Renewable Energy Generators Australia Limited
ABN 91 089 010 248 ACN 089 010 248

27 March 2006

Australian Energy Market Commission
PO Box H166
AUSTRALIA SQUARE NSW 1215

Dear Sir/Madam

Re: Issues Paper: Enforcement and compliance with technical standards under the National Electricity Rules

The Renewable Energy Generators of Australia (REGA) represents Australia's leading renewable energy generators, project developers and equipment and service providers. REGA's members are responsible for more than 95% of the electricity generated from renewable sources in Australia each year and have around $8b invested in existing generation infrastructure. REGA has members with major generating plant in all regions of the NEM.

REGA recognises the importance to the system of the performance standards detailed in the National Electricity Rules (Rules) and the need for NEMMCO and the AER to be assured that participants are complying their requirements.

REGA believes that there are many problems with the existing performance standards, some of which were highlighted in the recent work by NEMMCO convened Technical Standards Reference Group (TSRG), and that it would be appropriate for these issues to be addressed before decisions are made on compliance. REGA believes that a major review of the technical standards is required both to more clearly define the requirements of plant connected to the system and to allow for the entry of emerging renewable technologies. This review should start by looking at the outcomes required from the standards and only when these are identified should they look at how this is achieved. In all cases this should be judged against the NEM objective.

This current review of enforcement and compliance has been prompted by 3 incidents on the power system and it is important to note that in all incidents the system survived and the incidents did not escalate into system black conditions. Investigations into these incidents do not appear to have recognised the contribution to the events made by TNSP's. In all cases the system recovered quickly and power restored to those customers who were load shed in a matter of a few hours.

REGA believes that this current review is premature and should be delayed until the major review of the performance standards is undertaken. Only when the standards are clearly defined should we be looking at compliance and enforcement.

REGA has, however, considered the questions raised in the issues paper and the attached paper details our position on each.

REGA looks forward to continued involvement in the reviews of technical performance standards and their compliance and enforcement. If you have any questions or need any clarification please contact me on 0417 501 966 or email rob.jackson@rega.com.au.

Yours sincerely

Rob Jackson
Technical Director

Attachment:

1. *Are there other technical standards that the Commission should consider as part of this review?*

   REGA's only comment in relation to this question is that the National Electricity Rules (Rules) anticipate that the Reliability Panel would approve a number of Plant Standards that would be acceptable alternatives to the minimum access standard or automatic access standards for particular classes of plant. REGA is not aware of any such Plant Standards being approved. The approval of Plant Standards would make the process of establishing agreed performance standards easier for participants.

2. *Is the process for establishing new performance standards effective in achieving desired outcomes for the power system? Is NEMMCO's role in the process effective or does it need to be more clearly defined?*

   REGA does not believe that at present the "desired outcomes for the power system" are clearly defined or understood. While the NEM objective states "The national electricity market objective is to promote efficient investment in, and efficient use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system", there appears little guidance on how this is to be interpreted, particularly with respect to reliability. The Reliability Panel does not seem to have published a document specifically defining the power system security and reliability standards.

   Further, while the NECA report and that ACCC determination on performance standards agreed that existing plant should be able to treat its current performance as its registered performance standard, in practice the words of the Rules do not reflect this principal and hence it has been very difficult for participants to negotiate agreed performance standards. This grand fathering is essential in providing investment certainty in the NEM.

   Finally, the NSP is required to involve NEMMCO in the negotiation of a number of the access standards and is required to accept NEMMCO's advice in respect of those matters in determining its response to each proposed negotiated access standard and any applicable terms or conditions of acceptance to be applied to each proposed negotiated access standard. This makes any negotiations very difficult for the participant. NEMMCO should be required to negotiate in good faith to reach an agreed set of standards that meet the NEM objectives.

3. *Are performance standards for existing plant, which were defined with reference to a derogation, an accurate representation of the capability of the plant? Are there events that should trigger a review?*

   The derogations were originally included to represent the true performance of the plant. However, in some cases the derogations were inaccurate and some

required derogations were not recorded. This has lead to difficulties in registering performance standards.

When a piece of plant that is registered at levels set from derogations is upgraded, the plant owner should be required to bring only those standards directly impacted by the upgrade up to a negotiated standard. Such an upgrade should not trigger a complete review of all standards for that generator.

4. *Should there be a mechanism to modify a performance standard, either at the request of the participant or to take account of changes in the requirements on the power system?*

   Once agreement has been reached the appropriate mechanism is through variation to the connection agreement. All parties, including NEMMCO, should be required to negotiate in good faith.

5. *Are there any aspects of the content of the various technical standards specified in the Rules that require clarification?*

   As was identified by the NEMMCO convened Technical Standards Reference Group (TSRG), there are a number of major issues in the current standards, particularly as they apply to wind farms. NEMMCO has drafted a revised set of standards and submitted them to the AEMC requesting a Rule change.

   REGA has many concerns with the proposed wording and will be requesting the AEMC to undertake a more detailed review of technical standards.

6. *Is the current framework for compliance programs effective in establishing and maintaining compliance with performance standards?*

   It is too early to give a definitive answer, but intuitively a formalised compliance program should be effective in managing performance standards.

7. *Is it reasonable to expect a participant to meet an absolute standard of compliance when this cannot be guaranteed through a compliance program?*

   It is not reasonable to expect an absolute level of compliance. The equipment in power stations is complex and while businesses will use reasonable endeavours to ensure compliance, in practice there will be equipment failure and unexpected events that may cause issues.

8. *Are there sufficient incentives to ensure that all breaches of performance standards are reported to NEMMCO by participants?*

   A system based entirely on penalties will have difficulty ensuring transparency and openness. Such a system is a deterrent to the cooperation needed to resolve some of the complex issues that may arise.

9. *Is the AER the appropriate body to monitor compliance? Is the AER's current approach to its monitoring role appropriate? To what extent should it monitor reactively or proactively? What other approaches to the monitoring role may be cost effective?*

The AER is the appropriate body to monitor compliance. It should do this in a non-aggressive fashion to encourage openness and transparency with coordinated testing and monitoring. Where possible this should be in a pro-active, cooperative fashion with an emphasis on how to fix the issue not on who is to blame.

10. *Should there be some form of public reporting on the outcome of the AER's monitoring role, including identifying non-compliance instances and what action has been taken to correct those non-compliances?*

    The market and participants should be informed on the details of issues identified and how they have been addressed to ensure that there is no endemic problem and such things as type faults are identified early. This does not necessarily require the naming of particular participants

11. *Is NEMMCO's role in determining the timeframe to rectify the breach appropriate and does NEMMCO have sufficient guidance in making that determination?*

    A cooperative approach needs to be adopted between NEMMCO, the NSP and the participant to ensure that breaches are managed in a co-ordinated and cost effective manner.

12. *Is the enforcement regime, including the powers of the AER adequate for the effective enforcement of breaches of performance standards?*

    The current enforcement regime, based entirely on penalties, will not deliver the most appropriate outcomes. A regime based on trust and cooperation is required to deliver the optimum result.

13. *Should NEMMCO be required to inform the AER of potential non-compliance earlier than at the end of the rectification period? Should NEMMCO refer the issue to the AER in all cases, or should NEMMCO have some discretion to extend the period for compliance?*

    If the regime were based on incentives and cooperation it would be appropriate to inform the AER and any other participants who may be impacted.

14. *Are there other matters that the Rules should require to be taken into account in proceedings?*

    The Rules need to recognise engineering reality and that all plant connected to the system interacts with all other plant. Events are rarely the result of a single issue. The Rules also need to take into account the compliance and monitoring program that the participant has in place.

15. *Are there good reasons for having two investigations into power system incidents? Does this dual process assist in resolving issues by separating operational matters from enforcement matters, or does it place an inappropriate burden on participants? Do the AER and NEMMCO have appropriate power to conduct their investigations?*

It is not appropriate for NEMMCO to be carrying out these investigations. The response of NEMMCO and the performance of the NEMMCO systems are often key in the development of an incident. All investigations should be carried out by AER and should explicitly look at all participants including NEMMCO. The reviews should concentrate on what did happen and what can be done better next time to avoid a repeat, rather than focussing on who is to blame.

16. *Does the threat of enforcement action by the AER act as a disincentive to provide information to NEMMCO on a co-operative basis, if it is to be shared between the two organisations?*

    Yes, any system based purely on penalties in likely to act as a disincentive for the sharing of information.

17. *Are the penalties for breaches of performance standards adequate?*

    Where possible the system should be written around incentives and cooperation rather than penalties. They should also apply to TNSP's performance. The current penalties seem high enough.

18. *Is there a case for determining a technical standards penalty provision which better reflects the potential costs for end users of non-compliance? If so, what should the level of that penalty be?*

    The impacts of performance standard breaches are too complicated to design penalties that are based on the costs to end users. In many instances the participant in breach will loose huge amounts of money directly as a result of the incident.

19. *How might an infringement notice approach be applied in ensuring compliance with technical standards? Are there other orders which may assist in ensuring compliance with technical standards?*

    The use of infringement notices as an initial step before moving to penalties would be one way of encouraging openness and cooperation from participants. The current "no surprises" approach adopted by AER is commended in this regard.

20. *Should NEMMCO be required to consider the commercial incentives or opportunities provided by its actions in managing the impact on power system security of a breach of performance standards?*

    Immediately following a major system event such as those described in the paper, NEMMCO may need to direct participants to ensure that system security is maintained. Where possible NEMMCO should then quickly develop sophisticated constraint equations that describe the limitations that need to be placed on system operation and then let the dispatch engine dispatch the system to maximise customer benefit.

    In addition, understanding the commercial positions of participants is very difficult. NEMMCO should have clear technical objectives and not be concerned with commercial outcomes.

21. *Is clause 5.7.3(e) sufficiently clear to allow NEMMCO to use this clause to manage a power system incident?*

    Clause 5.7.3(e) needs to be reviewed as part of the recommended review of performance standards.

22. *What other alternatives could be considered to address the issue of a participant gaining financially from a breach of its performance standards?*

    The issue of a participant gaining financially from a breach of its performance standards should be handled firstly by the compliance program and secondly, if needed, by the dispatch engine.