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30 April, 2001

Tanya Barden  
Regulatory Affairs - Electricity  
Australian Competition & Consumer Commission  
PO Box 1199  
DICKSON ACT 2602

Dear Tanya,

**Comments Pertaining to ACCC's Draft Decision - Dec 2000  
Network Pricing and MNSP's**

Powerlink is pleased to submit the attached response pertaining to issues raised within the ACCC's public process relating to the Draft Decision on Network Pricing and MNSP's.

We have no objection to this document being placed on the ACCC's public register.

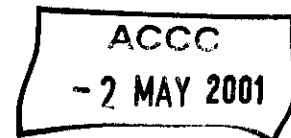
Please do not hesitate to contact the undersigned should you have any questions relating to this response.

Again we thank you for allowing Powerlink to participate in this extremely important process.

Yours sincerely,

Terry Miller  
**MANAGER REGULATORY AFFAIRS**

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## **Comments Pertaining to ACCC's Draft Decision - Dec 2000 Network Pricing and MNSP's**

### **1. Authorisation Process**

Powerlink was surprised that the ACCC's appears to have extended its role from its regulatory authorisation role to one of proposing and approving its own Code changes.

While we support the ACCC in outlining its conditions for authorisation of the Code change application, it is our view that such changes ought to be reworked by NECA, with input from industry and jurisdictional bodies, rather than being proposed by the ACCC itself.

In any case, the draft proposal contains a range of pricing proposals which have not been well tested and which may not pass a "practicality" test. Powerlink believes there is no advantage in authorisation of the Code changes, as proposed by the ACCC, which are not supported by a tested pricing methodology.

Powerlink also has a concern that the proposed Code changes appear to allow the pricing methodology to be developed outside the Code. The importance, and contention, surrounding transmission pricing is demonstrated by the interest and debate which has ensued over the past three and a half years on this very topic. The final pricing method authorised by the ACCC is likely to encounter rigorous scrutiny and challenge and for this reason alone ought to be embedded within the NEC. The transmission pricing methodology is too important and potentially contentious to sit outside the NEC.

**Powerlink recommends:**

- ❖ **Code change authorisations relating to transmission pricing be deferred until NECA, with appropriate consultation, develops a robust and tested methodology;**
- ❖ **The transmission pricing methodology be explicitly enshrined into Chapter 6 of the NEC.**

## **2. Transmission Network Pricing**

### **2.1 ACCC's Principles**

Powerlink notes that the ACCC has required that the NEC be amended to incorporate the eight transmission pricing principles. Several principles (e.g. TUOS to be universal and symmetric, congestion related charges, TUOS to take account of other transmission signals in the market) constitute a quantum move away from principles already included in the NEC. This change would appear to represent a policy change rather than refinement of code yet there has been no jurisdictional involvement or wide consultation on these matters.

Powerlink considers that NEM policy change should be instigated by the jurisdictions (Federal and State) rather than by the regulatory body.

**Powerlink recommends that any change or additions to NEC policies and directions in relation to transmission pricing be endorsed by the participating jurisdictions and subject to wide consultation.**

### **2.2 Structure of TUOS**

Powerlink has always held the view that there may well be a range of possible solutions to network pricing. Powerlink is not wedded to any particular model, however, any acceptable model would need to exhibit the following features (in addition to stated NEC objectives):

- ❖ Robust;
- ❖ Objective;
- ❖ Practicable.

The methodology proposed by the ACCC, as did the NECA proposal, failed in meeting these criteria. Both methods are forward looking and therefore require a significant degree of judgement to be taken by the pricing agent. They would also fail to provide stability in pricing as significant events move from forward looking assumptions to sunk events. Due to the uncertainty associated with future network flows, particularly as is the case in Queensland, with our rapidly changing generation profile, a forward looking model would need a prescriptive approach. To date, the only forward looking model which achieves this, to Powerlink's knowledge, is the method currently prescribed in the NEC. This particular method uses last year power flows as an estimate for next year flows.

## **2.3 Negotiation of Price Discounts**

Powerlink's main objection to the ACCC's proposals relating to this issue (Conditions C4.12 to C4.17) is that the approval of the discount negotiation by the ACCC will be retrospective rather than ex ante.

A successful price discount will produce three categories of beneficiaries, viz:-

- ❖ The large user to whom the discount applies (they receive a lower network charge);
- ❖ Other customers, as their charges will be less than otherwise ; and
- ❖ The TNSP because network utilisation is improved, however almost all of the benefits negotiated by the TNSP will flow directly to customers.

A successful negotiation will result in a fair distribution of benefits to all parties. Once an agreement is reached and locked in, the customer will then need to seek banking and equity approvals for the proposed investment. Any change in position which could arise through the ACCC approval process will upset the outcome. The most likely outcome is that the risk of reversing the TUOS discount arising from the retrospective process will prevent financial closure on a successful investment occurring – with all parties failing to capture the potential benefits.

In the event that the ACCC is not prepared to approve negotiations as they occur, then at the very least a framework should be put into place which will allow the TNSP to negotiate with some confidence. It is suggested that a simple principle to the effect that *“the objective of a TUOS discount is to provide a customer, who may otherwise bypass or leave the grid, with an acceptable pricing outcome while not disadvantaging other existing grid customers in terms of their pricing outcomes”*.

Such a principle would provide a TNSP with a cleared understanding of what would be considered a successful negotiation by the ACCC at the next review.

Powerlink recommends that in the case of a new customer, where there is no upward pricing impact on existing customer charges, negotiated TUOS should be allowed as part of the pricing arrangements from the date it is negotiated rather than from the next reset period as is suggested in the draft code changes.

**Powerlink requests the ACCC amend their conditions for approval of price discounts so that:**

- ❖ **Satisfactory negotiating principles (as outlined above) are developed which will provide a lower risk negotiation framework; and**
- ❖ **Discounts associated with new customers be admitted to the pricing regime without revenue cap reductions from the date of the next reset.**

The uncertainty surrounding finalisation of transmission network pricing, and in particular provisions for negotiation of discounted TUOS, is stifling progress of new energy intensive developments in Queensland..In the event that pricing per se cannot be resolved in the short term, Powerlink urges the ACCC to move forward with resolution of a price negotiation framework as a stand alone code change – failure to do so by the ACCC is not in the public interest and is contrary to the overarching objective of facilitating Australia's international competitiveness.

**Powerlink requests the ACCC finalise provisions associated with negotiation of price discounts as a priority. This process may need to precede the finalisation of the T & D Pricing Review code changes.**

## **2.4 Firm TUOS Prices**

The ACCC, in its condition C4.5, proposes that TNSPs be obliged to offer users firm prices for a period of up to five years. Fixed or capped prices often evolve as a packaging option for commercial products whose prices are subjected to volatility (e.g. interest rates for bank loans). However, for such a product to be offered as an add-on to regulated prices would require the structure and methodology to be well defined.

The current NEC provides for a smooth price path from year to year and a 2% cap (above the average price increase) from one regulatory reset period to the next. Powerlink suggests this provision be retained as it offers the following useful features:-

- ❖ Delivers a smooth price for each node while still allowing signals to occur;
- ❖ Overcomes the issue of price aberrations occurring as a result of modelling deficiencies;
- ❖ Avoids judgemental price intervention/adjustments otherwise required by TNSPs.

**Powerlink requests the ACCC delete its Condition C4.5 and retain the current NEC (Clause 6.5.5) 2% price cap provision.**

## **3. Network Planning and Augmentation**

### **3.1 Development of Networks within a Region**

It is our understanding that deletion of Clause 5.6.2(f) is being considered under a separate process – the regulatory Test.

While Powerlink does not have a concern with consultations relating to fully funded network investments, we are concerned by the prospect of a disadvantaged party

blocking an investment which will deliver net benefits to the market. MNSPs, which are effectively fully funded network investments, are not subject to the dispute processes in relation to benefits derived from their investment. Likewise, Powerlink would urge the ACCC to retain a level playing field in respect to this issue by restricting the ability of a third party from blocking a fully funded investment.

### **3.2 New Investment – beneficiaries pay**

Powerlink supports the ACCC's conclusion that the "beneficiaries pays" proposal, while economically sound, suffers from an unsound practical application viewpoint.

Several speakers at the ACCC's pre-determination conference suggested that because both "beneficiaries pays" and forward looking TUOS both are subject to the uncertainties associated with a forward looking process, "beneficiaries pays" ought to be selected because of its user pays advantages. Powerlink is aware of the problems associated with forward looking pricing methodologies, particularly where judgement calls are required. However, it is our view that "beneficiaries pays" is an order of magnitude more micro and customer specific than a forward looking CRNP approach.

Like the ACCC, Powerlink could not support a "beneficiaries pays" approach until a robust and dispute resistant method is identified.

NECA have suggested a modified "beneficiaries pays" arrangement based on an "energy deprivation approach". This approach suffers from many similar forward looking judgemental problems as do the other methods, viz:-

- ❖ Requires an estimate of the magnitude, duration and event time of each unserved energy event to be determined. The outcome of such judgemental decisions, along with estimates of dispatch at the time of the events will lead to a specific marginal generator being attributed the benefits;
- ❖ The method will lead to marginal generators always picking up network costs while base load units will remain exempt;
- ❖ The method fails in delivering efficient investment signals i.e. a new low cost unit could make a location decision with the higher cost incumbent generator located next door picking up ensuing network charges – it would appear the signal is somewhat perverse.

**Powerlink supports the deletion of the “beneficiaries pays” process from the proposed Code changes.**

#### **4. Prescribed Service Standards**

Powerlink believes the ACCC already has sufficient powers to set TNSP’s targets for standards of service under its statement of regulatory principles.

The proposed changes under the ACCC Condition C7.1 gives the appearance of policy change rather than operational refinement of the NEC. Powerlink’s view is that policy changes should be initiated by jurisdictional input rather than by NEC regulators or administrators.