

23 November 2011

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Mr Pierce

NATIONAL ELECTRICITY AMENDMENT (DISTRIBUTION NETWORK PLANNING AND EXPANSION FRAMEWORK) RULE 2011 (ERC0131)

Please find attached Endeavour Energy's submission on matters raised in the AEMC's consultation paper on the National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2011.

A matter of significant concern to Endeavour Energy is the possibility of dual reporting requirements being imposed if the existing jurisdictional arrangements relating to the project assessment process and annual planning and reporting requirements are not rolled back once the national framework is in place.

Prior to implementing the proposed rules, the AEMC and the jurisdictions must agree on what aspects of the jurisdictional requirements will be rolled back and replaced by the proposed rules and what changes must be made to the proposed rules to accommodate the jurisdictional requirements that will not be rolled back. If the AEMC does not adopt this approach then simply implementing the new rules will inappropriately increase the regulatory burden on the DNSPs.

There may also be some transitional issues associated with any roll back that would need to be incorporated into the new rule process for example the treatment of projects that are part way through the existing regulatory test assessment.

If you have any queries regarding this submission please do not hesitate to contact our Manager Network Regulation, Mr Mike Martinson on (02) 9853 4375.

Yours faithfully



Vince Graham
Chief Executive Officer

ENDEAVOUR ENERGY RESPONSE TO AEMC DRAFT RULE CONSULTATION DISTRIBUTION PLANNING AND EXPANSION (ERC0131)

Issue		Comments
1. Annual Planning Process		
1.1 What are the implications of allowing each jurisdiction to determine the start date for the annual planning period?	Endeavour Energy supports the proposal to allow each jurisdiction to determine the start date for the annual planning period based on variations in seasonal loading across DNSP's. Endeavour Energy notes that in our distribution area, the season of maximum demand has changed from winter to summer over time, so a prescriptive approach, if implemented, would have reduced the organisation's flexibility to adapt to this trend. Endeavour Energy notes also that any annual planning period which was based on calendar years would conflict with Australian financial years (i.e. June-June) which are currently used for budget approvals and AER Determinations (for NSW), potentially leading to additional administrative burdens in coordinating between the two.	
1.2 Is it necessary to include a default start date for the annual planning period to start in the Rules?	Endeavour Energy believes that a default start date for the annual planning period should not be included in the Rules as it could compromise any transitional arrangements that will need to be put in place to allow the transition from any jurisdictional requirements to the national framework.	
1.3 Dual Function assets	Endeavour Energy notes that the draft Rules only consider distribution and transmission assets and that the position of dual function assets is not made clear. Dual function assets are defined in the Rules as: <i>...any part of a network owned, operated or controlled by a Distribution Network Service Provider which operates between 66kV and 220kV and which operates in parallel, and provides support to, the higher voltage transmission network.....</i> and further that <i>..a dual function asset can only be an asset which forms part of a network that is predominantly a distribution</i>	

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	<p><i>network...</i></p> <p>Endeavour Energy's concern is that without clarity around dual function assets a DNSP with dual function assets could be captured by the transmission requirements in Chapter 5 and be required to prepare separate planning reports, have to apply RIT-T and provide separate reporting on these assets when in fact they are distribution assets.</p> <p>Endeavour Energy recommends that the Rules make it clear that for the purposes of planning and expansion that dual function assets are to be treated as distribution assets.</p>
2. Demand Side Engagement Strategy	
<p>2.1 To what extent would potential investors, non-network providers and any other interested parties find the information provided by the proposed Demand Side Engagement Strategy (specifically, the Demand Side Engagement document, the database of non-network proposals/case studies and the Demand Side Engagement register) useful?</p>	<p>Endeavour Energy recognises that one of the barriers to the adoption of non-network solutions is the fact that some of the technology is often untried and untested. In considering these options, however, the DNSPs are almost always left bearing the risks of not being able to supply customers. Endeavour Energy suggests that in order to encourage adoption of more non-network options, the regulatory emphasis should be on sharing this risk with non-network proponents and making customers aware of where responsibilities lie.</p> <p>Considerable effort is put into complying with existing jurisdictional requirements under the NSW Demand Management Code of Practice for Electricity Distributors in terms of maintaining an interested parties register and the notification process. However, it is Endeavour Energy's experience that the effort put into this activity is not commensurate with the level of responses received and we question the value of expanding the process.</p> <p>Demand Side Engagement Strategy – Endeavour Energy does not see the need for a separate Demand Side Engagement Strategy document given that the Distribution Annual Planning Report (DAPR) document will identify network limitations and provide signals for Demand Side proponents to address. A Demand Side Strategy can be incorporated with the DAPR.</p> <p>Database of Non-network proposals – Endeavour Energy considers the database as proposed to be difficult to implement if the intent is to include ALL non-network proposals because this will almost certainly involve commercially sensitive information. Endeavour Energy believes that it would be possible to divulge network benefits attributable to specific projects but the logistics and financial details of how specific projects were assembled is likely to be commercially sensitive to proponents. Endeavour Energy suggests that the rules (or AER application guidelines) outline a core structure or template that minimises disclosure of commercially sensitive information. Endeavour Energy suggests that it will be easier to implement and maintain a database of very high level information about specific</p>

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	<p>projects to demonstrate the successful implementation of Demand Management projects. It should be noted however, that the usefulness of this information will diminish over time as the technologies and the economics of technologies continually change. Technologies that may have been cost effective five years ago may no longer be so.</p> <p>Demand Side Engagement Register – Endeavour Energy currently maintains a register of all interested parties. Requests for Proposals, when issued, are sent out to these parties. Endeavour Energy also operates, outside of the Demand Management (DM) process, a procurement and supplier register process for all suppliers of goods and services. Endeavour Energy currently undertakes a degree of procurement due diligence following receipt of proposals to ensure that any supplier of Demand Management solutions is capable of providing the service and ensuring that the supplier is, in Endeavour Energy's opinion, capable of meeting their obligations over the life of any contract.</p> <p>There could be some overlap between the requirements of the rules and Endeavour Energy's internal procurement processes resulting in some of these internal processes becoming the subject of disputes under the proposed rules, particularly in disputes relating to suppliers excluded as a result of a procurement due diligence decision. This again illustrates the likelihood of undue regulatory burden being placed on DNSPs for little community benefit and in ways that the proposed rules may not have intended.</p> <p>Endeavour Energy considers that some form of national or jurisdictional accreditation may be appropriate for potential Demand Management providers to enable the development of robust and credible Demand Management solutions.</p>
<p>2.2 To what extent would DNSPs incur additional costs in developing and maintaining the various components of the proposed Demand Side Engagement Strategy?</p>	<p>Endeavour Energy notes that while it currently carries out some of the activities outlined as part of the NSW Demand Management Code of Practice for Electricity Distributors, there will be some additional costs to set up systems to comply with the new rules including:</p> <ul style="list-style-type: none"> • any changes to existing web sites and databases to align with any new Rules requirements; and • on-going administrative costs involved with maintaining and updating the database, web page and publishing case studies.
<p>3. Distribution Annual Planning Report</p>	

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<p>3.1 What are the implications (positive and negative) of providing DNSPs with the opportunity to apply for exemptions or variations to the annual reporting requirements?</p>	<p>Endeavour Energy supports the opportunity to apply for an exemption or variation to the annual planning requirements if circumstances dictate that this would be the most appropriate and/or pragmatic course of action. This would particularly be the case if a situation arose that was not foreseen in the drafting of the Rules and the application of the Rules led to a perverse outcome. Further, depending on how the jurisdictional requirements are rolled back a situation could arise where the application of the jurisdictional requirements and the draft Rules meant a duplication of the processes which would not be desirable. The ability to seek an exemption in these situations would be a more efficient approach.</p>
<p>3.2 Do you consider the proposed process for applying for and granting an exemption or variation to the annual reporting requirements is appropriate?</p>	<p>Endeavour Energy notes that the only condition for considering an exemption or variation appears to be evidence that the requirements would be difficult to meet at an economic cost. Endeavour Energy believes that there may be other reasons for considering an exemption for example forecasts of generation capacity could be subject to commercial-in-confidence contractual arrangements with individual generators. Endeavour Energy suggests that a more general exemption clause whereby the DNSP submits an application and the AER makes a decision based on the DNSP's submission to allow for reasons other than purely economic cost arguments.</p>
<p>3.3 How might a DNSP demonstrate, and the AER determine, whether the costs of preparing certain reporting data would "manifestly exceed any benefit that may reasonably be obtained from reporting the relevant data in a national regime"? Is there a need to define a set of criteria to assist both parties in this assessment?</p>	<p>Endeavour Energy considers the requirements for s5.8 to be very prescriptive and recognises that there is no national or jurisdictional consistency in the approach to reporting planning data. Endeavour Energy notes that some of the proposed reporting data is historical in nature and some requires forecast to be prepared. In order to prepare forecasts it will be necessary for DNSPs to have access to the historical data on which to base any forecasts. Further, Endeavour Energy believes that some of the necessary data may not be available and processes, procedures and in some instances metering installations will have to be installed to capture the necessary data. It will be important then for workable criteria to be defined that would allow DNSPs to apply for variations or exemptions for specific items in the DAPR.</p> <p>Endeavour Energy submits that a transitional pathway would be required before DNSPs could be expected to be fully compliant with the provisions in the rules relating to what information needs to be published in the DAPR.</p>
<p>3.4 Are there any alternative solutions which may better balance the benefits of maintaining consistency across the NEM with the costs of preparing and reporting the data under a national framework?</p>	<p>Endeavour Energy believes that while national consistency may be a desired outcome, a glide path or transitional approach should be taken with aspects of the reporting requirements rather than the step change approach suggested by the proposed rules.</p>

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3.5 Do DNSPs face sufficient business and regulatory drivers to ensure that they carry out appropriate planning and produce accurate forecasts in their DAPRs?	Endeavour Energy believes that the current National Electricity Rules together with the jurisdictional requirements in the form of Ministerial licence conditions and the NSW Demand Management Code of Practice for Electricity Distributors together with the AER's ongoing monitoring and compliance programs provide sufficient business and regulatory drivers to carry out appropriate planning activities and produce accurate forecasts.
3.6 Is there a need to consider additional measures to ensure DNSPs deliver robust, high quality DAPRs? If so, what additional measures could be put in place?	As stated above, Endeavour Energy believes that the present measures are adequate.
4. Joint Planning Requirements	
4.1 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs and TNSPs?	Endeavour Energy currently undertakes joint planning activities with TransGrid and considers this process adequate. Endeavour Energy sees the value of greater flexibility in allowing a DNSP to be the lead party in joint planning ventures. However, Endeavour Energy believes that TNSPs would be better placed (eg a better knowledge of generation dispatch patterns) to carry out the mandatory RIT-T assessment required of joint planning projects. Further, Endeavour Energy believes that the requirement for a RIT-T analysis would probably preclude most DNSPs from taking the lead role in joint planning initiatives.
4.2 In what circumstances would DNSPs be required to undertake joint planning with other DNSPs?	Endeavour Energy currently undertakes joint planning with other adjacent DNSPs. Such joint planning is undertaken to establish interfaces and protocols for power transfer arrangements between DNSPs.

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<p>4.3 Do you consider the proposed Rule is appropriate and sufficient in clarifying the arrangements for joint planning between DNSPs?</p>	<p>Endeavour Energy considers the current arrangements to be appropriate and sufficient and that the rule change formalises current practice.</p>
<p>5. RIT-D</p>	<p>Specification Threshold Test (STT)</p>
<p>5.1 Do you consider the proposed RIT-D design parameters are likely to work together to provide an effective decision making framework for DNSPs, consistent with the NEO?</p>	<p>Endeavour Energy considers that the criteria for assessment of all "technically feasible" options (5.6.6AB(d)(2) to be far too broad and would collect a whole range of options that are manifestly uneconomic or impractical (but are still "technically feasible"). Endeavour Energy believes that the Rules should reflect a common sense approach to the STT and guidance should be drawn from the "reasonableness test" in the NSW Demand Management Code of Practice for Electricity Distributors. This Code of Practice is currently used by Endeavour Energy for a first pass assessment of whether Demand Management is practical in particular situations. The approach suggested will minimise undue project delays arising from having to consider "technically feasible" options that are known to be manifestly uneconomic or impractical to implement in the required timeframe.</p> <p>Project Specification Report</p> <p>Endeavour Energy questions the requirement to state the costs of implementing various proposed options as this could lead to sub-optimal financial outcomes for the DNSP. This will send a financial signal to non-network proponents that could lead to inappropriate and excessive costing of non-network options. It is recommended that this requirement be removed.</p> <p>Endeavour Energy seeks clarification on the use of the term "<i>new network investment</i>" when the definition for this term has been scored out of the Chapter 10 glossary.</p>

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	<p>Draft Project Assessment Report</p> <p>Endeavour Energy seeks clarification regarding the starting reference of the 12 month period referred to in 5.6.6AB(m)(1).</p> <p>Final Project Assessment Report</p> <p>Endeavour Energy notes with concern that projects valued between \$10M-\$20M could potentially take two years to get approved if the DNSP chooses not to publish a separate project assessment report. Projects exceeding \$20M could take approximately 15 months to reach approval stage. Endeavour Energy believes that as a DNSP it has responsibilities in maintaining supply to customers and that the timing aspects of this process could present difficulties in getting projects implemented when they are required.</p> <p>General Comments</p> <p>Endeavour Energy considers that the RIT-D, in concept, would provide an adequate and effective decision making framework for DNSPs to make business decisions. However, Endeavour Energy has reservations about the nature of the detailed implementation of the RIT-D framework. Some of these issues are expressed here and Endeavour Energy recognises that at least some of these will need to be addressed in some detail in the AER's yet to be published application guidelines and notably before the rules begin to apply.</p> <p>Endeavour Energy considers that the cost thresholds (in particular the \$5 million threshold for RIT-D) to be too low and in previous submissions has argued that the threshold should be increased from \$10 million to \$20 million. In Endeavour Energy's case lowering the threshold from \$10 million to \$5 million would imply that approximately a further 20% of eligible projects would exceed the lower threshold and now be subject to the RIT-D process imposing a very significant administrative burden on the business and cost burden on the customers. Endeavour Energy would request that the AEMC hold further consultation with a view to (as a minimum) not reducing the threshold from the current \$10 million.</p> <p>Endeavour Energy further considers that the cost threshold of \$5 million applied to the 'most expensive' option as impractical and should instead apply to either to the least cost option or to the least cost <i>network</i> option. It seems perverse that if one option is greater than \$5M and there is an option that is preferred and it is less than \$5M that a RIT-D must be undertaken when the RIT-D should not be required, as the lowest cost option would be selected anyway and the RIT-D is irrelevant. Endeavour Energy would recommend that the AEMC reconsider the application of</p>

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	<p>the RIT-D threshold to the preferred option rather than the 'most expensive' option.</p> <p>Endeavour Energy believes that the proposed RIT-D parameters do not adequately recognise that DNSP investments are made on the basis of capacity (demand) requirements but the cost recovery takes place primarily on the basis of energy sales. Endeavour Energy considers that while investment costs would be easily quantified, the economic benefits arising out of that investment, even if confined to just network benefits, would be much more difficult to quantify. This would be particularly so for augmentation projects where the additional capacity is only likely to be utilised for a few hours per year. Endeavour Energy expects that this issue would be addressed in the AER guidelines.</p> <p>Endeavour Energy seeks further clarification on the meaning of "...present value of the net economic benefit to all those who produce, consume and transport electricity in the market..." Whilst the economic benefits from investments are readily evaluated under the RIT-D guidelines for distribution businesses, Endeavour Energy considers that economic benefits to generators and consumers will be far more difficult to accurately define and quantify without appropriate AER guidance.</p> <p>Endeavour Energy further submits that the RIT-D rules do not adequately address the questions of risk and reliability. It is recognised that current jurisdictional standards apply in terms of network reliability and acceptable risks. However, there are no guidelines with regard to non-network alternatives available to make like for like comparisons. The pursuit of economic efficiency may not directly translate into improved reliability for end use customers, and the proposed Rules do not reflect the tradeoffs between economic efficiency and reliability for end use customers. There do not appear to be any mandatory provisions for ensuring that non-network alternatives (even if these are contractual rather than technical arrangements) deliver comparable levels of reliability. Without such a clause, dispute and audit provisions within the Rules are subject to a wide range of interpretations.</p> <p>Endeavour Energy seeks clarification regarding the use of the term "distribution investment". The term as defined in the glossary could be interpreted to mean investment related to either network or non-network options, but the usage of the term in clause 5.6.6AB(f) and elsewhere in the Rules suggests investment pertaining to network options only. Endeavour Energy believes that a non-network option will also be the subject of an investment from the DNSP's point of view whether this is a lump sum or annualised amount. The question therefore is whether the term "distribution investment" actually refers to network options that result in tangible network assets. A transfer trip scheme for example is a credible network option that requires some investment but may not result in the addition of physical tangible hardware assets.</p> <p>There is no guidance as to what is to be included in the FPAR if a project is a fast tracked RIT-D. Also, if the STT</p>

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	<p>determines that there are no non network solutions; why do the DNSPs have to advise the parties listed on the register of interested parties?</p> <p>Endeavour Energy notes that the flowchart in Appendix A1 omits the requirement under clause 5.6.2(e)(2) of the existing Rules (unchanged in proposed rules) to notify Registered Participants and AEMO of any relevant technical limits of the network. This requirement does not appear to be part of the RIT-D process and hence the exclusion of this requirement from the flowchart appears justified. However, it is not clear from the rules whether separate STT/Project assessment documents need to be lodged regarding each network limitation. Endeavour Energy notes that some DNSPs appear to have taken this view in relation to the existing Rules. Endeavour Energy believes that the requirements under clause 5.6.2(e)(2) should be rolled into the requirements to publish an annual planning statement which essentially does the same thing and/or Project Specification stage (see clause 5.6.6AB(g) – requirement to consult on identified need in Project Specification Requirement) which is filtered by the relevant thresholds.</p>
<p>5.2 Do you consider it is necessary to provide the AER with additional powers to (1) review a DNSPs policies and procedures with regard to the consideration of non-network alternatives and (2) audit projects which have been identified by DNSPs as not meeting the threshold for the RIT-D?</p>	<p>Endeavour Energy considers that the AER's powers of review within the dispute resolution process to be appropriate and sufficient. Endeavour Energy further considers a dispute notification to be an effective trigger for a review of a DNSP's compliance with the Rules in relation to the dispute.</p>
<p>5.3 Should the AER be required to publish a separate annual report detailing the results of any audit undertaken in the preceding 12 months?</p>	<p>Endeavour Energy believes that the publication of a separate audit report would not be necessary as any audit results could be reported in the AER's Quarterly Compliance Reports.</p>
<p>6. Dispute Resolution</p>	
<p>6.1 Do you consider the proposed scope of parties who could raise a dispute to be appropriate?</p>	<p>Endeavour Energy considers the scope of parties to be too broad and notes with concern the scope for significant project delays as a result of frivolous claims. Endeavour Energy believes that the scope of parties able to raise a dispute should be limited to those parties who made a submission during a consultation period.</p>

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6.2 What are the implications (positive and negative) of allowing the AER to grant exemptions from the proposed dispute resolution process?	Endeavour Energy notes the potential for customers to be inconvenienced or deprived of services in the event of disputes regarding network investments. Endeavour Energy considers it absolutely essential to have an exemption clause within the rules to allow the AER to take into account the wider community good especially in relation to time sensitive projects and projects aiming to address security of supply issues.
6.3 Is there a need to develop detail or specification around the process for applying to the AER for, and the AER approving, exemptions to the dispute resolution process?	Endeavour Energy supports the development of a process for exemptions to the dispute resolution process.
7. Implementation & Transition	
7.1 Are there any issues in respect of the rolling back of jurisdictional requirements that may need to be supported or provided for by transitional provisions in the Rules?	<p>Endeavour Energy has a significant concern with the possibility of duplication of frameworks and believes that it will be essential for jurisdictional requirements to be rolled back to avoid duplication especially in relation to requirements arising out of the NSW Demand Management Code of Practice for Electricity Distributors. Prior to implementing the draft Rules, the AEMC and the jurisdictions must agree on what aspects of the jurisdictional requirements will be rolled back and replaced by the draft Rules and what changes must be made to the draft Rules to accommodate the jurisdictional requirements that will not be rolled back. If the AEMC does not adopt this approach then simply implementing the draft Rules will inappropriately increase the regulatory burden on the DNSPs.</p> <p>There may also be some transitional issues associated with any roll back that would need to be incorporated into the new rule process for example the treatment of projects that are part way through the existing regulatory test assessment.</p>
7.2 If the proposed national framework was to be introduced, are the proposed timeframes appropriate to allow for the transition to the national framework?	Endeavour Energy believes that further discussion needs to be had regarding the development of the transitional arrangements for any move from the existing framework to the national framework. It will be important to clearly delineate existing projects which will be assessed under the existing framework from those projects which will need to be assessed under the proposed national framework. The draft Rules may also need to be amended to incorporate flexibility in any transition.

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<p>7.3 Are there any other factors that should be taken into account in developing transitional provisions to enable the efficient potential application of the proposed Rule to all DNSPs?</p>	<p>Endeavour Energy believes that the RIT-D and proposed AER Guidelines need to be developed and in place prior to the commencement of the draft Rules. There should also be a period of time allowed after the development of these documents to allow the DNSPs to align their business processes and undertake training of relevant staff so that they can be compliant with the Rules from the day they take effect.</p>
<p>7.4 From a market participant perspective, are there any implications in not aligning the proposed introduction of the national framework with the commencement of the NECF?</p>	<p>Endeavour Energy believes that there are no implications in not aligning the proposed introduction of the national framework with the commencement of the NECF as there does not appear to be any significant interaction between the two.</p>