

Our Ref: 11816558
Your Ref: ERC0294
Contact Officer: Arista Kontos
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21 January 2020

Ms Merryn York
Acting Chair – Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001

Dear Ms York

Submission to Draft Determination on Connection to Dedicated Connection Assets rule change

Thank you for the opportunity to comment on the Australian Energy Market Commission's (AEMC) draft rule determination for the Connection to Dedicated Connection Assets (DCAs) rule change process.

We support the objective of the draft rule to facilitate better sharing of transmission assets by connecting parties and clarify the allocation of responsibilities under the National Electricity Rules (NER). This promotes the National Electricity Objective by facilitating more efficient investment in, and use of, the transmission network, while promoting its safe and reliable operation. We consider the AEMC has effectively balanced the range of issues, including maintaining competition and incentives to invest, minimising complexity and allowing for effective management of power system security.

Timeframe for AER decision on standard access policies

With respect to the detailed application of the framework, we seek flexibility around the time allowed for the AER to approve the standard access policies for designated network assets (DNAs). Each Primary TNSP will be required to develop a standard access policy that will apply to all DNAs that form part of its network, and submit it to the AER for approval. Under the draft rule, we are required to make our decision within 60 days of the access policy being submitted to us. We consider that we should be required to make decisions as soon as practicable after access policies are submitted to us. In some cases, this may be possible within 60 days. However, 60 days may not be sufficient to consult on and properly consider any substantive issues that we identify with an access policy.

We note that the draft rule does not require us to consult on an access policy, particularly as the Primary TNSP is required to consult for at least 30 days in developing the policy. Upon receiving an access policy, however, we may deem it necessary for us to consult again, in order to resolve any substantive or complex issues that we identify in making our decision. For example, we may have concerns that a particular TNSP has not responded adequately to a submission. Further, as the TNSPs will not be publishing draft access policies after the initial consultation, stakeholders will not have opportunities to comment on the TNSPs'

submitted access policies. It is further important that we have the flexibility to consult given the high levels of stakeholder interest in this work. This is reflected by the increasing number, and size, of DCAs being developed.

To balance the need for timeliness, we propose that the AEMC avoid prescribing a specific timeframe in the rules for the AER's decision. Instead, the rule should be drafted to reflect that we will approve each access policy as soon as practicable, but to the extent that we need to resolve and consult on any substantive issues that arise, we are allowed the time to do so.

Unlike the existing framework where an individual access policy is developed for each DCA, these standard access policies will apply to all DNAs in a jurisdiction. It is therefore particularly important that we have sufficient opportunity to properly consider and consult on the DNA access policies where needed, to ensure they promote fair and competitive outcomes over the long-term.

Regulating negotiated access

We support providing negotiating principles to underpin the standard access policies and access negotiations, including to maintain the incentives for connecting parties to invest in DNAs. We consider that standard access policies should retain flexibility where connecting generators, such as variable renewable energy generators, are prepared to pay for less connection reliability. While the proposed negotiating principles¹ do not prevent this, the AEMC may wish to consider whether this should be explicitly captured as a negotiating principle.

Further, we support applying the commercial arbitration process set out in rule 5.5 of the NER to disputes relating to DNA services. This process is important in serving as another layer of protection for fair and competitive outcomes in the provision of unregulated transmission services.

We thank the AEMC for the opportunity to submit to its draft rule determination. If you have any questions about our submission, please contact Arista Kontos (08 8213 3492).

Yours sincerely

A handwritten signature in blue ink that reads "James Cox". The signature is written in a cursive style with a large initial 'J'.

James Cox
Deputy Chair
Australian Energy Regulator

¹ Contained in Schedule 5.12 under Schedule 2 of the draft rule change