

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

Dear Dr ~~Tamblyn~~^{John},

MCE rule change requests - National Transmission Statement and Regulatory Investment Test for Transmission

I refer to the letter from the Hon Martin Ferguson AM MP, Chair of the Ministerial Council on Energy (MCE) of 5 November 2008 outlining the MCE's response to recommendations of the Australian Energy Market Commission (AEMC) in its Final Report on the National Transmission Planning Arrangements Review (Final Report). The MCE endorsed the recommendations of the AEMC in the Regulatory Investment Test for Transmission (RIT-T) contained within the Final Report.

The transitional rules contained in the Final Report would be used as the basis to transition to the new arrangements in implementing Australian Energy Market Operators (AEMO's) national transmission function. The Final Report recommends that, if practicable, the first NTNDP be published by December 2009.

The MCE considers that a transitional document, referred to as a National Transmission Statement, be published for 2009 with the first NTNDP to be published in December 2010.

Please find attached information in support of the Rule change requests for the National Transmission Statement and the RIT-T.

Should you have any further enquiries, please contact Ms Kimberley Pattinson, Manager MCE Secretariat, on (02) 6213 7789.

Yours sincerely



Drew Clarke
Chair, MCE Standing Committee of Officials

16 February 2008

National Transmission Statement

Rule Change Proposal

Implementation of the Ministerial Council on Energy Rule Change Recommendations for the National Transmission Statement

December 2008

Background and context

The Australian Energy Market Commission (AEMC) published its Final Report on the National Transmission Planning Arrangements in June 2008 (Final Report).

Amongst other things the Final Report included a series of proposed rule changes to manage the appropriate transition to the proposed new arrangements to be known as the National Transmission Network Development Plan (NTNDP). This included the transfer of the Inter Regional Planning Committee (IRPC) functions to the Australian Energy Market Operator (AEMO) and amendments to the Chapter 6A transmission regulatory framework. The proposed transition rules contained in the Final Report would be used as the basis to transition to the new arrangements in implementing AEMO's national transmission planning function.

The Final Report recommended that, if practicable, the first NTNDP should be published by December 2009 and identified a number of facilitating steps required to meet this publication date. The Final Report recommended that the Ministerial Council on Energy (MCE) consider the merits of this issue and the appropriate mechanisms to facilitate the development of the first NTNDP.

In response the MCE considers that a transitional document, referred to as a National Transmission Statement, be published for 2009 with the first NTNDP to be published in December 2010.

The MCE expects that since the AEMO board will ultimately be responsible for giving final approval for the release of this document, the National Electricity Market Management Company (NEMMCO) would collaborate with representatives of the AEMO board in its development.

Rule Change Request

1. Proponent of the Rule change request:

The Ministerial Council on Energy
MCE Secretariat
GPO Box 9839
CANBERRA ACT 2601

2. Description of the Rules:

The MCE proposes Rules to provide for a transitional document, referred to as a National Transmission Statement, to be published for 2009.

The details of the proposed Rules to enable this transitional arrangement are set out in Attachment A.

3. Nature and scope of the issues that is proposed to be addressed:

As part of the National Transmission Planning Arrangements Review, the Commission proposed Rules to implement the NTNDP which would displace the current Annual National Transmission Statement (ANTS).

However the MCE considers that a NTNDP could not be provided by December 2009. Rather the MCE considers that a transitional document, referred to as a National Transmission Statement, be published for 2009 with the first NTNDP to be published in December 2010. The proposed rule change to implement the National Transmission Statement, looks to:

- relieve NEMMCO of its obligations to produce a 2009 ANTS;
- allow NEMMCO to incur and recover costs associated with the publication of the National Transmission Statement;
- empower NEMMCO to begin work toward the 2009 transitional document; and
- modify ANTS information provision arrangements to require TNSPs to support the production of the transition document.

The flow-on obligations that commence once the first NTNDP is published would not commence until after the publication of the NTNDP in December 2010.

The major differences between the proposed National Transmission Statement and ANTS are:

- the requirement to consider both the location of the potential national transmission flow paths and demand forecasts for the next 20 years rather than 10 years; and
- an increased focus on national transmission flow paths in formulating transmission planning.

These requirements are consistent with the Commission's proposed NTNDP.

4. The proposed Rules will contribute to the achievement of the national electricity objective:

The National Electricity Objective (NEO) set out in section 7 of the National Electricity Law forms the basis of the Rule making test:

“The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to—

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”

As highlighted in section 3 above the major deviations of the National Transmission Statement from ANTS are:

- (1) the requirement to consider both the location of the potential national transmission flow paths and demand forecasts for the next 20 years rather than 10 years.

The premise for this requirement is to foster a more strategic and long term view in relation to transmission planning, to compliment the shorter-term investment planning activities of the TNSPs and as a result promote efficient outcomes for consumers.

- (2) an increased focus on national transmission flow paths in formulating transmission planning.

An increased focus on national transmission flow paths recognises the interconnectedness of the network, while at the same time appropriately limits the involvement of the National Transmission Planning to only those local planning issues that are likely to have a substantive impact on major energy path ways.

These requirements are consistent with the Commission’s proposed NTNDP.

The MCE believes the two requirements above would promote a more strategic and efficient approach to transmission planning, and as a result the proposed Rules contribute to the achievement of the NEO.

5. Expected costs and benefits of the proposed change and the impact of the proposed change on those likely to be affected:

The MCE believes the proposed rule change would not impose any significant costs.

The major benefit of the proposed rule change is that it would enable the national transmission planning function to incorporate important elements of the Commissions proposed NTNDP which due to tight time frames cannot be implemented for 2009. These elements shift the focus of the national transmission planning function to a more strategic position and as a result maximises potential benefits to the market over the long term, compared to the current approach which has a largely incremental approach.

Attachment A: Proposed Transitional Rule

Proposed new Section for Chapter 11 (based on text from version 21 of the Rules)

TRANSITION TO NATIONAL TRANSMISSION NETWORK DEVELOPMENT PLAN

11.X.1 Definitions

Amending Rule 2008 means the National Electricity Amendment (National Transmission Statement) Rule 2008.

National Transmission Statement means the statement published by NEMMCO in accordance with Rule 11.X.4.

commencement date means the date on which Amending Rule 2008 commences operation [expected to be 1 November 2008].

jurisdictional planning body means an entity nominated from time to time by the relevant Minister of a *participating jurisdiction* as having *transmission system* planning responsibility in that *participating jurisdiction*.

National Transmission Network Development Plan means the document that replaces the *Annual National Transmission Statement*, the first of which is to be *published* by NEMMCO by 31 December 2010.

11.X.2 Purpose

The purpose of rule 11.X is to facilitate an efficient transition from the publication of the final *Annual National Transmission Statement*, which is to be *published* by 31 October 2008, to a National Transmission Network Development Plan, which is to be *published* by 31 December 2010, by requiring NEMMCO to *publish* a National Transmission Statement by 31 December 2009 in lieu of an *Annual National Transmission Statement*.

11.X.3 Application of rule 11.X

From the commencement date, rule 11.X applies despite any other provision of the *Rules* (including any guideline or procedure made under the *Rules*) applicable to the *Annual National Transmission Statement review* and publication of an *Annual National Transmission Statement* for 2009.

11.X.4 National Transmission Statement

(a) NEMMCO must conduct a review of:

- (1) *national transmission flow paths*;
- (2) historical and forecast utilisation of *national transmission flow paths*;
- (3) historical and forecast *constraints* in respect of *national transmission flow paths*, including those identified in *Annual Planning Reports*;
- (4) *augmentations* proposed by each *Transmission Network Service Provider* in their most recent *Annual Planning Reports* and the manner in which the proposed *augmentations* relate to the *national transmission flow paths*;
- (5) other *network* and non-*network* options identified during the consultation described in paragraph (b) and the manner in which the options relate to the *national transmission flow paths*,

and prepare and *publish* the National Transmission Statement by 31 December 2009 setting out the results of that review.

- (b) NEMMCO must, in the course of conducting the review, consult with *Registered Participants* and *interested parties* in relation to:
- (1) the data and assumptions to be used as part of the review;
 - (2) the potential options for addressing identified *constraints* impacting *national transmission flow paths*; and
 - (3) the content of the National Transmission Statement.
- (c) In carrying out the review, NEMMCO must consider the following:
- (1) the location of the current *national transmission flow paths* and the current capacities, *constraints* and congestion points on those flow paths;
 - (2) the location of the potential *national transmission flow paths* over the next 20 years, and the likely capacities, *constraints* and congestion points on those flow paths;
 - (3) the quantity of electricity which flowed, the periods in which the electricity flowed, and *constraints*, on the *national transmission flow paths* over the previous *financial year* or such other period as determined by NEMMCO having regard to data which is available to NEMMCO;
 - (4) the forecast quantity of electricity which is expected to flow, and the periods in which the electricity is expected to flow, the magnitude and significance of future *network losses* and *constraints* on the current and potential *national transmission flow paths* over the current *financial year* or such other period as determined by NEMMCO having regard to data which is available to NEMMCO;
 - (5) the projected capabilities of the existing *transmission network* and the *network control ancillary services* required to support existing and future *transmission network* capabilities;
 - (6) demand forecasts for the next 20 *financial years*;
 - (7) possible scenarios for additional *generation* and demand side options to meet demand forecasts;
 - (8) relevant intra-jurisdictional developments and any incremental works which may be needed to co-ordinate *national transmission flow path* planning with intra-jurisdictional planning;
 - (9) those options for relieving forecast *constraints* on the *national transmission flow paths* identified in *Annual Planning Reports* or through the consultation required paragraph (b); and
 - (10) such other matters as NEMMCO, in consultation with the *participating jurisdictions*, considers are appropriate.
- (d) In considering the matters described in paragraph (c), NEMMCO must have regard to:
- (1) the *Annual Planning Reports* published in 2009; and
 - (2) information obtained for the purposes of preparing the *statement of opportunities* to be published in 2009,
- and may include information from the *Annual Planning Reports* and the *statement of opportunities* in the National Transmission Statement.
- (e) In carrying out the review, NEMMCO may seek the assistance of each jurisdictional planning body.

- (f) NEMMCO may by written notice request a jurisdictional planning body to provide NEMMCO with any additional information or documents reasonably available to it that NEMMCO reasonably requires for the purpose of the review.
- (g) A jurisdictional planning body must comply with a written notice from NEMMCO issued under paragraph (f).
- (h) NEMMCO may only use information or documents provided in accordance with paragraphs (f) and (g) for the purpose of preparing the National Transmission Statement or, where relevant, the *statement of opportunities* to be published in 2009.

11.X.5 Scope and Content of National Transmission Planning Document

The National Transmission Statement must also identify the expected scope and content of the first National Transmission Network Development Plan.

11.X.6 Energy Adequacy Assessment Projection

Despite anything to the contrary in rule 3.7C, until the first *National Transmission Network Development Plan* is published in 2010, clause 3.7C(b)(6)(B) is to be read as requiring NEMMCO to take into account, where relevant, the matters NEMMCO is required to consider for the purposes of Rule 11.X.4(c).

11.X.7 Amendment to Last Resort Power

The National Transmission Statement is deemed to be an *Annual National Transmission Statement* for the purposes of clause 5.6.4(g)(2).

11.X.8 Actions taken prior to commencement of Rule

Any decision made or action taken by NEMMCO for the purpose of implementing this rule 11.X prior to the commencement date has effect as if the decision had been made or the action had been taken under the *Rules* as amended by Amending Rule 2008.

MCE

Ministerial Council on Energy

CHAIR

The Hon Martin Ferguson AM MP
Minister for Resources and Energy

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Chairman
Australian Energy Market Commission
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05 NOV 2008

Dear Dr Tamblyn 

National Transmission Planning Arrangements – Final Report

As Chair of the Ministerial Council on Energy (MCE), I would like to thank the Australian Energy Market Commission (AEMC) for its National Transmission Planning Arrangement Final Report, received on 30 June 2008. The MCE has considered the Final Report and its response to the recommendations is attached.

Recognising the extensive consultation undertaken by the AEMC in formulating its final report, the MCE, in accordance with section 96A of the National Electricity Law, requests that the AEMC progress the proposed rules for the Regulatory Investment Test for Transmission and the proposed rule for the 2009 National Transmission Statement, provided at Attachment A, via the fast-track rule change process. The MCE also requests that the AEMC considers the issue of inter-regional transmission pricing as part of its review of the energy market framework in light of climate change policies.

This letter together with the attached response will be released and be available on the MCE website (www.mce.gov.au).

Should you have any further enquiries, please contact Ms Kimberley Pattinson, Manager MCE Secretariat, on (02) 6213 7789.

Yours sincerely



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NATIONAL TRANSMISSION PLANNING ARRANGEMENTS

MINISTERIAL COUNCIL ON ENERGY
RESPONSE TO
AUSTRALIAN ENERGY MARKET COMMISSION
FINAL REPORT

November 2008

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Introduction

The Ministerial Council on Energy (MCE) would like to thank the Australian Energy Market Commission (AEMC) for the presentation of the National Transmission Planning Arrangements Final Report (the Report) on 30 June 2008. The MCE recognises the extensive public consultation process that the AEMC has engaged in developing the Report and notes the Report's comprehensive coverage of the MCE Terms of Reference.

As foreshadowed in Energy Market Reform Bulletin 124, the MCE has considered the Report and developed this response addressing the Report's recommendations.

In considering the recommendations, the MCE has:

- considered the Council of Australian Governments' (COAG) decision of 13 April 2007;
- been guided by the legislative architecture, specifically the split between law and rules, established by the MCE Expert Panel Report¹ and reflected in its previous gas and electricity regulatory legislative packages; and
- noted that the national transmission planning function would be a function of the Australian Energy Market Operator (AEMO), ensuring consistency in approach between the development of the national transmission planning function and the legislative and accountability framework being developed for AEMO.²

The following sections present the MCE's response to the Report.

¹ Expert Panel on Energy Access Pricing, "Report to the Ministerial Council on Energy", April 2006.

² See Implementation Steering Committee, "Australian Energy Market Operator Legislative Framework: Statement of Proposed Approach", August 2008.

Background and context

On 10 February 2006, COAG agreed to establish the Energy Reform Implementation Group (ERIG) to recommend energy sector reforms, including the establishment of a fully national transmission grid for the National Electricity Market (NEM).

On 13 April 2007, COAG responded to the ERIG recommendations and directed the MCE to request that the AEMC develop a detailed implementation plan for the national transmission planning function, including changes to the transmission planning arrangements, regulatory arrangements, and the form and application of the current Regulatory Test.

In accordance with the MCE Terms of Reference, the AEMC provided the Final Report to the MCE for consideration on 30 June 2008. The Final Report was publicly released by the AEMC on 22 July 2008. In its advice to the MCE, the AEMC has included proposed changes to the National Electricity Law (NEL/Law) and the National Electricity Rules (NER/Rules).

COAG recognised the importance of the national transmission planning function and agreed to establish an enhanced planning process for the national transmission network to ensure a more strategic and nationally coordinated approach to transmission network development. COAG noted that this would provide guidance to private and public investors to help optimise investment between transmission and generation across the power system and inform transmission companies' investment decisions and the Australian Energy Regulator's (AER) regulatory reset processes.

The revised transmission planning arrangements, including the proposed regulatory investment test and amendments to the regulatory arrangements, will play an important role in the energy market in the context of the introduction of a Carbon Pollution Reduction Scheme (CPRS) and 20 percent Renewable Energy Target (RET).

The revised national transmission planning arrangements are a key measure to ensure that within the changing market conditions, efficient investment in the transmission grid will be comprehensive and nationally focussed. Information contained within the National Transmission Network Development Plan (NTNDP), such as current and future congestion, transmission development strategies under a range of scenarios, and the information generated under the new regulatory investment test consultation process, should enhance the ability of the market to identify and respond to these investment issues in an economically efficient and timely fashion. Furthermore, such information should improve the ability of investors and market participants to assess transmission access and decide on where and when to invest.

National Transmission Planning Function

This section presents the MCE response to the Report's recommendations concerning the functions, powers and process of AEMO's national transmission planning function.

Governance of the National Transmission Planning Function

The Report recognises, as reflected in the COAG decision of 13 April 2007 and in the MCE AEMO Implementation Plan Synopsis³, that AEMO will perform the national transmission planning function. To ensure effective lines of accountability, the AEMO Board will be directly responsible for all functions to be carried out by the organisation, including the national transmission planning function. Therefore, the same governance and accountability framework being developed for AEMO will apply to AEMO's national transmission planning function.

Reflecting this, references in the Law or Rules to the National Transmission Planner or NTP will be amended to reflect that AEMO will perform the national transmission planning function.

AEMO National Transmission Planning Functions

Core functions of AEMO's national transmission planning function

The Report recommends that the core functions of AEMO's national transmission planning function be placed in the Law. The MCE agrees that the core elements of AEMO's national transmission planning function including the preparation of the plan for the development of the national transmission grid and database, be placed in the Law with the other core functions of AEMO.

The MCE also agrees that the MCE should be able to request advice from AEMO on matters relating to the development of the national transmission grid. It is noted that the MCE will similarly be able to seek advice from AEMO in regard to its other functions, relating to the operation of the gas and electricity markets. The proposed regulatory arrangements will also enable the AEMC to seek advice from AEMO to assist it in undertaking its rule making and market development functions. This will enable both the MCE and AEMC to draw upon expertise for the purposes of policy making and market development.

In order for other functions to be added to AEMO's national transmission planning function if required, the Law will enable other functions and powers to be conferred on AEMO via the Law or Rules. This will enable AEMO's function to change and evolve as required and take on other technical or performance related functions which appropriately align with its transmission planning function and other gas and electricity functions over time.

Submissions into AER and Transmission Network Service Provider processes

The Report recommends that AEMO, when exercising the national transmission planning function, have the discretion to make submissions to Regulatory

³ MCE, "Australian Energy Market Operator Implementation Plan Synopsis", 12 March 2008.

Investment Test for transmission (RIT-T) consultation processes and AER revenue reset consultations, but only where the RIT-T is being applied to an augmentation, or relevant substitute, which is likely to affect the transfer capability of the national transmission grid. Accordingly, the Report's proposed drafting restricts AEMO when exercising its national transmission planning function to only making submissions on "investment projects relating to the national transmission grid that would be likely to materially change the capability of the grid to transport significant amounts of electricity."⁴

The AEMC recommendation was designed to reflect the intent of the COAG decision⁵ by establishing a firm boundary between AEMO (as national transmission planner) and Transmission Network Service Providers' (TNSP) planning responsibilities, thus preventing inefficient duplication and delays in planning processes. The AEMC also expressed the view that AEMO's involvement "at large" in all RIT-T proposals of TNSPs would not be an efficient use of its resources and could affect the timeliness of the regulatory approval process.

However, the AEMC acknowledged that these concerns must be balanced against the potential value of AEMO submissions in ensuring that local network investment complement the broader strategic direction of the network. This recognises that even small investments in one subsection of the network could have significant impacts on the wider grid.

The MCE recognises that the AEMC's recommendation is an attempt to find a balance between these priorities and acknowledges the importance of the intent expressed in the COAG decision. However, the MCE is concerned that placing such a restriction on one of AEMO's key functions is not in line with good corporate governance practices that would allow the AEMO Board to decide how to exercise its functions. The MCE considers that AEMO should be allowed to determine how it exercises the national transmission planning function (as defined in the Law and Rules) consistent with its obligations in the Law and Rules. The MCE would expect the AEMO Board would not inappropriately use its resources or delay planning processes through inappropriate submissions.

Inter-regional planning committee functions

The Report recommends transferring the Inter-regional Planning Committee (IRPC) functions to AEMO. The IRPC performs a number of useful and important functions to the market, and to the extent those functions are not made redundant by the new transmission planning arrangements, the MCE agrees that they should be retained and transferred to AEMO. The MCE notes these recommendations are consistent with the COAG decision.

⁴ AEMC, Appendix C, Law Division [1][1](2), "Final Report – National Transmission Planning Arrangements", p.114

⁵ The April 2007 COAG Communiqué, among other matters, specified that where possible the new regime must at a minimum be no slower than the present time taken to gain regulatory approval for transmission investment; that it must not reduce or adversely affect the ability for urgent and unforeseen transmission investment to take place; and that accountability for jurisdictional transmission investment, operation and performance will remain with transmission network service providers.

Last resort planning power

The MCE accepts the Report recommendation that the Last Resort Planning Power (LRPP) continue under the new transmission planning arrangements. The Report notes that the LRPP should remain with the AEMC, with AEMO assuming the IRPC role in providing advice to the AEMC in performing this function. The Report notes that transferring the LRPP to AEMO would be inconsistent with the role of AEMO.

The LRPP was proposed by the MCE as part of its 2005 transmission reform package, prior to the establishment of AEMO and AEMO's national transmission planning function. It is important to note that the LRPP is not about directing investments to be undertaken by TNSPs but directing a TNSP to undertake a regulatory test assessment.

National Transmission Planning Function objective and supporting considerations

The Report recommends that the NEL include a supplementary objective that requires AEMO to exercise the national transmission planning function so that it contributes to the achievement of the National Electricity Law Objective (NEO) "in a manner that promotes the efficient, long term and coordinated development of the national transmission grid." Furthermore, the AEMC proposes that the NEL contain considerations that AEMO must take into account when performing the national transmission planning function. These considerations include matters such as best practice planning, technology and fuel matters, alternatives to grid augmentation, and Acts and related instruments made by participating jurisdictions in relation to the supply or use of energy.

The Report argues that including a specific objective for the national transmission planning function recognises the level of importance assigned to the function by COAG, and specifies the means by which the national transmission planning function will contribute to the NEO. The AEMC also reasons that the proposed considerations supporting the objective provide a correction for the "broadly constructed" nature of the national transmission planning function objective.

The MCE is concerned that a separate objective for an individual AEMO function is inconsistent with the agreed governance and accountability arrangements for the national markets, and will unnecessarily complicate the AEMO Board's efficient performance of the function. The question of supplementary objectives for various elements of the national energy market regulatory and institutional architecture has been examined on a number of occasions in the development of the National Electricity and Gas Laws. Generally, the analysis has supported the primacy of the NEO, has noted the importance of the NEO in focusing rule making, regulation and market administration on a dynamic efficiency outcome (the long term interest of consumers), and has noted the difficulties associated with creating supplementary objectives that potentially compromise the primary objective and introduce ambiguous and sometimes conflicting considerations.

Further, the national transmission planning function is one of a number of AEMO functions that cover electricity and gas market operation, transmission system operation and security, and planning. The April 2007 COAG decision to establish

AEMO was part of a broader decision to streamline and improve governance arrangements in the national energy markets. It was not intended that governance would be improved by subjecting AEMO functions to individual governance, objective and accountability provisions.

The MCE consider that there is nothing in the AEMC recommended objective and considerations that would not be captured in a professional interpretation of the NEO as applied to the delivery of the function. Therefore, in the interests of conforming with the best practice governance arrangements in national energy markets the MCE does not accept the proposed separate statutory objective and related supporting considerations for the national transmission planning function.

Advisory Committee (NTPAC)

The Report recommends the establishment of an Advisory Committee (or NTPAC), noting that this would ensure that the national transmission planning function would have clear focus, visibility and accountability and access to the relevant technical experience and expertise. The Report also recommends that this obligation on AEMO, including the role, structure and review of the Advisory Committee arrangements, be placed in the Law. The Report, however, acknowledges that the desired outcomes of establishing the Advisory Committee could still be achieved by placing the provisions in the Rules.⁶

Establishment of an Advisory Committee for national transmission planning function

The MCE notes the importance of the national transmission planning function to the NEM and agrees that the establishment of an Advisory Committee would strengthen the national transmission planning function. MCE also notes that the other functions of AEMO are also important for the operation and development of the energy market.

The MCE does not accept the AEMC's recommendation that a requirement be placed in the Law for AEMO to establish an Advisory Committee to assist it in the exercise of its national transmission planning function. The MCE also considers it inappropriate from a good governance perspective to place a requirement in the Rules for the AEMO Board to establish an Advisory Committee. The establishment of Advisory Committees is an operational decision as to how AEMO would undertake its functions and for this reason it should be left to the AEMO Board to decide on the establishment of an Advisory Committee for its functions.

Removing the requirement to establish the Advisory Committee means there is no need to define the role, structure and functions of the Advisory Committee in the Law or Rules and likewise no need to specify a requirement for a review of the role of the Advisory Committee after five years of operation. However, consistent with the AEMC's recommendation, the MCE would expect that the role of any Advisory Committee would be purely advisory, not executive, and that if such a committee was established it would comprise persons with a balanced and diverse range of expertise. It is noted the existing Rule providing for the Inter-regional Advisory

⁶ AEMC, "Final Report – National Transmission Planning Arrangements", p.28

Committee will need to be removed with the introduction of the national transmission planning function.

National Transmission Planning Function Budget and Work-plan

The Report recommends that the Rules require the AEMO Board to set out and separately identify the national transmission planning function revenue requirements within the general budgetary process and consult annually on the work plan for the national transmission planning functions.

The MCE considers that AEMO budgetary processes will be sufficient to ensure that appropriate levels of resources are allocated to the national transmission planning function. AEMO will, in consultation with market participants, be required to prepare an annual budget and also develop, review and publish the structure of participant fees and account for these fees against the functions performed by AEMO.⁷ These requirements ensure that budgetary processes will be consultative and provide for the necessary transparency to inform market participants as to the resources allocated to the national transmission planning function. Therefore, to avoid duplication, consultation on the national transmission planning function budget will not be isolated from the wider AEMO budgetary process.

The MCE does not consider it appropriate to specifically require AEMO to consult on its national transmission planning function work-plan, as interested parties will be consulted on the scope and preparation of the NTNDP.

Information gathering powers

The Report recommends an information provision model for AEMO's national transmission planning function. The model is based upon the Regulatory Information Order and Notice model that has been established in both the NEL and NGL for the purposes of the AER's economic regulatory function. The AEMC proposes that both the NEL and NER be amended to allow AEMO to issue Planning Information Orders ('PIO') and Planning Information Notices ('PIN') to TNSPs if it considers such information is reasonably necessary for the performance or exercise of AEMO's national transmission planning function, but having regard to the costs of providing that information. The PIO or PIN would then contain the detail of the information required by AEMO.

The MCE supports broad and clear information gathering powers for AEMO's national transmission planning function. This will allow AEMO to undertake its function effectively, and ensure cooperative working relationships are formed between AEMO and market participants.

The MCE notes that type and quality of the information available to AEMO in undertaking its national transmission planning function is important to ensure that the NTNDP informs the development of the energy market. However, the MCE notes the importance of appropriate checks on AEMO's information gathering powers including that regard be had to the compliance costs.

⁷ MCE, "Australian Energy Market Operator Implementation Plan Synopsis ", p. 12

The MCE notes that on 6 August 2008 the AEMO Implementation Steering Committee (ISC) released for consultation the proposed legislative framework for the establishment of AEMO. That document sets out the proposed information gathering regime and information protection obligations for AEMO, encompassing AEMO's national transmission planning function.

Specifically the ISC proposes that AEMO be able to make a Market Information Notice (MIN) and serve a Market Information Order (MIO) for the purposes of obtaining information for its national transmission planning function.

Taking into account the information that AEMO might require to usefully prepare its national transmission plan, the MCE proposes extending the potential recipients of a MIO or MIN, at a minimum to include generators, to ensure that AEMO can prepare a robust and informative NTNDP.

The ISC also proposes amendments of the NEL and NGL to include confidentiality provisions for AEMO, modelled upon those applying to the AER. The ISC proposes that persons to whom information may be provided, notwithstanding any confidentiality claim, will include the Australian Competition and Consumer Commission, AER, AEMC, Western Australian Economic Regulation Authority, South Australian Electricity Supply Industry Planning Council (ESIPC), energy industry ombudsmen, relevant jurisdictional regulators and any other person prescribed by regulation.

The MCE supports, to the appropriate extent, the introduction of a single set of information gathering and confidentiality provisions for AEMO as this will provide a single efficient and transparent means to support its national transmission planning function. In turn this should facilitate efficiencies in the way AEMO carries out its business. The issue of whether the MIOs and MINs might be available to support AEMO in carrying out other functions will be addressed as part of the AEMO legislative package.

National Transmission Network Development Plan

Consultation process for development of plan

The Report sets out a consultation process, in the Rules, for the development of the NTNDP. The MCE supports the proposal as this will ensure transparency in the development of the NTNDP. The consultation process will also enable the NTNDP to be developed consistent with the needs of the market and allow the development of a rigorous NTNDP which takes account of the views of market participants.

As noted above, the MCE does not consider it appropriate to specifically require AEMO to consult on its work-plan.

Scope and content of the National Transmission Network Development Plan

The Report outlines the proposed scope and content of the NTNDP, including the definition of National Transmission Flow Paths (NTFPs).

The MCE considers that the definition of NTFP is broad enough to ensure that the NTNDP can consider both primary and secondary elements of the transmission network. The MCE supports a flexible definition of NTFPs as it enables the NTNDP to adapt over time with changing flows on the network and the development of new technologies and usage patterns. The MCE notes that the current interpretation of the NTFP and that which may be adopted in the National Transmission Statement (see further below) should in no way be interpreted as the definition of the NTFP for the purposes of AEMO's national transmission planning function.

The MCE supports the proposal for the NTNDP to present different future supply and demand scenarios which will outline development strategies for major flow paths under each scenario including network and non-network options, existing and future dynamic network capabilities and congestion on the transmission grid, as well as other information relevant to the development of the transmission grid. This will enable the national transmission planning framework to better achieve "*an enhanced planning process for the national electricity transmission network to ensure a more strategic and nationally coordinated approach to transmission network development, providing guidance to private and public investors to help optimise investment between transmission and generation across the power system.*" (COAG 13 April 2007)

Planning horizon, relationship between NTNDP and other planning documents

The Report proposes a time horizon for the NTNDP of at least 20 years. The Report recommends that in preparing the NTNDP AEMO have regard to the most recent Annual Planning Report (APR) and revenue determination for each TNSP, the Statement of Opportunities for electricity (SOO) and the Gas Statement of Opportunities (GSOO). The Report also recommends that the TNSPs have regard to the NTNDP in developing their APRs.

The MCE supports a planning horizon that is flexible. This will enable the NTNDP to provide up to date information to market participants, TNSPs and the AER on the efficient national development of the transmission system.

The MCE notes that there are strong inter-linkages between AEMO's transmission planning function and the TNSPs' planning. The TNSPs will provide insights to the market on the potential network requirements from a regional perspective and AEMO needs to be able to inform the market on the network requirements from a national perspective with a longer term outlook (from 0 to at least 20 years).

While recognising that transmission investment decisions still remain with transmission businesses, it is important that AEMO is properly equipped with the tools to enable it to provide independent advice on the development of the transmission network from a national perspective. AEMO needs to be able to engage with the energy sector and potential generator proponents. To provide a national strategic perspective to transmission planning and coordination, AEMO should be able to undertake its assessment independent from the TNSPs and other market participants, but in consultation with market participants, while having regard to various other planning documents. This increased transparency and the link to the regulatory framework is important to increase accountability. This approach supports efficient and timely investment across the transmission system and efficient operation and performance of the transmission network.

Transmission regulatory framework

The Report makes a series of recommendations with respect to the transmission revenue and pricing framework. The AEMC recommends further consideration of inter-regional transmission charging. The AEMC does not consider aligning the regulatory determinations of TNSPs would deliver benefits to the market. The AEMC also recommends incremental amendments to Chapter 6A of the Rules to ensure the national transmission planning outputs are reflected appropriately.

The MCE response in respect of inter-regional transmission charging is considered separately below.

The MCE notes the observations made by the AEMC regarding aligning the regulatory reset processes of the TNSPs. The MCE notes that the rules, which require the length of the revenue reset period to be at least 5 years, do not preclude the AER from aligning the reset processes should it consider this appropriate. The MCE supports the proposed amendments to Chapter 6A, which sets out the transmission revenue and pricing framework.

National Transmission Planning Function Transitional Arrangements

National Transmission Planning Functions and Powers

As noted above, the national transmission planning function is one of the functions assigned to AEMO. AEMO is scheduled to commence operation on 1 July 2009 with the NEMMCO Board retaining all current responsibilities until 30 June 2009. The transition to AEMO is being managed by the AEMO ISC and the recently established AEMO (Transitional) Ltd.

The Report has included a series of proposed rule changes to manage the appropriate transition to the new arrangements. This includes the transfer of the IRPC functions to AEMO and amendments to the Chapter 6A transmission regulatory framework. The transitional rules contained in the Report will be used as the basis to transition to the new arrangements in implementing AEMO's national transmission planning function.

National Transmission Network Development Plan

The Report recommends that if practicable the first NTNDP be published by December 2009 and identifies a number of facilitating steps that would be needed to allow for this publication date. The Report recommends that the MCE consider the merits of this issue and the appropriate mechanisms to facilitate the development of first NTNDP.

The MCE considers that a NTNDP could not be provided by December 2009. Rather, the MCE considers that a transitional document, referred to as a National Transmission Statement, be published for 2009 with the first NTNDP to be published in December 2010.

The MCE expects that since the AEMO board will ultimately be responsible for giving final approval for the release of this document, NEMMCO would collaborate with representatives of the AEMO board in its development. The MCE also expects NEMMCO to work with VENCORP and ESIPC in developing the National Transmission Statement.

To enable this transitional arrangement, Rule changes have been developed (See Attachment A to this response). The MCE proposes that this rule change be progressed through the fast-track Rule change process. The proposed rule change looks to:

- Relieve NEMMCO of its obligations to produce a 2009 Annual National Transmission Statement (ANTS);
- Allow NEMMCO to incur and recover costs associated with the publication of the National Transmission Statement;
- Empower NEMMCO to begin work toward the 2009 transitional document; and
- Modify ANTS information provision arrangements to require TNSPs to support the production of the transition document.

The flow-on obligations that commence once the first NTNDP is published would not commence until after the publication of the NTNDP in Dec 2010.

Regulatory Investment Test

The Report recommends a new project assessment and consultation process for transmission to replace the current Regulatory Test. The MCE notes that the AEMC's recommendations regarding the RIT-T accord with the MCE terms of reference. The MCE requests that the Rule changes required to implement the RIT-T be progressed through the fast-tracked Rule change process.

The Report also recommends that the current regulatory test continue for Distribution Network Services Providers (DNSPs). The MCE agrees with this recommendation, noting that the COAG communiqué focused on reviewing and amending the current regulatory test from the perspective of transmission.

The MCE notes that there is currently a process under way for the establishment of a national framework for electricity distribution network planning, connection and connection charge arrangements.⁸ This process will look to put in place, guided by

⁸ The MCE Standing Committee of Officials (SCO) commissioned a report from NERA/Allens Consulting Group, seeking advice on a national framework for electricity distribution planning, connection and connection charge arrangements, consistent with the amended 2006 *Australian Energy Market Agreement*. SCO released the joint consultant report titled *Network Planning and Connection Arrangements – National Framework for Distribution Networks (August 2007)*, in late 2007, for stakeholder consultation. SCO is in the process of developing a policy response to the consultant report. The response will also look to address how these recommendations are intended to be implemented.

the NEL Objective, an appropriate national planning framework for electricity distribution networks.

Regulatory Investment Test Transitional Arrangements

Together with the proposed rules for the RIT-T, the Report includes a series of transitional rules to transition from the current Regulatory Test process to the new arrangements. Specifically, the AEMC proposes the following transitional arrangements:

- The current Regulatory Test will continue to apply to any project assessment analysis which commenced prior to the promulgation of the RIT-T.
- The AER be allowed 12 months to develop the new project assessment test and associated guidelines.

The MCE considers that the transitional rules contained in the Report should be used as the basis to transition from the current Regulatory Test framework to the new arrangements.

Inter-regional transmission charging

As part of its review, the AEMC has conducted a preliminary consideration of the issue of inter-regional transmission charging. The MCE recognises that a key issue facing the development of a national and coordinated electricity market is how to allocate costs for projects that deliver market benefits over more than one jurisdiction while ensuring signals for efficient location of generation and transmission investments.

The MCE agrees that the issue of inter-regional transmission charging needs further consideration, specifically the possible approaches for a formal arrangement for inter-regional transmission charging to support a more nationally consistent approach to transmission network development.

As foreshadowed in the MCE meeting communiqué of 13 June 2008 and in the MCE Terms of Reference dated 25 August 2008, the MCE has directed the AEMC to conduct a review of the energy market frameworks to determine whether the frameworks need to be amended to accommodate the introduction of the CPRS and expanded RET. The MCE requests that the issue of inter-regional transmission charging, including potential consideration of options, be considered as part of that MCE directed review.

Process for implementation

The MCE intends to progress the AEMC's recommendations concerning the National Transmission Planning Arrangements as follows:

- *AEMO national transmission planning functions and powers* – the functions and powers of AEMO's national transmission planning function will be implemented through the MCE's AEMO establishment process. This will include the necessary amendments to the Law and the Rules (specifically Chapter 5 and Chapter 6A) and implementation of the transitional arrangements.
- *National Transmission Statement (transitional document between ANTS and NTNDP)* – the MCE has developed the National Transmission Statement rule change. It is expected that this rule change will be progressed through the AEMC's fast-track rule change process.
- *Regulatory Investment Test* – the RIT-T and associated transitional arrangements will be progressed by the AEMC via the fast-track rule change process. The MCE considers that these changes can be progressed in isolation from the establishment of AEMO's national transmission planning function.
- *Inter - regional transmission charges* – the MCE would expect that this issue would be considered by the AEMC as part of the MCE-directed review relating to the energy market frameworks in light of climate change policies.

Attachment A: Proposed Transitional Rule

Proposed new Section for Chapter 11 (based on text from version 21 of the Rules)

TRANSITION TO NATIONAL TRANSMISSION NETWORK DEVELOPMENT PLAN

11.X.1 Definitions

Amending Rule 2008 means the National Electricity Amendment (National Transmission Statement) Rule 2008.

National Transmission Statement means the statement published by NEMMCO in accordance with Rule 11.X.4.

commencement date means the date on which Amending Rule 2008 commences operation [expected to be 1 November 2008].

jurisdictional planning body means an entity nominated from time to time by the relevant *Minister* of a *participating jurisdiction* as having *transmission system* planning responsibility in that *participating jurisdiction*.

National Transmission Network Development Plan means the document that replaces the *Annual National Transmission Statement*, the first of which is to be *published* by NEMMCO by 31 December 2010.

11.X.2 Purpose

The purpose of rule 11.X is to facilitate an efficient transition from the publication of the final *Annual National Transmission Statement*, which is to be *published* by 31 October 2008, to a National Transmission Network Development Plan, which is to be *published* by 31 December 2010, by requiring NEMMCO to *publish* a National Transmission Statement by 31 December 2009 in lieu of an *Annual National Transmission Statement*.

11.X.3 Application of rule 11.X

From the commencement date, rule 11.X applies despite any other provision of the *Rules* (including any guideline or procedure made under the *Rules*) applicable to the *Annual National Transmission Statement review* and publication of an *Annual National Transmission Statement* for 2009.

11.X.4 National Transmission Statement

(a) NEMMCO must conduct a review of:

- (1) *national transmission flow paths*;
- (2) historical and forecast utilisation of *national transmission flow paths*;

- (3) historical and forecast *constraints* in respect of *national transmission flow paths*, including those identified in *Annual Planning Reports*;
- (4) *augmentations* proposed by each *Transmission Network Service Provider* in their most recent *Annual Planning Reports* and the manner in which the proposed *augmentations* relate to the *national transmission flow paths*;
- (5) other *network* and *non-network* options identified during the consultation described in paragraph (b) and the manner in which the options relate to the *national transmission flow paths*,

and prepare and *publish* the National Transmission Statement by 31 December 2009 setting out the results of that review.

- (b) *NEMMCO* must, in the course of conducting the review, consult with *Registered Participants* and *interested parties* in relation to:
 - (1) the data and assumptions to be used as part of the review;
 - (2) the potential options for addressing identified *constraints* impacting *national transmission flow paths*; and
 - (3) the content of the National Transmission Statement.
- (c) In carrying out the review, *NEMMCO* must consider the following:
 - (1) the location of the current *national transmission flow paths* and the current capacities, *constraints* and congestion points on those flow paths;
 - (2) the location of the potential *national transmission flow paths* over the next 20 years, and the likely capacities, *constraints* and congestion points on those flow paths;
 - (3) the quantity of electricity which flowed, the periods in which the electricity flowed, and *constraints*, on the *national transmission flow paths* over the previous *financial year* or such other period as determined by *NEMMCO* having regard to data which is available to *NEMMCO*;
 - (4) the forecast quantity of electricity which is expected to flow, and the periods in which the electricity is expected to flow, the magnitude and significance of future *network losses* and *constraints* on the current and potential *national transmission flow paths* over the current *financial year* or such other period as determined by *NEMMCO* having regard to data which is available to *NEMMCO*;
 - (5) the projected capabilities of the existing *transmission network* and the *network control ancillary services* required to support existing and future *transmission network* capabilities;
 - (6) demand forecasts for the next 20 *financial years*;
 - (7) possible scenarios for additional *generation* and demand side options to meet demand forecasts;

- (8) relevant intra-jurisdictional developments and any incremental works which may be needed to co-ordinate *national transmission flow path* planning with intra-jurisdictional planning;
 - (9) those options for relieving forecast *constraints* on the *national transmission flow paths* identified in *Annual Planning Reports* or through the consultation required paragraph (b); and
 - (10) such other matters as *NEMMCO*, in consultation with the *participating jurisdictions*, considers are appropriate.
- (d) In considering the matters described in paragraph (c), *NEMMCO* must have regard to:
- (1) the *Annual Planning Reports published in 2009*; and
 - (2) information obtained for the purposes of preparing the *statement of opportunities* to be *published in 2009*,
- and may include information from the *Annual Planning Reports* and the *statement of opportunities* in the National Transmission Statement.
- (e) In carrying out the review, *NEMMCO* may seek the assistance of each jurisdictional planning body.
 - (f) *NEMMCO* may by written notice request a jurisdictional planning body to provide *NEMMCO* with any additional information or documents reasonably available to it that *NEMMCO* reasonably requires for the purpose of the review.
 - (g) A jurisdictional planning body must comply with a written notice from *NEMMCO* issued under paragraph (f).
 - (h) *NEMMCO* may only use information or documents provided in accordance with paragraphs (f) and (g) for the purpose of preparing the National Transmission Statement or, where relevant, the *statement of opportunities* to be *published in 2009*.

11.X.5 Scope and Content of National Transmission Planning Document

The National Transmission Statement must also identify the expected scope and content of the first National Transmission Network Development Plan .

11.X.6 Energy Adequacy Assessment Projection

Despite anything to the contrary in rule 3.7C, until the first *National Transmission Network Development Plan* is published in 2010, clause 3.7C(b)(6)(B) is to be read as requiring *NEMMCO* to take into account, where relevant, the matters *NEMMCO* is required to consider for the purposes of Rule 11.X.4(c).

11.X.7 Amendment to Last Resort Power

The National Transmission Statement is deemed to be an *Annual National Transmission Statement* for the purposes of clause 5.6.4(g)(2).

11.X.8 Actions taken prior to commencement of Rule

Any decision made or action taken by *NEMMCO* for the purpose of implementing this rule 11.X prior to the commencement date has effect as if the decision had been made or the action had been taken under the *Rules* as amended by Amending Rule 2008.