

ELECTRICITY TRANSMISSION NETWORK owners

Obligations of Network Service Providers – Connection Applications

Response to Energy Solutions Australia Pty Ltd
Rule Proposal

16 October 2006



Rule Change Proposal from Energy Solutions Australia Pty Ltd

Obligations of Network Service Providers – Connection Applications

1. Introduction

This submission is made by the Electricity Transmission Network Owners Forum, which comprises ElectraNet Pty Limited, Powerlink Queensland, SP AusNet, Transend Networks Pty Ltd and TransGrid (“ETNOF”).

ETNOF welcomes the opportunity to comment on the submissions to the AEMC from Energy Solutions Pty Ltd dated 14 July 2006 and 8 August 2006. In essence these submissions are seeking to impose additional information disclosure requirements on Network Service Providers (NSPs) in relation to connection services. Specifically, the Rule change proposal requires NSPs to establish and maintain two registers:

- A register of parties who advise the NSP that they are able to provide a particular category of contestable service (first register); and
- A register of Connection Applicants, which is only available to those parties who are included on the first register (second register).

The proposal’s stated objectives include the provision of a ‘level playing field’ between incumbent NSPs and prospective alternative providers of connection services.

2. Regulatory Principles and Context

The current Rules for classification of transmission services for regulatory coverage purposes are still being considered by the AEMC. In any event these services will be treated as prescribed, negotiated, or contestable depending on the specific circumstances. The Energy Solutions proposal appears to be directed at situations where the services in question are classified as contestable.

The general proposition of economic regulation is that regulation should only come into play when effective competition for the services in question is absent. In the AEMC’s draft transmission revenue Rule determination on 26 July 2006, considerable attention was given to:

- The processes for determining when regulatory coverage is appropriate in relation to electricity transmission services; and
- The form and scope of that coverage across the three broad categories of service, namely prescribed services, negotiated services, and contestable services.

In relation to contestable services, and in accordance with the general proposition of only regulating services in the absence of effective competition, the AEMC adopted the following approach:

“However, for the avoidance of doubt, the Draft Rule contains a provision that makes clear that transmission services provided by TNSPs which are neither prescribed nor negotiated services are not subject to regulation under Chapter 6A.”

3. Issues with the Proposal in Relation to Contestable Services

Having regard for the above mentioned context the Energy Solutions Rule change proposal does not seem to have any place. If the services in question are to be treated as contestable, then the Energy Solutions proposal amounts to regulating a contestable service. This would be inconsistent with the general role of economic regulation, and the approach adopted by the AEMC that contestable services shall not be subject to regulation (apart from oversight being provided by the ACCC in its role as a general competition regulator under the Trade Practices Act).

In addition, the Energy Solutions Rule change proposes that a NSP, when responding to a connection enquiry, is not only obliged to advise the enquiring party which services are contestable, but to also provide the contact details of service providers on the first register. This amounts to forcing a NSP to become a forum for the marketing of someone else's services.

Furthermore, the maintenance of the registers could carry with it the implication that the NSP is endorsing the contestable service providers as being capable of providing those services, when the NSP does not have that knowledge, or the capacity to acquire that knowledge. Policy principles of consumer protection would require that any register carry with it a certification and auditing process so that confidence can be maintained in the register. These are clearly not functions that should reside with NSPs.

It would also be highly inefficient for every NSP in the NEM to maintain individual registers. ETNOF would expect that multiple contestable service providers would seek to register with multiple NSPs, resulting in duplicated and wasteful effort.

However, in the event the AEMC determines that a register, similar to that proposed by Energy Solutions will further the NEM objective, it would be more efficient if it is a single, central register, established and maintained by an existing body with functions and powers appropriate to the task. Possible candidates could include NEMMCO (which maintains a register of the various classes of participants), or the AEMC itself. Parties, such as Energy Solutions, could 'self log' their details on such a site, including making their own statements about their capabilities, and the site owner could make it clear that the site does not amount to an endorsement of the capability of any 'self logged' party.

Finally, it should be noted that the types of businesses that usually seek connection to the transmission network (e.g. new generators, major industrial loads) are substantial developers in their own right, as acknowledged by the AEMC (see below). As such they are capable and experienced in sourcing and procuring a wide range of engineering and other services. It does not seem that these businesses need any special assistance paid for by end users generally.

4. Situations Where Connections Services are not treated as Contestable

In its draft transmission revenue Rule decision dated 26 July 2006 the AEMC concluded:

“ that improvements in cost and performance efficiency can be obtained by requiring TNSPs to negotiate prices, terms and conditions for dedicated service and non-standard services directly with generators and large users....”

As a result the AEMC retained the concept of negotiated services as first set out in its proposed Rule published in February 2006. The AEMC draft decision dated 26 July 2006 contemplates that this classification includes some entry and exit services. It also

contemplates treating connection services between TNSPs and DNSPs as prescribed services.

The AEMC also set out the process by which the transmission charges for 'negotiated services' are to be set. In essence, this involves commercial negotiation between the connection applicant and the TNSP. This was on the basis that:

"Such bilateral negotiations outside of the revenue cap would subject the costs incurred by TNSPs to commercial testing by informed and self interested users who, with the support of a right to independent dispute arbitration, would be in a position to apply considerable countervailing negotiation power."

In the case of connection services between regulated network service providers it is usual for the associated assets to be procured on a contestable basis by one or both of the network businesses involved. In the case of negotiated services the connection applicant and the service provider can negotiate a range of arrangements with at least one of the parties procuring and maintaining the associated assets. In both instances all parties involved are, as the AEMC notes, *'informed and self interested'* and in a *'position to apply considerable countervailing negotiation power'*. Such parties do not appear in need of an enforced register of service providers funded, ultimately by end users, as proposed by Energy Solutions.

5. Summary

In summary, the Energy Solutions proposal does not appear to enhance the long term interests of consumers. In the event that the AEMC does consider that the proposed registers do enhance the NEM Objective, then NSPs are not the most appropriate parties to administer such an arrangement.