthorised use or disclosure, information given to it in confidence in connection with the performance of the LRPP, as provided for in section 24 of the *Australian Energy Market Commission Establishment Act (SA) 2004*.

7.2 Those providing information should clearly identify the part or parts of the information that the claim for confidentiality relates to, and give reasons why the material should be treated as confidential.

## **8. Role of interested stakeholders in the AEMC's exercise of the LRPP**

8.1 The AEMC is mindful that interested stakeholders may wish to make the AEMC aware of matters that may be relevant to the exercise of the LRPP.

8.2 Such provision of information should be in writing and may present the person's views as to the nature and extent of a problem and its relevance for the exercise of the LRPP.

8.3 While the AEMC is not bound to take action upon receipt of general information or adopt a suggested course of action, the AEMC considers that a free flow of information is in the public interest and wishes to encourage such input into its exercise of the LRPP. The AEMC may post any such communications on its website.

## **9 Reporting on the AEMC's exercise of the LRPP**

The AEMC must report regularly on the exercise of the last resort planning power.

## **10 How will the AEMC nominate a directed party?**

Only a Registered Participant is capable of being a directed party, and thus be required to identify a potential transmission project and apply the RIT-T to that project, or to apply the RIT-T to a project identified by the AEMC. When considering who might be recommended by AEMO or nominated by the AEMC as an appropriate directed party to apply the RIT-T, the following factors will be considered:

- the Transmission Network Service Provider who is providing services to those users who would potentially benefit from a solution to the identified problem;
- the party (if any) who has the requisite expertise to undertake the RIT-T for the identified problem or project; or
- the Transmission Network Service Provider whose geographical area of operation includes the location of the identified problem or project.

## **11. Review of the Guidelines**

Clause 5.6.4(r) of the Rules allows the AEMC to amend or replace the Guidelines from time to time. The AEMC anticipates that it will review the Guidelines at intervals of 5 years, or earlier if the AEMC considers there is a need to do so.

**END OF GUIDELINE**