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1 February 2007

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box H166
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By Email: submissions@aemc.gov.au

Dear John

Submission on Commission's Draft Determination on Last Resort Planning Powers

VENCorp welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC's) Draft Rule Determination on the Last Resort Planning Powers (LRPP).

The aim of the LRPP National Electricity Rule (Rule) amendments is to facilitate the development of national transmission grid. VENCorp notes that the impediments to the development of a national transmission grid are currently under consideration by the Energy Reform Implementation Group (ERIG). One of the options consider by ERIG is the creation of a national transmission planner with procurement responsibilities. VENCorp believes that the establishment of such a body would eliminate the need for these Rules and the associated guidelines. The AEMC should therefore reconsider the LRPP arrangements following the release of the ERIG recommendations.

VENCorp's comments on the Rule amendments are set out below.

Application of the Regulatory Test

The Draft Determination requires that a project identified by the LRPP must be subjected to the Regulatory Test assessment. However it does not specify whether it should be assessed against the market benefits limb or the reliability limb of the test. VENCorp believes that any transmission project which is subject to a LRPP direction should be assessed using the market benefits limb of the Regulatory Test.

Available Information and Timeframes in Direction

The Draft Determination indicates that the MCE is proposing to institute civil penalties on a directed party for failure to meet the timeframes specified in an AEMC direction.¹

¹ AEMC, Draft Determination, section 4.3.3, p 38

The directed party may be unable to meet the timeframes specified in the direction due to circumstances beyond its control. One of the key reasons may be lack of relevant information, particularly if the directed party is not the TNSP in the region affected by the project.

However, the Draft Rules as they stand do not provide any principles which allow the directed party to obtain the necessary information and data that would be needed from other parties in order for them to adequately identify a project and/or undertake the Regulatory Test assessment.

Further, there may be a change in circumstances in which the original direction is no longer valid therefore the timeframes should be extended or the direction modified.

VENCorp therefore believes that:

- the principle of information sharing must be dealt with in the Rules; and
- the Rules should allow the AEMC to modify or rescind its direction to meet changed circumstances.

The detailed mechanisms for managing information sharing and extending or rescinding the direction can be dealt with in the proposed Guidelines.

Cost Recovery

The Draft Rules allow the AEMC to direct any *Registered Participant* to apply the Regulatory Test to a potential transmission project or identify a potential transmission project and apply the Regulatory Test to that project. While the proposed Guidelines may indicate that the directed party should be an affected TNSP, the Rules allow the AEMC to direct any *Registered Participant*, the majority of which are not TNSPs.

The AEMC has identified that cost recovery is relevant to non-TNSPs but has not considered the issue in relation to TNSPs who operate in regions unaffected by, or not directly connected to, the proposed works.

Given the nature of this power it is quite possible that the AEMC may wish to direct an unaffected TNSP to undertake this work to ensure transparency and independence of the outcome.

By not allowing cost recovery, the exercising of the LRRP on an independent party would:

- place a financial burden on consumers who would not reap any direct benefit from the work being undertaken by the directed party; and
- provide a perverse incentive on the party to undertake the Regulatory Test as quickly and at the lowest possible cost, without regard for the outcome.

As such, VENCorp believes that any unaffected party, TNSP and non-TNSP, must be able to recover the costs of either identifying a project and/or applying the Regulator Test.

VENCorp believes that the principle of cost recovery should be embedded in the Rules and agrees with the AEMC that the detail of the mechanism(s) for cost recovery should be contained within the proposed Guidelines.

Reliability Panel to provide industry representation and technical advice

The AEMC has identified the Reliability Panel as being a relevant industry representative panel which has the technical expertise to provide advice to the AEMC on a potential transmission project.

The reliability panel is formed under s38 of the National Electricity Law and has the following responsibilities:

- (a) to monitor, review and report on, in accordance with the Rules, the safety, security and reliability of the national electricity system; and
- (b) at the request of the AEMC, to provide advice in relation to the safety, security and reliability of the national electricity system; and
- (c) any other functions and powers conferred on it under this Law and the Rules.

VENCorp does not believe that the Reliability Panel is the most appropriate industry panel to provide such advice. The membership of the Panel includes generators, distributors and customer representatives who would not be adequately informed or skilled in relation to identifying and planning a transmission project and conducting Regulatory Test assessment on such projects.

Under s5.6.3 of the Rules, NEMMCO is required to establish the Inter-Regional Planning Committee (IRPC) which is responsible for, amongst other things, reviewing of inter-regional transmission network developments. VENCorp believes that the membership of the IRPC is better skilled to provide appropriate advice to the AEMC on transmission projects than the Reliability Panel.

Therefore, VENCorp believes that the Draft Rules should be amended to replace 'Reliability Panel' with the 'Inter-Regional Planning Committee'.

Definitions

VENCorp has also identified a definitional issue. The definition of Potential Transmission Project is a: '*New transmission network investment **identified by the AEMC**.....*' [emphasis added]. Under s 5.6.4(a)(1) of the Draft Rules the AEMC can direct a party to **identify** a potential transmission project.

VENCorp therefore suggests that the definition of a potential transmission project be amended to remove the words 'identified by the AEMC'.

Should you have any questions please do not hesitate to contact Louis Tirpcou on ☎ (03) 8664 6615.

Yours sincerely



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