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10 July 2006

Dr John Tamblyn
ChairmanAustralian Energy Market Commission
PO Box H166
AUSTRALIA SQUARE NSW 1215

Dear Dr Tamblyn

**National Electricity Rules: Rule Change Application
Rules to establish a comprehensive inter-participant framework for addressing
network reconfiguration**

We refer to our rule change application, dated 17 May 2006, (**rule change application**) and our letter of 2 June 2006 requesting the Rule change be expedited.

First, regarding our letter of 2 June 2006, we wish to make clear that it was not intended to imply that Powerlink has not appropriately informed Stanwell concerning the project referred to in that letter. Indeed we apologise if that unintended inference has been drawn.

Second, we are now writing to suggest some refinements to the framework of the rule change we proposed.

One refinement involves a narrowing of the scope of the rule change such that it does not apply to network replacements, but only to network reconfigurations.

Stanwell also suggests a refinement of the definition of reconfiguration such that it only applies where the Transmission Network Service Provider estimates that they will be required to invest a total capitalised expenditure in excess of \$10 million, not the \$1 million previously proposed. In addition we recognise that market participants themselves are best placed to analyse the financial impacts to them of a network configuration. Accordingly we suggest a further refinement that requires market participants to identify themselves to the Transmission Network Service Provider as being an affected party.

These changes aim to reduce compliance costs for network businesses. A detailed explanation of the reasons Stanwell has decided to refine the rule change application can be found in Attachment A of this letter.

A revised draft of the proposed rule change can be found in Attachment B of this letter.

It has also been suggested to Stanwell that the compensation mechanism in the proposed rule change could be enhanced if the AER were to issue guidelines to assist in the quantification and verification of the compensation amount. Stanwell considers that

suggestion is worth considering or alternatively a process that is similar to the AER's role under clause 6.5.8(e) which provides TNSPs with certainty in respect of prudent discounts on network charges.

We further note that in Stanwell's discussions with the Commission regarding the rule change, the Commission raised the following issues:

- How can a reconfiguration project be identified? and
- How would the Regulatory Test apply to reconfigurations and in particular, would the reliability or market benefits limb apply?

We now provide in Attachment C of this letter a discussion which addresses the Commission's questions.

Should you have any questions, please contact Denis Warburton on (07) 3335 3846.

Yours sincerely



Gary Humphrys
Acting Chief Executive Officer

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Attachment A: Stanwell's reasons for variation of the application

Stanwell's reasons for launching the application were that it was concerned that whilst the Rules provide a detailed cost-benefit analysis (or for reliability augmentations a least costs analysis) before networks can be augmented, there is no such check for other changes to the network, and in particular, a reconfiguration of the network. A reconfiguration can materially adversely affect existing network users if they have made investments in assets on the basis of the current configuration of the network where the proposed reconfiguration would prevent the assets being used as originally envisaged. The costs for network users of stranded assets can be very significant indeed.

The purpose of the rule change proposal was to:

- extend the same substantive cost-benefit analysis that applies to augmentations to other changes to the network; and
- adopt a significantly more streamlined consultation process because consultation can be costly to networks and, generally speaking, when altering the existing network, the parties affected can more easily be identified than for network augmentations.

Stanwell's original Rule change proposal sought to capture all possible network changes, including replacement decisions.

Since then, other market participants and other parties have been in consultation with Stanwell about its Rule change proposal. That consultation has reaffirmed Stanwell's resolve that this Rule change is needed, but with a more targeted scope.

Stanwell no longer considers that it is necessary for the Regulatory Test to be applied where there is like for like replacement of the network, because this would not adversely affect network users in the way that a re-configuration might. Further, we recognise that such a broad approach would result in compliance costs for network businesses.

Also, Stanwell understands that a more practicable threshold for the application of the Regulatory Test to reconfiguration would be \$10 million, not the \$1 million as previously proposed. This threshold is more appropriate as it would reduce compliance costs for network businesses whilst having a limited impact on network users.

In summary, Stanwell considers that the appropriate outcomes can be achieved by having a Rule change which applies to network re-configurations with costs greater than \$10 million.

Attachment B

(1) Proposed Rule Changes (in mark up)

Changes to be made to Current Rule

In Chapter 10

insert *network replacement or reconfiguration*

Works, which are not a new large transmission network asset or small transmission network asset to:

- ~~(a) maintain the size or capability of the network to transmit or distribute active energy; or~~
- (a) permanently re-route the path or the network; or
- (b) modify the technical capabilities or usability for Network Users of all or parts of the network;

in relation to which the Transmission Network Service Provider:

- (c) estimates it will be required to invest a total capitalised expenditure in excess of \$1 million; or of \$10 million, or
- (d) ~~reasonably apprehends~~ has been advised by a ~~that market participants that it~~ will incur a cost and/or forgo revenue in excess of \$1 million.

In Chapter 10

insert subclause 4 into *affected participant*

- (4) In Clause 5.6.6C, a market participant whom has informed a the Transmission Network Service Provider within 60 business days of a publication pursuant to clause 5.6.6C ~~reasonably apprehends that the market participant~~ will incur a cost, or loss of revenue, in excess of \$1 million as a result of a proposed *network replacement or reconfiguration*.

insert clause 5.6.6C

- (a) Prior to undertaking a network replacement or reconfiguration a Transmission Network Service Provider must publish in the Annual Planning Report; ~~prepare and provide a notification report to all affected participants which sets out:~~
 - (i) the month and year in which the proposed *network replacement or reconfiguration* will become operational;
 - (ii) the purpose of the *network replacement or reconfiguration*;
 - (iii) the total cost of the proposed *network replacement or reconfiguration*;
 - (iv) other reasonable *network and non-network* options to the *network replacement or reconfiguration*. Other reasonable *network and non-network* options include, but are not limited to, *interconnections, generation options, demand side options, market*

network service options; options involving other transmission and distribution networks and options which involve maintaining the existing configuration of network.

- (v) an explanation of the ranking of reasonable alternatives to the project including *non-network* alternatives. This ranking must be undertaken by the *Transmission Network Service Provider* in accordance with the principles contained in the *regulatory test*; and
- (vi) whether the proposed solution will have a *material inter-network impact*. In assessing whether a *network replacement or reconfiguration* will have a material inter-network impact a *Transmission Network Service Provider* must have regard to the objective set of criteria published by the *Inter-regional Planning Committee* in accordance with clause 5.6.3(i) (if any such criteria have been published by the *Inter-Regional Planning Committee*).

Drafting Note: The above clause (a) could sit in clause 5.6.6C or in clause 5.6.2A.

- (b) *The Transmission Network Service Provider* must consult with *affected participants* and provide a reasonable opportunity for *affected participants* to make written submissions in relation to the proposed *network replacement or reconfiguration*.
- (c) At the conclusion of the consultation process in clause 5.6.6C(a) *and (b)* and before undertaking the *network replacement or reconfiguration* :
 - (i) the *Transmission Network Service Provider* must consider the matters raised in the comments and written submissions of *affected participants* and make appropriate amendments;
 - (ii) if there is any material change in the proposed *network replacement or reconfiguration* as a result of the consultation process, the *Transmission Network Service provider* must provide a further notification report pursuant *of the details referred to in* clause 5.6.6C(a) to *affected participants*, in relation to the proposed *network replacement or reconfiguration*, incorporating the agreed or amended matters; and
 - (iii) the *AER* must take into account the matters raised in the consultation process in its determination of the *Transmission Network Service Provider's revenue cap* and its determination of whether the *network replacement or reconfiguration* the subject of the consultation satisfies the *regulatory test*.

In Chapter 5

insert clause 5.3.4B

Compensation for *network replacement or reconfiguration*

- (d) Unless a *connection agreement* otherwise provides for the relationship between the parties to it in respect of a *network replacement or reconfiguration*, compensation will be payable by a *Transmission Network Service Provider* to an *affected participant*, in the amount and at the time, the *affected participant* incurs an *additional* cost or forgoes revenue *(net of any direct costs in earning that revenue)* as a result of a *network replacement or reconfiguration* by the *Transmission Network Service Provider*;

- (e) Where a *connection agreement* provides that compensation is payable by a *Transmission Network Service Provider* to an *market participant* as a result of a *network replacement or reconfiguration*, the terms of and rate of compensation payable by the *Transmission Network Service Provider* must be reasonable.

Drafting Note: The above clause 5.3.4B(b) could alternatively sit in 5.3.6 or clause 5.3.7.

Insert into Schedule 6.2(3)

When determining the costs of *transmission network assets* (other than *new transmission network investment* allocated to Generators), where an asset forms part of a *network replacement or reconfiguration* and compensation is payable by a *Transmission Network Service Provider* pursuant to Clause 5.3.4B or a *connection agreement*, the cost allocated may include the cost of compensation payable by the *Transmission Network Service Provider* arising from that *network replacement or reconfiguration*.

In Chapter 10

insert clause (f) into *Pass through event*

Pass through event -

Any one of the following events:

- (f) an Insurance Event;
- (g) a Service Standard Event;
- (h) a Tax Change Event;
- (i) a Terrorism Event;
- (j) a Network (Grid) Support Event; or
- (f) a *Network Replacement or Reconfiguration Compensation Event*.

In Chapter 10

insert *network replacement or reconfiguration* event

An occurrence which:

- (a) requires a *Transmission Network Service Provider* to provide compensation to a *market participant* as a result of a *network replacement or reconfiguration*;
- (b) results in the *Transmission Network Service Provider* incurring *Materially* higher costs in providing *prescribed transmission services* than it would have incurred but for that occurrence; and
- (c) allowance was not made in the *revenue cap* determination for the cost of the compensation.

Changes to be made to the draft Chapter 6 Rules released by the AEMC

In proposed Chapter 6

insert subclause (xi) into Clause 6.2.6(b)(3)

- (xi) reasonable estimates as to any compensation likely to be payable by the *Transmission Network Service Provider* to a *market participant* as a result of a *network replacement or reconfiguration*.

(2) Proposed Rule Changes (marked up changes incorporated)

Changes to be made to Current Rule

In Chapter 10

insert *network reconfiguration*

Works, which are not a *new large transmission network asset* or *small transmission network asset* to:

- (k) permanently re-route the path or the *network*; or
- (l) modify the technical capabilities or usability for *Network Users* of all or parts of the *network*;

in relation to which the *Transmission Network Service Provider*:

- (m) estimates it will be required to invest a total capitalised expenditure in excess of \$10 million, or
- (n) has been advised by a *market participant* that it will incur a cost and/or forgo revenue in excess of \$1 million.

In Chapter 10

insert subclause 4 into *affected participant*

- (4) In Clause 5.6.6C, a *market participant* who has informed the *Transmission Network Service Provider* within 60 business days of a publication pursuant to clause 5.6.6C that the *market participant* will incur a cost, or loss of revenue, in excess of \$1 million as a result of a proposed *network reconfiguration*.

insert clause 5.6.6C

- (o) Prior to undertaking a network reconfiguration a *Transmission Network Service Provider* must publish in the *Annual Planning Report*:
 - (i) the month and year in which the proposed *network reconfiguration* will become operational;
 - (ii) the purpose of the *network reconfiguration*;
 - (iii) the total cost of the proposed *network reconfiguration*;
 - (iv) other reasonable *network* and *non-network* options to the *network reconfiguration*. Other reasonable *network* and *non-network* options include, but are not limited to, *interconnections*, *generation* options, *demand side options*, *market network service options*; options involving other *transmission* and *distribution networks* and options which involve maintaining the existing configuration of *network*.
 - (v) an explanation of the ranking of reasonable alternatives to the project including *non-network* alternatives. This ranking must be undertaken by the *Transmission Network Service Provider* in accordance with the principles contained in the *regulatory test*; and

- (vi) whether the proposed solution will have a *material inter-network impact*. In assessing whether a *network reconfiguration* will have a material inter-network impact a *Transmission Network Service Provider* must have regard to the objective set of criteria *published* by the *Inter-regional Planning Committee* in accordance with clause 5.6.3(i) (if any such criteria have been *published* by the *Inter-Regional Planning Committee*).
- (p) The *Transmission Network Service Provider* must consult with *affected participants* and provide a reasonable opportunity for *affected participants* to make written submissions in relation to the proposed *network reconfiguration*.
- (q) At the conclusion of the consultation process in clause 5.6.6C(a) and (b) and before undertaking the *network reconfiguration* :
 - (i) the *Transmission Network Service Provider* must consider the matters raised in the comments and written submissions of *affected participants* and make appropriate amendments;
 - (ii) if there is any material change in the proposed *network reconfiguration* as a result of the consultation process, the *Transmission Network Service provider* must provide a further notification of the details referred to in clause 5.6.6C(a) to *affected participants*, in relation to the proposed *network reconfiguration*, incorporating the agreed or amended matters; and
 - (iii) the *AER* must take into account the matters raised in the consultation process in its determination of the *Transmission Network Service Provider's revenue cap* and its determination of whether the *network reconfiguration* the subject of the consultation satisfies the *regulatory test*.

In Chapter 5

insert clause 5.3.4B

Compensation for *network reconfiguration*

- (r) Unless a *connection agreement* otherwise provides for the relationship between the parties to it in respect of a *network reconfiguration*, compensation will be payable by a *Transmission Network Service Provider* to an *affected participant*, in the amount and at the time, the *affected participant* incurs an additional cost or forgoes revenue (net of any direct costs in earning that revenue) as a result of a *network reconfiguration* by the *Transmission Network Service Provider*;
- (s) Where a *connection agreement* provides that compensation is payable by a *Transmission Network Service Provider* to an *market participant* as a result of a *network reconfiguration*, the terms of and rate of compensation payable by the *Transmission Network Service Provider* must be reasonable.

Drafting Note: The above clause 5.3.4B(b) could alternatively sit in 5.3.6 or clause 5.3.7.

Insert into Schedule 6.2(3)

When determining the costs of *transmission network assets* (other than *new transmission network investment* allocated to Generators), where an asset forms part of a *network reconfiguration* and compensation is payable by a *Transmission Network*

Service Provider pursuant to Clause 5.3.4B or a *connection agreement*, the cost allocated may include the cost of compensation payable by the *Transmission Network Service Provider* arising from that *network reconfiguration*.

In Chapter 10

insert clause (f) into *Pass through event*

Pass through event -

Any one of the following events:

- (t) an Insurance Event;
- (u) a *Service Standard Event*;
- (v) a *Tax Change Event*;
- (w) a *Terrorism Event*;
- (x) a *Network (Grid) Support Event*; or
- (f) a *Network Reconfiguration Compensation Event*.

In Chapter 10

insert *network reconfiguration event*

An occurrence which:

- (a) requires a *Transmission Network Service Provider* to provide compensation to a *market participant* as a result of a *network reconfiguration*;
- (b) results in the *Transmission Network Service Provider* incurring *Materially* higher costs in providing *prescribed transmission services* than it would have incurred but for that occurrence; and
- (c) allowance was not made in the *revenue cap* determination for the cost of the compensation.

Changes to be made to the draft Chapter 6 Rules released by the AEMC

In proposed Chapter 6

insert subclause (xi) into Clause 6.2.6(b)(3)

- (xi) reasonable estimates as to any compensation likely to be payable by the *Transmission Network Service Provider* to a *market participant* as a result of a *network reconfiguration*.

Attachment C: Issues raised by the AEMC regarding the applicability of the Regulatory Test

Introduction

In discussions, the AEMC has raised the following questions:

How should a reconfiguration project be identified?

How would the Regulatory Test apply to reconfigurations and in particular, would the reliability or market benefits limb apply?

This note addresses these issues.

1. Principle underlying Stanwell's proposed Rule change

The fundamental principle underlying Stanwell's application for a Rule change is that (subject to the establishment of a streamlined consultation process for network reconfigurations) the same decision making standard should apply to:

- significant new investments to augment the network; and
- significant investments to reconfigure the network.

Indeed without this consistent treatment, network owner and operator incentives are distorted.

2. How should a reconfiguration be identified

Bearing in mind the underlying principle that the rules for reconfigurations should align with the rules for augmentations, the question then arises as to how a reconfiguration should be consistently identified. The purpose of identification is to ensure that the appropriate Regulatory Test procedures are followed and are commenced at the appropriate time.

The National Electricity Rules (the **Rules**) define an augmentation as:

Works to enlarge a network or to increase the capability of a network to transmit or distribute active energy.

The definition proposed in the revised Stanwell rule change application for reconfigurations closely mirrors that definition, where it provides that they are:

Works which are not [augmentations] to:

- (a) *permanently re-route the path or the network; or*
- (b) *modify the technical capabilities or usability for Network Users of all or parts of the network...*

We believe that this definition will enable network businesses to identify the relevant network changes.

3. Application of the Regulatory Test

Bearing in mind the principle that the rules for reconfigurations should align with the rules for augmentations, the question of how the Regulatory Test should be applied to a reconfiguration should be consistent with how it is applied for an augmentation.

The Regulatory Test operates differently to augmentations depending upon whether the project concerned is:

- in respect of a reliability augmentation. In such cases it is a "least cost" test which applies where the augmentation is:

necessitated solely by the inability to meet the minimum network performance requirements set out in schedule 5.1 of the NER or in relevant legislation, regulations or any statutory instrument of a participating jurisdiction (Clause (1)a) of the Regulatory Test); or

- not in respect of reliability augmentation. In such cases it is a *maximum market benefit* test (Clause (1)(a)).

Similarly, a reconfiguration could either be a reliability initiative or one to which the maximum market benefit should be applied.

To ensure clarity it may be appropriate, in relation to the Rule change sought by Stanwell, to provide that a reference within the Regulatory Test to an "augmentation" also applies to a "reconfiguration".

An example of a reliability reconfiguration could include the case where a new legislative requirements may be imposed and works that are not an augmentation may be required to meet those new legislative requirements. The works may result in the network being re-routed.

An example of a reconfiguration that is not reliability driven could include re-routing a network to bypass land that has become expensive and could be put to better use than as a path for transmission.

In either case each relevant alternative, including maintenance of the existing network configuration, should be evaluated as options. Furthermore the effects upon the costs and benefits to a network user, such as Stanwell's loss of System Restart revenues, should be brought to account in clause 2 and 5 of the Regulatory Test.