InterGen (Australia) Pty Ltd
Level 26
400 George St
BRISBANE QLD 4000
Australia
ABN: 71 080 050 737
Tel: + 61-7 3001 7177
Fax: + 61-7 3001 7178

4 September 2014

Mr John Pierce
Mr Neville Henderson
Dr Brian Spalding
Australian Energy Market Commission

Lodged electronically: www.aemc.gov.au (EPR0039)

Dear Commissioners,

RE: EPR009 – First Interim Report Optional Firm Access, Design and Testing

By way of background InterGen Australia (**InterGen**) is owned by InterGen N.V. and the China Huaneng Group (**CHG**), China's largest generation company. InterGen and CHG are leading developers and operators of electricity generation facilities worldwide. In Australia, InterGen is the operator and majority owner of the 851MW Millmerran Power Station and a 50% owner of the 850MW Callide C Power Station.

The Australian Energy Market Commission (**AEMC**) has sought stakeholder submissions to the First Interim Report - Optional Firm Access, Design and Testing (**FIR**), dated 24 July 2014. The AEMC is specifically seeking stakeholder views on the progress of the Optional Firm Access (**OFA**) model's design since receiving the Terms of Reference.[1]

InterGen's position is set out below.

General Comments

The National Electricity Market (**NEM**) is working and further intervention is not necessary.

InterGen contends that the now continuous and significant regulatory change faced by NEM participants has become hazardous to the efficient running of the NEM. This on-going change has severely impacted upon participants' ability to operate commercially and has curtailed willingness to undertake productive investment.

When the Transmission Framework Review (**TFR**) was first initiated, the NEM was experiencing demand and supply growth that had the potential in time to expose the network to material

[1] SCER, Transmission Frameworks - Detailed Design and Testing of an Optional Firm Access Framework, 25 February 2014.

constraints. At that time it was reasonable to consider the pros and cons of an alternate access arrangement with the objective of reducing total system costs (i.e. generation and network). However since the TFR, the NEM expectations of demand growth and a transition from existing generation fleet to new generation fleet over time has dramatically changed.

Due to falling demand for many years and forecast modest growth, there is no longer a reasonable concern for transmission constraints or a requirement for, or drivers for, a significant change in generation fleet. The OFA model now appears to be trying to solve a problem that does not exist and simply introduces unnecessary risks and costs on to a market, but without any meaningful benefit.

More specifically the OFA model has evolved to be extremely complex and disproportionate to the problem it was intended to solve (and perhaps a problem that has now dissipated). It presumes that there is broad support for the OFA model from participants (particularly generators). It places the burden of funding network development on to generators with the assumption they are better placed to manage that risk[2] than network providers. It does not guarantee the generator the level of access it has acquired, or that financial compensation will be sufficient to cover losses incurred.

The purported benefits of the design are at best questionable. For example, the FIR states that the OFA model will encourage generators to contract to higher levels based upon improved access[3]. This assumes that network access is a significant issue that is curtailing the desire or ability to hedge. **This is definitely not true in the case of our projects where network access has had no bearing on our hedge levels, which are driven by other more significant drivers such as market risk and plant outage risk.**

With respect to the OFA model providing locational signals, these are moot to owners of existing plant and not a benefit in a market with no clear need for new capacity within any reasonable planning horizon. In reality locational signals are already present in the current market design and primary drivers of plant location such as fuel availability and price will always prevail. Finally, as network access is critical (particularly for base load generators) the reality is that the OFA model is not "optional" as the risks of opting out are likely to exceed any financial saving of remaining non-firm.

We are also deeply concerned as to the investment uncertainty the protracted nature of this review is causing. At present it will be at least another year before a final determination of the OFA is made. Should the OFA proceed, there will be several more years before the true impact of the design and its effect on existing investments can be understood. This continued uncertainty, coupled with other ongoing regulatory change, impacts on the ability to successfully access debt and equity markets to support existing and future investment; as well as the cost of capital rising to reflect the ongoing risks and uncertainty caused. Further, the OFA's inherent complexity is likely to incur significant implementation and ongoing compliance costs for InterGen which we are unlikely to have the means to recover.

It is InterGen's view that the OFA model does not meet the National Electricity Objective[4]. There is not broad support for change. What is clear is that there are significant proposed costs, complexity, risks and potential for wealth transfer. What is unclear is whether the OFA model will have any material benefits to the NEM.

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[2] The OFA model is based upon the generators signalling the extent they value network access. However, generators are no better placed to manage access risk than consumers as they similarly rely upon network providers to plan for and operate network access. It is impossible for a generator to objectively value firm vs. non-firm access in a meshed system of which they are just one variable of many.

[3] AEMC, First Interim Report, Optional Firm Access, Design and Testing page 22

[4] National Electricity Law section 7

Transitional Access

InterGen supports the AEMC's view that

"it is in the long-term interests of consumers that there is an appropriate transition for investors in the electricity sector where there are significant regulatory changes. That transition should include adequate notice of regulatory change, time and - where necessary - assistance to adjust. Exposing generation investors to large and unforeseeable regulatory risk can deter - or increase the costs of - future investment. This would run counter to the National Electricity Objective. Optional firm access represents a significant change to the market framework on the basis of which previous generation investment has occurred[5].

And that the level of any sculpting of transitional firm access as denoted by "K"

'would require an assessment of whether an existing generator is likely to suffer ongoing balance sheet effects as a result of optional firm access.'

Should the OFA model be implemented, InterGen strongly urges the AEMC adopt a transitional access period commensurate with the remaining life of generators set at a level consistent with their respective current access[6]. This recognizes that existing generators invested under the current regulatory regime, and their inability to mitigate the OFA model's impact through locational choice.

Conclusion

InterGen trusts that the AEMC will carefully consider the issues we have raised.

InterGen believes the OFA model will not result in net benefits to the market or the promotion of the National Electricity Objective. Accordingly, InterGen does not support its continued development or implementation.

Please feel free to contact Mr. Robert Pane on 07 3001 7124 regarding any queries on this submission.

Yours sincerely,

Sam Bristow
General Manager, Trading & Development
InterGen (Australia) Pty Ltd

[5] AEMC, First Interim Report, Optional Firm Access, Design and Testing page 109.
[6] Alternatively, the length of transitional access could match the remaining period of a generator's connection and access agreement. This provides an equitable outcome where a generator has incurred "deep" connection charges that are unable to be offset by implementation of the OFA model (i.e. a generator effectively pays twice for the same access)