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Dr John Tamblyn
Chairman
Australian Energy Market Commission
P.O. Box A2449
Sydney South NSW 1235

BY EMAIL TO: aemc@aemc.gov.au

(And through the electronic lodgement facility)

Dear John

Re: EPR0015 Draft Report. AEMC Review of National Framework for Electricity Distribution Network Planning and Expansion

Please find enclosed a joint submission prepared by the Victorian electricity Distribution Businesses (the Victorian DBs)¹ in response to the report draft, released by the AEMC, on the proposed national framework for electricity distribution network planning and expansion.

Should you or your staff have any queries in relation to this submission, please do not hesitate to contact Jeremy Rothfield, Regulatory Economist, on (03) 8540 7808.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'A. Schille'.

Andrew Schille
Regulatory Manager

¹ The Victorian DBs are: Jemena Electricity Networks (Vic) Ltd, CitiPower Pty, Powercor Australia Ltd, United Energy Distribution Pty Ltd, and SPI Electricity Pty Ltd.

AEMC Review of National Framework for Electricity Distribution Network Planning and Expansion

**Joint submission by the
Victorian Electricity Distribution Businesses**

13 August 2009



Victorian DBs' joint submission
AEMC Review of National Framework for
Electricity Distribution Network Planning and Expansion

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EXECUTIVE SUMMARY

This document sets out the joint submission of the Victorian electricity Distribution Businesses (the Victorian DBs)¹ prepared in response to the Commission's Draft Report on the proposed national framework for electricity distribution network planning and expansion.

For the purpose of responding to the Draft Report, the Victorian DBs adopt the submission lodged under separate cover by the Energy Networks Association (ENA).

In addition, in response to the Draft Report, the Victorian DBs consider that:

- The Commission's final report should describe a comprehensive implementation plan that provides for effective co-ordination with jurisdictional regulators and Governments to ensure a seamless and orderly transition to the national framework.
- The implementation plan should also include a detailed transition plan, which provides for the continued application of certain parts of the jurisdictional regimes (over a defined transition period) whilst also ensuring that distribution planning activities are not subject to regulation under more than one regulatory regime at any one time. The implementation plan should also explicitly recognise that different jurisdictions may be brought under the new national framework at different times.
- Having regard to the timing of the Victorian DBs' forthcoming price review (which commences in November 2009 and concludes in December 2010), we propose that the national framework should be introduced to take effect no earlier than 1 January 2011 in Victoria.

The Victorian DBs' joint submission also sets out comments which principally address matters that are specific to the Victorian jurisdiction, as follows:

- Whilst the final form of the national framework is yet to be determined, we expect that there will be a step change in operating expenditure associated with the implementation and on-going administration of the national framework. During the forthcoming Victorian distribution review, we will seek to, and expect to recover the additional costs associated with the new regulatory obligations and requirements under the national framework.
- The Victorian DBs consider that there is a sound public policy case for requiring the application of a Regulatory Investment Test (RIT) to assets that connect a distribution network to a transmission network. We have therefore proposed that new derogations should be included in the NER to ensure that the Rules fully accommodate the Victorian DBs' transmission connection planning role and responsibilities.
- Challenges presently exist in relation to joint planning in Victoria. Specifically, these challenges include disputes relating to the application of the RIT, the classification of transmission services, and the terms under which such services are offered. A lack of clarity on these issues can delay and ultimately threaten key future distribution network and transmission connection investments. Whilst some of these matters are beyond the immediate scope of the Commission's review, they are noted here because they affect the operation of joint planning in Victoria and provide context to the package of reforms we have proposed in order to provide a satisfactory solution. A key part of the Victorian DBs' proposed solution which can be achieved through the Commission's review involves

¹ The Victorian DBs are: Jemena Electricity Networks (Vic) Ltd, CitiPower Pty, Powercor Australia Ltd, United Energy Distribution Pty Ltd, and SPI Electricity Pty Ltd.

setting out the following principle in derogations that would apply to the Victorian DBs and AEMO:

Where a jointly-planned project (involving transmission connection and associated shared transmission network investment) is not expected to give rise to material constraints on the shared transmission network - and thus is not expected to have a material effect on the operation of the market - then the RIT-D should be applied. In these circumstances, the body with responsibility for planning transmission connection assets - namely, the relevant Victorian DNSP(s) - would be responsible for undertaking the RIT-D, and co-ordinating the joint planning of any shared transmission network augmentations with AEMO.

Under these arrangements, and in accordance with the existing NER provisions, AEMO would have an obligation to define the scope of the shared network component of a connection project so that the performance standards in Schedule 5.1 are met, in which case the services provided by the shared transmission network augmentation would be deemed to be prescribed transmission services.

We are continuing to work towards a satisfactory resolution of these issues, to ensure that the delivery of essential transmission connection and shared network augmentations is not delayed.

1 Introduction

On 7 July, the AEMC (the Commission) published a Draft Report on its *Review of National Framework for Electricity Distribution Network Planning and Expansion*. This document sets out the joint submission of the Victorian electricity Distribution Businesses (the Victorian DBs)² in response to the Commission's Draft Report.

For the purpose of responding to the Draft Report, the Victorian DBs endorse the submission lodged under separate cover by the Energy Networks Association (ENA). In addition, the Victorian DBs have set out further comments in this submission, which principally address matters that are specific to the Victorian jurisdiction.

The remainder of this submission is structured as follows:

- Section 2 sets out comments relating to the implementation of the national framework.
- Section 3 provides comments relating to the annual planning process, focussing in particular on issues relating to joint planning with AEMO (formerly VENCORP) in its capacity as a Victorian Transmission Network Service Provider. Issues relating to transmission connection planning arrangements in Victoria are also addressed.
- Section 4 sets out comments on the proposed reporting requirements.
- Section 5 provides our views on the proposed Regulatory Investment Test for Distribution.
- Section 6 sets out our views on the proposed dispute resolution process.
- Section 7 responds to the Commission's observations on the framework for distribution planning.

² The Victorian DBs are: Jemena Electricity Networks (Vic) Ltd, CitiPower Pty, Powercor Australia Ltd, United Energy Distribution Pty Ltd, and SPI Electricity Pty Ltd.

2 Implementation of the national framework

2.1 Implementation plan and transition arrangements

Section 1.7 of the Draft Report sets out the Commission's thinking on the implementation of the national framework. In particular, page 7 of the Draft Report states:

"The national framework is not intended to result in the duplication of planning arrangements, nor is it being designed to work in parallel with the current jurisdictional requirements. Therefore, we assume that the existing jurisdictional arrangements relating to the project assessment process and annual planning and reporting requirements, will be rolled back once the national framework is in place."

The Victorian DBs strongly concur that the national framework must not lead to the duplication of planning arrangements, nor result in the imposition of overlapping regulatory compliance requirements. The orderly implementation of the national framework in accordance with these basic goals will require the development of a detailed and comprehensive implementation plan. Therefore, whilst we agree with the Commission's broad assumption that existing jurisdictional regulatory arrangements will (indeed, *must*) be rolled back once the national framework is in place, we consider that the Commission's final report should describe a comprehensive and fully detailed implementation plan which sets out:

- the arrangements and processes under which the Commission will co-ordinate and liaise with the jurisdictional regulators (and, where necessary, the relevant State and Territory Governments) to ensure a seamless and orderly transition to the national framework;
- a process for identifying all of the jurisdictional provisions (for example, the Victorian Distribution Code planning requirements) that will be superseded by the new NER provisions; and
- the timetable for roll-back of the redundant jurisdictional provisions.

A very important component of the implementation plan will be the specification of transitional arrangements to ensure the orderly implementation of the new framework. The formulation of an effective transition plan will require the consideration of a number of important factors, including those set out below:

- A general principle that follows from the Commission's comments on page 7 (cited above) is that no distribution planning activity undertaken by a particular DNSP should be subject to more than one regulatory regime (that is, either the relevant jurisdictional provisions or the relevant provisions of the NER) at any one time. Adherence to this principle will ensure that there will be no overlap or parallel regulation by virtue of the simultaneous application of jurisdictional and national regimes.
- Application of the principle set out above should recognise that it may be necessary for certain parts of the present jurisdictional regimes to continue to operate following the commencement of the national regime. For instance, the national framework may apply to some activities (such as the production and publication of the Distribution Annual Planning Report) while the jurisdictional provisions continue to apply to other activities (such as project evaluation and project-specific consultation) during a defined transition period.
- The implementation plan should also recognise that jurisdiction-specific issues may dictate a need for individual jurisdictions to transition to the national framework at

different times. In this regard, it is noted that page 9 of the Draft Report contemplates the possibility of the Rules for the national framework being made by 1 April 2010, and the first Distribution Annual Planning Report (DAPR) being published by 31 December 2010. This timetable would be unsuitable for the Victorian DBs as their forthcoming distribution price review process formally commences in November 2009, with the new price control to be implemented after the current regulatory period in Victoria ceases on 31 December 2010. The commencement of the next regulatory control period in Victoria (on 1 January 2011) would seem to be an opportune and appropriate time for implementation of the new national framework to commence in Victoria. However, subject to jurisdiction-specific considerations applying elsewhere, it may be feasible for implementation of the national framework to commence in some other jurisdictions in 2010, as proposed by the Commission.

- The implementation plan should also recognise that at the time of commencing the implementation of the national framework, each DB will have a number of projects underway (at various stages ranging from initial planning to construction and commissioning). Given that most larger distribution projects have lead time of two years, we suggest that an orderly transition plan should provide for a transition period of at least 2 years between notification of the cessation of existing jurisdictional arrangements and the requirement for projects to be initiated under the provisions of the new national framework, to allow for the completion of projects already in progress.

Our views in relation to transition arrangements are consistent with those set out in the ENA submission, and we concur with the ENA's suggestions regarding transitional arrangements.

Having regard to the timing of the Victorian DBs' forthcoming price review, we think that the most sensible approach would be for the new national framework to apply to Victorian DBs from the commencement of the next regulatory period. On this basis, we suggest that the new NER provisions relating to the national framework should be introduced to take effect no earlier than 1 January 2011 in Victoria.

2.2 Costs of implementing and administering the national framework

Page 9 of the Draft Report states:

"The introduction of the national framework may result in significant changes to DNSPs' and other market participants' operational practices."

We confirm that the introduction of the proposed annual planning process will indeed result in significant changes in the Victorian DBs' operational practices. We also note that there will be a corresponding increase in the resources required by the Victorian DBs to comply with the framework proposed in the Draft Report.

The Victorian DBs' earlier submissions had highlighted the effectiveness of the existing Victorian jurisdictional provisions in fostering efficient development of the distribution networks and distributors' transmission connection facilities. Those submissions also noted that there would be increased complexity and additional costs associated with the framework which has been proposed by the Commission.

As noted in further detail in this submission, and in the submission lodged by the ENA, we question whether some of the proposals outlined in the Draft Report fully satisfy the third principle adopted by the Commission for the purpose of its review, which is stated on page 7 of the Draft Report as follows:

“Proportionality – the costs arising from the processes and regulatory requirements under the framework must be proportionate to the benefits. The extent of information provided and consultation process must strike the appropriate balance.”

We suggest that in preparing its final report, the Commission should at least seek to demonstrate that the proposed planning processes do indeed satisfy the “proportionality” principle noted above. This will help ensure that the additional costs associated with the establishment and administration of the national framework are justified by the expected benefits of the framework. We consider that ideally, the implementation of the arrangements foreshadowed in the Draft Report would be subject to a full cost-benefit analysis (of the type typically produced as part of a regulatory impact statement).

Whilst the final form of the national framework is yet to be determined, we do expect that there will be a step change in operating expenditure associated with the implementation and on-going administration of the national framework. In this context we note that:

- Clause 6.5.6(a)(2) requires a building block proposal to include the total forecast operating expenditure which the DNSP considers is required in order to comply with all applicable *regulatory obligations or requirements* associated with the provision of standard control services.
- Under section 2D(1)(b)(i) of the National Electricity Law, the obligations imposed on the Victorian DBs by the national distribution planning framework would be defined as *regulatory obligations or requirements*.
- Consequently, the Victorian DBs will seek to, and will expect to recover the additional costs associated with the new *regulatory obligations or requirements* under the national framework in the forthcoming Victorian distribution price review.

3 Annual planning process

3.1 Proposed planning process including demand side engagement strategy

Our views in relation to the proposed planning process are generally consistent with those set out in the ENA submission, and we concur with the ENA’s suggestions regarding the proposed planning processes.

That said, the Victorian DBs question the merits of imposing heavier reporting requirements and obligations in relation to a demand-side engagement strategy to encourage greater demand management. In principle, we consider that stronger financial incentives are a more effective way to drive demand side participation (DSP) outcomes, rather than regulatory obligations.

A number of market participants have previously stated that a DSP-specific incentive would be required to drive significant change and development in this area. However, in its Draft Report for the Demand Side Participation Review the Commission found that the current economic regulatory framework provides sufficient incentive to encourage *efficient* DSP, particularly where a price cap applies. For instance, the Commission has stated³:

“We have found that the basic model of price cap regulation provides regulated network businesses with financial incentives that are consistent with efficient use of DSP.”

³ AEMC, Draft Report Demand-Side Participation in the National Electricity Market, April 2009, p 17

We have also found that the financial incentives to support efficient DSP are stronger under a price cap than under a revenue cap...

This finding implies that additional regulatory measures to amend the operation of price caps in respect of the use of DSP (such as the 'D-factor' adopted by IPART in its 2004 review of distribution business in NSW) are not required to promote the efficient contracting for DSP, but rather should be viewed as a subsidy to DSP."

If this view is supported, then there should not be a need to create further DSP-related regulatory obligations because the balance of economic incentives, including those flowing from service standards schemes, efficiency benefit schemes and capital return drive firms towards an efficient level of DSP implementation. More particularly, under such a view, these incentives would drive firms to provide information to, and engage with demand management (DM) proponents in a way that elicits an efficient level of demand side participation. On this view, the imposition of mandatory demand side engagement obligations on the DNSPs would be redundant.

However, a perception persists that DSP is below an efficient level. It is perhaps in response to this view that the Commission is seeking to increase the engagement of DNSPs with DM proponents. While this may enhance transparency and consistency in the consideration and exploration of DM, there is a danger that this kind of increased regulation will simply increase costs while providing no real benefit.

The DBs consider that if the Commission has evidence of inadequate DM in the NEM, it would be more effective to address this problem with incentives which align private and public interests. In this situation businesses would respond to the incentive to provide the most efficient and highest NPV solution, an outcome that is unlikely to be achieved through prescribing processes and reporting.

Any perceived under-utilisation of DSP in the NEM is less likely to be due to regulatory barriers or a lack of information, and more likely to reflect the DM industry being at a development stage. Once the industry is given the time and opportunity to mature, the number and quality of DM solutions will naturally grow. However, in the absence of any financial incentive to support and accelerate this development, it is unclear how imposing new regulatory obligations alone can achieve the objective of greater DM.

The Victorian DBs consider that there is no basis to the argument that there is "cultural bias" against DM within network businesses. While experience in, and opportunity for, DM varies across the businesses, no Victorian DB would actively dismiss a credible DM solution. The Victorian DBs consider that any perceived bias is without foundation and we note that no quantitative or qualitative evidence has been presented to support such a position in public debate.

3.2 Transmission connection planning in Victoria

Page 21 of the Draft Report states:

"The draft recommendations provide for the Victorian DNSPs to maintain their responsibility for planning transmission connections as the annual planning process includes the flexibility for specific jurisdiction requirements. We consider that the proposed recommendations provide clarity and place obligations on both parties to come together and work towards identifying the most economic option. However, we seek comments on whether specific additional provisions are needed and will also undertake further consultation with the Victorian parties to consider whether any appropriate amendments may be made to the proposed national framework."

We welcome the AEMC's recognition of the need for the national framework to accommodate the transmission connection planning arrangements in Victoria.

In this regard we note that page 7 of UED's submission on the Commission's earlier Scoping and Issues Paper stated:

"In Victoria, where DNSPs are responsible for planning and directing the augmentation of transmission connection facilities, the RIT-D should explicitly cover transmission connection assets."

Other Victorian DBs made similar submissions. Notwithstanding these submissions, we consider that the present lack of clarity regarding application of any Regulatory Investment Test to transmission connection assets does not appear to have been addressed by the proposals set out in the Draft Report. This is because:

- Recommendation 15 of the Draft Report states that that the RIT-D would not apply to connection services, or where the proposed investment has been identified through joint planning processes between DNSPs and TNSPs⁴.
- Clause 5.6.5C(a)(8) of the NER states that a Transmission Network Service Provider must apply the regulatory investment test for transmission to a proposed transmission investment except in circumstances where the proposed transmission investment will be a connection asset.
- The RIT-T is not readily applicable by the DBs in their capacity as transmission connection planners because:
 - under clause 5.6.5C, the obligation to apply the RIT-T applies to TNSPs and the DBs are not TNSPs; and
 - in any event, as noted above, clause 5.6.5C(a)(8) states clearly that the RIT-T does not apply to connection assets.

The Victorian DBs consider that there is a sound public policy case for requiring the application of a Regulatory Investment Test to assets that connect a distribution network to a transmission network. Whilst at present some NSPs voluntarily apply such a test (and the associated consultation procedures) to transmission connection investment decisions, as noted above, this is not required under the present (or proposed) framework. We consider that this anomaly should be rectified. The points below outline a possible solution which could be set out in derogations that would apply to the Victorian DBs and AEMO:

- The Rules would provide that where a transmission connection (and any associated shared transmission network) investment is not expected to cause material constraints within the shared transmission network (and thus is not expected to have a material effect on the operation of the market), then the RIT-D would be applied. In these circumstances, the body with responsibility for planning transmission connection assets - namely, the relevant Victorian DNSP(s) - would be responsible for undertaking the RIT-D, and co-ordinating the joint planning of any shared transmission network augmentations with AEMO. We expect that this would result in most transmission connection investments and any related shared transmission network investments being assessed under the RIT-D by the relevant Victorian DNSP(s), with appropriate input from AEMO.

⁴ Assuming that transmission connection planning inevitably involves some degree of joint planning between TNSP and DNSP, this recommendation would prevent the application of the RIT-D to transmission connection, if the reference to "connection services" is read in this context as being confined to the connection of customers.

Under these arrangements, and in accordance with the existing NER provisions, AEMO would have an obligation to define the scope of the shared network component of a connection project so that the performance standards in Schedule 5.1 are met, in which case the services provided by the shared transmission network augmentation would be deemed to be prescribed transmission services.

- For a particular project in Victoria that involves transmission connection and shared transmission network investment, and where that connection project is expected to cause material constraints on the shared transmission network, then AEMO should carry out the RIT-T.
- The derogation should set out the Victorian DBs' transmission connection planning responsibilities (which are presently specified in clause 14 of each DB's Distribution Licence).
- The derogation should specify that the RIT (D or T, as applicable) is required to be applied to transmission connection investments for which the DBs have planning responsibility.
- The existing provisions (set out in section 3.4 of the Victorian Electricity Distribution Code) relating to the production of an annual Transmission Connection Planning Report should be incorporated into the scope of the Distribution Annual Planning Reviews to be produced by the Victorian DBs.

In addition to the above, clause 5.6 of the NER should be reviewed to identify the need (if any) for further derogations to ensure that the Victorian DBs' transmission connection planning responsibilities are fully and appropriately accommodated within the NER and the proposed national framework for distribution planning.

3.3 Other issues relating to joint planning in Victoria

At the public forum on 5 August, representatives of the Victorian DBs noted difficulties that they have experienced recently in undertaking joint planning with AEMO (formerly VENCORP) of transmission connection projects that also involve shared transmission network augmentation works. The Victorian DBs also noted their recent difficulties in reaching agreement with VENCORP on:

- the classification of the transmission use of system services associated with shared transmission network augmentations that are necessitated by transmission connection works; and
- the commercial terms and conditions under which such services are to be provided by VENCORP in its role as the monopoly provider of transmission use of system services in Victoria.

The Victorian DBs consider that the proposals set out in section 3.2 above should provide an effective means of addressing the problems that presently exist in relation to joint planning (i.e. application of the Regulatory Investment Test) where transmission connection works give rise to the need for shared transmission network augmentation.

In relation to the two other points noted above, it is the Victorian DBs' view that any shared transmission network augmentations that are required to maintain (but not exceed) the minimum performance standards set out in Schedules 5.1a and 5.1 of the NER, and which are triggered by transmission connection works, are by definition prescribed transmission services. We note that our view has differed from that adopted by VENCORP in some cases

in the recent past, when VENCORP has sought to define the shared transmission network services as negotiated services (or “funded augmentations” under its *Connection Augmentation Guidelines*), and has sought to impose terms and conditions which the DBs consider to be unreasonable.

The Victorian DBs are continuing to work towards a satisfactory resolution of these areas of disagreement with AEMO, to ensure that the delivery of essential transmission connection and shared network augmentations is not delayed by disputes over such matters. One possible remedy being considered by the Victorian DBs is the pursuit of a Rule change to clarify that the transmission use of system services that would be provided by AEMO under the circumstances described above would be defined as prescribed services.

We acknowledge that the classification of transmission services, and the terms under which such services are offered are matters that are beyond the scope of the Commission’s review of the national distribution planning framework. Nonetheless, they are noted here because they are matters that have affected the operation of joint planning in Victoria where transmission connection works have triggered the need for shared transmission network augmentations. It is therefore appropriate that the Commission should be aware of these matters in the context of its present review.

3.4 Full recovery by distributors of all transmission charges

Footnote 21 on page 21 of the Draft Report states:

“It is noted that, in their submissions to the Scoping and Issues Paper, CitiPower & Powercor and SP AusNet noted that the Rules should be clarified such that they provide for all transmission charges to be passed through to network users via distribution tariffs. The DNSPs considered that the current clause 6.18.7 does not provide for the pass through of costs arising from transmission connection assets. However, as they submitted that DNSPs have adequate incentives to plan connections assets efficiently, all the costs from transmission connections should be able to be passed through to customers.”

The Victorian DBs remain of the view that while clause 6.18.7 of NER appears intended to allow for full pass-through of transmission use of system and transmission connection charges by DNSPs, that clause (inadvertently) does not explicitly provide for the recovery by DNSPs of transmission connection charges.

The AEMC’s present review provides an opportunity to correct this discrepancy. We therefore propose that clause 6.18.7 should be amended to provide for the full pass-through by a DB of all charges levied on it in relation to transmission services. We would welcome the Commission’s confirmation of its intention to address this matter in the course of the present review; alternatively, it may be considered to be more appropriate to address this matter through the “fast track” Rule change process.

4 Reporting requirements

The Victorian DBs’ views on the proposed reporting requirements are consistent with those set out in the ENA submission, and we concur with, and adopt the ENA’s comments and suggestions regarding the proposed reporting arrangements.

In addition, we consider that mandating that a public forum is to be held following the publication of an APR is unnecessary where there is no interest in such a forum. Indeed, such a requirement will result in wasted resources where events are held without an audience. However, the Victorian DBs are keen to engage with stakeholders who are

interested in matters covered in the APR, so we recommend that the proposed provision be changed to require DNSPs to hold a public forum where they are requested by any interested party.

5 Regulatory Investment Test for Distribution

Further to our comments in section 2.2 above, we note that the introduction of the proposed RIT-D would result in significant changes in the Victorian DBs' operational practices, and that there would be a corresponding increase in the costs incurred by the Victorian DBs in complying with the proposed requirements.

We therefore strongly support the proposals for a simplified RIT-D process outlined by the ENA in its submission. We also support the ENA's proposals regarding:

- the definition of the threshold for application of the RIT-D. In particular, we strongly support the proposal that the threshold be set (initially) at \$5 million, noting that this threshold will be subject to review in three years following its implementation, at which time the merits, costs and benefits of changing the threshold could be assessed in light of experience at that time;
- the simplification and clarification of the Specification Threshold Test;
- the removal of any requirement on DNSPs to second-guess the detailed characteristics of non-network alternatives from the Project Specification Report;
- the streamlining of the accelerated consultation process, and in particular, the clarification of what constitutes prior engagement for the purpose of that process; and
- the exclusion of primary distribution feeders from the RIT-D.

We concur in principle with the ENA's views regarding the application of the RIT-D to augmentation components of asset replacement works, however we note that:

- In practice, distinguishing between asset replacement and augmentation expenditure will be problematic where old assets are replaced with modern equivalents of a different technology, rating or capacity.
- These practical considerations suggest that the proposal outlined in section 4.4.1 of the Draft Report is probably unworkable.
- Moreover, it is noted that in its recent determination on the RIT-T, the Commission determined that replacement capital expenditure should not be included in the RIT. We consider that the treatment of distribution asset replacement expenditure under the RIT-D should be consistent with the approach applied in transmission under the RIT-T.
- The Specification proposes that the RIT-D should cover all categories of distribution augmentation projects over the cost threshold excepting certain circumstances. This approach appropriately excludes replacement projects and the DBs support this decision.

In addition, we note that the draft recommendations are ambiguous as to whether the scope of the RIT-D would cover investments that provide support services alone. We suggest that the specification of the RIT-D should clarify that investments relating to support services by DBs will not be subject to the RIT-D. We consider that there are sound reasons for the framework explicitly excluding support services from the scope of the test as these would not

have a material impact on the network, and are highly unlikely to have any non-network alternatives.

We also concur with the ENA's comments regarding the exclusion of reliability improvement (STPIS-driven) capital expenditure from the RIT-D. We suggest that the Commission should give further careful consideration to the interaction of any RIT-D process and the STPIS, to ensure there are no unintended consequences arising. For instance, if a RIT-D analysis indicates that involuntary load-shedding is the most economic option, it appears inconsistent that the DNSP should be penalised under the STPIS if involuntary load-shedding actually eventuates as a result of the implementation of that option. In this context, we note that under the current Victorian S-factor service incentive scheme, a DB that is found to have undertaken adequate planning of transmission connections will not be penalised under the S-factor scheme for supply interruptions caused by a failure of transmission connection assets. The Commission should carefully consider providing similar exclusion provisions in the new national framework to ensure that distributors are not penalised under the STPIS where a RIT-D identifies exposure to involuntary load-shedding as the most economic option, and such load-shedding subsequently occurs following the implementation of that option.

Quite apart from the additional administrative costs associated with the proposed RIT-D processes, the ENA submission also notes that in a number of instances, the proposed processes give rise to the risk of delays in distribution investment, raising the prospect of reductions in the reliability of consumers' electricity supplies or delays in connecting new customers. We therefore encourage the Commission to carefully consider the ENA submission, and to ensure that the proposals set out in the Final Report satisfy the principles of economic efficiency and proportionality adopted by the Commission for the purpose of this review.

6 Dispute resolution process

Page 62 of the Draft Report states:

"The dispute resolution process would be limited to a review of the DNSPs' compliance with the Rules in regards to their application of the RIT-D (i.e. a compliance review), rather than a merits review of DNSPs' decisions during the RIT-D process."

The Victorian DBs welcome the Commission's confirmation that the scope of the dispute resolution will be limited to a review of compliance. We note that this proposal is consistent with the dispute resolution procedures now established for the RIT-T.

That said, the ENA submission raises a number of substantive concerns regarding the following matters:

- The proposal that interested parties be allowed to raise disputes opens up the possibility that a potentially large number of disputes may arise. Accordingly, the ENA suggests that access to the dispute resolution process should be limited appropriately. We support the ENA's proposals on this matter.
- Initiation of a dispute would lead to delays of at least four months in commencing a project. In the case of short lead time projects, this could result in a need for urgent remedial action in order to avert customer supply interruptions.
- The proposal to effectively extend the dispute resolution process to all but the smallest investments that DNSPs make, taken together with the potential eligibility of end users as 'interested parties' to raise disputes opens up the prospect of a large number of disputes.

The ENA therefore recommends that the coverage of the dispute resolution process should be limited to an investment where the cost of the recommended option is greater than \$5 million.

We support and adopt the ENA submission in relation the proposed dispute resolution process.

7 Observations on the framework for distribution planning

We concur with, and we adopt the views expressed in the ENA's submission in response to the Commission's invitation to comment on the need for further reviews in the following areas:

- the process for the determination of jurisdictional reliability standards;
- the relevance and application of Schedule 5.1 of the Rules to distribution;
- target setting of and reporting on reliability performance; and
- asset management practices and reporting.