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Dr J Tamblyn
Chairman
Australian Energy Markets Commission
SYDNEY 2000

Dear Dr Tamblyn

Transmission Pricing Rules Review – Prudent discounts

We refer to the draft *National Electricity Amendment (Pricing of Prescribed Transmission Services) Rule 2006*.

There are two areas of the determination and rule, relating to prudent discounts, upon which we wish to comment.

1 Economic by-pass needs to be reflected in the Rules

The current and draft Rules, and the current Guidelines, do not expressly refer to economic by-pass as a form of inefficient by-pass. The AEMC is of the view that economic by-pass ought to be a ground for prudent discount, and we agree with that.

However, the lack of express reference to economic by-pass in the Rules leaves open the possibility that the by-pass provisions will be interpreted narrowly, so as to encompass only technical by-pass.

We have anecdotal evidence from clients that the current Guidelines have previously been interpreted narrowly by the ACCC as allowing a prudent discount only in cases of technical by-pass, and not in cases of economic by-pass.

Therefore, we submit that the revised Rules should expressly contemplate economic by-pass as a ground for prudent discount.

We proposed that the draft Rule be revised by inserting the highlighted words in Rule 6A.27.1(e), as follows:

A Transmission Network Service Provider may recover greater than 70 percent of the discount amount if:

(1) the discount amount is no larger than that necessary to prevent the Customer TUOS general charges and common transmission service charges altering the beneficiary's behaviour to the point of adopting the most attractive alternative in place of the course of action the beneficiary would have adopted **(including actions such as transmission duplication or a decision to not invest in or expand a load or to shut down an existing load)** if no such charges were levied; and

(2) the giving of the discount would not place other customers of the Transmission Network Service Provider in a worse position than if the discount was not offered.

2 Incentives for negotiation of the discount

At 6.3.3 of the draft determination, the Commission notes that “TNSPs have incentives to offer discounts because of the threat of assets being treated as redundant and subsequently removed from the asset base for revenue purposes.”

This may only be partially correct, and certainly does not apply in circumstances relating to the negotiation of a connection of new load to the shared network assets.

The connection of a new load to the shared network assets may justify a prudent discount within the existing Guidelines or the new Rules.

But the network does not face optimisation risk for failing to offer the discount for connection of the new load to the shared network assets.

This is because the Commission proposes to apply the optimisation rules only to large dedicated assets, not to the shared network assets. Therefore, the shared network assets are not at risk.

Similarly, if the discount is not offered or does not encourage the connection of the new load, not only will there be no optimisation of the shared network asset under the Commission’s proposed new optimisation rules, but no dedicated asset will be built for the new load which would be available for optimisation under the Commission’s proposed new optimisation rules.

In our opinion, because of the Commission’s proposed new optimisation rules, the supposed optimisation risk does not does not at all apply so as to incentivise the network operator to offer the discount, and we encourage the Commission to reconsider its propositions and consider other mechanisms for ensuring that the prudent discounts are in fact made available.

Yours faithfully

Johnson Winter & Slattery