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19 June 2009

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

By email: submissions@aemc.gov.au

Dear Dr Tamblyn,

Re: Confidentiality provisions for Network Connections (ERC0089)

The NGF and Clean Energy Council welcome the opportunity to provide comments on Grid Australia's Rule change proposal to amend the confidentiality provisions for network connections (confidentiality provisions). The NGF is the representative body of the major power generators in the National Electricity Market and the Clean Energy Council is the peak body representing Australia's clean energy efficiency industries. Together we are well placed to provide collaborative input into this consultation process.

The confidentiality provisions have come under increased scrutiny recently with the AEMC conducting a review into the impacts of climate change policies on energy markets (Review). One of the issues being looked at under the Review is the perceived inadequacy of the current bilateral negotiation process for new connections, to cope with large extensions to remote areas. Specifically, there is concern that the confidentiality provisions preclude the efficient coordination of connection applications by Transmission Network Service Providers (TNSPs). This is due to the provisions preventing TNSPs from discussing one connecting party's information with any other prospective party. We surmise that this has been the main impetus for Grid Australia's proposal.

Whilst the NGF and CEC considers this to be an important issue that should be progressed under the AEMC Review, we have a number of concerns regarding Grid Australia's proposal and support the decision not to fast-track the proposal given the nature of the change can not be characterised as a 'minor amendment'.

We expand on these matters below.

Commercial value of information

The NGF and CEC appreciate Grid Australia's intent – that is, to improve the efficiency of the connection application process. We are concerned, however, that Grid Australia has not appropriately considered the commercial interest of connecting parties. Grid Australia suggests that the Rule change proposal is non-controversial and that it would not result in the disclosure of commercially sensitive information. The NGF and CEC does not believe this to be the case. Whilst the cross referencing of some of the confidentiality provisions in clause 8.6.2 of the Rules (such as the disclosure of information that is in the public domain), with clause 5.3.8 is not likely to be an issue, the proposed new clause - 5.3.8(c1) is far more problematic from our point of view.

Under 5.3.8(c1) TNSPs would have the power to disclose information regarding the size, location, completion date, etc. of a network connection. Depending on timing, this in our view is tantamount to the disclosure of commercially sensitive information which would undermine any potential "first-mover" competitive advantage for connecting parties in keeping such information confidential. This could adversely affect the economics of generation projects and act as an impediment to future investment, undermining the achievement of the national electricity objective.

Given that connecting parties are best placed to determine the commercial sensitivity of information, the overarching principle in TNSPs disclosing any information to a third party, should be the acquiring of consent from the connecting party from which the information originates. These connecting parties would then determine if the disclosure of such information is indeed in their commercial interest, taking into consideration any possible benefit of a more cost effective connection option.

Coordination of connection applications

In our view, where it is in their commercial interest connecting parties will actively seek partnerships and coordinate amongst themselves, to ensure that the most cost effective connection option is put in place. Remote generators seeking to connect to the grid are likely to enter into such partnerships, given that the viability of their investment is likely to be dependent on the implementation of the most cost effective connection option.

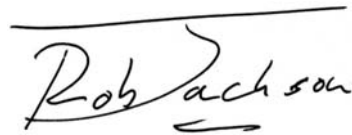
While views within the NGF and CEC might differ as to the need for, and workability of, the AEMC's remote connection (NERG) proposal, the focus of this proposal would appear not to be on the coordination of existing participants, which as we have argued they can do themselves, but rather the provision of additional capacity (given economies of scale) to accommodate potential future connections. Therefore, a relaxation of confidentiality provisions in a manner which overcame the concerns of connecting parties would not necessarily support this latter objective.

If you would like to discuss any of these issues further please do not hesitate to call.

Yours sincerely



Alex Cruickshank
Chair, Market Working Group, NGF



Rob Jackson
General Manager Policy, CEC