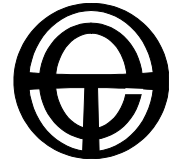


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20 January 2009

Steve Rodgers
Governance and Institutions Section
National Energy Market Branch
Department of Resources, Energy and Tourism
Email AEMO_ISC@ret.gov.au

Dear Mr Rodgers,

Re: Draft amendments to the NEL and NER – AEMO

The draft amendments to the National Energy Law (NEL) and the Rules for the establishment of the Australian Energy Market Operator (AEMO), released by the Ministerial Council on Energy (MCE), cover a wide range of details. Total Environment Centre (TEC) is primarily concerned with the arrangements for the National Transmission Planner (NTP), contained in Schedule 2 of the Amendment Rules.

TEC has already put forward a number of comments on features of the proposed NTP and its functions during the Australian Energy Market Commission (AEMC) Review. We attach to this letter the most recent of our submissions on this subject (of 10 June 2008) and ask that it be considered as part of this submission. We believe some improvement could be made to the focus and form of the NTP.

TEC is still not satisfied that the proposed NTP sufficiently meets the goal of promoting non-network alternatives to augmentation and expansion of network systems. There is still a very strong bias within the NEL and the Rules in favour of constant expansion to promote continued growth of supply, with very limited scope for incentives for Transmission Network Service Providers (TNSPs) to select non-network solutions. The NEM stands out from other areas of energy policy and regulation (for example costing carbon, energy efficiency and renewable energy schemes) for its failure to acknowledge and act on dangerous climate change. It is time the National Energy Market (NEM) was properly overhauled to respond. The AEMC is running reviews that are relevant to these goals, but positive outcomes for the reduction of climate change are not guaranteed from these reviews.

The establishment of the AEMO offers a new opportunity to genuinely reform parts of the NEM and some of its proposed features could assist, such as the existence of a NTP.

There are two major barriers still embedded in the proposals for the NTP – the requirement on TNSPs to report on their investigation and implementation of demand management (DM) is embryonic at best; and there is currently limited information collected on DM activities and the potential for expansion of these activities. The AEMO could assist with both collation of information and advice on action.

We present below our recommendations for changes to the draft Rules as set out in Schedule 2. They are all based on the principle of correcting the balance within the NEM by emphasising the promotion of non-network solutions.

Rule amendments

5.6.2(b) (re provision of information to DNSPs)

The emphasis should be changed to place augmentations second:

4 consider the potential for non-network alternatives to augmentations, or augmentations, that are likely to provide a net economic benefit to all those who produce, consume and transport electricity in the market.

5.6.3 (re publishing information, guidelines and provision of advice)

This section appears to deal only with “material inter-network impacts” and consequently the effects of augmentation. There is no parallel facility in this clause for the AEMO to develop guidelines or advice on non-network alternatives in this context. TNSPs have limited experience in this area and therefore need more assistance from the AEMO. For instance, in response to a proposal for augmentation with potential inter-network impact it would be extremely useful for TNSPs to offer alternatives to such a proposal, with the AEMO being required to develop an “objective set of criteria” for assessing such alternatives. This is a loose end that clearly has not been addressed.

5.6A.2 (re Publication of NTNDP)

b)2) Again non-network alternatives have been neglected. Demand management and other non-network matters have been excluded from the issues to be considered in b)2. The AEMO should also assess the potential for non-network alternatives, including the quantity of demand side response that may be available. This is in fact included in some form in the annual statement of opportunities [(b)3)iii)], so this information at a minimum could be inserted wherever relevant in b)2).

c) there is nothing in the section about the NTNDP that refers to non-network solutions, instead the emphasis is on “development of the national transmission grid”. Which begs the question – why not also consider solutions that reduce the need for further development? Neglect of DM and other solutions is a major

problem here. Augmentations are clearly referred to, but not the opposite side of the coin even though non-network solutions could provide efficient, reliable and more cost-effective alternatives. TNSPs must be encouraged to develop expertise in reporting on investigating non-network alternatives and their implementation of these alternatives.

5.6A.3 (re transmission flow paths)

This section provides a counterpoint to the above sections, and an example of an improved approach, since non-network investment and options are consistently included. TEC appreciates the emphasis in this section, but considers that with minimal experience in reporting on the part of not only the TNSPs but also the current regulators (such as the AER and NEMMCO), it will be very problematic for the AEMO to collect relevant information. This is a gap that must be filled.

5.6A.4 (re NTNDP database)

“Forecasts for non-network potential” should be added to the list of inputs.

Yours faithfully,

Glyn Mather
NEM Advocate
Total Environment Centre