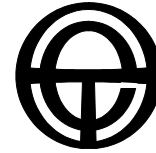


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SUBMISSION

Review of the Electricity Transmission Revenue and Pricing Rules: Revenue Requirements

Issues Paper

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1. Introduction

1.1 Key themes

Total Environment Centre welcomes the opportunity for further input to the Review of the Electricity Transmission Revenue and Pricing Rules (the Review). This submission builds on our previous response to the AEMC's Scoping Paper on this subject. Where possible, we have addressed the questions framed within the Issue Paper on Revenue Requirements on the basis of our particular concerns, with a focus on the key themes identified by the AEMC:

Key themes raised in submissions include the need for regulatory arrangements that achieve a better alignment between investments in and operation of transmission networks and the interests of market participants and electricity consumers. A second important theme is the desire to provide greater clarity, certainty and consistency in the application of regulation.¹

Total Environment Centre (TEC) further endorses the introductory statements that,

Effective incentives and processes should work towards reducing or eliminating network constraints, where it is efficient to do so and thereby contribute to efficient operational and pricing outcomes in the wholesale and retail markets.

Effective incentives and processes also need to give sufficient weight to transmission alternatives, such as embedded generation or demand management initiatives and alternative energy sources.²

This Review is particularly important while new systems are being set in place. The restructuring of the National Electricity Market (NEM) will clearly take some time to achieve, especially considering that the Rules themselves have only just taken effect in their new form. Moreover, it is clear that the whole new area of distribution and retail coming under the sphere of the Australian Energy Regulator (AER), not to mention the addition of the regulation of gas, will inevitably lead to some upheaval within the administration of the new system. This possibility is exacerbated by the current differential in context across the jurisdictions.

However, the current approach to the Review is a piecemeal one, as we have pointed out before in this context.³ In order to make transmission network investments more timely and efficient it is necessary to first consider energy services from the perspective of

¹ Australian Energy Market Commission, *Review of the Electricity Transmission Revenue and Pricing Rules – Revenue Requirements: Issues Paper*, October 2005, p 7

² *Ibid.*, p 10

³ Total Environment Centre, *Submission: Review of the Electricity Transmission Revenue Pricing Rules Scoping Paper*, August 2005

consumers – what do they need and how can this need be delivered at the lowest cost (including environmental and social costs)? Such a review should work its way up through retail, distribution and transmission networks and generation to comprehend how best these can be regulated to deliver the desired outcomes.

We reiterate that the current transmission network revenue Rules are inappropriately focused on the supply of electricity at the expense of a focus on the provision of energy services, including demand side or other non-network approaches. This focus has resulted in:

- enormous and unnecessary costs of inefficient network investment;
- the erasure of accurate price signals at multiple points throughout the NEM, including transmission networks;
- barriers to distributed generators and demand management (DM) providers; and,
- a greenhouse gas emission intense electricity system that brings with it a disproportionate risk of future carbon liabilities.⁴

1.2 Demand management and the NEM

DM⁵ must be recognised as a preferable alternative to augmentation by the AEMC, the AER and the transmission network service providers (TNSPs) because of the massive benefits that it delivers to consumers. With the system in a state of flux, now is the time to set the foundation for the future.

Economic efficiency is central to the NEM. To achieve this there must be equal emphasis on demand and supply as the basis of standard economic regulation. DM and energy efficiency must therefore be given high priority and be integrated in uniform national regulation.

The importance of enhancing DM in the NEM has been repeatedly highlighted by the Council of Australian Governments (COAG) and the Ministerial Council on Energy (MCE) over many years. As early as 1992, the National Grid Management Protocol recognised the importance of DM as integral to the creation of an efficient and cost-effective electricity system.⁶ In 2002, the Parer Report⁷ again emphasised the importance of demand management and recommended several measures to improve demand side participation. Subsequent MCE communiqués over 2004 and 2005 have specifically highlighted the need for greater energy efficiency. More recently, the Commonwealth has also emphasised the importance of DM: "To improve Australia's energy efficiency

⁴ Ibid.

⁵ DM in this submission can be read to include 'demand response', 'demand-side management', 'demand side response', 'energy efficiency' and 'non-network solutions'. In general, DM can include both the management of peak loads and energy efficiency as a way of meeting capacity requirements most cost effectively. It includes a diverse array of activities that meet energy needs, including cogeneration, standby generation, fuel switching, interruptible customer contracts, and other load shifting mechanisms.

⁶ National Grid Management Council, *National Grid Protocol*, First Issue, December 1992

⁷ Commonwealth of Australia, *Towards a Truly National and Efficient Energy Market*, 2002, p 33

performance, the Australian Government will: improve price signals for demand side management as part of reforming Australia's energy markets ..." ⁸

Further, the National Electricity Rules state that: "The regulatory regime to be administered by the AER must ... also have regard to the need to:

(1) provide Transmission Network Service Providers with incentives and reasonable opportunities to increase efficiency;

(2) create an environment in which generation, energy storage, demand side options and network augmentation options are given due and reasonable consideration;" ⁹

Demand management is traditionally, "defined as one of a number of ways in which suppliers of a resource can meet their customers' energy needs by either shifting or reducing their demand."¹⁰ The Independent Pricing and Regulatory Tribunal of New South Wales (IPART) Demand Management Inquiry Report points out benefits of DM such as, "lower greenhouse gas emissions, improved utilization of generation, transmission and distribution assets, enhanced network capacity and reliability, lower capital costs, and lower costs to end-users."¹¹

A primary advantage of DM is the facility to ease the load on the system. As an alternative to augmentation, DM has the potential to reduce both the quantity and price of electricity used. Better utilisation of existing assets and deferral of the need for new capital expenditure (and consequently operating expenditure as well) by the TNSPs can be gained through reversing the increasing 'peakiness' of electricity use. This peakiness is results in the inefficient utilisation of transmission network assets and is exemplified by EnergyAustralia's claim that "the top 10 per cent of capacity is utilized less than one per cent of the time ..." ¹²

The proposed Wollar to Wellington transmission line provides a case in point, of an arguable decision about whether augmentation of the back-up line will indeed bring sufficient public benefit to outweigh the potential gains from demand management. In the face of peak demand growth of only 8MW¹³, the proposed line has a massive capacity of between 1000MW and 2000MW. It is a prime example of where, in meeting an alleged need, it is probable there will be vast under-utilisation of the infrastructure, and hence a highly inefficient business decision (which contravenes the spirit of the NEL). Higher than appropriate costs for the service delivered and market distortions will result, in turn substituting inefficient network service provision for more cost-effective solutions to system constraints. In this context, TransGrid's conclusion that non-network alternatives are not cost-effective is extremely inappropriate. TEC has previously argued to the ACCC, and in response to TransGrid's EIS for the line, that the potential revenue should be

⁸ Commonwealth of Australia, *Securing Australia's Energy Future*, 2004, p 105

⁹ National Electricity Rules, Section 6.2.3

¹⁰ Independent Pricing and Regulatory Tribunal of New South Wales, *Inquiry into the Role of Demand Management and Other Options in the Provision of Energy Services – Final Report*, October 2002, p 3

¹¹ *Ibid.*, p 3

¹² *Ibid.*, p 60

¹³ TransGrid and Country Energy, *Development of Electricity Supply in the Western Area of NSW – Final Report*, August 2003, p 9

disallowed on this basis, and DM and/or DG solutions pursued. This example can be considered as an example of “gold plating”, that is, the artificial inflation of a network’s revenues through investment in uneconomic regulated assets.

The NSW *Electricity Act 1995* imposes the necessity for the investigation of DM alternatives in the licensing system. The Act states:

(5) Without limitation, the Minister must impose the following conditions on each electricity distributor’s licence:

(a) a condition requiring the holder of the licence, before expanding its distribution system or the capacity of its distribution system, to carry out investigations (being investigations to ascertain whether it would be cost-effective to avoid or postpone the expansion by implementing demand management strategies) in circumstances in which it would be reasonable to expect that it would be cost-effective to avoid or postpone the expansion by implementing such strategies,

A similar condition should be required of TNSPs, with the added obligation to **implement** such actions where they are cost effective.

1.3 Need for transparency and certainty

A key theme of the issues paper is certainty of regulation. A core requirement therefore is transparency of decision making. TNSPs and the AER must increase the transparency of the planning and regulatory processes in which revenue requirements are determined, as consumers ultimately pay for transmission services and can benefit from the implementation of demand management instead of augmentation.

1.4 Scope of this submission

We have focused on specific issues of concern, and addressed them in terms of the questions posed in the paper. This has meant some reordering of the questions, but in general we have followed the order of the AEMC paper. The discussion below addresses:

- Discretionary powers of the AER
- Revenue matters
- Non-network solutions
- Disclosure of information

2. Discretionary powers of the AER

Question 1. Should the Rules specify the form of regulation for prescribed transmission services (as currently) or leave this open for the AER to determine?

The regulation of transmission networks has occurred because networks are natural monopolies. As such, obtaining greater efficiencies from their investment and operation must be a principal goal of regulation.¹⁴

The current form of regulation addresses this intent in the form of regulation of a revenue cap applying the CPI-X building block approach to maximum allowable revenue. We support the form of the regulation, if not all the details therein. While the revenue cap provides a greater overall incentive than a price cap for DM, there should be more incentives provided to encourage DM. If incentives for demand management are adopted, however, they could be undermined by other forms of regulation (such as a price cap). We are in favour of clear directions being set out in the Rules, to promote certainty for all stakeholders. This also applies to:

Question 3. To what extent do the alternative forms of regulation identified above, warrant further investigation and analysis in the course of the Review?

Question 4. Should the Rules provide the flexibility to adopt alternative forms of regulation in appropriate circumstances, and if so, what are those circumstances?

Question 5. Are there any additional forms of regulation that should be considered?

Question 6. To what extent does the degree of TNSPs' market power differ for different transmission services? To what extent are transmission customers able to act in a way that constrains the conduct of TNSPs?

TNSPs wield considerable market power and form natural monopolies, thus creating barriers to alternatives such as embedded generation and the range of demand management options. There is little constraint in the opposite direction. Therefore, to reduce regulation of the TNSPs would allow the further entrenchment of their monopoly (as exemplified by the fact that there is effectively one TNSP per jurisdiction, with a handful of MNSPs). The form of regulation should be retained. This also applies to:

Question 7. Would a multi-layered regulatory approach, based on degrees of market power associated with different services, be appropriate?

Question 8. Are there transmission services that are likely to be suitable for a less intrusive form of regulation, such as price monitoring?

Question 92. What should be taken into account in determining the appropriate degree of regulatory discretion? What are the advantages and disadvantages in leaving a wide degree of discretion for the AER? What are the arguments for and against a more

¹⁴ Gavan McDonnell, COAG's Quandary: What to do with the Energy Markets Reform Program? February 2005, p 35

prescriptive approach? Alternatively, should the Rules prescribe/confer discretion in a way that is more tailored to the specific decisions that must be made?

As a general principle, matters of importance ought to be addressed within the Rules, rather than left to the discretion of the AER. Light-handed regulation can lead to a lack of certainty for stakeholders. The Rules should therefore give precise guidelines to the AER in its decision-making capacity. To ensure transparency and certainty, there needs to be a consistent application of principles to decisions. This is not only reassuring for consumers but also respects the needs of business. In addition, certainty is essential for those contemplating future investment in an industry that involves high capital and operating expenditures.

Question 94. Given that regulatory practice and methodology will evolve over time, to what extent should the Rules accommodate future change without the need for progressive amendments? Alternatively, is it preferable that future changes in approach be implemented via a future Rule change process?

We reiterate our argument about discretion: it is preferable to go through the process of a formal Rule change, with all its checks and balances, where the matter is deemed sufficiently significant. This would increase the level of transparency and public involvement in key regulatory decision making.

Question 97. What are the relative advantages and disadvantages of an approach that specifies outcomes and principles as decision making criteria in the Rules, versus Rules with greater prescription and detail?

Although the current system as a whole is already fairly prescriptive, there remain significant barriers to non-network solutions and the wider entry of embedded generation and renewable energy technologies. Thus TEC would argue for greater delineation of expectations, rather than less. Leaving decisions to be made by the AER on the basis of outcomes and principles leaves us with the status quo, and also contributes to the climate of uncertainty reported in the AEMC paper.

These arguments also apply to:

Question 98. What is the appropriate balance between fixed procedures and leaving procedural requirements open to discretion in relation to setting revenue determinations, and for related regulatory functions eg assessing compliance with price controls?

3. Revenue matters

3.1 Revenue cap

Total Environment Centre fully supports the retention of the revenue cap method of assessment, since it is an important means of encouraging networks to carry out their investments prudently. Without such a cap, networks have a reduced incentive to carry out their operations within budget, and could instead seek to encourage greater consumption of electricity.

TEC also recommends that the revenue cap is applied to DNSPs in the future regulation of distribution networks by the AER, for the same reasons set out above for transmission networks. Our arguments in Section 2 concerning the need to limit the discretionary approach are relevant here.

3.2 Incentives for DM under a revenue cap

A revenue cap alone will not necessarily increase the uptake of cost-effective DM opportunities. Added incentives for DM are needed, and we discuss a variety of these in Section 4, Question 43 (incentive mechanisms for DM).

3.3 Incentives for DM under a price cap

As a second preference, any price cap system must include incentives for DM to counter the massive incentives and cultural bias for TNSPs to sell more electricity. Such incentives should ensure that networks are able to recoup revenue for both the cost of carrying out demand management and for the lost revenue of sales that would have been made had an augmentation gone ahead. The purpose is promote consideration of more efficient non-network solutions and, conversely, to reduce the incentive for the networks to encourage excessive consumption (that is, by selling more electricity). If there is a change in the system from a revenue cap to a price cap, then a further incentive must be provided for TNSPs to investigate and implement demand management. Again, there is a useful model in NSW, the "D-factor". See further discussion of the D-factor in Question 43 (section 4 – incentive mechanisms for DM).

3.4 Clarity in the recovery of spending on DM

There is currently a lack of clarity from regulators regarding the recovery of DM spending. This creates uncertainty for networks investigating DM solutions to network constraints. ***The national regulator should therefore clearly set out the circumstances in which networks can recover the costs of implementing DM.*** There is currently no guidance for the treatment of expenditure on non-network solutions to transmission constraints. This issue has been identified repeatedly as one of the key barriers to investment in non-network solutions. To encourage TNSPs to undertake cost-effective expenditure on non-network solutions there is clearly a need to provide certainty as to the way in which those expenditures will be treated and the rate of return that those expenditures could be expected to deliver.

3.5 Network planning

National regulation must ensure that demand management is fully investigated before the undertaking of network expansions, and implemented where it is found to be more cost effective. This issue should be addressed in network expansion rules and in network planning rules. When assessing the relative costs and benefits of network augmentation compared to the deferral of network expansions, costs and benefits should include:

- Annual operating cost of the augmentation / deferred augmentation
- Total annual net cost of servicing the capital expenditure of the augmentation / deferred augmentation, such as financing charges and capital depreciation.

3.6 Reporting

NSW currently requires distribution networks to investigate and report on cost-effective non-network solutions to network constraints. The guidance for compliance with this licence condition is provided by the NSW DM Code of Practice (see Attachment 1).

The national regulator should adopt these reporting requirements to improve the consideration of non-network solutions and, in turn, reduce unnecessary costs for consumers. In addition, the regulator should improve on these requirements by ensuring that network monopolies **implement** DM opportunities when they are found to be more cost-effective than network augmentation. In a competitive market, the failure of networks to weigh up non-network and alternative generation options goes against the intentions of the National Electricity Law and adds unnecessary costs for consumers.

Question 13. Are there concerns with the current operation of the revenue caps applied to TNSPs? If so, what changes would be appropriate to overcome these problems?

Total Environment Centre has consistently supported a revenue cap with extra incentives for DM, such as the facility for a set-aside percentage for demand management. A revenue cap provides greater incentive for consideration of non-network solutions since the network can absorb the savings of augmentation deferrals, while allowing for flexibility in pricing. A price cap, in contrast, rewards networks for more electricity sales, and does not impose limitations on network augmentations even when more cost-effective alternatives are available.

A critical problem with price cap regulation is the lost incentive for non-network solutions to transmission constraints. As Gavan McDonell points out:

One of the most deficient aspects of price cap regulation is that it *provides the incentives to increase the transport of energy through the grid*, since the greater the quantity of energy moved, the greater the revenue and hence the opportunity for profits. That is, *this system of regulation provides direct incentives both to increase industry's economic costs and to encourage greater household demand*.¹⁵

These arguments also apply to:

Question 15. Should the Rules continue to be prescriptive in relation to the form of direct or indirect price control to be adopted by the AER for the TNSPs? If so, what form of price control should be prescribed?

Question 16. Alternatively would there be benefit in allowing the AER guided discretion regarding the form of price control? If so, what guidance would be appropriate?

Question 17. What characteristics of electricity transmission are relevant in considering the choice of form of price control? Do these characteristics differ from those for electricity distribution where price caps often apply?

¹⁵ Gavan McDonell, COAG's *Quandary: What to do with the Energy Markets Reform Program?* February 2005, p 36 (italics in original)

Question 18. What factors ought to be taken into account when choosing the form of price control?

Question 19. How do the incentives provided under the different forms of price control impact on the efficient development and operation of the transmission system?

Question 20. What advantages or disadvantages would there be in allowing greater pricing flexibility for TNSPs under a price cap form of price control?

Question 21. What advantages or disadvantages are there in adopting a hybrid form of price control?

Question 41. What role, if any, should Rules for economic regulation have in providing incentives for TNSPs to avoid inefficient over- or under-investment in network assets?

As noted above, since transmission networks are not required to invest in DM when it is cost effective, there is a strong tendency to focus purely on new infrastructure as an answer to increasing demand. This tendency can be labelled “strategic behaviour” and includes the practice of “gold-plating”. Inappropriate moves to artificially increase revenue include unnecessary expansion of the regulated asset base (RAB) and over-blown demand projections. To ensure that these practices are minimised, if not eliminated, it is critical that the AER undertake meaningful and substantiated assessments of past network investment and disallow recovery of imprudent investment that should have been deferred. Prudency reviews also need to be more transparent and should include failure to undertake DM when cost effective as a reason to disallow capital expenditure.

As noted above, incentive mechanisms for the pass-through of DM costs are needed to counter the inappropriate focus on the supply-side of energy service provision and to limit inefficient over-investment in transmission infrastructure. The absence of incentive mechanisms for the implementation of demand management and other non-network solutions is resulting in inefficient, peak-demand driven transmission infrastructure investments.

The recent ‘D-factor’¹⁶ incentive mechanism initiated by IPART for DNSPs has helped to spur networks into investigating and carrying out DM solutions. It enables networks to pass-through the costs of DM projects, ensuring an appropriate rate of return on this investment. More broadly, it is helping to create a viable DM provider industry that is able to respond to networks’ calls for DM. The response to the D-factor incentive mechanism in NSW to date is promising, indicating that this approach is a valid means of promoting more efficient network investment.

Question 65. To what extent should the Rules provide guidance to the AER in relation to the determination of efficient capital expenditure?

¹⁶ Independent Pricing and Regulatory Tribunal of New South Wales, *Guidelines on the Application of the D-factor in the Tribunal’s 2004 NSW Electricity Distribution Pricing Determination*, April 2005

The transparent and thorough investigation of DM alternatives to network augmentation should be made clear through the Rules to ensure that these investigations are central to the determination of proposed efficient capital expenditure by the AER.

4. Non-network solutions

As noted above, an efficient, cost-effective electricity supply system should make allowance for solutions other than those that rely entirely on network-driven solutions. Demand management in its various forms can indeed be more cost effective, and hence more efficient, thus meeting the NEL objective. Non-network solutions therefore should be given explicit consideration within the Rules. A major issue is the planning processes that TNSPs are required to undertake under the Rules. Currently, TNSPs are not required to solicit proposals for alternative non-network solutions before deciding to augment their networks. This creates a natural barrier for cost-effective non-network solutions and forecloses on the potential for networks to operate more efficiently by avoiding unnecessary or premature network augmentations, and thereby create savings for consumers.

Before TNSPs undertake major network augmentations, they should be required to solicit proposals for alternative non-network solutions. This would involve clear protocols for information disclosure, specification of constraints, requests for proposals, and evaluation of proposals. To facilitate this process, the AEMC and the AER should promote a comprehensive approach through mandatory DM Codes of Practice for network service providers. This would be a key step in facilitating a DM services market. Furthermore, recognising that transaction costs of participating in a request for proposal process would be very high for many small DM opportunities, the AEMC should also promote standing offers for small DM services.

Question 43. Are economic incentives necessary to ensure TNSPs consider both network and non-network solutions (including demand management and other energy sources) to forecast constraints and reliability shortfalls? How could such incentives operate?

Economic incentives are urgently needed to ensure that TNSPs consider non-network solutions before augmenting their networks.

Earmarking a percentage of network spending for DM:

One way of ensuring that networks undertake DM is for regulators to earmark a specific minimum spending level for DM by networks. Given the large technical and economic potential for DM, between 10% and 25% of the projected network capital expenditure should be specifically earmarked for cost-effective DM projects. This funding should be allowed only on "use it or lose it" terms, and could step up from an initial small percentage, increasing as networks become more adept at facilitating DM, then gradually reducing as the potential for DM is utilised.

Clarifying the circumstances in which DM investment can be claimed:

Several networks have rightly noted that there is a lack of clarity regarding the recovery of DM spending by regulators. TransGrid's consultants have argued that uncertainty in the treatment of DM by the ACCC may have deterred them from selecting that option: "Any uncertainty as to the regulatory treatment of DSM-related expenditure by TNSPs has

the potential to undermine the practical consideration of such alternatives."¹⁷ Thus there needs to be a proper, considered scheme for treatment of such expenditure when determining acceptable revenue and assessing revenue assets bases.

Incentive mechanism for DM:

What has been applied to some effect in NSW with distribution networks under a price cap is the use of the D-factor. This is essentially an incentive arrangement via IPART for DNSPs to promote the consideration of DM in network planning, with the requirement that, "the DNSPs must demonstrate to the Tribunal that its demand management implementation costs are less or equal to the avoided distribution costs before it can pass through any costs to customers."¹⁸ A similar, but more limited, principle could be applied at a transmission level under a revenue cap. The AER could allow the TNSP to earn extra revenue of a value up to the specified costs of DM implementation. The potential for an increase in price by passing through costs to customers would be offset by the long-term benefits to all stakeholders of increased realisation of DM potential and the encouragement of greater network familiarity with DM.

Question 96. Is there a role for further objectives in the Rules given the single NEM objective? To what extent should the general objectives currently included in the Rules be removed, reduced or rationalised?

Demand management could, and should, be inserted as a core objective in Section 6.2.2 of the Rules. This would properly take into account COAG's and the Commonwealth's expressed interest in improving energy efficiency through demand side options, as discussed in Section 1.2. The investigation and implementation of non-network solutions where cost effective would be a perfect addition to the list of objectives. Given that such solutions can result in a more efficient system and reduced costs for consumers, this would fit in well with other objectives regarding "efficient investment" (such as a, b, d, e, f). It would particularly complement objective k concerning the "long-term interests of consumers".

5. Disclosure of information

The annual public disclosure of information on emerging network constraints is essential to the development of non-network responses to these constraints. Information presented both in tables and in map form is necessary to engage non-network providers. To encourage the uptake of cost-effective non-network alternatives to transmission augmentation, such information should be required of TNSPs. The AEMC should investigate the benefits of annual, public disclosure protocols on emerging network constraints.

There is an anomaly in the current situation concerning disclosure by TNSPs of financial performance. Under existing regulations (up to 1 July 2005), "The TNSPs regulated by the ACCC are required to provide certified annual statements containing details of their

¹⁷ NERA, *Augmentation of Supply to the Western Area: Preliminary Cost Effectiveness Analysis*, May 2003, p 36

¹⁸ Independent Pricing and Regulatory Tribunal of New South Wales, *Guidelines on the Application of the D-factor in the Tribunal's 2004 NSW Electricity Distribution Pricing Determination*, April 2005, p 1

financial performance."¹⁹ However, Energy Australia, "... did not provide consent to disclose information, [so] its details were not included in this report. The ACCC notes that this is the second year that Energy Australia has not provided consent."²⁰ This means the public have not been fully informed of the financial performance of a TNSP and so stakeholders are being shut out of the decisions made by a TNSP. Considering the regulated monopoly status of the TNSPs and the billions of dollars of investments that consumers ultimately pay for, there should be a full requirement for disclosure by all TNSPs, and this disclosure should be sufficient to allow for transparency of their financial position for all stakeholders.

In relation to DM providers and embedded generators, it is similarly essential that the networks disclose planning information so these proponents can evaluate potential investment opportunities to provide non-network support as an alternative to augmentation.

Question 9. How significant are information asymmetry problems for electricity transmission regulation?

Disclosure of information is fundamental to transparency and certainty of decision making, and it relies not on quantity but quality. To date, lack of information has proved a significant barrier within the NEM, both in terms of accountability of the regulator and restriction of entry by competitors (such as DM providers and embedded generators). A transparent process will provide greater certainty for all stakeholders (regulator, TNSPs and consumers) as well as potential investors. TNSPs should also provide information on their expenditure on demand management, alongside opportunities they have investigated and the potential value of deferrals of augmentation.

A useful model here is the Disclosure Protocol from the NSW Demand Management Code of Practice²¹. The purpose of such a protocol is presented as:

*To inform the market in a timely manner, regular public reports on the status of the network are required. A standardised Disclosure Protocol is intended to ensure that distributors provide all necessary information in a clear and consistent form, without wasting effort in providing unnecessary information.*²²

The protocol includes features such as planning guidelines, for describing the basis for load forecasts and describing the system planning guidelines. It includes pro forma spreadsheets, requests for maps and summary table requests to assist with clarity of presentation and so there is some standardisation of the information lodged.

The Rules need to refer to guidelines for reporting developed by the AER, to refer to financial statements and applications for determinations.

These arguments also apply to:

¹⁹ Australian Competition & Consumer Commission, *Transmission Network Service Providers Electricity Regulatory Report for 2003/04*, April 2005, p 1

²⁰ *Ibid.*, p 1

²¹ Department of Energy, Utilities and Sustainability, *Demand Management for Electricity Distributors – NSW Code of Practice*, September 2004; the Disclosure Protocol is on pp11-14

²² *Ibid.*, p 11

Question 10. What issues arise under the current building block approach in respect of information asymmetry?

Question 11. To what extent would these be addressed by the adoption of an approach that relied on benchmarks to a greater extent?

Question 101. Are there benefits in requiring the AER to issue an initial framework document for each transmission review setting out specific information requirements?

The AER should develop standardised reporting guidelines. This also applies to:

Question 112. Should the Rules set out high level qualitative principles in relation to the AER's information gathering powers, or should they seek to prescribe what information is to be provided, both routinely, and/or on an occasional basis?

Question 102. Are there advantages in adopting an alternative process where the initial step of submitting an application is left to the TNSP?

No, for the reasons discussed above. It is usually more effective in terms of allocation of time (for a business) to follow an existing set of guidelines than develop an application from scratch. It also provides other stakeholders with a more consistent set of data, making the information more available for comparison and benchmarking.

Question 42. Are economic incentives necessary to ensure TNSPs provide the market with information about forecast constraints and reliability shortfalls?

Detailed and clear information about forecast constraints and reliability shortfalls is an essential tool to allow the DM and embedded generation market to respond appropriately and in good time to potential opportunities. It is essential that the timely publication of this information is made available to the public to allow non-network providers to offer support for constrained areas. If regulations ensuring this information are clear, TEC sees no need for further economic incentives since proper planning is beneficial to the whole industry.

Question 109. What information should the AER be obliged to include in a statement of the reasons for a determination?

If the AER expects full disclosure of pertinent details from the TNSPs then the principle should also work in reverse. There is no compelling argument not to disclose. Regulation must be consistent in both directions and apply both to the regulator and the regulated. If the regulator places information requirements on the transmission networks, then the regulator should be equally transparent in its decision making and notify the TNSP of the modelling it used. There is equally no compelling argument for inconsistency in methodology, thus modelling methods should be applied in similar situations. This information should also be publicly available. When the AER's decisions are clearly mapped out, with reasons for any decisions clearly stated, then stakeholders will be more reassured about the adequacy of the decision and more able to identify trends for future decisions (such as regarding investment).

The same arguments apply to:

Question 110. What are the arguments for and against a requirement in the Rules for the AER to provide details (either publicly or to the affected TNSP) of the modelling that underpins specific transmission determinations?

Question 111. Are there any perceived problems with the current Rules in relation to the provision of information, and if so, what are they?

Some of the problems have been referred to above for Question 9. In addition, there are problems with reporting on perceived potential constraints. All TNSPs (and in the future distribution and retail businesses) need to publicly provide clear information on areas facing constraints – or predicted to do so – in a reasonable timeframe (5, 10 and 15 years ahead) to allow DM providers to offer alternatives to augmentation. Such information should be required in order to encourage the uptake of cost-effective non-network alternatives to network augmentation and to ensure least-cost provision for consumers and an efficient NEM. Lack of quality information can inhibit new entrants to the market.