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Draft Determination – Amendments to the National Electricity Code, Network and Distributed Resources.

Dear Michael,

Origin Energy welcomes the opportunity to comment on the aforementioned draft determination. It is Origin's view that the proposed arrangements decrease the level of competition in the National Electricity Market (NEM) by creating an uneven playing field where some participants will be advantaged over others.

Origin believes that only a centralised planning system for network planning and development will create the maximum level of competition while providing the highest possible value for end use consumers.

The Commission has stated that in evaluating the proposed code amendments they must take account of those issues:

"Which would have the purpose, or would or might have the effect, of substantially lessening competition within the meaning of section 45 of the TPA"

The Commission is also concerned with any;

"Conduct that constitutes or may constitute, the practice of exclusive dealing in accordance with the provisions of section 47 of the TPA"

It is our view that the decentralising of Network planning will not only lessen competition but also place the incumbent TNSPs in a position where they will have an exclusive dealing structure over network augmentation at the expense of non-incumbent market participants.

Origin requests that the ACCC does not approve the proposed code changes.

Issues:

The proposed classification of augmentation projects by costs will create market-based distortions and deter investment.

The costs of an augmentation project should not be the basis on which the importance of a project is determined. An inter-regional project is likely at times to have a bigger impact than some regional line upgrades. Also some local upgrades may benefit some generators over others and even leave some embedded generators assets stranded where they have responded to a local network issue. The Commission should not focus on the costs of an augmentation project as a means of distinguishing between projects, but rather on its likely impacts. This issue is clearly linked into that of the importance of a transparent centralised planning process where all participants are treated equally.

The risk of setting numeric distinctions between projects types is that the proponent may be motivated to disaggregate a large projects into several projects so as to avoid the requirement to meet the regulatory test, or alternatively combine many separate projects as is the case with Transgrid's proposed SNI project, so as to beef up the value of a project so as to get regulated status.

It is clear that it is inappropriate to use the cost of an augmentation project as the only basis for its market impact.

The dispute arrangements are not satisfactory to protect end use customers from unnecessary costs and may create a barrier to competition.

Of major concern with the new proposals is the lack of consumer protection. As any TNSP augmentation project will result in charges for the

end use customers, the burden of proof should be on the TNSP to justify any project, not on the end users to dispute such costs. End users are often not represented by a single voice and in cases where no large well funded market participant is effected by a proposed project the end users interests may not be adequately protected.

The dispute arrangements rely heavily on the proponents to run the process and to recognise all disputes. Such a process could foresee ably be easily manipulated. Also the proposed process only covers "large network investments" it does not allow for disputes regarding "small network investments". As mentioned above small projects may in some cases have greater price and market impacts than large dollar projects.

The proposed arrangements will unfairly benefit the incumbent TNSP.

While the IRPC has failed since market start to publish an annual planning review this should be seen as a failing of NEMMCO not of the market. Nor is it an indication that such a centralised planning process is not the best approach for the NEM. The main concern about decentralised planning is that it places the planning of the system into the hands of the incumbent TNSP and thus the proponents of any project. The main problem here is that it removes the appearance of either transparency or even handed competition in the process.

The new rules will require the TNSP to publish annual planning reviews, however often things changes between reviews and the TNSP will have early knowledge of such changes without any requirement to inform the market. The TNSP will be in the advantageous position of being able to recommend augmentation projects where cheaper alternatives may have been possible, such as embedded generation, however the lead time given by the TNSP to the market may not allow for such an options to be built in time. Thus competition is reduced and the end users will face higher costs than under true competitive centralised planning where all options for network augmentation is given equal lead notice of any network requirements.

The proponents argue that the proposals create a streamlined and time limited process including the consideration of demand sided options and local generation. However the process will not allow for such competition as described above. In fact the proposed process allows the TNSP to be the

initial preferred option for all projects with other participants forced to go to dispute if they wish to provide alternative options. This system will not benefit consumers, nor will it possibly increase competition.

Reliability Standards should not be static. Only an open competitive environment will allow such standards to be effectively raised.

It is our view that the Commission is incorrect where it supports the applicant's proposal that;

"TNSPs should have prime responsibility for the planning and augmentation of networks as they are accountable for network performance levels."

One of the key issues in the NEM is the development of firm access and improved reliability standards. These issues were raised by the recent S.A. NEM Task Force as important issues facing the market and are likely to be looked at in depth by the COAG independent review. Where as the incumbent TNSPs have shown a lack of interest in offering such products or in improving reliability standards other market participants such as TransEnergie have been proactive in offering an improved level of service. Only a decentralised planning system where all participants have equal access to information and investment opportunities will result in the highest level of service at the least cost to end users.

The existence of a regulated monopoly asset should not act as a status quo argument to protect such assets from competition. To do so would only act as a disincentive to the development of cheaper investment options for consumers such as embedded generation, demand side management or entrepreneurial inter-connectors. It would be a step backwards to mask these signals and to reduce competition by de-centralising network planning.

While the conflict of interest on the IRPC is recognised and addressed, this concern is contradicted by the proposal to decentralise the planning process.

Origin supports the proposal by the Commission to remove any conflict of interests that the IRPC may have when evaluating projects. However this view is clearly contradicted by allowing the TNSPs to control the annual



planning reviews. This structure will actually increase the conflict of interest between those proposing augmentation projects and those responsible to recommending whether they pass the Regulatory Benefits test.

Centralised planning avoids unnecessary duplication and costs.

NEMMCO quite rightly suggests that a major shortcoming of the code is that there is no requirement for a whole-of-market approach being taken in the development of inter-connectors. The proposed code changes remove even the technical need for the IRPC to co-ordinate inter-connector development. The proposals place the control over such planning into the separate hands of each TNSP and will result in a multitude of duplicated planning reports, which may even be at conflict with those of other TNSPs. Besides the obvious extra costs involved in multitude planning reviews comes the possible conflicts they may actually arise between different projects with no safety net to manage such occurrences.

Decentralised planning has no safety checks. If for example the NSW TNSP proposed a project to resolve a network issue they have no requirement to consult other projects being undertaken in connected regions that may negate the need for the regional augmentation. This may result in the duplication of work and an undue cost being placed on the respective end users in each state. The Commission should recognise that this possibility is greatly enhanced by allowing projects less than \$10m in value to avoid meeting the regulatory test.

The current centralised role of NEMMCO/IRPC in applying the regulatory test to network projects is to create a singular independent body of expertise which can if streamlined provide a timely and cost effective process to project evaluation.

Conclusion

Origin Energy does not support the approach of NECA to decentralise network planning. We believe that only a centralised planning body with an impartial board will create an even-handed, transparent and competitive environment. While it is understood that the Commission can not recommend the establishment of new regulatory bodies, it should be reasonable not to expect the Commission to support a framework that will reduce competition.

End use customers in the NEM deserve the highest possible levels of reliability of service at the least possible cost. While the current market arrangements may not fully support such defined choices by customers to pick the level of supply reliability they desire, clearly we should endeavour

to create a market framework where choice is promoted. The proposed arrangements will benefit the incumbent TNSP at the expense of other participants.

To determine the importance of capital expenditure based on the costs of a project is to ignore the dynamic nature of the market structure. The true value of any capital investment must be on its returns and market impacts. This is even more crucial where those paying for such projects, the end users are not given an option as to whether they desire the benefits of the projects.

It is understood that the Commission cannot in its own right establish a new regulatory body to properly centralise planning in the NEM. However the Commission should not support a framework that creates barriers to entry, and decreases the level of competition while placing non-transparent charges on the end user.

We therefore request that the Commission does not authorise the proposed arrangements.

If you have any question regarding this submission please do not hesitate to contact the undersigned.

Yours sincerely

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