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Thursday, 12 July 2012

John Pierce, Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235
By Email

Dear Mr Pierce,

RE: Transmission Frameworks Review Update 21 June 2012. Clean Energy Council response to Grid Australia Supplementary Submission

The Clean Energy Council (CEC) is writing to the Commission in response to the recent publication of the above supplementary submission to the AEMC's Transmission Frameworks Review.

The CEC believes that the submission prepared by PricewaterhouseCoopers (PwC) makes some important points with regards to the application of regulation to connection-related services, and the potential risks associated with an approach under which a connection applicant controls contestability of negotiated transmission services. The CEC would like to highlight the following in light of the submission.

Negotiation frameworks and market power

With regards to the connection process the CEC believes that the National Electricity Rules envisages connection negotiations between two equally resourced and powerful entities: the connection applicant and the transmission network service provider (TNSP). The rules intend that the National Electricity Objective (NEO) is best met as an economically optimum outcome should be realised under this condition. Commercial arbitration supports the process by presenting a risk of a non-favourable outcome for either party.

In the submission Grid Australia presents the view that this framework is operating effectively as intended. The basis for this claim is that it is not only some of Australia's largest generation stakeholders (and indeed organisations) that are 'well resourced, large and sophisticated' but any other generation proponent would be similarly resourced on the basis that a bank has agreed to fund the project. The submission then makes some cases out of committed renewable energy projects.

Firstly, the CEC would like to acknowledge that a negotiated and signed connection agreement is a common precursor to a bank agreeing to fund a new generation project.

Secondly, the CEC categorically disagrees with the view presented by Grid Australia and would like to remind the AEMC that the views of the generation proponents both outlined by PwC in the submission, and those otherwise involved in the review diverge substantially from that of Grid Australia. They have been strongly stated in submissions to the AEMC's First Interim Report and include

- AGL's submission called for *"greater transparency and control to generators with the option of connection applicants selecting competitive provision of connection services through, for example, adoption of a build own transfer (BOT) model. Essentially, this is an extension of competitive investment in generation capacity to include competition in the provision of access for generators (at their discretion)"* (p. 2).
- Infigen Energy's submission observed that the NEM is operating efficiently but that *"substantial improvements are needed with regards to the connection of new generation plant"* (p. 1) and then almost entirely focussed on connection issues. It went on to state that *"the Countervailing Market Power, of even the largest generators, is Near Zero; The Substitution Possibilities are normally Non-Existent as the NSP's network is normally the only one present; The Information Asymmetry is typically around 20:1 due to the lack of commercial (and technical) transparency"* (p. 6).
- TRUenergy's submission called for stronger economic regulation of negotiated services on the basis that *"they have always felt that there has been an imbalance in the bargaining power when negotiating with a monopoly service provider during the connection process"* (p. 7).

Further empirical evidence of flaws in the current negotiate / arbitrate model were also presented in submissions by the CEC and the Private Generators which collectively represent the vast majority of actively developing generator proponents, renewable or otherwise.

The CEC observes that most experienced connection applicants do not believe that the current negotiate / arbitrate model is delivering its expected cost efficiencies under the NEO on the basis of equal negotiation positions. In fact even some of Australia's largest organisations and most experienced generation developers have publicly stated their strong disagreement.

Access to contestable works for negotiated transmission services

In the submission PwC indicates that the design and construction works undertaken by a TNSP for a negotiated connection service are already undertaken through a competitive tender process, and that this process reveals intended economic efficiencies.

As demonstrated by numerous submissions to the review to date, such cost efficiencies are not passed on to connection applicants. TNSPs undertake this process behind closed doors and prefer to remain secretive about the true costs, regardless of the intention of respective negotiation frameworks to transparently show how costs reflect charges.

Where connection applicants have undertaken independent cost estimates for the same services they often reveal a potential reduction of up to half of that paid to a TNSP. While very difficult to prove due to confidentiality concerns, such an outcome would only indicate that the current arrangements for negotiated transmission services are producing significant profits for TNSPs, rather than realising the intended efficiencies.

Risk management for contestability in negotiated transmission services

Finally, the CEC would like to note that the submission makes the point that unreasonable risk would be carried by the TNSP should a connection applicant contract for negotiated transmission services.

The recognition that TNSPs already undertake these and other works through competitive processes indicates that the risk is already managed efficiently. This quite clearly suggests to that significant opportunity exists for alternative arrangements to be explored. The CEC believes such arrangements can provide access to competitive processes by connection applicants, without compromising supply security, reliability or safety.

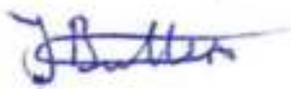
The CEC also notes that under current arrangements TNSPs expect commercial rates of return for connection-related services while mitigating all risk through measures such as requiring applicants to provide full project-life bank guarantees.

Closing

In closing the CEC hopes that the comments made in this letter serve to reiterate the positions of many of the stakeholders involved in the review. The CEC also hopes that, in regards to connections, the AEMC continues to undertake the review and seek new efficient approaches, regardless of the outcomes of other components of the review.

Please do not hesitate to contact Tom Butler at the CEC for any queries regarding this letter.

Yours sincerely,



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