



13 October 2008

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

By Email: submissions@aemc.gov.au

Dear Dr Tamblyn

Proposed Rule change: Performance Standards Compliance of Generators

The NGF¹ responded positively to the Draft Determination by the AEMC on the NGF proposed rule change in relation to Performance Standards Compliance of Generators. In the main, we supported the modifications suggested by others as helpful and thought that the proposal was well accepted.

We note the general acceptance of the NGF approach from respondents to the Draft Determination (except for a curious submission by Roaring 40s). The NGF is therefore concerned that the AEMC would seek to fundamentally change the approach this late in the day. The proposed modification would:

- Destroy the quality assurance approach established by the NGF proposal and substitute a static, bureaucratic approval process
- Require the AER to both approve and assess compliance with compliance plans; and
- Give the AER an alarming power to second-guess generators and impose compliance plans on plants.

The NGF extensively consulted on its approach. We noted the differences in our approach to that proposed by the AEMC during our consultation process. The NGF approach was also accepted by the SCO, who were involved in drafting key sections. The NGF therefore believes its modified approach is widely supported and is unsure why the AEMC seeks to now include its own Rule change within the NGF proposal.

We believe our approach:

- Maintains the focus on good electricity industry practice by both:
 - allowing it to be defined in advance; and

¹ The National Generators Forum (NGF) directly represents the 22 major power generators in the National Electricity Market, representing over 95% of the total Australian market.

- requiring it to be modified in light of experience
- sets up a quality assurance approach that keeps compliance plans up to date with a clear template, obligations on generators to comply and the ability for the AER to assess compliance in advance of issues; and
- separates the AER role of assessing compliance from the technical role of defining good electricity industry practice and developing the plans, while still ensuring oversight.

Focus on good electricity industry practice

The current rules do not have an approval step. Generators, NEMMCO and TNSPs have to agree on the plans – essentially they agree on what is good electricity industry practice. To speed the process a template was developed by NEMMCO, the AER and TNSPs and accepted by the NGF. Subsequently the NGF and NEMMCO have refined the template to provide broader coverage for new technology and different types of plants.

The NGF proposal is designed to ensure that good electricity industry practice is articulated in advance and in a way that all plant types can select appropriate compliance regimes. The use of an approved template allows verification that compliance plan represents good electricity industry practice so that:

- a generator can be comfortable that they are compliant;
- the market can be comfortable that the requirements for compliance are clearly defined; and
- the AER can test compliance on an ongoing basis and in advance of issues developing.

Quality Assurance approach

The NGF recognises that good electricity industry practice is not fixed. While it is true that many elements are largely fixed for existing and proven technologies, newer technologies and refinements to aspects of current plants (eg control systems) require testing approaches and regimes to evolve. Investigations into NEM events by NEMMCO and the AER have also caused changes to procedures and testing requirements. A continuous improvement approach is therefore essential.

The NGF therefore did not propose a fixed compliance plan process. We think that an ongoing requirement to modify a plan based on market new information, market experience and the results of market investigations is important. The AEMC modifications will thwart this process.

The quality assurance approach was supported by all consulted parties prior to submission of the proposal, including the SCO.

Separation of the AER role of compliance assessment from an approval role

Currently, the AER have a compliance role, which allows them to examine compliance plans and give an assessment of whether they achieve good electricity industry practice. The routine auditing of power stations commenced this year by the AER, coupled with the investigations of system events, allows cost effective checking of generator compliance. This does not need to be further codified.

The NGF proposal strengthens the current approach by getting the Reliability Panel to bring the relevant parties together to agree on good electricity practice and encapsulate that in a template. The AER is able to verify before or after a system event whether a generator is compliant during its audit process. An approval step is not required.

The AEMC proposal also has the potential to place the AER in an untenable position if it substitutes its own plan in place of that put forward by the generator. In this case the responsibility currently put on the generator to continuously maintain an appropriate plan transfers to the AER. It would be up to the AER to determine when it either hands back the responsibility to the generators for upgrading the plan or varies it as the template is changed.

The AEMC proposal therefore would require the AER to become experts in the technical operation of the power system. This is both inefficient and unnecessary.

Additionally, from a practical perspective the AEMC proposal places the AER in the position of having 'substituted' its own compliance plan, and then subsequently carrying out regular compliance activities, including auditing and reviewing the compliance plan as part of its investigations. This potentially places the AER in the position of reviewing its own compliance plans, compromising its independent enforcement role.

If you have any questions in relation to this submission, please feel free to contact me in the first instance on 02 6243 5120.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'J Boshier', with a large loop at the end of the first name.

John Boshier
Executive Director