



Friday, 29 January 2016

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Lodged electronically

Dear Mr Pierce,

RE: ERC0192 Consultation Paper on Transmission Connection and Planning Arrangements Rule Change

AGL welcomes the opportunity to comment on the Transmission Connection and Planning Arrangements Rule Change (the Consultation Paper).

AGL is one of Australia's leading integrated energy companies and is the largest ASX listed owner, operator and developer of renewable energy generation in the country. AGL is also a significant energy retailer in Australia with over 3.7 million electricity and gas customers. AGL has a diverse power generation portfolio of over 10,500MW including base, peaking and intermediate generation plants, spread across traditional thermal generation as well as renewable sources including hydro, wind, solar, landfill gas and biomass.

AGL supports the proposed extension of contestability in the provision of connections to transmission networks in the National Electricity Market (NEM) and the enhancement of the coordination between jurisdictions in the planning of transmission networks.

AGL welcomes the proposed changes to the National Electricity Rules (Rules) in relation to contestability provisions that are aimed at facilitating an effective and consistent approach in delivering cost and time savings in new transmission network connections. AGL considers that these savings can be achieved where a project proponent is given a choice in selecting, and contracting, with a service provider of their choice. Further, such an approach will ultimately improve competition in the overall package of services provided and consequently drive down costs. Such savings have already been achieved in new AGL connection projects where network businesses have provided flexibility in the design, construction and on-going maintenance and operation of connection assets. However, AGL notes that this rule change is pertinent as such practices are not uniformly adopted and applied across the NEM.

AGL considers that the Consultation Paper has presented a useful arrangement where commercial choices can be facilitated through the proposed rule change – which includes potential economic efficiency gains by sharing connection assets with subsequent third party users. AGL particularly supports the proposed arrangement whereby the proponent will choose its preferred contractor to design and build both the Dedicated and Identified Share Asset categories. In AGL's view, this component in the proposed arrangements provides significant potential cost and time savings. While this choice is already facilitated by AEMO in Victoria as the Transmission Network Service Provider (TNSP), AGL is of the



view that more could be done to streamline the Victorian arrangements through this proposed rule change.

AGL has two main concerns with the proposed contestability arrangements. The first is the mandatory requirement that the incumbent TNSP operates and maintains the Identified Shared Asset. AGL supports that role being performed by the local TNSP. However, it is unclear to AGL as to how the AEMC intends to allocate risks and costs in relation to asset maintenance, operation and the relative service priority when the use of the asset is shared with other users. AGL considers that the AEMC should clarify the regulatory treatment of the potential liability for each party and the preservation of the rights, and commercial interests, of the original connection proponent.

AGL is also concerned with regards to the proposed transition and transfer of new connection assets between parties. AGL agrees with the AEMC that there may be a potential economic benefit to be gained by sharing the connecting asset with other users – that was initially built and funded by the original project proponent. However, AGL considers that this needs to be framed as a commercial negotiation, for access to be defined as a private asset between the two parties, and not resolved through a regulatory process. This will ensure that the appropriate incentives are retained for future network project proponents to undertake the initial investment, without concern that the value of said investment being ultimately eroded through regulatory decision making. Specifically, the rule change must account for the circumstances that led to the investment in the original assets and accommodate any reasonable conditions of transition sought by the original proponent including the determination of a fair value for said assets. For example, some connection assets may have been built for future expansion which may or may not be required when a third party requests access.

AGL considers that if a regulatory approach is to be adopted, it should be light handed and considered on a case by case basis.

Further comments on the proposed rule change are provided at Attachment A: Detailed Response to the Consultation Paper.

Please contact Kong Min Yep on 03 8633 6988 or kyep@agl.com.au if there are any issues raised with regards to AGL's submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Simon Camroux', is positioned below the text 'Yours sincerely,'.

Simon Camroux
Manager Wholesale Market Regulation

Attachment: Detailed Response to the Consultation Paper

Identified User Shared Network Asset (Shared Asset)

Benefits of Contestability

Based on AGL's experience in the provision of numerous connection assets across the NEM in the last ten years (Transmission and Distribution), AGL considers that a consistent approach in contestability for the provision of these assets will achieve significant savings in cost and improved timeliness in the delivery of new connection assets. These savings have already been realised with certain networks where a flexible approach has been adopted. The approach includes AGL choosing a turnkey approach to design and construct connecting assets and AGL opting for the networks to design, build, operate and own the assets.

In AGL's view, each connection project presents different technical and commercial challenges. The flexibility in choosing how the connecting assets will be delivered provides an opportunity for AGL to invite interested parties to provide a competitive bid based on costs and project management capability. Our experience has shown that this can be done without compromising the ability of the networks to control the technical quality of the connections with respect to reliability and security of the power system.

Impact on Reliability and Security of Networks

As this asset category is intended as a shared asset, it is important that the rule change clearly distinguish the network performance settings for the proponent from that of other third party users. As a generator, the proponent should have the flexibility of negotiating with the local network service provider on the appropriate level of technical capability of the connection. In contrast, the network has the responsibility for determining the network performance requirements that comply with the Rules for other users who may be connecting to the Shared Asset at a later stage. It is important the networks are required to be transparent in this process so that appropriate level of reliability is set in accordance to the requirements in Chapter 5 of the NER.

Definition of Shared Asset

In terms of the definition of a Shared Asset, AGL believes it is appropriate to set regulatory obligations on ownership, construction and the maintenance/operation of this asset category. AGL notes that in practice, the schematic description of the asset boundary will not necessarily be appropriate from an operational control point of view. This is due to the different design, site and operational requirements for each connection. AGL considers that the definition of the asset categories could potentially cause confusion in the way the operation and control requirements are defined or understood by the relevant parties. It is important that this issue is taken into account in the development of the rule change. AGL expects that these operating protocols would be clarified and agreed between the asset owner and the local network service provider through an operational procedures and connection agreement.

Negotiating Principles

AGL agrees that negotiating principles between the TNSP and the proponent for connection assets can be appropriate for the leasing and transition of a Shared Asset. AGL is however concerned that the proposed contestability provisions may require additional consideration of the commercial risk for the owner of the Shared Asset. AGL considers that the principle should recognise the owner as the original proponent of the relevant assets and any negotiation for lease or transition of the shared assets should be in good faith. Furthermore, that the negotiation will take into account commercial and operational

matters expressed through the legal and technical process at the time of the connection as well as the prevalent conditions of the market.

AEMO's Role in the Declared Network

AGL notes that in Victoria, AEMO is currently facilitating contestability arrangements for the provision and maintenance of Shared Assets. This is consistent with the proposed definition of Shared Assets and its associated obligations. AGL notes that AEMO's role has been effective in providing the opportunity for AGL to seek competitive bids for the delivery of relevant connecting assets.

AGL has one major concern regarding the Victorian approach which should be considered in this rule change to ensure it is similarly effective as the proposed model. As the nominated TNSP of the declared network, AEMO has been involved in the negotiation of the contracts for the provision of shared assets delivered by its agents or contractors. This has resulted in a tripartite contractual relationship that introduces complexity, uncertainty and delay which are costly both during and after the delivery of the connection assets. While the intermediary role performed by AEMO as the nominated TNSP in the connection process is beneficial, AGL considers that directly contracting with the relevant service providers will be simpler and more effective for the proponents. Further, this will remove the uncertainty of which party is directly responsible for issues in the project delivery and on-going operation of the shared assets.

Dedicated Connection Assets (Dedicated Asset)

Full Contestability

AGL considers that there is a clear benefit in clarifying the rights, roles and responsibilities of all parties involved in the provision of Dedicated Assets. This will facilitate a consistent and uniform approach across the NEM and ensure regulatory certainty for the proponents. Issues that AGL has previously encountered in the provision of Dedicated Assets were primarily related to the asset boundary and the responsibility for ownership, operation and on-going maintenance of certain assets, which are negotiated as part of the connection agreement.

Impact on Network Reliability

AGL considers that full contestability of dedicated assets will not have any adverse impact on the reliability of the transmission network. In AGL's experience, an open and cooperative approach has been largely adopted by networks in the design, testing and operation in the provision of Dedicated Assets. However, AGL considers that it is essential that consistent standards and protocols are adopted by all networks, or third parties, in the NEM in order to minimise the risks that may arise from such contestability arrangement.

Criteria for Dedicated Asset

AGL's comments on the boundary of Dedicated Assets and AEMO's role, are similar to those for Shared Assets. One additional item of concern for AGL is the potential impact on the application of the connection point and metering point. In practice, the connection point is jointly agreed between the proponent and the network. The connection point location varies depending on the configuration of the equipment and site conditions. This has a direct impact on where the optimal metering location should be under the Rules.

Conceptually, the boundary between the Dedicated and Shared asset as defined in the Consultation Paper is appropriate, as it is the electricity transfer point between the proponent's Dedicated Asset and the Shared Asset. However, in some circumstances, this point of coupling may be more appropriately located at a circuit breaker or transformer which is part of the Shared Asset. AGL considers that the proposed rule change relating to the connection point and its location should provide flexibility for it to be negotiated by the parties for a given setting.



Definition of Dedicated Asset in Declared Network

AGL considers that the definition of Dedicated Assets and associated obligations and responsibilities is consistent with the practice in Victoria where AEMO is the nominated TNSP. The current practice in Victoria has already recognised the full contestability for the provision of a “connecting asset” that is required to connect the user’s equipment or generation plant to the “shared network”. By adopting this definition, it is likely to provide further consistency across all sites in Victoria.

Exemptions from Registration and Third Party Access

Registration Exemption and Conditions

AGL supports a standing exemption from the registration as a TNSP for the owner of the Dedicated and Shared asset categories. This reflects the primary purpose of the business as a generator or customer seeking connection, and not as a network service provider. AGL is also comfortable that the condition of exemption requires the local TNSP to operate and maintain the Shared Asset (refer to earlier comments relating to Shared Assets on potential commercial risks).

For a Shared Asset, AGL accepts that the local TNSP may perform its usual role of facilitating third party access under the obligations provided in Chapter 5 and 6A of the NER, subject to AGL’s specific comments, above, in relation to the Shared Network.

Third Party Access Conditions

AGL concurs with the AEMC that for Dedicated Assets owned by TNSP, third party access should only be provided without any commercial and operational disadvantages to the original proponent. This applies to the agreed transfer capacity and any additional upgrade required to be fully funded by the party requesting the access. It includes any reserved capacity as envisaged by the original proponent – unless a commercial arrangement can be agreed by the parties. AGL considers that any proposed rule on access should not automatically take precedent over the terms and conditions of access as negotiated in the connection agreement, subject to a normal dispute process where a reasonable agreement cannot be reached by the parties.

In terms of Dedicated Assets owned by the proponent or its contractor, any third party access should be negotiated privately as long as the performance standards required under the Rules and connection agreement are complied with by the registered proponent at the connection point.

Transition to the Shared Network

Private Assets

AGL is concerned with the notion of transitioning a Dedicated Assets to shared network assets.

The Dedicated Asset is privately funded, owned and operated by the proponent for the purpose of participating the energy market. AGL understands that under certain circumstances, a party including a local TNSP may find the Dedicated Assets an attractive option to be included as part of the extension of its network. However, AGL considers it appropriate that a decision on a potential transition or lease of the private asset as a Shared Asset be made by the owner on a commercial basis. This will allow the asset owner to take into account its commercial and operational interests in order to satisfy its business needs. Further, it includes the prevalent market conditions, financial requirements, other business opportunities and interest or not, in owning and operating a regulated asset.



Regulated Transition Process

While AGL considers a transition decision should be made between the two parties on a commercial basis, any regulated transition decision should be assessed on a case by case basis. AGL would prefer the regulatory process to be light handed and require that the relevant parties negotiate in good faith.

AGL considers AER may be the appropriate body to assess the transition and determine the terms and conditions of transition to a regulated asset. AGL's concerns are that the process should ensure the commercial interests of the initial project proponent are addressed. AGL considers further that the inclusion of an appeals process, in the determination of the transition, may be warranted.