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16 November 2004

Mr Sebastian Roberts
General Manager
Regulatory Affairs—Electricity
Australian Competition and Consumer Commission
PO Box 1199
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Via e-mail: electricity.group@accc.gov.au

Dear Sebastian

VENCORP'S COMMENTS ON SPI POWERNET'S RING FENCING WAIVER APPLICATION

The ACCC has invited submissions from interested parties on the application lodged by SPI PowerNet for a waiver from compliance with clauses 7.1(a)(ii) and 7.6(b) of the Transmission Ring-Fencing Guidelines.

Given the status of Singapore Power's acquisition of the TXU distribution assets, and in light of the undertaking of 19 July 2004 given by the SPIA Group to the ACCC, VENCORP does not have any strong objections to the ring-fencing waiver application lodged by SPI PowerNet.

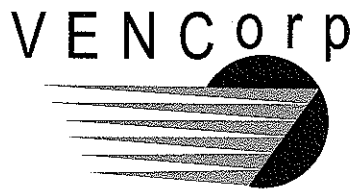
However, VENCORP believes there are a number of issues which the ACCC should take into account when considering SPI PowerNet's application. VENCORP recognises that some of the issues identified in this letter will remain in play, regardless of the ACCC's decision on SPI PowerNet's application. Nonetheless, all of the issues described below have some bearing on the application presently being considered by the ACCC.

The relevant issues are identified and discussed briefly under separate headings below.

1. VENCORP's role in the electricity industry

SPI PowerNet's application acknowledges (correctly) that VENCORP has sole responsibility for planning and directing the augmentation of the shared transmission network within Victoria. VENCORP concurs that the structural, regulatory and governance arrangements in Victoria limit SPI PowerNet's ability to utilise shared transmission network planning processes to engage in discriminatory conduct.

However, it is important to note that transmission governance arrangements in Victoria essentially provide for a commercial relationship to exist between VENCORP and SPI PowerNet. Accordingly, VENCORP does not have a formal role in supervising or overseeing SPI PowerNet's conduct, per se; this is a matter for the ACCC and the Essential Services Commission.



Notwithstanding these considerations, VENCORP generally concurs with SPI PowerNet's suggestions that the increased transparency provided by the Victorian arrangements mitigates the potential for discriminatory behaviour. Indeed, as a matter of principle, VENCORP is strongly supportive of arrangements that enhance the transparency of processes such as investment decision analysis, cost allocation, pricing and determination of fair and reasonable terms and conditions for access to essential facilities.

2. Review of waiver

In addition to being responsible for planning the shared transmission network in Victoria, VENCORP is also responsible for determining load shedding priorities in accordance with the National Electricity Code. It is important that these roles continue to be the responsibility of an organisation that is independent of transmission customers. We therefore consider that in the event that VENCORP's role was subject to a material change (particularly in relation to these roles), that there should be provision for any ring fencing waiver granted by the ACCC to be reviewed. In this regard, it is noted that clause 6(b) of the undertaking of 19 July 2004 given by the SPIA Group to the ACCC allows for the undertaking to be reviewed, to take account of changed circumstances including a material change in the role of VENCORP in the Victorian electricity industry.

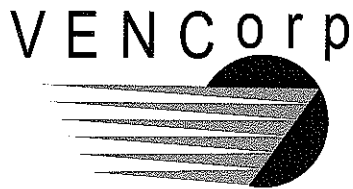
3. Transparency of transmission connection asset cost allocation methodology

Subject to the applicable provisions of the National Electricity Code and the prevailing revenue cap determination, SPI PowerNet is responsible for determining the transmission connection charges payable by network users.

VENCORP considers that a greater degree of transparency in relation to the determination of transmission connection charges by SPI PowerNet would be desirable, particularly in light of SPIA Group's common ownership of Victorian transmission and distribution assets. VENCORP therefore suggests that regardless of the ACCC's decision in response to SPI PowerNet's application, consideration should be given to amending either SPI PowerNet's transmission licence (issued by the ESC) or the Transmission Ring-Fencing Guidelines (administered by the ACCC) to require SPI PowerNet to publish details of the methodology applied to determine transmission connection charges.

4. Transparency of SPI PowerNet's asset replacement program

Subject to the applicable provisions of the revenue cap approved by the ACCC, SPI PowerNet is responsible for determining its own expenditure priorities in relation to renewal and refurbishment of existing assets. Given SPIA Group's common ownership of transmission and distribution assets, there would seem to be merit in increasing the amount of information publicly disclosed by SPI PowerNet in relation to its asset replacement program. Increasing the level of transparency in this area would help ensure that asset replacement decisions are made in a fair and reasonable manner, and do not favour assets which service any particular service territory.



5. Connection Asset Planning

In Victoria, the Distribution Businesses (DBs) are responsible for planning and directing the augmentation of the transmission assets that connect their distribution networks to the shared transmission network. In view of these arrangements, SPI PowerNet's application identifies connection asset planning as an issue that is likely to arise during the consultation process relating to its ring-fencing waiver application.

Under their distribution licences, the DBs are required to publish each year a report setting out, among other things, emerging constraints at transmission connection points, options for alleviating those constraints, and planning standards that apply to transmission connection augmentation decisions. The regulatory arrangements that govern transmission connection planning by the DBs involve a high level of consultation and transparency, and in part, rely on the separation of transmission connection asset ownership and planning responsibility in Victoria to reduce any tendency to over-invest in transmission connection capacity.¹

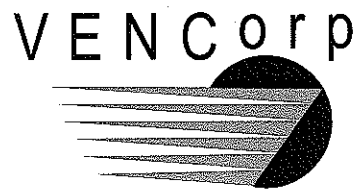
VENCorp considers that to date, the Victorian transmission connection planning governance arrangements have not resulted in inefficiently high levels of investment in connection assets. It is noted however, that following the acquisition of TXU's electricity distribution assets by the SPIA Group, there will be a less clear separation of transmission connection asset ownership and planning responsibility in Victoria. With this consideration in mind, the ACCC may wish to liaise with the Victorian ESC to determine whether there is a need to supplement the present transmission connection planning governance arrangements to safeguard against any risk of inefficient transmission connection investment in the future.

6. Realisation of synergy gains

SPI PowerNet's application estimates that annual savings of the order of around \$0.5 million are expected to accrue from the synergies that exist between the transmission and distribution businesses now owned by the SPIA Group. The application states that synergies are achievable in the provision of administrative support, finance, human resource management, legal services, information technology and accommodation. The application also states that these synergies "will ultimately result in cost savings and benefits to consumers", thus helping to satisfy the criterion detailed in clause 11 of the Ring-Fencing Guidelines, that the '*benefit, or any likely benefit, to the public is outweighed by the administrative cost to SPI PowerNet and the distribution business of the SPIA Group of complying with the obligation*'.

Notwithstanding the question of whether the level of savings estimated in the application is realistic, VENCorp suggests that there would be merit in the ACCC's decision on SPI PowerNet's application giving consideration to the means by which such savings are to be transferred to consumers.

¹ Refer to page 15 of the Joint DB Transmission Connection Planning Report for 2003. A copy of the report is available from: <http://www.citipower.com.au/body/pdffiles/transmission/TCPR2003/TRANSMISSION%20CONNECTION%20PLANNING%20REPORT.pdf>



Should you have any queries on any of the matters raised in this submission, please contact Joe Spurio on (03) 8664 6613.

Yours sincerely

A handwritten signature in black ink, appearing to read "M. Zema". The signature is fluid and cursive, with a large, prominent 'M' and 'Z'.

Matt Zema
Chief Executive Officer