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9 October 2012

Mr John Pierce
Mr Neville Henderson
Dr Brian Spalding
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Commissioners,

RE: EPR0019 Transmission Frameworks Review - Second Interim Report

The Australian Energy Market Commission (**AEMC**) has sought stakeholder submissions to the Second Interim Report, Transmission Frameworks Review dated 15 August 2012 (**the Report**). The AEMC is specifically seeking stakeholder comments regarding its proposed Optional Firm Access (**OFA**) Model and ancillary enhancements to reform the transmission planning and generator connection arrangements in the context of promoting the National Electricity Objectives (**NEO**). InterGen welcomes the opportunity to provide its perspective on the OFA model.

InterGen Australia (**InterGen**) is owned by InterGen N.V. and the China Hua Neng Group (**CHG**), China's largest generation company. InterGen and CHG are leading developers and operators of electricity generation facilities worldwide. In Australia, InterGen is the operator and majority owner of the 852MW Millmerran Power Station and a 50% owner of the 840MW Callide C Power Station.

InterGen is opposed to the introduction of the proposed OFA Model and believes that:

- No case has been made for the potential benefits exceeding the expected costs;
- The model will add significant risk to our business and concern our financiers and investors; and
- The AEMC should now pause for further analysis and consultation of the OFA model as there is no immediate need to head down this complex, costly and uncertain path.

InterGen is concerned about the high degree of complexity the OFA model will introduce in its attempt to solve transmission issues that are not uniformly or persistently experienced across the NEM. We are concerned that the OFA as presented, fails to recognize the existing contractual arrangements between TNSPs and generators and that these arrangements are likely to exist long after any transition period. We are also concerned that the OFA fails to recognize past investment and locational decisions and that it places a new impost that cannot be avoided.

1. InterGen supports the current access model over the proposed OFA model

Whilst recognising the AEMC's significant effort in developing the OFA model, InterGen is nonetheless firmly opposed to its introduction. The past several years has seen an unprecedented level of new and complex regulatory change thrust upon NEM participants. The degree of change has introduced a new level of systemic risk in the market and has made it increasingly difficult to operate in a commercial manner with reference to a clear set of market rules. The proposed OFA model further adds to this risk.

The AEMC has proceeded on the basis that there is an access problem that needs to be fixed. However, based upon submissions to date, there does not appear to be consensus amongst the generators that an OFA model is desired. It is questionable why significant and complex reform needs to be introduced at this stage. Given that AEMO's latest demand forecast indicates subdued future demand growth, and with that little need for new generation, there appears no rationale to proceed now with an incomplete design for the reform of the existing network arrangements.

The AEMC has acknowledged the difficulty in modelling cost or benefits of the OFA model. Given the permutations of which generators may seek firm access, locational choices and network conditions, modelling may not be instructive in any case. This highlights the complexity of the OFA model and the real risk that it will not deliver its purported benefits. Forced implementation of this model without a clear view as to its consequences introduces a significant degree of regulatory risk.

The OFA model is not optional as there is no ability to choose not to participate. Generators face a choice of paying for firm access or paying compensation. A generator that is fortunate enough to remain non-firm and still receive its required access means the OFA has conferred a benefit to the detriment of other participants which is against the principles of efficient markets and the NEO.

Further, Generators are unlikely to seek firm access unless there is a reasonable expectation that the benefit exceeds costs, either through higher production or by passing on costs to consumers. Whilst the OFA model describes in detail wealth transfer between firm and non-firm generators and the treatment of firm access revenue in a TNSP's revenue cap, there is no discussion about consumer impacts and the potential that cost saved under the OFA model (e.g. from avoiding disorderly bidding around constraints) are shifted into higher energy costs to offset firm access fees.

Under the OFA model, TNSPs are still responsible for reliability planning. For the OFA model to work efficiently, it is imperative that planning for reliability is separated from firm access planning. A split is necessary to ensure there is no cost shifting between reliability and generator requested firm access. Further, as there are differing end objectives between reliability and firm access planning, it results in different planning assumptions and consequently, differing assessments of network capacity.

For example, reliability planning would not make a distinction between firm and non-firm generators as both have the same effect on customer reliability. Further, the need for reliability augmentations is driven by demand growth indicating that the level of network access will not remain constant. In contrast, firm access planning does not account for the access requirements of non-firm generators. As access is fixed for the tenure of the agreement, the level of demand growth over time is irrelevant to the firm access generator. Each of these approaches conceivably results in different augmentation requirements. The risk therefore of the OFA model is that it results in inefficient augmentation of the network and higher overall costs as the TNSPs seek to serve both a reliability and firm access contractual obligation.

2. Nonetheless, if implemented, the OFA model should account for existing agreements

The OFA model as presented does not recognise situations where it can exacerbate costs under a generator's existing access agreement. This situation can occur where a generator has an unregulated access agreement in relation to transmission assets that are part of the shared network[1].

It is unclear from the OFA model whether unregulated services over shared network assets are to be included in the reduction of the TNSP's allowable annual revenue cap. There exists therefore, the potential for TNSP's to benefit from windfall gains in relation to these access arrangements. However, generators subject to these access arrangements would also face the prospect of paying twice for firm access (i.e. under the original agreement and again under the OFA model). Should affected generators not seek firm access they would otherwise still face compensation payments. In either case, the OFA model imposes a penalty on these generators. InterGen suggests that this issue will require further consultation to avoid unintended consequences.

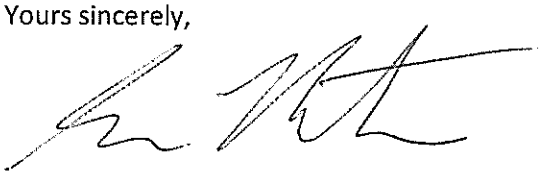
3. Transition period

The AEMC has not provided a clear rationale to support its transitional access arrangements which at best appear arbitrary in policy. Specifically, InterGen does not see why current access needs to be scaled back during the transition period. Generators have an incentive to utilize their initial allocation and when no longer required, can facilitate its reallocation through trade. In this respect, market forces provide the impetus to manage capacity rights which as understood, is a key tenet supporting the OFA model. Further, this approach considers that existing investment in generation was made under a certain operating regime and that transition needs to be long enough to reflect the long term commitment investors make when they build new plant.

It is acknowledged that the AEMC has spent considerable effort in developing the OFA model and has actively consulted throughout the process. However, given the nature and significance of the proposed OFA model, the AEMC should continue to take the time necessary to fully develop the model rather than defer resolution of key design considerations to the implementation stage. Importantly, a clear transition path needs to be developed prior to any recommendation to SCER that appropriately considers generators' existing access arrangements.

We trust that the AEMC will carefully consider the issues we have raised. Please feel free to contact Mr. Robert Pane on 07 3001 7124 regarding any queries on this submission.

Yours sincerely,



Sam Bristow
General Manager, Trading & Development
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[1] For example, InterGen's Millmerran Power Station (MPS) is subject to an unregulated transmission agreement with Powerlink in relation to the Bulli Creek to Millmerran transmission line. These transmission assets are also part of the shared network.