

COPY

20 September 2006

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

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John
Dear Dr Tamblyn

RE: Pricing of prescribed transmission services Rule proposal

The AER welcomes the opportunity to comment on the AEMC's proposed National Electricity Amendment (Pricing of Prescribed Transmission Services) Rule 2006 (the Proposed Rule).

The AER supports the overall package proposed by the AEMC. This submission provides comments on specific aspects of the Proposed Rule, focusing on guideline development timeframes, transitional arrangements for SP AusNet, VENCORP and ElectraNet, the proposed approval process and prudent discounts.

1. Pricing methodology guidelines deadline

Clause 6A.25.1(c) of the Proposed Rule includes a deadline of 1 July 2007 (six months from the proposed commencement of the Final Rule on 1 January 2007) for the AER to develop and publish the pricing methodology guidelines (the guidelines).

The AER considers six months insufficient to adequately address the issues to be covered by the guidelines. This is a new role for the AER and a significant amount of work will need to be undertaken to develop the guidelines. A thorough consultation process will also be required. A 12 month process will meet the requirements of the AER.

The AER recommends the AEMC amend clause 6A.25.1(c) of the Proposed Rule to extend the deadline for the guidelines to 31 December 2007.

A 12 month process should meet the TNSPs' requirements with the exception of SP AusNet, VENCORP and ElectraNet. Transitional provisions will be required for these businesses. The AER notes that transitional requirements will be required even if the AEMC adopts a 1 July 2007 deadline for development of the guidelines. This is because SP AusNet, VENCORP and ElectraNet must lodge their revenue reset applications in early 2007, well ahead of the 1 July 2007 deadline for guidelines in the Proposed Rule.

The AER believes grandfathering the existing provisions in Part C of Chapter 6 of the existing National Electricity Rules may be appropriate for the SP AusNet, VENCORP and ElectraNet revenue reset processes.

2. Approval process

The AER has concerns with elements of the pricing methodology approval process prescribed in clause 6A.26 of the Proposed Rule. The AER's concerns are the same as those raised in its submission to the decision-making process proposed in the Draft Revenue Rules.

Resubmission of a non-compliant pricing methodology proposal

The Proposed Rule requires the AER to assess whether a TNSP's pricing methodology proposal complies with the AER's guidelines. Clause 6A.26.4 of the Proposed Rule requires the TNSPs to resubmit their proposal if the AER identifies compliance issues. The guidelines require the TNSPs to do this 'as soon as practicable thereafter'.

The term 'as soon as practicable thereafter' will be open to debate giving rise to the possibility of significant delays. Given the Proposed Rule includes a six month timeframe for the AER to make its Draft Decision, the absence of a resubmission deadline may reduce the time available to the AER to consult and deliberate on a TNSP's pricing methodology proposal and compromise the ability of the AER to provide a timely well-considered Draft Decision.

The AER recommends that clause 6A.26.4 of the Proposed Rule should specify a resubmission date of no more than one month from the time the AER notifies the TNSP of non-compliance.

In particular the AER recommends the AEMC amend clause 6A.26.4 of the Proposed Rule to read as follows:

'If the AER notifies a *Transmission Network Service Provider* of a determination under clause 6A.26.3, the provider must, ~~as soon as practicable thereafter~~, resubmit its proposed *pricing methodology* or the required information in a form that complies with the ~~relevant requirements~~ *Pricing Principles* under clause 6A.24.4 and the *Pricing Methodology Guidelines* published by the AER, within such a period as is required by the AER for that purpose, being a period that is not more than one month after the AER notifies the *Transmission Network Service Provider* of its determination.'

Submission of a revised pricing methodology proposal

Clause 6A.26.8 of the Proposed Rule allows a TNSP to submit a revised pricing methodology proposal following the release of a Draft Decision. The Proposed Rule does not limit the scope of changes that may be made.

This allows a TNSP to amend any aspect of its original pricing methodology proposal, including matters accepted by the AER in the Draft Decision, and new matters not covered in the initial application. The AER is concerned that an open-ended right to submit a revised proposal could render much of the analysis and the consultation undertaken to develop the Draft Decision redundant. Further, the timing of the process means that this may leave the AER insufficient time to undertake a genuine consultation on, and consideration of, the revised proposal. Clause 6A.26.8(a) of the Proposed Rule allows for a revised pricing methodology proposal to be lodged at any time up to 30 business days after the Draft Decision. Given the AER has up to six months to develop a Draft Decision as per clause 6A.26.7 of the Proposed Rule, in excess of seven of the 11 month process could become largely irrelevant in the approval of a TNSP's pricing methodology.

The AER recommends that a revised pricing methodology proposal be limited to addressing concerns raised in the AER's Draft Decision.

In particular the AER recommends the AEMC remove clause 6A.26.8 of the Proposed Rule or in the event clause 6A.26.8 of the Proposed Rule is retained, insert a new clause after clause 6A.26.8 of the Proposed Rule to read as follows:

'A Transmission Network Service Provider may revise its proposed pricing methodology only so as to incorporate or substantially incorporate the changes required or to address the matters included in the draft decision.'

3. Prudent discounts

The AER generally supports the approach of the AEMC in relation to prudent discounts as reflected in clause 6A.27 of the Proposed Rule. However, the AER has concerns about the current drafting of clause 6A.27.2(j) of the Proposed Rule.

Clause 6A.27.2(j) of the Proposed Rule stipulates that if the AER approves the recovery of a discount, the approval of the discount is valid for the duration of the agreement except in the event where materially false or misleading information has been provided. The AER supports this provision, but considers the circumstances under which the approval of a discount should lapse be extended to include variations to the discount and extensions to the agreement.

The AER recommends the following clause be inserted at the end of clause 6A.27.2(j) of the Proposed Rule to read as follows:

'... or where the size of the discount is varied or the duration of the agreement is extended.'

Thank you for the opportunity to comment on the Proposed Rule. We look forward to participating in the various stages of the development of the Proposed Rule.

Yours sincerely

A handwritten signature in cursive script, appearing to read "Steve Edwell".

Steve Edwell
Chairman