

15 May 2009

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
SOUTH SYDNEY NSW 1235

Email: submissions@aemc.gov.au



Dear Dr Tamblyn

Draft Rule Determination: Regulatory Investment Test for Transmission (ERC0077)

ENERGEX Limited (ENERGEX) welcomes the opportunity to provide comment on the Australian Energy Market Commission's (AEMC) *Draft Rule Determination: National Electricity Amendment (Regulatory Investment Test for Transmission) Rule 2009 (Rule Change)*, setting out the proposed National Electricity Rule amendments to support introduction of the Regulatory Investment Test for transmission (RIT-T). ENERGEX makes the following comments as a Distribution Network Service Provider (DNSP).

ENERGEX provides the following comments on the content of the Rule Change:

- Clause 5.6.5B(c)(4) – ENERGEX believes that the intended scope and application of the additional market benefit category of “option value” is unclear from the Rule Change and accompanying explanatory information and will require additional specification in the AER’s RIT-T Guideline.
- Clause 5.6.5B(c)(6) - The requirement for a TNSP to consider all classes of market benefit as material unless it can show otherwise appears to create a reverse onus for determining materiality that is possibly inconsistent with sub-clause (c)(5). That is, sub-clause (c)(5) appears to require the TNSP to determine which classes of market benefit are material prior to quantification and sub-clause (c)(6) appears to require a demonstration of the materiality of all classes of benefits in order to exclude those which are not material. This may move the analysis and regulatory burden forward for projects potentially subject to the project assessment draft report exemption.

ENERGEX believes that clarification is required that the assessment under sub-clause (6) need not be supported by detailed analysis and quantification and that, in appropriate circumstances, this preliminary assessment could be qualitative in nature.

Enquiries
Louise Dwyer
Telephone
(07) 3407 4161
Facsimile
(07) 3407 4499
Email
louisedwyer@energex.com.au

Corporate Office
150 Charlotte Street
Brisbane Qld 4000
GPO Box 1461
Brisbane Qld 4001
Telephone (07) 3407 4000
Facsimile (07) 3407 4609
www.energex.com.au

ENERGEX Limited
ABN 40 078 849 055

- Clause 5.6.5B(c)(8) – ENERGEX believes that there should be symmetry in the ability of TNSPs to raise additional categories of costs and benefits for the AER’s consideration and that sub-clause (c)(8)(iv) should mirror sub-clause (c)(4)(ix) in its operation.
- Clause 5.6.5C(a) – This clause does not appear to address joint planning, other than in the context of planning to address issues on the distribution network. Consistent with comments made in ENERGEX’s recent submission on the proposed Regulatory Test for Distribution (RIT-D), ENERGEX believes that the current Regulatory Test should apply to all joint planning until the RIT-D is implemented, recognising that the number of joint distribution and transmission projects that are taken to consultation each year is relatively small (for ENERGEX approximately 1 – 2 per year).
- Clause 5.6.5C(c) – It should be noted that the timing for publication of the Annual Planning Report (APR) may result in the retrospective identification of urgent and unforeseen transmission investment – i.e. the APR would identify the date on which the investment became operational rather than the date on which the investment is intended to become operational.
- Clause 5.6.6(d) – ENERGEX is concerned that:
 - The requirement to provide “any preliminary or supplementary information” places an onus on the TNSP to publicly provide information separate to that which is contained in the project specification report. ENERGEX suggests that the information required for inclusion in the project specification report is itself designed to assist interested parties to engage constructively in the consultation process. Given this, the benefit of a broad requirement to provide additional information is unclear, relative to the material increase in the TNSPs’ regulatory and compliance burden that may result; and
 - Sub-clause (d) creates a requirement for the TNSP to “make available” certain information. ENERGEX suggests that sub-clause (i) be amended to explicitly provide that a TNSP is taken to have satisfied its obligation to make the project specification consultation report available if it complies with the publication requirements outlined in sub-clause (e).
- Clause 5.6.6(m) – Consistent with the comment above, sub-clause (m) should be amended to clarify that a TNSP is taken to have satisfied its obligation under sub-clause (j) to make the project draft assessment report available if it complies with the publication requirements outlined in sub-clause (n).
- Clause 5.6.6(k)(4) – The reference to “quantifying each class of market benefit and cost” should be amended to “quantifying each class of *material* market benefit and cost”, consistent with the terminology applied in sub-clause (3) and clause 5.6.5B(c)(5).

- Clause 5.6.6A(3) – It should be clarified in sub-clause (i) that the AER’s power to direct ‘amendment’ does not extend to the power to direct replacement of the TNSP’s decision (i.e. that any dispute is a compliance review, rather than merits review, process).

Should the AEMC have any questions in relation to this submission, please do not hesitate to contact me directly on (07) 3407 4161.



Louise Dwyer
Group Manager Regulatory Affairs