

**RESPONSE TO
AUSTRALIAN ENERGY REGULATOR**

**Electricity Distribution Network Service
Providers**

**Proposed Service Target Performance Incentive
Scheme**

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1. INTRODUCTION

ENERGEX Limited (ENERGEX) welcomes the opportunity provided by the Australian Energy Regulator (AER) to submit comments on the *Proposed Service Target Performance Incentive Scheme, September 2009* (proposed STPIS) and accompanying *Explanatory Statement – Proposed amendment – Service Target Performance Incentive Scheme, September 2009* (explanatory statement).

ENERGEX has provided submissions to separate consultation processes on versions 1.0 and 1.1 of the STPIS, which were published by the AER on 26 June 2008 and 8 May 2009 respectively.

Section 2 of this submission provides ENERGEX's comments relating to procedural issues associated with the proposed STPIS as it will apply to ENERGEX, in particular its relationship to the elements of the distribution determination currently underway in Queensland and South Australia.

ENERGEX's comments on the technical issues associated with the proposed amendments to the STPIS are provided in Section 3.

2. PROCEDURAL ISSUES – REGULATORY CERTAINTY

ENERGEX supports a robust and transparent approach to the development of a national scheme designed to incentivise improved service performance over time. Such an approach fosters regulatory certainty by allowing affected businesses to analyse and evaluate the impact of such a scheme on their ability to deliver a commercially balanced outcome for their customers and owners. In this context, ENERGEX notes the following matters relating to the proposed STPIS:

- The proposed STPIS is the third version of the STPIS consulted upon since version 1.0 was released in June 2008, and it has not yet been applied to any distribution business;
- STPIS version 1.0 contained the limitation that an amendment to the scheme could not apply to a DNSP for a regulatory control period unless it was promulgated no less than 19 months before the commencement of that regulatory control period. This safeguard was removed in version 1.1, thereby allowing subsequent amendments in both May and September 2009 (and potentially thereafter);
- The second STPIS (version 1.1) was released in May 2009, less than 2 months prior to the lodgement of ENERGEX's regulatory proposal in which ENERGEX was required to provide its STPIS proposition;
- The proposed STPIS is released at a time when ENERGEX is in concentrated engagement with the AER and their consultants with regards to its 2010-15 regulatory proposal; and
- Certain elements of the proposed STPIS remain ambiguous to ENERGEX. Those elements within the scope of consultation are addressed later in this submission.

These issues are compounded by the redrafting of clause 2.2 of the proposed STPIS, which appears to no longer reflect an intention on the part of the AER to consider proposed variations in the application of the STPIS in a revised regulatory proposal. This redrafting is potentially an amendment that impacts ENERGEX as a DNSP who has already submitted its regulatory proposal to the AER.

ENERGEX's regulatory proposal was drafted on the basis that the STPIS included an explicit statement of regulatory intent to consider proposed variations in the application of the STPIS in revised regulatory proposals. The amendment to remove this explicit statement therefore impacts regulatory certainty for ENERGEX.

The National Electricity Rules clearly contemplate that the STPIS which is to apply to a DNSP for a regulatory control period should be finalised in advance of the submission of the DNSP's regulatory proposal to the AER. An important element of the regulatory proposal is the distributor's explanation of how it proposes the STPIS should apply to it (cl.S6.1.3; see also cl.6.3.1(b), (c)(1)). Indeed, the purpose of the framework and approach paper, which is required to be published in advance of the submission of the DNSP's regulatory proposal (cl.6.8.1(e)), is to set out the AER's likely approach to the application of the STPIS so the DNSP can take that into account in preparing its regulatory proposal. Amending the STPIS that is to apply to ENERGEX after the submission of its regulatory proposal, and denying ENERGEX the opportunity to propose a variation to that amended scheme in any revised regulatory proposal it may submit in response to the AER's draft determination, is inconsistent with these provisions. Accordingly, ENERGEX is strongly of the view that it should have the right to propose variations in the application of the STPIS to it in any revised regulatory proposal that it may submit to the AER, and is opposed to clause 2.2 being amended in such a way to remove this right.

3. TECHNICAL ISSUES

3.1 Amendment of the S-Bank Mechanism

ENERGEX has no comments on the AER's proposal to not amend the operation of the s-bank mechanism.

3.2 Major event days (MEDs)

ENERGEX has identified indications of regulatory intent in the explanatory statement that do not appear to be fully reflected in the proposed STPIS:

- The explanatory statement notes that a threshold lower than 2.5 beta is not considered "appropriate" (p.9). However, limiting the threshold to 2.5 beta or above does not appear to be reflected in Appendix D of the proposed STPIS;
- The explanatory statement notes the possibility of a DNSP seeking to reduce a threshold previously above 2.5 beta to a lower figure, but still above 2.5 beta (for example a reduction

from 2.7 beta to 2.6 beta). However, Appendix D of the scheme appears to only contemplate reductions to 2.5 beta; and

- The explanatory statement states an intention to *allow* a DNSP to propose an alternative transformation method where a data set is not normally distributed (p.8). However, Appendix D of the scheme appears to *require* a DNSP to propose an alternative transformation method where a data set is not normally distributed.

To address these matters, consideration might be given to amendments to the proposed Appendix D of the STPIS such as the following (noted in italics):

- “A DNSP subject to a beta threshold greater than 2.5 during a regulatory control period and seeking to reduce its beta threshold (*to a minimum of 2.5 beta*) in the subsequent regulatory control period must demonstrate to the AER that its proposal is consistent with the objective of the scheme and provide supporting information, as required by clause 2.2 of the scheme.”;
- “Consider proposing an alternative data transformation method which results in a more normally distributed data set in accordance with clause 2.2. of this scheme.”; and
- The words preceding step 4 (first set of steps in Appendix D) should include at the end "*or where the DNSP chooses not to propose an alternative data transformation method (see below)*".

ENERGEX also notes the following:

- The proposed STPIS glossary states that “major event day” is defined in Appendix D. The first paragraph in Appendix D provides the Institute of Electrical and Electronics Engineers (IEEE) Guide’s definition of major event day that stipulates a 2.5 beta threshold. There may be merit inserting the proposed Appendix D paragraph 4 (commencing “A DNSP may propose”) immediately after proposed paragraph 1 to highlight that the proposed definition of “major event day” under the STPIS is different to that provided for in the IEEE Guide; and
- Paragraph 5 of Appendix D is a repetition of the first sentence in paragraph 3 of Appendix D.

3.3 Timing of performance measurement

ENERGEX has no comments on the AER’s proposed amendments on the timing of performance measurement.

3.4 Clarifications and other amendments

ENERGEX has commented on the proposal to amend clause 2.2 of the STPIS in section 2 of this submission.

Amendments are proposed to clause 3.2.1(a) of the STPIS which attempt to clarify that performance targets are set so as not to “decline” across the regulatory years. ENERGENX interprets a *declining* performance target as representing an *improving* target performance. For example, a decline in SAIDI from 70 to 65 represents an improved reliability performance on this measure. ENERGENX believes the following revision to clause 3.2.1(a) of the proposed STPIS should be considered:

- “The performance targets to apply during the regulatory control period must not *deteriorate* across regulatory years and must be based on average performance over the past five regulatory years, modified by the following...”

In addition, the relationship between clause 2.1(d)(8)(iii) and clause 2.1(d)(8)(ii) may need to be reviewed. All instances where the major event boundary that applied to the DNSP in previous distribution determinations was greater than 2.5 beta appears to be captured in clause 2.1(d)(8)(ii).

ENERGENX notes the following statement in the explanatory statement:

Historical performance data that is used to set the performance targets reflects the exclusion boundary adopted under appendix D of the scheme (as well as the exclusions listed in clauses 3.3 and 3.4). This is to ensure that the performance targets, which are based on historical average performance, are set consistent with the exclusion boundary that will be applied under the scheme.

Firstly, ENERGENX notes the reference to clause 3.4 of the STPIS. The proposed STPIS does not contain a clause 3.4.

Secondly, in light of this statement, ENERGENX requests the AER confirm the correct application of the exclusion boundary and calculation of performance targets under the STPIS.

ENERGENX’s understanding of the calculation STPIS performance targets under the proposed STPIS is outlined in Figure 1. ENERGENX requests that the AER confirm the general accuracy of this interpretation and proposes that such a flow diagram be included in the material accompanying the final STPIS.

Figure 1 – ENERGETX’s understanding of methodology to calculate USAIDI targets

