From: Peter.Naughton@doi.vic.gov.au
Sent: Tuesday, 4 July 2006 12:47 PM
To: Submissions
Cc: Nives Matosin
Subject: National Electricity Amendment (Inter-Regional Settlements Agreement - Regulated Interconectors)

Dear Mr Tamblyn

I refer to the National Electricity Rule change request (National Electricity Rules - Inter-Regional Settlements Agreements) submitted by the Victorian Department of Infrastructure (DOI) on 9 May 2006 and the subsequent Submission dated 20 June 2006 from representatives of NRG Flinders, AGL, Origin Energy and IPRA ("the Submission").

DOI requests that the AEMC consider the following comments in relation to the Submission.

The Submission involves three main arguments objecting to the Rule change proposal.

1. The Rule change proposal unduly burdens South Australian customers

The first argument in the Submission is that the Rule change proposal should be rejected because it extends an arrangement that will likely result in South Australia continuing to make payments for inter-regional flows that are not made by other States.

The ability to improve efficiency in one part of the NEM through price signalling is preferable and in line with the NEM objective even if it is not adopted in other parts of the NEM.

Further to this argument, it is noted that it is other jurisdictions not making a relevant agreement that is causing the purported inequality, not the Rules. The Rule change proposal does not directly or indirectly discriminate against South Australia; it applies equally across all regions. Moreover, the agreement between South Australia and Victoria that expired on 30 June 2006 allowed for payments from Victoria to South Australia when Victoria imports electricity from South Australia.

The Submission does not fully consider the history of the Rule change. As outlined in the original Rule change submission, the sunset date in clause 3.6.5(a)(5)(ii) of the NER originally correlated with other provisions of the National Electricity Code (the NEC), which provided an alternative means of making payments between network service providers for inter-regional flows. The original sunset date meant the method of agreed charges in clause 3.6.5(a)(5) would expire at the time the alternative means in the NEC would come into operation. A sunset date in clause 3.6.5 (a)(5) has ensured the rule retains its temporary nature. However, the expiry of clause 3.6.5(a)(5)(ii) of the NER on 30 June 2006 should not be used as ground for removing the interim means of making payments for inter-regional flows when no other method has been adopted.

2. The arrangements for agreeing the charge involves limited transparency and consultation

The second argument in the Submission is that the Rule change proposal should be rejected because the process by which payments are agreed involves limited consultation and transparency. There are four responses to this argument.

First, clause 3.6.5(a)(5)(iii) provides that the charge agreed between jurisdictions must not to exceed the amount of settlement residue allocated to the importing region. This ensures that the agreement for payments between jurisdictions is subject to a cap which correlates to the use of the network.

Second, the payments are negotiated by the governments for the relevant regions. The

nature and position of these negotiating parties suggests that they are likely to strike a fair and equitable basis for payments.
The arrangement that expired on 30 June 2006 was cost reflective and equitable in that respect.

Third, the method for setting payments is an interim measure only. These temporary provisions are expected to be replaced by a more comprehensive methodology which will be developed using greater consultation and transparency.

Fourth, because the negotiation of agreements for payments is agreed by governments in the relevant regions, the process is subject to the usual requirements of government disclosure and scrutiny. Further, affected parties can always make representations to their respective government.

3. The Rule change proposal should be amended to sunset upon conclusion of the present review by the AEMC

The third argument in the Submission is that the Rule change proposal should be amended such that it terminates once the current Review of Transmission Revenue and Pricing Rules (the Review) has concluded. This argument appears to be an alternative to the previous arguments and is relevant if the AEMC decides that the Rule change proposal should be adopted. The thrust of this argument appears to be concern that not having such a sunset date will cause problems if and when a comprehensive inter-regional TUOS regime is implemented as a result of the Review.

A response to this argument is that the National Electricity Law grants the AEMC full power to make Rules, including provisions of a savings or transitional nature consequent on the amendment or revocation of a Rule (NEL s 34(3)(p)). At present, the outcomes of the Review are unknown. It is more appropriate to identify transitional rules once the changes to the Rules have been identified so the transitional rules can be tailored to any new methodology. Amending the Rule change proposal to include a sunset date may actually hamper the implementation of seamless inter-regional charging arrangements rather than promote it.

On a practical level, the previous agreement for payment of these charges has provided for termination of the agreement upon the implementation of a comprehensive inter-regional TUOS regime.

The Rule change proposal and past agreements suggest that a sunset upon the imposition of a methodology for payments of settlement residue from inter-regional flows is expected by both Victoria and South Australia. The Submission proposes a sunset date of the conclusion of the Review. This may be undesirable because the Review may conclude before the recommendations are implemented as Rule changes. Therefore, DOI recommends that any proposed sunset date be carefully considered.

Yours faithfully

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