17 July 2020

Mr M Shannon
Senior Adviser
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2000

Email: mitchell.shannon@aemc.gov.au

Dear Mr Shannon

ERC0302 - Response to Directions Paper on the proposed Deferral of Network Charges

We refer to the Directions Paper and draft rule issued by the AEMC concerning the AER's proposal to defer the payment of network charges by retailers (Proposed Rule Change).

SA Power Networks strongly supports the narrowing of the scope of the Proposed Rule Change. We would also like to note that SA Power Networks has reviewed the submission made by Energy Networks Australia concerning the Proposed Rule Change and generally endorses the comments that were made in that submission.

This letter sets out our response to the questions that were raised in the Directions Paper and our comments concerning the draft rule. We have lodged this response as early as possible in order to give the AEMC more time to consider our comments. Once the AEMC has had time to consider our comments, we would appreciate being given the opportunity to discuss those comments with the AEMC.

1. Retailer Eligibility

The Directions Paper proposes that retailers who are registered as a Retailer of Last Resort (RoLR) and government-owned retailers will be excluded from the scheme for the deferral of the payment of network charges.

SA Power Networks supports this position provided that the exclusion makes clear that it applies to any retailer who is registered as a RoLR regardless of the jurisdiction in which that retailer is registered as a RoLR (ie a retailer who is registered as a RoLR in NSW, Victoria, ACT, Queensland or Tasmania should be excluded from the operation of the deferral of payment scheme in South Australia in addition to the retailer who is registered as the RoLR for South Australia).

As noted by the AEMC, given their size, financial capacity and access to capital, currently registered RoLR retailers should be able to absorb any cash flow impacts of COVID-19 without resorting to deferring the payment of network charges.

In addition, as set out the Directions Paper, this exclusion should extend to related entities of registered RoLRs and government-owned or operated retailers. All related entities of these retailers should be in a strong financial position and/or able to access alternative sources of credit to alleviate any cash flow issues they are currently experiencing (eg through other facilities or the support of shareholders). This exclusion is not currently addressed in the proposed rule drafting of the term 'eligible retailer'.

The final rule should make it clear that related entities (which would include related bodies corporate) of registered RoLRs and government-owned or operated retailers are not eligible to defer the payment of network charges by eligible customers.

2. Application of Interest

The Directions Paper proposes that all eligible retailers should be required to pay interest on any deferred network charges at a rate of 3% per annum. This is a very low rate and potentially makes distribution networks a very attractive source of funding to eligible retailers. Distribution network businesses have their own liquidity reserve requirements and the depletion of these may cause concerns around the distribution network business' own credit metrics and financing covenants. We would advocate for the AEMC to set a higher interest rate.

While SA Power Networks agrees that a fixed rate of interest should be applied to provide certainty at the commencement of the deferral mechanism, the rate of 3% per annum is significantly lower than SA Power Networks' opportunity cost of providing funding over the 2020-21 regulatory year, which has been independently estimated by the AER to be 4.75%.

We also believe that an interest rate of 3% will not achieve the key objectives set out in the Directions Paper. In particular:

(a) such a low interest rate will not incentivise eligible retailers to try to obtain additional funds from the private sector prior to accessing the deferral mechanism;

(b) distribution network business will not be able to recover all of the direct costs that they are likely to incur as a result of the deferral of network charges with such a low interest rate; and

(c) eligible retailers will not be facing an efficient price signal because they will be paying less than the cost of the finance that the distribution network business is likely to incur.

For these reasons, SA Power Networks proposes that interest on any deferred network charges be set no lower than 4.75%.

3. Customer Eligibility

The Directions Paper proposes that eligible retailers will be able to defer the payment of network charges incurred in respect of residential and small business customers that are on a payment plan, hardship arrangement or deferred debt arrangement. There is no requirement for the customer to have been impacted by COVID-19 as is the case with other forms of relief and support provided by Governments.

In our view, the current regulatory framework, which is based on retailers bearing the risk of customer default and non-payment, would already allow retailers to support these customers. To shift that risk to electricity networks where default and non-payment is not due to the impacts of COVID-19 goes beyond the need for the Proposed Rule Change. However, SA Power Networks recognises the challenges that this financially vulnerable class of customers must be facing at this time and is willing to support extending the deferral mechanism to them provided that the additional safeguards outlined in this submission are adopted in the final rule.

4. Practical Implementation of Payment Deferrals

The Directions Paper proposes that eligible retailers and distribution network businesses must negotiate and agree on arrangements to give effect to the payment deferrals within one week of the final rule being made. Eligible retailers will also be required to provide a statutory declaration confirming that any payment deferral request is in accordance with the definitions outlined in the final rule.

This position has been proposed on the assumption that eligible retailers and network businesses have already gone through this process in relation to the implementation of the support measures provided under the Network Relief Package and that these existing processes can be leveraged to allow for the deferrals under the final rule to be implemented and administered efficiently.

In South Australia, this assumption is only correct for one large retailer who would not be classified as an eligible retailer. Therefore, one week will likely not allow sufficient time for this process to be agreed with all eligible retailers operating in South Australia. We suggest that the final rule include a requirement for the arrangements to be agreed as soon as reasonably practicable and in any event within one month of the final rule being made.

5. Impact on NSPs

The Proposed Rule Change relies on the existing retailer insolvency pass-through event applying in the event that a financially stressed retailer is unable to pay the deferred network payments after the six-month deferral period.

The pass-through mechanism allows distribution network businesses to recover retailer insolvency costs which include 'billed but unpaid charges' and the actual amount of unbilled 'network charges' accrued by the failed retailer. 'Billed but unpaid charges' are defined as network charges that have been billed to the failed retailer but not yet paid. 'Network charges' are defined in clause 6B.A1.2 to mean the charges a network business is entitled to claim for customer connection services in respect of shared customers under the National Electricity Rules.

The final rule should make clear that interest on any deferred network charges that is not paid by the failed retailer will form part of the network charges for the purposes of the definition of network charges in clause 6B.A1.2 of the NER.

As noted above, we would be pleased to engage further with the AEMC on any aspect raised in our response or any other matter relevant to the Proposed Rule Change. Please contact Richard Sibly, Head of Regulation on ((08) 8404 5613 or email Richard.Sibly@sapowernetworks.com.au) for further discussion of this response.

Yours sincerely

Patrick Makinson
GENERAL MANAGER GOVERNANCE AND REGULATION
GPO Box 77, ADELAIDE SA 5000