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Dear Sir or Madam

### **Submission on draft National Electricity Rules**

#### **Introduction**

VENCorp welcomes the opportunity to provide its comments on the Ministerial Council on Energy's (MCE) exposure draft of the new National Electricity Rules (Rules).

In relation to the provisions that VENCorp reviewed, it believes that, with a few exceptions, the MCE has successfully meet its objective of ensuring that the substantive rights and obligations of participants in the National Electricity Market (NEM) will remain the same. The exceptions identified are discussed below.

#### **Amendments to clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i)**

The amendments proposed by the MCE to clauses 6.4.3C(b)(5)(ii) & (c)(1)(i) of the National Electricity Code (NEC) on conversion of the NEC to the Rules represent a substantial change to the current operation of those provision in the NEC. In amending those clauses, the MCE has introduced a direct inconsistency between clauses 6.4.3C and 6.5.8. Accordingly, VENCorp requests that the current wording of clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) in the NEC is reinstated.

Clause 6.4.3C relates to the determination of transmission use of system (TUOS) costs to be recovered through customer TUOS general charges. The MCE is proposing to amend clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) as follows:

Clause 6.4.3C relates to the determination of transmission use of system (TUOS) costs to be recovered through customer TUOS general charges. The MCE is proposing to amend clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) as follows:

(b) The following amounts ~~are to~~ must be deducted from that portion of the *aggregate annual revenue requirement* to calculate the balance or surplus referred to in ~~paragraph (a)~~ clause 6.4.3C(a):

(5) any amount by which:

(i) the revenue earned from *prescribed services* in previous *financial years* (excluding any revenue earned from *prescribed services* as a result of the provision of those *prescribed services* to a higher standard, and including revenue that would have been earned from *prescribed services* but for the provision of those *prescribed services* to a lower standard, than those described in schedule 5.1 or those *published* in accordance with clause 6.5.8 (b) under clause 6.5.8),

exceeds

(ii) the sum of the *aggregate annual revenue requirement* as defined in clause 6.3 in those *financial years* (excluding the amount of any reduction in *Customer TUOS general charges* or *common service charges* provided by the *Transmission Network Service Provider* under clause 6.5.8(b) in those *financial years* that it was not entitled to recover from other *Transmission Customers* under clause 6.5.8(c) but did not so recover).

(c) The following amounts ~~are to~~ must be added to that portion of the aggregate annual revenue requirement to calculate the balance or surplus referred to in ~~paragraph (a)~~ clause 6.4.3C(a):

(1) the amount by which:

(i) the sum of the *aggregate annual revenue requirement* as defined in clause 6.3 in previous *financial years* (excluding the amount of any reduction in *Customer TUOS general charges* or *common service charges* provided by the *Transmission Network Service Provider* under clause 6.5.8(b) in those *financial years* that it was not entitled to recover from other *Transmission Customers* under clause 6.5.8(c) but did not so recover),

exceeds

(ii) the revenue earned from *prescribed services* in those previous *financial years* (excluding any revenue earned from *prescribed services* as a result of the provision of those *prescribed services* to a higher standard and including revenue that would have been earned from *prescribed services* but for the provision of those *prescribed services* to a lower standard, than those described in schedule 5.1 or those *published* in accordance with clause 6.5.7(b) under clause 6.5.8)

#### *Operation of the existing NEC clause 6.4.3C*

Under clause 6.4.3C of the NEC, a transmission network service provider (TNSP) determines the transmission use of system costs to be recovered through customer TUOS general charges in a financial year. Pursuant to clauses 6.4.3C(b)(5) and (c)(1), a TNSP must deduct or add to the year's aggregate annual revenue requirement (AARR) the amount of any over or under recovery, respectively, of the sum of its AARRs in prior financial years in determining those transmission use of system costs.

Thus, a TNSP may recover in a financial year the amount by which it under-recovered in previous financial years as against the sum of its AARRs. Where a TNSP is not entitled to recover from other transmission customers the amount of any reduction in customer TUOS general charges and common services charges provided in a previous financial year, this will result in under-recovery of its full AARR for that year. However, the TNSP should not be entitled to recover the amount of this under-recovery of its AARR in subsequent years under clauses 6.4.3C(b)(5) and 6.4.3C(b)(1).

For this reason, clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) of the NEC currently require the amount of any reduction in customer TUOS general charges and common service charges provided by a TNSP under clause 6.5.8(b) in previous financial years, that it was not entitled to recover from *other* transmission customers under clause 6.5.8(c), to be deducted from the sum of the TNSP's AARR in those previous financial years in determining the TNSP's over or under-recovery in those years.

#### *Implications of Rules amendments to 6.4.3C*

As a result of the amendments to clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) in the conversion of the NEC to the Rules, the express exclusion from the sum of the AARRs for previous financial years of the amount of any reduction in customer TUOS general charges or common service charges that the TNSP was not entitled to recover from other transmission customers under clause 6.5.8 is removed.

However, this may not change the operation of the provisions of Part C of Chapter 6 taken as a whole, having regard to:

- clause 6.5.8(c), which provides for recovery only where a TNSP is entitled to recover; and
- clause 6.5.8(e), which permits the Australian Energy Regulator (**AER**) to reduce the revenue cap where a TNSP recovers the amount of the reduction but is not entitled to do so.

More significantly, following the Rules amendments, in determining the amount of any over or under-recovery in previous financial years, the TNSP must deduct from the sum of its AARRs in those years the amount of any reductions in customer TUOS general charges and common service charges provided by it under clause 6.5.8 in those years that it was then entitled to recover, but did not so recover. The amendments to clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) (considered in isolation) operate to limit the recovery by a TNSP of the amount of any reductions in customer TUOS general charges and common service charges from its other customers to the financial year in which the reduction occurred.

Thus, the amended clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) are in direct conflict with clause 6.5.8(d), which provides:

*Where for any reason the Transmission Network Service Provider does not recover the amount of a reduction it is entitled to recover from other Transmission Customers under clause 6.5.8(c) in the financial year in which the reduced Customer TUOS general charges or reduced common service charges (as the case may be) apply, the Transmission Network Service Provider may recover the amount of the reduction through the Customer TUOS general charges to apply in a subsequent financial year in accordance with clause 6.4.3C(b)(5) or (c)(1).*

For these reasons the Rules amendments to clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) are a material and undesirable change to the operation of the existing transmission pricing provisions. Therefore, VENCORP seeks to have the current wording of clauses 6.4.3C(b)(5)(ii) and 6.4.3C(c)(1)(i) in the NEC reinstated.

### **Ability of NEMMCO to collect information for the SOO**

Clause 5.6.3 sets out a non-exhaustive list of obligations conferred on the Inter-Regional Planning Committee (IRPC). Previously one of the functions of the IRPC was to:

Assist NEMMCO in the preparation of the *statement of opportunities* in accordance with clause 5.6.4

The MCE is proposing to delete this clause. The justification appears to be that NEMMCO can seek the assistance of the IRPC in the preparation of the Annual National Transmission Statement (ANTS). While VENCORP agrees that the IRPC will be able to provide information to NEMMCO in the preparation of the ANTS, TNSPs also provide information to NEMMCO relating to the supply/demand balance which is not necessary for the preparation of the ANTS. The proposed wording of the code may prohibit NEMMCO from requesting this information through the provisions relating to the ANTS.

VENCORP, therefore, suggests that the MCE retain clause 5.6.3(a)(1).

### **Typographical amendments**

Annex 1 contains a list of minor amendments which VENCORP believes will aid the clarity of the Rules.

Should you have any questions about these matters please do not hesitate to contact Louis Tirpcou on (03) 8664 6615.

Yours sincerely,



Matt Zema  
Chief Executive Officer

## Annex 1

### Minor Amendments

Clause No.	Suggested amendment	Comment
<b>Chapter 5</b>		
5.2.3(d)(9)	Retain wording up to power system	NEMMCO and other NSPs should still be provided with this data. Also ensures that the reference to this clause in 5.2.3(d)(10) is valid.
5.3.3(b)	Amend “2 weeks” to “10 business days”	Ensure consistency with clause 5.3.2
5.3.3(b1)	Amend “4 weeks” to “20 business days”	Ensure consistency with clause 5.3.2
5.3.3(c)	Amend “4 weeks” to “20 business days”	Ensure consistency with clause 5.3.2
5.6.2(f)	Insert the word “Distribution” in front of the second “network service provider” and “network asset”	Improves legibility
5.6.2(i)	Insert the word “Distribution” in front of the network asset	Improves legibility
5.6.2A	Replace “and” with “or”	A forecast constraint does not necessarily result in an inability to meet the network performance requirements. Ensures consistency in terminology with clauses 5.6.2A (ii) and (iii)
5.6.5(e)	Replace “may” with “must”	Because of the impact of the ANTS on all networks NEMMCO should be compelled to consult with the IRPC.
<b>Chapter 6</b>		
6.4.3C(c)(3)	Include reference to 5.5	The diagram in clause 6.3.1 implies that clause 5.5 is relevant for this clause.
6.5.1	Replace “Transmission Customer” with “Generator” in the heading	Generators pay entry charges, not Transmission Customers. The definition of Transmission Customer in chapter 10 does not include a generator.
6.5.4(b)(1)	Include the word transmission in front of network	This will ensure consistency with other amendments made in chapter 6

6.5.5	Include the words “change in the” between “the “ and “average” in the second last line.	This will ensure that the true intention of the clause is applied
6.5.4	Replace “are to” with “must”	Ensures consistency with other amendments.
6.5.4A	Reinsert the word “transmission” in front of network	This will ensure consistency with other amendments made in chapter 6
6.5.4A(f)	Place the word “be” after the word “must”	Grammatical amendment
6.5.8(d)	Insert the word clause in front of (c)(1)	Grammatical amendment
<b>Chapter 9</b>		
9.8.4C(d)	Replace “clause” with “clauses”	Grammatical amendment
9.8.4F(c)(4)(i)(A)	Replace “clause” with “clauses”	Grammatical amendment
9.8.4F(c)(4)(ii)(A)	Replace “clause” with “clauses”	Grammatical amendment
9.8.4F(e)(1)(i)	Replace “clause” with “clauses”	Grammatical amendment
<b>Chapter 10</b>		
Reliability Augmentation	Insert the word “the” between “by” and “inability”	Grammatical amendment