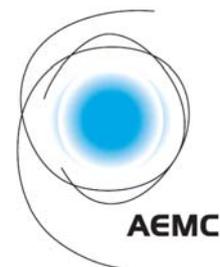


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# Australian Energy Market Commission

## Last Resort Planning Power Guidelines



These Guidelines may be referred to as “the Last Resort Planning Power Guidelines” (LRPP Guidelines) and are made under clause 5.6.4 of the National Electricity Rules (the Rules).

### 1. Purpose and scope of the Proposed Guidelines

1.1 The Australian Energy Market Commission (AEMC) is responsible for the exercise of a “last resort planning power” under clause 5.6.4 of the Rules. The purpose of the last resort planning power is:

*“to ensure timely and efficient inter-regional transmission investment for the long term interests of consumers of electricity.”*

1.2 The last resort planning power enables the AEMC to direct one or more Registered Participants to:

- identify a potential transmission project and apply the Regulatory Test<sup>1</sup> to that project; or
- apply the Regulatory Test to a potential transmission project that has been identified by the AEMC.

1.3 The LRPP Guidelines provide further guidance to Registered Participants and other interested stakeholders about the AEMC’s processes when considering the exercise of the last resort planning power.

1.4 The LRPP Guidelines have been developed and published by the AEMC in accordance with the transmission consultation procedures in rule 6A.20 of the Rules, having regard to the requirements of clause 5.6.4 of the Rules, including:

- the purpose of the last resort planning power;
- the advisory role of the Inter-Regional Planning Committee (IRPC);
- the need for consideration of matters that are relevant to the exercise of the last resort planning power;
- the requirement for procedural fairness to be afforded to a Registered Participant when the AEMC is considering whether or not a participant is to be nominated as a directed party;
- the annual reporting role on the matters considered by the AEMC in exercising the last resort planning power.

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<sup>1</sup> The regulatory test is developed by the AER under clause 5.6.5A of the Rules and is published by the AER in the document entitled “Compendium of Electricity Transmission Regulatory Guidelines” (August 2005).

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1.5 In addition to providing guidance to Registered Participants and other interested stakeholders about the AEMC's obligations when exercising the last resort planning power, the LRPP Guidelines also guide:

- the IRPC in providing advice to the AEMC in relation to the exercise of the last resort planning power;
- other persons from whom the AEMC may request information relevant to the exercise of the last resort planning power.

## **2. Date of commencement of LRPP Guidelines**

The date of commencement of the LRPP Guidelines is **1 January 2008**.

## **3. Interpretation**

- 3.1 Any term used in the LRPP Guidelines that is defined in the Rules has the same meaning as it has in the Rules.
- 3.2 Where these proposed Guidelines refer to "a directed party" this should be taken to include more than one directed party.
- 3.3 Where these proposed Guidelines refer to a "potential transmission project" this has the same meaning as in the Rules, ie. "new transmission network investment identified by the AEMC which in the opinion of the AEMC, is likely, if constructed, to relieve forecast constraints in respect of national transmission flow paths between regional reference nodes".

## **4. Advice from the Inter-regional Planning Committee**

- 4.1 This section of the LRPP Guidelines set out the requirement that apply where the AEMC requests advice from the IRPC under clause 5.6.4(e) of the Rules.

### *Appointment of additional persons for IRPC advice on LRPP*

- 4.2 Where the AEMC decides to request NEMMCO to appoint any additional members to the IRPC under clause 5.6.4 (f) of the Rules, the AEMC must:
- identify suitable persons who are capable of contributing additional expertise to the advice of the IRPC having regard to the matters in clause 5.6.4(f)(1) and (2) of the Rules;
  - obtain the consent of any such persons prior to making a request to NEMMCO to appoint the person to the IRPC;
  - consult with NEMMCO before making the formal request for appointment of a person to the IRPC;
  - publish the request to NEMMCO on its website.

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*Requirements for request for advice from IRPC on LRPP*

- 4.3 The AEMC may include in any terms of reference in relation to a request to the IRPC for advice under clause 5.6.4(e) of the Rules:
- a description of a problem relating to constraints in respect of national transmission flow paths between regional reference nodes (“the problem”) or a potential transmission project that will address a problem (“the project”);
  - the findings of the AEMC in respect of the matters listed in clause 5.6.4(h) and any other relevant considerations;
  - a request for the IRPC’s view as to whether it is appropriate for the AEMC in all the circumstances, to exercise the last resort planning power in relation to that project or problem and the reasons for those views;
  - a request for the IRPC to provide recommendations as to which Registered Participants (if any) may be an appropriate directed party in the particular circumstances;
  - a date by which the advice is to be provided to the AEMC, which is not less than at least 3 months from the date of the request;
- 4.4 If the IRPC, in preparing an advice to the AEMC, forms the view that it requires further time, it may with the agreement of the AEMC, provide its advice on a later agreed date.
- 4.5 The AEMC must publish on its website:
- any terms of reference in relation to a request to the IRPC for advice under clause 5.6.4(e) of the Rules;
  - any extension of the time for the provision of that advice, as agreed between the IRPC and the AEMC; and the reasons for the extension.

## **5. Consultation on IRPC advice**

- 5.1 The AEMC must publish on it’s website a copy of the IRPC’s advice to the AEMC in relation to the exercise of the last resort planning power, and invite comments from interested persons.
- 5.2 If an advice of the IRPC includes a recommendation as to a person who may be nominated as a directed party, the AEMC must notify that person in writing of the IRPC advice and invite comment from that person.
- 5.3 If the AEMC considers that the advice of the IRPC affects other parties, it may notify those persons in writing of the IRPC advice and invite comment.
- 5.4 Consultation under this section in relation to the IRPC advice is to be for a period of not less than 4 weeks.

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## **6. Provision of information for the exercise of the last resort planning power**

- 6.1 The AEMC may, from time to time, request persons to provide information to inform the AEMC's decision making in relation to the exercise of the last resort planning power.
- 6.2 The AEMC may request information from:
  - Registered Participants under consideration by the AEMC as a potential directed party; and
  - other persons who may be affected by the exercise of the last resort planning power or who may be capable of providing relevant information to assist the AEMC in its decision making.
- 6.3 The AEMC will also seek expert advice where it considers this necessary, and will take into account information and comments received from interested stakeholders.

## **7. Treatment of confidential information**

- 7.1 The AEMC's usual practice is to publish information on its website. However, where information is provided in relation to the exercise of the last resort planning power, the AEMC will take all reasonable measures to protect from unauthorised use or disclosure, information given to it in confidence in connection with the performance of the last resort planning power, as provided for in section 24 of the *Australian Energy Market Commission Establishment Act (SA) 2004*.
- 7.2 Those providing information should clearly identify the part or parts of the information that the claim for confidentiality relates to, and give reasons why the material should be treated as confidential.

## **8. Role of interested stakeholders in the exercise of AEMC last resort planning power**

- 8.1 The AEMC is mindful that interested stakeholders may wish to make the AEMC aware of matters that may be relevant to the exercise of the last resort planning power.
- 8.2 Such provision of information should be in writing and may present the person's views as to the nature and extent of a problem and its relevance for the exercise of the last resort planning power.
- 8.3 While the AEMC is not bound to take action upon receipt of general information or adopt a suggested course of action, the AEMC considers that a free-flow of information is in the public interest and wishes to encourage such input into its exercise of the last resort planning power. The AEMC will post any such communications on its website.

## **9. Reporting on the AEMC's exercise the last resort planning power**

The AEMC must report regularly on the exercise of the last resort planning power and do so through its website. This includes informing participants in advance where the AEMC

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is considering whether or not to initiate any of the preliminary procedural steps toward the exercise of the last resort planning power, such as seeking advice from the IRPC.

#### **10. How will the AEMC nominate a directed party?**

Only a Registered Participant is capable of being a directed party, and thus required to apply the Regulatory Test. When considering who might be recommended by the IRPC or nominated by the AEMC as an appropriate directed party to apply the Regulatory Test, the IRPC and the AEMC must consider the following matters in recommending or nominating a person as the directed party:

- the Transmission Network Service Provider who is providing services to those users who would potentially benefit from a solution to the identified problem;
- the party (if any) who has the requisite expertise to undertake the Regulatory Test for the identified problem or project; or
- the Transmission Network Service Provider whose geographical area of operation includes the location of the identified problem or project.

#### **11. Review of LRPP Guidelines**

Clause 5.6.4(m) of the Rules allows the AEMC to amend or replace these proposed Guidelines from time to time. The AEMC intends to review the LRPP Guidelines in 5 years or earlier if the AEMC considers there is a need to do so.

**END OF GUIDELINE**