



Victorian Energy Networks Corporation

Office of the Chief Executive Officer
Victorian Energy Networks Corporation
Level 2 Yarra Tower
World Trade Centre
Siddeley Street
Melbourne Vic 3005
Telephone (03) 8664 6500
Facsimile (03) 8664 6510

7 January 2005

Manager – Energy Market Reform Team
National Energy Market Branch
Department of Industry, Tourism and Resources
GPO Box 9839
CANBERRA ACT 2601

By Email : MCEMarketReform@industry.gov.au

Dear Sir or Madam

Submission on National Electricity Law Exposure Draft

Introduction

VENCorp welcomes the opportunity to add to its comments set out in its initial submission of 24 December 2004¹, on the Ministerial Council on Energy's (MCE) exposure draft of the new National Electricity Law (new NEL).

This submission raises a number of issues which VENCorp is putting forward for the consideration of the MCE. These are the:

- definition of ***regulated transmission system operator***;
- NEM objective;
- rule making test of the Australian Energy Market's Commission (AEMC); and
- National Electricity Market Management Company's (NEMMCO) functions and powers.

Regulated transmission system operator

As you are aware, the arrangements in Victoria are unique in the NEM with the separation of transmission planning and ownership. VENCorp's functions, as a not for profit statutory authority, include the planning and directing of augmentations to the shared transmission network. SPI PowerNet, a privatised entity, owns, operates and controls the majority of the shared transmission network.

¹ VENCorp, Initial Submission on National Electricity Law Exposure Draft, 24 December 2004.

VENCorp procures SPI PowerNet's and other Transmission Network Service Provider's network services and in return collects revenues relating to those services from transmission users, which are determined by the Australian Competition and Consumer Commission (ACCC).

The new NEL sets out the functions and powers of the Australian Energy Regulator (AER). One of these functions is the making of **transmission determinations**, which were previously made by the ACCC, under s15(1)(b). Transmission determinations will apply to a **regulated transmission system operator**, which is defined in the new NEL as:

"an owner, controller or operator of a transmission system

- (a) who is a registered participant; and
- (b) whose revenue or prices are regulated under a transmission determination."²

As discussed above, VENCorp neither owns, operates or controls the Victorian shared transmission network. VENCorp is therefore concerned that the proposed wording of **regulated transmission system operator** in the new NEL is not sufficient to cover its roles and functions in Victoria and may limit the AER's and AEMC's powers to perform their statutory functions in relation to VENCorp's activities.

To ensure that the new NEL applies to VENCorp, it is suggested that the definition of **regulated transmission system operator** be amended to:

"an owner, controller, or operator of, or provider of the services of, a transmission system

- (a) who is a registered participant; and
- (b) whose revenue or prices are regulated under a transmission determination."

Analogous amendments are required to the definition of **transmission determination** in s 2 of the NEL to ensure that a determination in respect of VENCorp's maximum allowable aggregate revenue is a **transmission determination** for the purposes of the new NEL.

Further, analogous consequential amendments are required to ss15(2)(b)(i), 15(2)(c), 15(2)(d), 91(3)(b)(i), 91(3)(c), 91(3)(d), of the new NEL and items 15, 16, 21 and 22 of schedule 1 of the NEL. It may also be desirable for consistency to make analogous amendments to ss10(2), 14(e), 15, 51 and 88(c) of the new NEL and the heading of s12 and items 14, 25 and 26 of Schedule 1.

² National Electricity Law, Exposure Draft, 1 December 2004, p 10

National Electricity Market Objective

VENCorp is supportive of a single NEM objective being:

“...to promote efficient investment in, and use of, electricity services for the long term interest of consumers of electricity with respect to price, quality reliability, safety and security.”³

It believes that the objective appropriately balances the interests of producers and consumers in the NEM. However, given the importance of this objective for the AEMC, particularly when considering amendments to the Rules, VENCorp believes that it should be made clear that the phrase “long term interest of consumers” is to be applied using its generally understood economic meaning. This would ensure that the meaning of the phrase is beyond doubt in the case of an appeal.

An analogous clarification is also required to ensure that the economic meaning of the phrase is adopted in the context of the AER’s power as set out in s 15(1).

Rule making test for the AEMC

Section 87 of the new NEL sets out the Rule making test to be applied by the AEMC when considering proposed amendments to the Rules. S 87(2) states that when assessing whether a Rule will or is likely to contribute to the achievement of the NEM objective the AEMC

“may give such weight to any aspect of the national electricity market objective as it considers appropriate in all circumstances, having regard to any MCE statement of policy principles.”

As it currently stands the weightings that are adopted are determined by either the MCE in a statement of policy principles or by the AEMC. The MCE process does not include scope for public consultation nor is there a requirement for the AEMC to consult on with the market.

VENCorp believes that the weightings that are adopted must be subjected to adequate public consultation. In the absence of an appropriate process interested parties will debate the weightings adopted every time an amendment is proposed to the Rules. VENCorp believes that this would be an inefficient use of the markets resources, which would be contrary to the market objective.

NEMMCO’s objective

Section 49 of the new NEL sets out NEMMCO’s role and functions in the NEM. Of note is s 49(f) which states that NEMMCO is to

“undertake the coordination of the planning of augmentations to the national electricity system”.

VENCorp supports the inclusion of this provision particularly if it is intended to facilitate the establishment of a national transmission planner in the NEM.

³ *op cit*, p 14.

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

Yours sincerely,

A handwritten signature in blue ink that reads "M. Zema". The signature is written in a cursive style with a period at the end.

Matt Zema
Chief Executive Officer