

12 June 2009

John Tamblyn
Chairman
Australian Energy Market Commission
Level 5, 201 Elizabeth Street
Sydney NSW 2000

By email: submissions@aemc.gov.au

Dear John,

Indicative Framework Presented in AEMC Review of National Framework for Electricity Distribution and Expansion Stakeholder Workshop Paper

Grid Australia makes this submission in response to the Australian Energy Market Commission's Review of the National Framework for Electricity Distribution Network Planning and Expansion, Stakeholder Workshop Paper (May 2009).

Grid Australia has participated in both of the Stakeholder Workshops that were conducted on 27 May and 4 June. The purpose of this submission is to set out a number of areas where Grid Australia considers the Indicative Framework Specification (the Specification) is inappropriate or where changes could be made to improve the overall package.

Annual Planning Report

Inclusion of Asset Management Strategy

As stated in its submission to the earlier Scoping and Issues Paper, Grid Australia considers that the Annual Planning Report (APR) should be a forward looking document that provides general information about emerging network requirements. Grid Australia notes that the Specification proposes the inclusion of asset management strategies and methodologies within the APR for DNSPs.

At the workshops it was clear that the background to this proposal was directed towards optimising the timing of asset replacements in circumstances where there is no level of network redundancy. Grid Australia considers that asset management practices are matters for the internal operations of the companies involved, and in any event are subject to periodic scrutiny by the AER as part of the revenue determination process. For these reasons Grid Australia does not support the proposal in the Specification for details of asset management strategy and methodology to be included in the APR.

Certification of the APR

The Specification proposes a requirement for the Chief Executive Officer and a Director of the DNSP to certify that the APR meets applicable regulatory requirements and reflects the relevant policies of the DNSP, and that the DNSP has complied with those policies and is committed to implementing the outcomes from the APR.

Grid Australia considers that such a requirement does not contribute usefully to the planning process and is heavy-handed regulation. As the APR is a forward looking document, based on forecasts prepared at a specific time, it is inappropriate for a NSP to commit to a specific course of action many years in advance. If circumstances change then plans may need to be revised and it would not be prudent for a NSP to ignore more up to date information.

Level of Detail to be Included in the APR

Grid Australia notes that in a number of areas the Specification proposes that a high degree of detailed information be provided. Grid Australia reiterates the earlier comment that the APR is a forward looking document based on forecasts prepared at a specific time. It would be misleading to convey the impression that there is a high degree of certainty in the forecasts or of future action, when in many circumstances that certainty may not exist. For instance, the date at which a RIT-D assessment commences may change by a whole year if there is a change in demand forecasts.

Joint Planning and Investment

The Specification proposes that for joint network investments, involving more than one NSP, the NSPs must determine one NSP to be responsible for:

- planning the investment;
- undertaking the Regulatory Investment Test; and
- construction of the preferred option.

The Specification also proposes that where agreement cannot be reached between NSPs then the AER is to nominate a NSP to undertake these roles.

Grid Australia does not support a framework where a single NSP would be required to take responsibility for joint planning and investment activities. NSPs should only be obligated to make investments in their own networks to meet service obligations and that where they are making investments they will need to be part of the Regulatory Investment Test process.

The experience of Grid Australia members is that the current provisions in the Rules around joint planning and investment are generally suitable. The practice that has been adopted in all jurisdictions except Victoria is that the outcomes of joint planning activities are documented in a co-branded Regulatory Test consultation and that each NSP then proceeds to construct the relevant parts of the preferred option within their own networks. This practice has worked without incident in the past and there appears to be no justification for changing current practice.

If the Commission is concerned that the current Rules do not provide a framework for resolving disagreements between NSPs then Grid Australia considers that this should be dealt with in Connection Agreements between the parties and not specifically involve the AER. Alternatively,

it could be clarified that the situation constitutes a dispute under the Rules and that the Chapter 8 dispute resolution provisions apply.

Regulatory Investment Test for Distribution (RIT-D)

Scope of the RIT-D

The Specification proposes that all distribution network investments costing more than say \$2 million will be subject to the RIT-D. It appears that these criteria would capture many more projects than are currently subject to the Regulatory Test, which is limited to network augmentations costing more than \$10 million.

Grid Australia does not consider it appropriate that non-augmentation projects be captured by the RIT-D. The Terms of Reference provided by the MCE require DNSPs to undertake case by case project assessments triggered by certain thresholds. While the specifics of thresholds to be applied are a valid subject for the Review the MCE also stated that the specific outcomes to be achieved include:

- ensuring DNSPs develop the network efficiently. This includes addressing a perceived failure by DNSPs to look at non-network alternatives in a neutral manner when making distribution augmentation assessments; and
- appropriate information transparency to allow efficient planning by parties that may offer alternative, more cost-effective solutions to network augmentations to address emerging constraints.

Grid Australia notes the emphasis in the MCE Terms of Reference to providing a suitable framework for developing efficient non-network solutions to network augmentations. Grid Australia agrees that the emphasis in the framework for both the RIT-D and the APR should be on meeting new and growing demands on the network. Investment decisions for which there can be no non-network alternatives, such as the replacement of existing assets, should not be subject to the RIT-D.

Regarding the investment threshold at which the RIT-D will apply, it was noted during the workshops that the existing \$2 million threshold that applies in South Australia was selected primarily on the basis that it captured around 10-15 projects per annum. That is, it was selected, at least in part, on the basis that it did not result in a plethora of public consultations which would only serve to devalue the consultation process. While the challenge for the Commission is to decide a single threshold for application across the NEM, Grid Australia considers that a threshold of \$5 million would be appropriate. Such a threshold would subject a reasonable number of DNSP projects to public consultation, and would also align with the threshold for application of the RIT-T.

Project Specification Stage

The Specification proposes that a DNSP publish a Project Specification Report where there is material potential for non-network options to either defer or remove the need to a network investment. Interested parties would then have between 6 and 9 months to make submissions unless the DNSP has “constructively engaged” with non-network proponents.

Grid Australia is concerned that phrases such as “constructively engage” are ambiguous and that an objective assessment of meeting this requirement will be problematic. The Specification

already proposes that DNSPs be required to publish a comprehensive Non-Network Strategy and this document, together with the APR, should be more than adequate to allow non-network providers to identify opportunities and engage with the DNSPs early.

The framework proposed in the Specification is heavily weighted towards DNSPs seeking out non-network solutions. Grid Australia considers there could be more emphasis placed on providing incentives to non-network solution providers to identify opportunities early and engage with the DNSP earlier than at present. If they fail to engage early with DNSPs they will miss the opportunity to have their alternatives incorporated into the planning and investment process. Having an extended consultation period at the Project Specification Stage does not encourage this early engagement.

Dispute Resolution

Grid Australia notes that the Specification proposes a dispute resolution process that is closely aligned with the process under the RIT-T. Grid Australia considers that the disputes resolution process should be limited to RIT-D assessments where the capital cost of the preferred option is greater than \$5 million. This would align with both the arrangements for the RIT-T and the threshold for application of the RIT-D proposed by Grid Australia.

If the Commission determines that the threshold for application of the RIT-D should be less than \$5 million then the threshold for access to the dispute resolution arrangements should nevertheless be \$5 million. This is to avoid the practical difficulties that would almost certainly result if many RIT-D assessments between \$2 million and \$5 million are potentially subject to disputes.

Grid Australia would be pleased to discuss any aspect of this submission.

Yours sincerely,



Rainer Korte
Chairman
Grid Australia Regulatory Managers Group