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The Chairman  
Australian Energy Market Commission  
PO Box H166 Australia Square  
NSW 1215

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

Dear Sir,

## **The Australian Energy Market Commission Review of the Electricity Transmission Revenue and Pricing Rules**

### ***NGF Response to Issues Paper – October 2005***

#### **Introduction**

As indicated in the NGF response to the AEMC Scoping Paper on this issue the NGF is seeking a transmission network that:

- Provides a high level of confidence that generators will be able to access their regional reference node and deliver their product to market.
- Does not distort the effective operation of the energy and ancillary services markets.
- Responds with appropriate investment to ensure that this level of access is maintained.

In our view a key objective for the AEMC in undertaking this review is to ensure that the outcome is a regulatory environment for Transmission Network Service Providers (TNSPs) that is clear, transparent and predictable to ensure that they and other market participants can predict regulatory outcomes with some confidence.

The Issues Paper deals with a wide range of issues and seeks responses to a large number of questions. However the NGF response will be limited to the issues of concern to generators, these being:

- Scope of regulation – in particular:
  - Contestable services
  - Arrangements for defining what is included within the scope of the regulations
- Performance Obligations and Incentives – in particular:

- Network performance incentives
- Extent of Discretion and Design of the Rules – in particular:
  - Appropriate level of discretion for AER

The NGF does not have a view on any of the other issues raised by the AEMC and at this stage will not make any comment on these.

## **Response to issues raised**

### ***Scope of regulation***

The current rules provide for some services that are provided by TNSPs to be outside the scope of the regulation of their revenue. The assumption for this exclusion has been that it is possible for users of these services to be able to negotiate in a meaningful manner with TNSPs with regard to the terms under which these services will be provided.

In general the NGF is unaware of circumstances where this exclusion is meaningful on the basis that the TNSP is generally in the position of being a monopoly service provider and even if the other party negotiating with them is a significant organization this is not enough to offset the market power of the TNSP.

For example the issues paper suggests that the connection assets for generators would be a contestable service. Clearly this is only the case with new entrant generators where they may have some choices for sourcing their new connection assets, with all other generators this is not the case.

In our view the scope of the regulation should include all services where the TNSP is a monopoly service provider regardless of the counter-party. Where it is considered that the TNSP can provide services outside the scope of the regulation this must be clearly defined to avoid any doubt and confusion.

We do not accept the view expressed in the issues paper that “*there will generally be no bright line to determine the boundary*”<sup>1</sup>. The default position could be that all services provided by a TNSP are within the scope of the regulation except where it is clear that alternative providers of this service exist. This should be clearly defined in the rules and not left to the discretion of the AER.

For a TNSP to argue that a service should be outside of the scope of the regulation they should have to demonstrate clearly to the AER that viable alternative providers do exist and that in fact they have been utilized by their potential customers.

### ***Network Performance Incentives***

As indicated in our response to the scoping paper the NGF is of the view that an appropriate incentive regime is necessary to ensure that TNSPs make efficient operating decisions. Our understanding is that under the current arrangements the TNSPs are exposed to incentives based on network availability including the level of forced outages. In our view these incentives should remain and be supplemented by a simple indicator of the medium term impact (over at least an annual time frame) of the impact that TNSPs have had on market outcomes as a result of network outages.

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<sup>1</sup> Page 41 of AEMC Issues Paper

It should be possible to develop a simple pragmatic measure of market impact using the following process:

1. Detect using NEMMCO data when a change in the market price has occurred as a result of a network outage.
2. Use NEMMCO data available from the NEMDE to calculate the marginal cost of any congestion that occurs.
3. Determine the quantity of change in network flows that have resulted from the network outage. This will require manual review of the data and exercise of some level of judgment but still should remain a fairly robust process.
4. Calculate the market impact by multiplying the marginal cost of the congestion by the quantity of this congestion caused by the TNSP and publish this if it exceeds some threshold level for the event – say \$250,000.

The results of this could be published quarterly for each TNSP.

After some period of using this approach it would be able to further improve it based on the knowledge and experience gained. After an appropriate level of confidence is developed by the market in this being a useful indicator of market impact it could then be included in a TNSPs performance incentives. This approach has been previously proposed by the NGF.

With regard to the issue of what share of a TNSP's revenue should be at risk the NGF is of the view that increasing this to a significant level without understanding the impact on the changes in incentives on TNSPs could create the risk of unexpected and inefficient behaviour by TNSPs which could damage the market.

### ***Appropriate level of discretion for AER***

A major concern for the NGF is as previously stated that the regulatory environment for Transmission Network Service Providers (TNSPs) be clear, transparent and predictable to ensure that they and other market participants can predict regulatory outcomes with some confidence. This will enable generators to be able to predict with confidence the expected investment behaviour of TNSPs.

In our view this implies that the level of discretion for the AER provided for in the rules should be minimized and that as much content as possible be incorporated in the Rules.

This will ensure that two important outcomes are achieved:

1. The rules will be clear, reasonably exhaustive and available for all market participants to see and understand. This will enable them to be able to assess the impact of the rules on TNSPs and therefore predict with some confidence how TNSPs will behave.
2. Any changes to the rules will be subject to the market objective and the rule making test contained in the NEL. Also the process for these changes will be conducted in an open and transparent manner with all affected stakeholders, including generators, being able to participate in the rule change process.

In our view the application of even quite prescriptive rules for revenue determination will still require the exercise of judgment by the AER and their role will still be quite significant.

## **Conclusion**

The NGF welcomes the review being undertaken by the AEMC on electricity transmission revenue and pricing rules. The NGF is pleased to note the comprehensive approach to this difficult issue being undertaken by the AEMC and is confident that the basis for a good outcome has been put in place.

The NGF's key concern remains that the outcome will be a regulatory environment for Transmission Network Service Providers (TNSPs) that is clear, transparent and predictable as this will be to the long term benefit of all market participants and consumers of electricity as required by the market objective.

Do not hesitate me or Russell Skelton at Macquarie Generation if you wish to discuss any if the above material.

Yours faithfully,

John Boshier  
Executive Director