

## POWERLINK QUEENSLAND

### SUPPLEMENTARY RESPONSE TO AEMC PROPOSED RULE CHANGE

#### Reform of Regulatory Test Principles

23 May 2006

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Following the publication of responses to the AEMC consultation on the proposed rule change regarding regulatory test principles, Powerlink submits this response to address the unsubstantiated assertion and the key omissions in the submission from the Group<sup>1</sup>.

#### **Unsubstantiated Assertion of TNSP Bias**

In section 3.4 of its submission, the Group asserts that:

*“A TNSP has many incentives to be biased in its evaluation of its favoured project against alternatives. Of course, it wants its favourite to “get up” and, if this is not possible, at least find an “economic” project that helps its bottom line rather than that of its competitors (eg MNSPs or local generation).”*

This is an unsubstantiated assertion and, as the available data contradicts this view, we believe the Group are being disingenuous.

Powerlink does not have any “favourite” projects – rather, it has mandated reliability obligations for which it must, under the National Electricity Rules (the Rules), openly and transparently evaluate feasible network solutions and any genuine and feasible non-network alternatives without bias. Importantly, the established Rules process for new regulated network investment requires that the assumptions and findings of the regulatory test be tested through public consultation with all interested parties to ensure the unbiased assessment of all feasible alternatives. The process also provides recourse to low-cost regulatory review for any affected party that believes that its proposed non-network alternative has not been fairly evaluated.

The key elements of the Rules process are:

- the whole process is open and transparent;
- any interested party can challenge the findings of the draft report;
- the TNSP must address any such comments in the final report; and
- any affected party which believes there has been bias in the assessment of alternatives can initiate a low-cost dispute process.

Separate to the regulatory test and consultation process, the regulator can also conduct a prudency review of the resultant expenditure and refuse to provide a return to the TNSP on any investment found to be inefficient.

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<sup>1</sup> The Group consists of TRUenergy, NRG Flinders, International Power, Loy Yang Marketing Management Co and AGL.

Data from the NEMMCO website shows that there were 37 regulatory tests conducted across the national electricity market in the period 2003 to 2005. NONE of these regulatory tests were referred to the dispute process by proponents of non-network alternatives.

The only regulatory test referred to the dispute process was initiated by a group of (“nimby”) property owners. Which, if nothing else, illustrates the accessibility of the low-cost dispute process; if members of the public can access it, it must clearly be accessible to an entity with the financial resources to own a generator of sufficient size to defer a network augmentation. Furthermore, we would note that as a direct consequence of applying the regulatory test, Powerlink has executed network support agreements with all four forms of non-network solution: embedded generation, local generation, demand side response and a MNSP.

When searching for non-network alternatives, potential proponents are provided with the criteria a solution must satisfy for it to defer a network investment, and where appropriate, the contractual obligations which must be met, e.g. for a solution to meet a mandated reliability obligation, a willingness to be exposed financially to any penalties arising from non-performance. Under the existing arrangements, a party that does not want to take on such exposure can decide to withdraw their non-network alternative from being considered further, and do so confidentially. The Group’s proposal would require TNSPs to publicly “name” (and shame?) such parties.

On examination of the facts, the assertion by the Group is demonstrably incorrect. Consequently, we believe there is no basis for the Group’s proposal of “turning around” the burden of proof to require a TNSP to demonstrate that any non-network alternatives are either not feasible or not genuine.

### **Key omissions**

The Group propose revised wording for the purpose of the regulatory test in section 3.2 of their submission:

*“[the Test must] have as its purpose the evaluation of proposed new regulated investments to see whether they are likely to maximise the net economic benefit to all those who produce, consume and transport electricity in the market”*

However, the Group’s proposed wording ignores the critical need for regulated investments to be undertaken to meet mandated reliability obligations. The regulatory test deliberately and specifically contains a ‘limb’ for such investments, under which the criterion is to “minimise the present value of the costs”.

This is an essential principle of the regulatory test, it is an accepted MCE policy and it must be preserved in any principles incorporated in the Rules.

Furthermore, the Group’s proposed revised wording of the rule omits the header paragraph of the proposed rule. The regulatory test principles and the regulatory test itself are intended to ensure the development of a transmission system that meets mandated reliability obligations at the least cost or maximises the benefits to the market by ensuring only economic investment is undertaken that will result in benefits through improved competition. It is therefore imperative that the principles provide investment certainty to TNSPs to encourage the efficient development of a national electricity grid and consequently the wording proposed by the MCE must be retained.

