Contact: Andrew Knowles
Phone no: (03) 6270 3695
Our Ref: NW30316857
Your Ref: ERC0131

6 August 2012

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Sir

Draft Rule Determination – National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2012

Thank-you for the opportunity to provide input to the Draft Rule Determination *National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2012*, released on 14 June 2012 (the Draft Rule Determination).

Aurora Energy Pty Ltd, ABN 85 082 464 622 (Aurora) is an incorporated, State Government owned fully integrated energy and network business, with complementary activities in telecommunications and energy-related technologies. Aurora provides electricity generation, retail and distribution services to more than 270,000 customers in the Tasmanian jurisdiction. In this document, reference to Aurora should be taken as reference to Aurora in its capacity as the provider of distribution services licensed by the Regulator under the Electricity Supply Industry Act 1995.

Aurora considers that, in general, the proposed rules as presented in the Draft Rule Determination are a balance between transparency in distribution planning and preparation costs. Aurora does, however, have some reservations about potential duplication in reporting requirements. Aurora also notes that, while the AEMC has tightened up the definitions surrounding RIT-D "credible options" in response to stakeholder input, the drafting still does not seem to match the intention.

Aurora also supports the proposed structural changes to chapter 5 of the National Electricity Rules to provide clear distinction between the connection arrangements and the planning arrangements. This change does highlight an issue that Aurora considers needs clarification, although Aurora recognises that such clarification may be outside of the scope of this current rule change process.

The issues mentioned above are discussed in more detail in the attachment to this letter, as are Aurora's responses to the questions posed in the Draft Rule Determination.

If you have any questions, please address them to the contact noted above.

Yours faithfully

Anton Voss

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ATTACHMENT

Introduction

This attachment to Aurora's response to AEMC consultation ERC0131 provides Aurora's comments on specific issues relating to the Draft Rule Determination *National Electricity Amendment (Distribution Network Planning and Expansion Framework) Rule 2012*, released by the Australian Energy Market Commission (AEMC) on 14 June 2012. In this document, reference to Aurora should be taken as reference to Aurora Energy Pty Ltd, ABN 85 082 464 622 in its capacity as the provider of distribution services licensed by the Regulator under the Electricity Supply Industry Act 1995.

Duplication of Reporting

Aurora considers that there may be a potential duplication of reporting as a result of the rule change. In particular, much of the information required in the Distribution Annual Planning Report (DAPR) is also required by the Australian Energy Regulator (AER) in the draft Regulatory Information Notice (RIN) for monitoring Aurora's compliance with its distribution determination.

The RIN is prescriptive about how the data are to be presented while, on the face of it, the DAPR is less so. The RIN, however, is designed so that the AER may easily analyse the data for its own purposes, meaning that data prepared for the RIN will not be in a format that is accessible to the AEMC or wider community. In consequence, Aurora will need to present a single set of base data in at least two ways to meet its regulatory obligations. Whilst this duplication will be resource-intensive there is potential for a reduction in transparency as a result of the existence of "two versions of the truth", and the potential requirements from stakeholders for extensive reconciliation between the two versions.

Aurora has not seen the RINs for other Distribution Network Service Providers (DNSPs), but assumes that similar issues will arise for them.

Definition of a Credible Option

In ascertaining whether a project requires assessment under a Regulatory Test for Distribution (RIT-D), a DNSP must consider whether the "most expensive potential credible option to address the identified need is less than $5 million"[1]. The AEMC has captured the concerns of stakeholders around the meaning of "most expensive technically and economically feasible option" in the statement of policy on this issue[2]. Further, Aurora agrees that the threshold value of $5 million is appropriate.

Aurora considers that the drafting of the new clauses at 15.15.2 do not reflect the policy intentions. By way of example, consider a local capacity constraint in the distribution network. It is always possible to provide a solution by the provision of a terminal or zone substation. Both of these options would be expected to exceed the threshold value and meet the requirements of proposed clause 5.15.2(a) and 5.15.2(d) meaning that a RIT-D would be triggered. In most cases of distribution network capacity constraint, however, while the two solutions may be "credible options" as defined in proposed clause 5.15.2, they are not necessarily the solutions that would be considered in the general course of network planning. Nonetheless, a RIT-D would be required, thereby creating an onerous regulatory burden over and above that originally intended.

[1] Draft Rule Determination, page 82 referencing draft clause 5.17.3(a)(2).

[2] Draft Rule Determination, page 93

Question – Civil Penalty Provisions

In section 3.5 of the Draft Rule Proposal, the AEMC discusses whether or not the AEMC should recommend to the MCE that the provisions related to the Regulatory Test for Transmission (RIT-T) or the RIT-D be classified as civil penalty provisions. The AEMC proposes not to make such a recommendation on the grounds that a breach of those rules are "unlikely to pose a direct risk to the secure operation of the NEM"[3], and seeks stakeholders' views on the matter.

Aurora agrees with the AEMC's assessment of the risks and supports the decision not to recommend that the RIT-T and RIT-D provisions be made civil penalty provisions.

Question – AER Determination of RIT-D Project

At section 10.3.3 of the Draft Rule Determination the AEMC seeks input from stakeholders around the possible inclusion of a provision to allow a DNSP to request the AER to make a determination as to whether a preferred option set out in a RIT-D project assessment conclusions report satisfies the RIT-D, such a provision being analogous to an existing provision in the RIT-T process[4].

Aurora considers that the inclusion of such a provision would be beneficial given the proposed change to clause S6.2.2(3) concerning the AER's assessment of the prudency and efficiency of proposed capital expenditure. The inclusion of such a provision would provide a degree of certainty that capex forecast for a project that has been determined to satisfy the RIT-T or RIT-D will be accepted by the AER as prudent and efficient. The AER has indicated that such is not necessarily the case in distribution determinations[5].

Question – Transitional Arrangements

At section 11 of the Draft Rule Determination the AEMC seeks input from stakeholders around transitioning to the new framework. Aurora considers that the savings and transitional rules proposed in the Draft Rule Determination are adequate.

Clarification of Proposed Clauses 5.11.1 and 5.11.2

The proposed structural changes to chapter 5 highlight an existing issue upon which Aurora seeks clarification. The proposed clauses 5.11.1 and 5.11.2, which are currently clauses 5.6.1 and 5.6.2(e), refer to "Network Service Providers", which may be either TNSPs or DNSPs. The existing heading for clause 5.6.1 and the proposed headings for clauses 5.11 and 5.11.1 imply that the clauses are intended for application to transmission. While clause 1.7.1(a) indicates that "headings are for convenience only", the inconsistency between the heading of the clauses and the text of the clauses creates a degree of uncertainty that could be resolved relatively easily by a change of heading or the introduction of an explanatory note.

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[3] Draft Rule Determination, page 14.

[4] Existing clause 5.6.6AA(a)-(c) and proposed clause 5.16.6.

[5] *Final Distribution Determination Aurora Energy Pty Ltd 2012–13 to 2016–17 Attachments.* published by the AER in April 2012, page 75. For information, Aurora noted in its Revised Regulatory Proposal (page 48) that the projects for Kingston and St Leonards had been subject to a RIT-T and provided copies of the relevant RIT-T reports as attachments to the Revised Regulatory Proposal.