



Tel: 03 9201 7694  
Fax: 03 9201 7771

AGL Electricity Limited  
ABN 82 064 651 083

Melbourne  
Level 2, 333 Collins Street  
Melbourne VIC 3000

Locked Bag 14120 MCMC  
Melbourne VIC 8001  
www.agl.com.au

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Dr John Tamblyn  
Chairman  
Australian Energy Market Commission  
PO Box H166  
Australia Square NSW 1215

By email to [submissions@aemc.gov.au](mailto:submissions@aemc.gov.au)

Re: Proposed Rule change to create a Last Resort Planning Power

Dear John

AGL does not object to the creation of a of a Last Resort Planning Power (LRPP) within the Rules. We are, however, concerned with some aspects of the proposal, specifically:

- what the power will achieve;
- that the AEMC is the correct body to have the power;
- why the rule both requires that a directed party must comply (f) and also provides for a party not complying (g); and
- why the power is restricted to inter-regional links.

AGL also believes that:

- a directed party should have power to reject the direction under specific criteria; and
- the directed party should be funded for the costs of meeting the direction.

*What the power will achieve*

The MCE consider the power is necessary to ensure that all appropriate network investments are undertaken. AGL considers that it is more important to examine why the current regulatory settings may not achieve this end. The regulatory settings should ensure that TNSPs:

- have the appropriate incentives to invest, by providing an appropriate rate of return;
- are able to apply the appropriate test to ensure they correctly assess a project; and
- do not construct assets that do not pass the test.

The proposed power seeks to overcome deficiencies in the first two dot points but would not appear to address the issue directly.

If a TNSP does not want to build an asset because they consider the return to be too low, proving the construction passes the regulatory test does not help since the TNSP is not then required to construct the asset. Either a power to direct the construction is required or the return on the construction needs to be increased.

It is not clear why a suitably motivated TNSP would not be able to correctly apply the regulatory test, or why it or another party would be better able to apply the test, if the test

itself is correctly formed. AGL therefore considers that the market would be better served by focussing efforts on the regulatory test itself and any use of the LRPP should automatically trigger an analysis of the reasons the regulatory test was not able to be applied correctly by the TNSP.

*AEMC as the last resort planner*

There are a number of related issues in the rules that relate to network investment, disputes over the application of the regulatory test and payments for regulated assets. The overseeing body for these areas is the AER not the AEMC. Matters of system standards and reliability are also specifically assigned to the Reliability Panel rather than generally to the AEMC. It is not, therefore, obvious why the AEMC is given this power rather than the AER, or possibly the Reliability Panel.

AGL considers that the correct role of the AEMC is the assessment of the rules and assessment of the operation of the market and that the LRPP should lie with the AER.

*Response to a direction and payment of costs*

While the MCE has suggested that there will only be limited circumstances when an party other than TNSP will be directed, the Rule does not limit the LRPP. AGL therefore considers that a directed party should be able to reject the direction if they:

- lack the technical capability;
- are unable to complete the work in a reasonable time; or
- have a conflict of interest

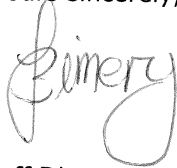
AGL also believes that a directed party should be able to recover the costs of complying with the direction.

*Inter-regional links*

AGL considers tht the LRPP should not be restricted to inter-regional links. All major flowpaths identified by the ANTS should be subject to this power since they impact the efficient operation of the market and therefore the long term interests of customers in terms of price and reliability.

If you have any queries, please contact Alex Cruickshank, Manager NEM Development on (03) 9201 7694 or by email to [acruicks@agl.com.au](mailto:acruicks@agl.com.au).

Yours sincerely,



Jeff Dimery  
General Manager Merchant Power