

1 August 2007

Dr John Tamblyn
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Australian Energy Market Commission
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By email: submission@aemc.gov.au

Dear John

System Restart Ancillary Services

Please find attached an urgent Rule change proposal by NEMMCO concerning system restart ancillary services.

NEMMCO seeks a change to the Rules to ensure that the AEMC's previously stated intentions are implemented.

The reasons for this are that NEMMCO's interpretation of the existing Rules do not support what both NEMMCO and industry believe to be the AEMC's original purpose. More particulars are contained in the attachment.

We look forward to your favourable consideration of this proposal.

Yours sincerely


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1. Background

1.1 The Need for the Rule Change

NEMMCO's interpretation of changes to the National Electricity Rules (**Rules**) as a result of the 'National Electricity Amendment (System Restart Ancillary Services and Pricing under Market Suspension) Rule 2006' is that they require testing of offered System Restart Ancillary Services (**SRAS**) to occur by the close of tenders. This does not appear to reflect the AEMC's intention that SRAS testing could be carried out after contracts were entered into.

1.2 Participant Consultation

As a result of the 'National Electricity Amendment (System Restart Ancillary Services and Pricing under Market Suspension) Rule 2006', NEMMCO has been consulting on a number of documents it is required to develop and publish. During the course of these consultations, a number of Consulted Persons have commented on the timing of SRAS testing, noting their understanding that it was intended that SRAS testing should occur after the close of tenders. A number of Consulted Persons have also indicated that they would be happy to support a Rule change proposal to give effect to that intention.

2. Description of the proposed Rule

2.1 Description of Current Rules

Clause 3.11.4A(e) establishes a requirement to publish SRAS Assessment Guidelines that are to include, amongst other things, a requirement that physical testing for SRAS be submitted as part of an SRAS expression of interest (**EOI**) or in response to an NMAS invitation to tender (**ITT**).

Clause 3.11.5(b) requires Tender Guidelines to be published. That Rule also mandates the contents of the Tender Guidelines, which includes, amongst other things, a requirement for persons submitting an EOI to have the relevant facility tested in accordance with the Tender Guidelines.

2.2 AEMC Intention

There are only a few references to the timing of testing in the AEMC Rule Determination 'National Electricity Amendment (System Restart Ancillary Services and Pricing under Market Suspension) Rule 2006'.

One reference is in the course of commenting on the specification of the proposed minimum terms of contract in the Rules, where it was noted:

There may be benefits in clearly specifying the minimum requirements of an SRAS contract, such as meeting testing requirements.¹

On the next page, however, after recognising that power system security and reliability are fundamental to the National Electricity Market, the AEMC noted:

In the Commission's view, NEMMCO's responsibility under the Rules to maintain and improve power system security is sufficient to ensure that the

¹ Page 30.

procurement, testing and use of system restart services does not affect the maintenance of power system reliability and security.²

This comment led NEMMCO to conclude that, in procuring SRAS, NEMMCO must balance the economic imperative³ against one of maintaining power system security and reliability and, if implementation brought the two into conflict, NEMMCO ought to apply a solution that met the latter.

On the other hand, the AEMC stated that NEMMCO's proposed procurement process was appropriate.⁴ Appendix 2 of the Rule Determination contains a table detailing the outcomes of NEMMCO's review into SRAS, including NEMMCO's proposed tendering and assessment process, but this item did not include testing. The next item in the table referred to testing of 'contracted services'. The reference to testing of 'contracted services' indicated NEMMCO's intention that SRAS testing should be carried out after contracts had been awarded to successful tenderers.

Discussions with the AEMC suggest that it was intended that SRAS be tested after contracts were entered into with successful tenderers.

2.3 Proposed Rules

The proposed changes to the Rules are designed to give effect to the AEMC's intention that SRAS testing can occur after NEMMCO has entered into contracts with successful tenderers.

2.4 Proposal to make this Rule change as an urgent Rule

NEMMCO requests that the AEMC treat this Rule change proposal as a request for an 'urgent Rule' under section 96(1)(c) of the National Electricity Law (NEL).

As currently framed, the Rules detract from "the effective operation or administration of the wholesale exchange operated and administered by NEMMCO" (as per section 87 of the NEL).

The intention of the Rule-making body (AEMC) is not being effected by the Rules in their current form and are thus preventing NEMMCO from operating and administering the wholesale exchange in the manner expected, that is in a manner considered by the AEMC in a previous Rule Determination to be effective.

Current contracts for SRAS expire on 30 June 2008. Unless NEMMCO utilises clause 11.2.1(b)(2) to extend these contracts to a date that would permit the AEMC to conduct a consultation under section 94 of the NEL, NEMMCO would be required to run an EOI/ITT process on the basis of its interpretation of the Rules.

In light of what is known of the AEMC's intentions for the SRAS procurement framework, NEMMCO does not consider this to be an appropriate way forward.

² Page 31.

³ Espoused by the SRAS Objective contained in clause 3.11.4A(a) of the Rules.

⁴ Page 30.

3. Statement of Issues and Solution concerning the existing Rules

3.1 Analysis of Current Rules

3.1.1 SRAS Assessment Guidelines

Clause 3.11.4A(e) establishes a requirement to publish SRAS Assessment Guidelines. It states:

In order to demonstrate that there is a reasonable degree of certainty that a *facility* is capable of delivering the relevant *system restart ancillary service* if required to do so, NEMMCO must develop and *publish* guidelines for undertaking:

- (1) modelling and assessment of the technical capabilities of *system restart ancillary services* proposed to be submitted as part of a *SRAS* expression of interest or in response to a *NMAS* invitation to tender;
- (2) physical testing of *system restart ancillary services* being submitted as part of a *SRAS* expression of interest or in response to a *NMAS* invitation to tender; and
- (3) any other analysis which NEMMCO considers appropriate,
(the *SRAS* assessment guidelines).

Although this provision is directed at the content of the SRAS Assessment Guidelines, sub-paragraph (2) requires that testing be submitted 'as part a *SRAS* expression of interest or in response to a *NMAS* invitation to tender'. It seems to fix the time by which testing should be 'submitted', suggesting that the latest time by which SRAS testing should be carried out and results submitted to NEMMCO should be the close of tenders.

3.1.2 NMAS Tender Guidelines

Clause 3.11.5(b) requires Tender Guidelines to be published. That Rule also mandates the contents of the Tender Guidelines, which includes, amongst other things, the following:

- (2) a requirement for persons submitting an *NMAS* expression of interest to have the relevant *facility* tested in accordance with the *NMAS* tender guidelines;

This provision reinforces the conclusion that SRAS testing should be carried out by the close of tenders at the very latest, as the reference to the timing of the submission (that is, the EOI) and the Tender Guidelines would have been unnecessary if it were sufficient that the SRAS testing be carried out under the terms of a contract.

3.1.3 Combined reading of clauses 3.11.4A(e) & 3.11.5(b)

The language of these two provisions is, in NEMMCO's view, unequivocal. The reasons for this are:

- the reference in clause 3.11.4A(e) to testing 'being submitted' as part of an EOI or ITT;
- the requirement in clause 3.11.5(b) that the testing should be done by persons 'submitting' an EOI in accordance with the Tender Guidelines; and
- the requirement that NEMMCO address testing as part of the Assessment Guidelines.

During the consultation on the SRAS Description, Consulted Persons raised concerns over this interpretation. In light of these concerns NEMMCO sought independent advice.

This advice confirmed NEMMCO's interpretation of these provisions.

3.2 Proposed Solution

The proposed solution removes the requirement that SRAS needs to be tested by the close of tenders.

4. How the proposed Rule is likely to contribute to the achievement of the NEM objective

4.1 The objective of the National Electricity Market

Clause 7 of the National Electricity Law states the NEM Objective as:

The national electricity market objective is to promote efficient investment in, and efficient use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system.

4.2 Contribution to the objective of the National Electricity Market

NEMMCO submits that the proposed Rule change will promote the NEM Objective because the 'National Electricity Amendment (System Restart Ancillary Services and Pricing under Market Suspension) Rule 2006' did and this Rule change proposal is merely seeking to align the Rules with the AEMC's intention.

5. This Rule change proposal falls within the matters on which the AEMC is permitted to make changes to the Rules

This Rule change proposal falls within the subject matter for the Rules as prescribed by section 34(1)(b) of the NEL, being:

- (b) the operation of the national electricity system for the purposes of the safety, security and reliability of that system

Hence, NEMMCO considers that this is an appropriate matter for consideration by the AEMC.

6. Proposed Rule

It is proposed that clause 3.11.4A(e) be amended as follows:

"In order to demonstrate that there is a reasonable degree of certainty that a *facility* is capable of delivering the relevant *system restart ancillary service* if required to do so, NEMMCO must develop and *publish* guidelines for undertaking:

- (1) modelling and assessment of the technical capabilities of *system restart ancillary services* proposed to be submitted as part of a SRAS expression of interest or in response to a NMAS invitation to tender;
- (2) physical testing of *system restart ancillary services* ~~being submitted as part of a SRAS expression of interest or in response to a NMAS invitation to tender;~~ and

(3) any other analysis which *NEMMCO* considers appropriate,
(the ***SRAS* assessment guidelines**).”

It is also proposed that clause 3.11.5(b)(2) be deleted in its entirety.