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Mr Michael Rawstron
General Manager Regulatory Affairs Division - Electricity
Australian Competition and Consumer Commission
PO Box 1199
Dickson ACT 2602

Via e-mail: electricity.group@acc.gov.au

Dear Michael,

VENCorp's Submission on the Code Change Panel's "A network and distributed resources package"

This letter sets out VENCORP's comments on proposed code changes detailed in the Code Change Panel's report titled *A network and distributed resources package – December 2000*.

Annual Planning Report

Clause 5.6.2(d) requires the Annual Planning Report to comprise a planning period of 10 years for transmission networks. On the other hand clause 5.6.2(b)(3) requires the Annual Planning Report to incorporate a forecast of constraints and inability to meet the Schedule 5.1 performance requirements over 1, 3 and 5 years. The requirements of these two clauses do not appear to be consistent. This matter should be clarified.

Determination by the ACCC of whether an augmentation satisfies the regulatory test

Clause 5.6.6(p) requires the ACCC to determine whether a new large network asset satisfies the regulatory test, on request from an applicant. However, we are concerned that clause 5.6.6(q) seems to provide for the future re-valuation or re-optimisation by the ACCC of such assets that the ACCC has previously found to satisfy the regulatory test.

We question whether the application of ex-post asset write downs by the regulator is the most appropriate mechanism for achieving efficient investment, and therefore in the public interest. We therefore believe that the ACCC should give careful consideration to the applicability of clause 5.6.6(q) in situations, such as Victoria, where:

- the functions of asset ownership and investment decision-making have been separated, to minimise the risk of inefficient transmission investment, or over-capitalisation of the transmission asset base by the asset owner; and
- governance arrangements, which obviate the need for the application of ex-post asset re-valuation by the regulator, have been established to ensure that transmission investment is efficient.

We note that in December 2000, the Office of the Regulator-General issued a Guidance document on transmission connection planning and pricing, stating that:

“The Office would expect the clear separation of transmission connection asset ownership and planning responsibility in Victoria would reduce any tendency to over-invest in transmission connection capacity...

[The] regulatory stranding of assets implied by the ... approach [involving complete roll-in of assets using a DORC valuation, with the asset owner accepting the risk of future optimisation] may not be the most efficient mechanism for encouraging efficient investment. The Office instead believes that efficient investment is best encouraged through transparent planning and due process at the time of investment, rather than the discipline of possible ‘after-the-event’ optimisation.”

These views expressed by the Office in relation to transmission connection planning are equally applicable to shared transmission network planning in Victoria.

Accommodation of short lead-time projects

Defining and meeting project service dates is crucial for efficient network augmentation. In VENCORP’s case, every effort is made to define and achieve optimal services dates that take account of the latest available information, including recent summer demands and evidence of demand side management. Such an approach however minimises project lead times. Therefore, allowing additional time in the approval processes may create the potential for delay, where:

- the requirement for the asset was not able to be envisaged or planned for with sufficient lead time to allow for the full consultation, for example as a result of unexpected demand increases, new customers or generators; or
- the consultation process is used strategically by some interested parties to delay a project.

Given these considerations, there appears to be a case for providing TNSPs with some discretion in undertaking a more streamlined consultation and approval process, which would still nonetheless be subject to regulatory oversight. Such a process could for example be approved between the ACCC and a TNSP in advance.

New Connections

Clause 5.6.6(a) states that “In addition to the process and procedures to establish a connection to a network in clause 5.3, all applications to establish a new large network asset must

conform to the access arrangements in this clause 5.6.6 and follow the process set out in clause 5.6.6.” We believe that this requires further consideration, particularly in the following areas:

- How should any shared network augmentations that are required to provide access to a new customer (generator or load) be handled? For example, if the proposed augmentation does not meet the regulatory test, the augmentation should presumably be treated as a funded augmentation, and therefore the process in 5.6.6B should apply rather than 5.6.6.
- How should any confidentially issues be addressed?

System security considerations

The applicant should be required to ensure that matters of system security, system performance and quality of supply are adequately considered in any proposal to augment a transmission network. There is presently no clear requirement for this in 5.6.6. As a minimum, the applicant should be required to obtain some form of system security sign off from the system operator NEMMCO.

Proposed amendments to clause 5.6.2

Insertion of the word “Distribution” in clause 5.6.2(k) may have the unintended effect of removing the obligation on Transmission NSPs to execute an augmentation that satisfies the regulatory test. We consider that in some circumstances, it may be appropriate for TNSPs to continue to have a Code obligation to efficiently execute transmission works that meet the regulatory test.

We note that the proposed Code changes may reflect an underlying assumption that TNSPs have a commercial interest in expanding their regulated asset bases, and therefore, TNSPs need not be required under the Code to execute economic augmentations. We also note however that the potential for on-going re-optimisation of asset values at future regulatory reviews may, in some circumstances, be perceived by transmission asset owners as unduly risky. This, in turn may constrain the availability of capital for economic expansion of the network. (As already noted in this submission, VENCORP suggests that the ACCC should carefully consider the practical implications for investment of on-going re-valuation of assets by the regulator, particularly where the asset ownership and network planning functions are separated.)

We suggest that careful consideration be given to the regulatory provisions applying to Transmission NSPs in relation to the execution of augmentations that meet the regulatory test.

General

- Some of the code changes proposed as part of this package are based on, or impacted by, the outcomes of the transmission and distribution pricing review code changes. We note that this will require care in co-ordination between these two Code change processes.
- Clause 5.6.2A(b)(2) refers to planning for future connection points. We believe it should also refer to augmentations to the shared transmission network which are not directly related to connection points.
- The definition of new large and new small network assets include those on which work commences after 1 July 2000. We question whether this date is appropriate.
- There are some errors in the numbering of clauses in clause 5.6.6(i).
- We understand that the Victorian distribution businesses will be proposing some minor amendments to the wording of clause 5.6.2A(a), to ensure that the clause is consistent with Victorian arrangements for transmission connection planning arrangements. VENCorp concurs with the Victorian DBs' submission in this matter.

If you wish to discuss any aspect of these comments, please contact me on (03) 9481 9341 or Joe Spurio on (03) 9481 9308.

Yours faithfully,

(signed)

John Howarth
Executive Manager Energy Infrastructure