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**Australian Energy Market Commission**

## **PROPOSED GUIDELINES**

Review of the last resort planning power guidelines

23 July 2015

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# GUIDELINES

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## **About the AEMC**

The AEMC reports to the Council of Australian Governments (COAG) through the COAG Energy Council. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the COAG Energy Council.

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These ~~Guidelines~~guidelines may be referred to as the "~~Last Resort Planning Power Guidelines~~" ~~(the Guidelines)~~last resort planning power guidelines" and are made under clause 5.6.422 of the National Electricity Rules (the ~~Rules~~)NER.

## 1. Purpose and scope of ~~the Guidelines~~these guidelines

1.1 The Australian Energy Market Commission (AEMC) is responsible for the exercise of a "last resort planning power" (LRPP) under clause 5.6.422 of the ~~Rules~~NER. The purpose of the LRPP is:<sup>1</sup>

"to ensure timely and efficient inter-regional transmission investment for the long term interests of consumers of electricity".<sup>2</sup>

1.2 The LRPP enables the AEMC to direct one or more Registered Participants to:

- identify a potential transmission project and apply the ~~Regulatory Investment Test~~regulatory investment test for ~~Transmission~~transmission (RIT-T)<sup>3</sup> to that project; or
- apply the RIT-T to a potential transmission project that has been identified by the AEMC.

1.3 ~~The Guidelines~~These guidelines provide further information ~~to Registered Participants and other interested stakeholders~~ about the AEMC's processes when considering the exercise of the LRPP including information gathering, consultation and communication.

1.4 ~~The Guidelines~~These guidelines have been developed and published by the AEMC in accordance with the transmission consultation procedures in clause 6A.20 of the ~~Rules~~NER, having regard to the requirements of clause 5.6.422 of the ~~Rules~~NER including:

- the purpose of the LRPP;
- the advisory role of the Australian Energy Market Operator (AEMO);
- the need for consideration of matters that are relevant to the exercise of the LRPP; and
- the annual reporting role on the matters considered by the AEMC in exercising the LRPP.

<sup>1</sup> ~~National Electricity Rules, 5.6.4(b).~~

<sup>2</sup> ~~NER clause 5.22(b).~~

<sup>3</sup> ~~The RIT-T and RIT-T application guidelines will first be published by the AER by 1 July 2010 under clause 5.6.5B(g) of the Rules.~~

~~1.5 The AEMC has also had regard to~~ the requirement for procedural fairness to be afforded to a Registered Participant when the AEMC is considering whether or not a ~~participant~~Registered Participant is to be nominated as a directed party~~;~~ ~~and,~~

~~• the annual reporting role on the matters considered by the AEMC in exercising the LRPP.~~

~~1.5 In addition to providing guidance to Registered Participants and other interested stakeholders about the AEMC's obligations when exercising the LRPP, the Guidelines also provide further information to:~~

- ~~• AEMO, regarding what advice it may provide to the AEMC in relation to the exercise of the LRPP; and~~
- ~~• other persons from whom the AEMC may request information relevant to the exercise of the LRPP.~~

## ~~2~~ **Date of commencement of ~~the LRPP Guidelines~~these guidelines**

The date of commencement of these amended ~~Guidelines~~guidelines is ~~4 June 2010~~.[date].

## ~~3~~ **Interpretation**

~~3.1~~ Any term used in ~~the Guidelines~~these guidelines that is defined in the ~~Rules~~NER has the same meaning as it has in the ~~Rules~~NER.

~~3.2~~ Where ~~the Guidelines~~these guidelines refer to “a directed party” this may be taken to include more than one directed party, where relevant.

~~3.3 Where the Guidelines refer to a “potential transmission project” this has the same meaning as in the Rules, that is “New network investment only in respect of a transmission network which the AEMC identifies as likely, if constructed, to relieve forecast constraints in respect of national transmission flow paths between regional reference nodes.”<sup>4</sup>~~

## ~~4~~ **AEMC's general approach to exercising the LRPP**

~~4.1~~ The AEMC uses a three stage process in determining whether to exercise the LRPP.

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~~4~~ <sup>4</sup> National Electricity Rules, Chapter 10.

4.2 The first stage involves undertaking analysis to determine whether there are any inter regional flow constraints in the national electricity market that are not being examined by Network Service Providers. To undertake this exercise the AEMC will generally analyse and compare the following documents:

- the two most recent National Transmission Network Development Plans published by AEMO under clause 5.20.2 of the NER;
- the most recent congestion information resource published by AEMO under clause 3.7A of the NER;<sup>5</sup>
- the most recent transmission annual planning reports published by Transmission Network Service Providers under clause 5.12.2 of the NER; and
- any other relevant documents, such as any RIT-T reports published under clause 5.16.4 of the NER.

4.3 The second stage of the process is only undertaken if the first stage identifies any constraints on inter regional flow paths that may not have been adequately examined by the relevant Network Service Provider(s). This stage involves more closely examining the inter regional flow paths and the estimated economic impacts of any constraints to determine whether exercising the LRPP may meet the national electricity objective. During this stage, the AEMC will request information from AEMO and relevant Registered Participants.

4.4 The AEMC will only undertake the third stage of the process if it has determined that exercising the LRPP may meet the national electricity objective during stage two of the process. This stage focuses on who the AEMC should direct to undertake the RIT-T.

#### **45 Request for advice from AEMO on the LRPP**

45.1 This section of ~~the Guidelines~~ these guidelines sets out the processes that apply where the AEMC requests advice from AEMO under clause 5.6.422(e) of the RulesNER.

45.2 The AEMC may include in any terms of reference in relation to a request to AEMO for advice under clause 5.6.422(e) of the RulesNER:

- a description of a problem relating to constraints in respect of national transmission flow paths between regional reference nodes (“the problem”) or a potential transmission project that will address a problem (“the project”);

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<sup>5</sup> AEMO publishes a national electricity market constraints report annually.

- the findings of the AEMC in respect of the matters listed in clause 5.6.4(h)(2)(g) of the ~~Rules~~NER and any other relevant considerations;
- a request for AEMO's view as to whether it is appropriate for the AEMC in all the circumstances, to exercise the LRPP in relation to that project or problem and the reasons for those views;
- a request for AEMO to provide recommendations as to which ~~Registered Participants~~Network Service Providers (if any) may be an appropriate directed party in the particular circumstances; ~~and~~
- a date by which the advice is to be provided to the AEMC, ~~which is not less than at least 60 business days from the date of the request; and~~
- any other relevant matter.

45.3 If AEMO, in preparing advice to the AEMC, forms the view that it requires further time, than initially provided for by the AEMC, it may, with the agreement of the AEMC, provide its advice on a later agreed date.

45.4 The AEMC must publish on its website:

- any terms of reference in relation to a request to AEMO for advice under clause 5.6.422(e) of the ~~Rules~~NER; and
- any extension of the time for the provision of that advice, as agreed between AEMO and the AEMC, and the reasons for the extension. —

## 56 Consultation on advice received from AEMO

56.1 The AEMC must publish on its website a copy of AEMO's advice to the AEMC in relation to the exercise of the LRPP and invite comment from interested persons.

56.2 If advice from AEMO includes a recommendation as to a person who has been nominated as a directed party, the AEMC must invite comment from that person on AEMO's advice, or on any other matters that the AEMC considers relevant.

56.3 If the AEMC considers that AEMO's advice to the AEMC affects any other person, it may invite comment from that person on AEMO's advice.

56.4 Any consultation under this section in relation to advice from AEMO is to be for a period of not less than 20 business days.

## 67 Provision of information for the exercise of the LRPP

67.1 The AEMC may, from time to time, request persons to provide information to inform the AEMC's decision making in relation to the exercise of the LRPP.

67.2 The AEMC may request information from:

- ~~• Registered Participants • Network Service Providers under consideration by the AEMC as a potential directed party; and~~
- other persons who may be affected by the exercise of the LRPP or who may be capable of providing relevant information to assist the AEMC in its decision making.

~~6.3 The AEMC may seek expert advice where it considers this is necessary.~~

~~7.~~

## 8. Treatment of confidential information

~~7.1 The AEMC's usual practice is~~8.1 Subject to any claims of confidentiality, the AEMC will publish information ~~on its website. However, where information is~~ provided in relation to the exercise of the LRPP, ~~the AEMC will take all reasonable measures to protect from unauthorised use or disclosure, any information given to it in confidence in connection with the performance of the LRPP, as provided for in section 24 of the Australian Energy Market Commission Establishment Act (SA) 2004~~ on its website.

78.2 Those persons providing information should clearly identify ~~the part(s) of the any~~ confidential information ~~that the claim for confidentiality relates to,~~ and give reasons why the material should be treated as confidential.

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~~9.~~

## ~~8.~~ Role of interested ~~stakeholders~~ persons in the AEMC's exercise of the LRPP

89.1 The AEMC is mindful that interested ~~stakeholders~~ persons may wish to make the AEMC aware of matters that may be relevant to the exercise of the LRPP.

89.2 Such provision of information should be in writing and may present the person's views as to the nature and extent of a problem and its relevance for the exercise of the LRPP.

89.3 While the AEMC is not bound to take action upon receipt of general information or adopt a suggested course of action, the AEMC considers that a free flow of information is in the public interest and wishes to encourage such input into its exercise of the LRPP. The AEMC may post any such communications on its website.

**9—How 10. Who will the AEMC nominate as a directed party?**

~~Only~~10.1 While the NER allows a Registered Participant ~~is capable of being to be~~ a directed party, ~~and thus be required in practice it will only be appropriate for a~~ Network Service Provider to undertake this role. Consequently, the AEMC will only direct a Network Service Provider to identify a potential transmission project and apply the RIT-T to that project, or to apply the RIT-T to a potential transmission project identified by the AEMC. ~~When considering who might be recommended by AEMO or nominated by the AEMC as an appropriate directed party to apply the RIT-T, the following factors will be considered:~~

- ~~• the Transmission Network Service Provider who is providing services to those users who would potentially benefit from a solution to the identified problem;~~
- ~~• the party (if any) who has the requisite expertise to undertake the RIT-T for the identified problem or project; or~~
- ~~• the Transmission Network Service Provider whose geographical area of operation includes the location of the identified problem or project.~~

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**11. Review of ~~the Guidelines~~ these guidelines**

11.1 Clause 5.6.4(~~22~~q) of the RulesNER allows the AEMC to amend or replace ~~the Guidelines~~these guidelines from time to time. The AEMC anticipates that it will review ~~the Guidelines~~these guidelines at intervals of five years, or earlier if the AEMC considers there is a need to do so.

END OF GUIDELINE