Thursday, 18 April 2024

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Lodged via email to tiffany.okeefe@aemc.gov.au

CEC Submission on draft determination and rule on Enhancing investment certainty in the R1 process ERC0363

Dear Ms O'Keefe,

The Clean Energy Council (CEC) is the peak body for the clean energy industry in Australia, representing over 1,000 of the leading businesses operating in renewable energy, energy storage, and renewable hydrogen. The CEC is committed to accelerating the decarbonisation of Australia's energy system as rapidly as possible while maintaining a secure and reliable supply of electricity for customers.

We welcome the opportunity to comment on the AEMC's draft rule and determination on Enhancing investment certainty in the R1 process.

Overview

The original intent of the CEC's Investor Certainty in the R1 process was to provide clarity for connecting generators around timelines and processes during the R1 stage of the connection process. This informed the development of our clearly articulated and defined proposed 'Type' model approach.

The draft rule is a good start in addressing this first issue. However, more is needed to impose discipline to ensure that additional modelling is only requested where this is clearly necessary to manage system security. The draft rule places very little restraint on what modelling can be requested and we remain concerned the historic issues that have imposed major costs on connecting parties will remain largely unresolved.

The second objective of the CEC's original rule change was to move forward the discussion regarding who is best placed to manage the kinds of general power system issues that may arise and impact on a connecting generator moving through the R1 process. Our recommendation was that NSPs are best placed to hold this risk, on the basis they have access to all relevant information and can harness scale economies to resolve issues at lowest cost.

We recommend the AEMC give further consideration to this issue. The kinds of network issues that can delay connections in the R1 stage are likely to become more material as the pace of

the transition accelerates, imposing greater uncertainties and costs on connecting generators. The CEC considers overall system costs will be minimised where risk is allocated to the parties who can manage it at the lowest overall cost.

Generally, we acknowledge the ongoing progress of the Connection Reform Initiative (CRI), of which this Rule Change Request is just one part. We welcome the AEMC to work with the CEC, AEMO and networks to continue to address these fundamental issues with the connection and hosting of renewable generation and storage.

In more detail…
Noting the above comments, we are generally supportive of certain elements of the draft rule, which we consider lay the groundwork for some sensible policy compromises.

GPS relaxation – 'no less onerous' provisions: We support the draft rule in so far as it seeks to permit the reasonable relaxation of a generator performance standard (GPS) between the connection application and registration stage, as well as allowing amendments to a GPS for alterations to a legacy plant. However, we believe that this will be carried out in a more efficient and expeditious manner if the draft rule is simplified to permit a GPS reduction with the agreement of the Network Service Provider (NSP) and AEMO, based on good engineering judgement.

Timeframes: We also consider that there should be clear timeframes for confirming that the information and data provided in the R1 package is complete, for requesting additional modelling analyses and for completing the R1 assessment.

Evidentiary requirements: We are supportive of the rule change insofar as it permits the Connection Applicant to seek written justification for requests for additional modelling analyses. However, the draft rule needs to go further and particularise the evidence needed when providing the written justification.

Written advice: We consider that AEMO and the NSP should give written reasons if the outcome of the R1 assessment is unsatisfactory or provide guidance of steps to be taken to make the outcome satisfactory.

Mandated negotiations: If the R1 assessment is unsatisfactory, then the Connection Applicant should have the right to negotiate a solution or pathway with the NSP and AEMO which would enable the generating system to be registered. There should be access to dispute resolution processes if a satisfactory solution or pathway cannot be agreed upon.

Conditional approvals: We consider that conditional approvals require NER based certainty, otherwise such approvals will be under-utilised, delaying projects and requiring more projects to utilise the more burdensome 5.3.9 framework instead.

Our detailed comments on the draft rule change are set out below:

1. **Removal of barriers to the renegotiation of GPS**

We are broadly supportive of the draft clause 5.3.4A(b)(1A) in so far as it seeks to permit the reasonable relaxation of an agreed generator performance standard (GPS) between the issue of a 5.3.4A letter and registration of the generating system, as well as alterations to legacy plant. However, this is subject to our comments below.

Alteration of GPS above minimum access standard

We are concerned that the requirement for the altered GPS to be **as close as practicable to** the performance standard in the Connection Agreement in draft sub-clause 5.3.4A(b)(1A)(i) could have the unintended effect of limiting the exercise of good engineering judgement and slowing down, and making less flexible, renegotiations of GPS during the R1 stage.

In particular, we are concerned that this requirement to be as close as practicable to the performance standard negotiated in the Connection Agreement:

- has the potential to introduce an unnecessary and arbitrary requirement toward the existing performance standard, which limits good engineering judgement. AEMO, the NSP and the Connection Applicant should be able to use good engineering judgement to find the best outcome for the operation of the generating system and for system security and quality.

  AEMO at page 4 their submission on the Rule Change Request recognises that based on engineering judgement it should be possible to agree to adjust downwards an individual performance standard "where there is an **overall** benefit to power system security, remediation costs and timeframes". AEMO may not be able to look at net benefit to the power system and to consumers (from not delaying and imposing unnecessary costs on the project) as the draft sub-clause focuses on the individual performance standard. This will be of particular concern in relation to alterations to legacy plants caught by draft sub-clause draft 5.3.4A(b)(1A)(i), for example, alterations from grid following to grid forming inverter, which have an overall benefit to power system security.

- may impede sensible and appropriate downward adjustments to a GPS where the underlying access standards have been lowered from those in place when the Connection Agreement was entered into. For example, the recent reactive current rule change under S5.2.5.5 led to lower minimum access standards and the recent review of technical standards may also lead to the lowering of minimum access standards.

- will be used as a 'starting point'. As a result, we are concerned that AEMO and the NSP will require the Connection Applicant to undertake excessive and unnecessary modelling, simply to show that it is 'as close as practicable' to the existing performance standard - involving many engineering hours of work - before they will consider whether to exercise their discretion and agree to the reduction.

  Justifying additional modelling or investment on the basis of an arbitrary NER threshold/target is unnecessary. Rather, the basis of the adjusted performance standard should reflect the power system conditions, and technical and commercial requirements, at the Point of Connection – such as those already expressed in clause 5.3.4A(b1)(1) to (3) of the NER.

- may result in generators being reluctant to make changes during the construction of their generating system which may improve the overall performance of their generating system (including new equipment not available when the GPS was agreed), or which may save significant money (eg by sourcing equivalent equipment from another OEM at a lower price).

- would impede the review of the NER 5.3.9 under the CRI. We note that AEMO at page 4 of their submission on the Rule Change Request states that "it is anticipated that a key recommendation of this work may be to modify NER 5.3.4A(b)(1A) such that a lesser standard may be agreed ***under certain circumstances***, including where deemed appropriate using engineering judgement".

We consider that the draft sub-clause is wrongly focussed on the proximity of the GPS reduction from the existing standard, rather than whether or not the reduction will have an adverse impact on power system security and power quality. In doing so, draft 5.3.4A(b)(1A)(i) is potentially inconsistent with clause 5.3.4A(b)(2) and (3) and rule 4.14(q) of the NER which focuses on whether proposed standard would adversely affect power system security and quality. AEMO at page 8 of its submission on the Rule Change Request also recognises that "projects should not be delayed for immaterial issues, rather the materiality of impacts to system security of a GPS deviation should be determined by the NSP or AEMO using a consistent and fit for purpose assessment and the most recent and relevant information."

The Connection Applicant has the commercial incentive to minimise changes to its GPS to the extent possible during construction so that it can easily demonstrate compliance with the agreed GPS (rather than renegotiate it), and as a result, speed up registration and ensure that all financial milestones can be met. Therefore, we consider that concerns about Connection Applicants seeking material changes to generator performance standards between R0 and R1 impacting other connection applicants are unjustified.

Alteration of GPS below minimum access standard - Legacy plants

The 5.3.9 working group for the CRI has already identified that some agreed performance standards may need to be lowered below the existing negotiated performance standard in the GPS and the current minimum access standard, but which would still remain above the minimum access standard that existed at the time the Connection Agreement was entered into. This could feasibly occur when converting a legacy plant from a grid following to grid forming inverter.

This would not be permitted under draft sub-clause 5.3.4A(b)(1A)(ii) because of the requirement that the GPS be no less onerous than the performance standard in the GPS, even though there could be an overall benefit to the system strength and stability by allowing this to happen.

AEMO/NSP should be able to exercise their engineering judgement and approve minor reductions to a GPS when altering a legacy plant which have no adverse impact on power system security and quality. However, this also would not be permitted by the no less onerous requirement under the draft sub-clause 5.3.4A(b)(1A)(ii).

Removal of prescriptive requirements

We note that prescriptive requirements in the current rules already have had unintended effects, in particular, the requirement that an amended GPS be no less onerous than the existing GPS under the current clause 5.3.4A(b)(1A) and the requirement that a proposed standard be as close as practicable to the corresponding automatic access standard in the current clause 5.3.4A(b1) of the NER. Accordingly, we recommend that the equivalent prescriptive requirements are removed from draft sub-clause 5.3.4A(b)(1A)(i) and (ii).

Broadly, as a matter of principle, all reductions to a GPS should be permitted with the agreement of the NSP and (in respect of AEMO advisory matters), AEMO, provided they are above the minimum access standard:

- that existed at the time the Connection Agreement was entered into; or
- in place at the time of the 5.3.9 application (where the minimum access standard is now lower than the minimum access standard in place at the time the Connection Agreement was entered into) – this is to allow AEMO, the NSP and the Connection Applicant to use good engineering judgement to find the best outcome for the operation of the generating

system and for system security and quality by adopting a GPS which is closer to the revised, lower minimum access standard[1].

Sub-clause 5.3.4A(b)(1A)(i)

Consideration needs to be given to the purpose of draft sub-clause 5.3.4A(b)(1A)(i) if the requirement for the altered GPS to be as close as practicable to the performance standard in the Connection Agreement is removed, in light of rule 4.14(p) and clause 5.3.9 of the NER.

If the AEMC formed the view that draft sub-clause 5.3.4A(b)(1A)(i) was not necessary if the requirement for the altered GPS to be as close as practicable to the performance standard in the Connection Agreement is removed, and instead relied upon rule 4.14(p)-(r) and clause 5.3.9 of the NER for amendments to a GPS above the minimum access standard, we consider rule 4.14(p) could be improved by requiring that the agreement of AEMO and NSP should not to be unreasonably withheld or delayed.

Sub-clause 5.3.4A(b)(1A)(ii)

We recommend that sub-clause 5.3.4A(b)(1A)(ii) should be retained to clarify that reductions to a performance standard below the existing minimum access standard are permissible. However, we recommend the requirement that the GPS be no less onerous than the performance standard in the GPS be removed to avoid any unintended restrictions to modifications to legacy plants which have an overall benefit to the system strength and stability. Alterations below the previously negotiated performance standard and current minimum access standard - but higher than the minimum access standard existing at the time the Connection Agreement was entered into - should be permitted, as agreed between the NSP and AEMO to permit the exercise of engineering judgement.

Recommendation

We recommend that draft sub-clause 5.3.4A(b)(1A)(i) and (ii) be amended to permit all reductions to GPS standards agreed between the NSP and, in respect of AEMO advisory matters, AEMO (which are above the minimum access standard which existed at the time the Connection Agreement was executed or the minimum access standard at the time of the 5.3.9 application[2], whichever is lower). This is to ensure that amendments to a GPS are based on good engineering judgement and are designed to reflect the power system conditions, and technical and commercial requirements, at that time at that Point of Connection.

Consistent with clause 5.3.4A(b)(2), (3) and (d1) and rule 4.14(q) of the NER, AEMO should only be able to withhold agreement if the proposed amendment to the GPS would adversely affect power system security and quality. The NER should be amended to make clear that the agreement of the NSP and AEMO to a GPS reduction should not be unreasonably withheld or delayed.

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[1] For older synchronous generators or wind farms, the minimum access standard which existed at the time of the Connection Agreement may not be known. Where there are alterations to such legacy plants, AEMO and NSP should be able to exercise good engineering judgement and approve a GPS reduction where the alteration to the generating system results in an overall net benefit of the alternation to power system security and quality

[2] This is to take into account that there may be minimum access standards that have been lowered since the date of Connection Agreement.

We recommend that the requirement for the altered GPS to be as close as practicable to the performance standard in the Connection Agreement in the draft sub-clause 5.3.4A(b)(1A)(i) be deleted. Consideration needs to be given to the purpose of draft sub-clause 5.3.4A(b)(1A)(i) in light of rule 4.14(p) and clause 5.3.9 of the NER.

We recommend that sub-clause 5.3.4A(b)(1A)(ii) should be retained to clarify that reductions to a performance standard below the existing minimum access standard are permissible. We recommend that the requirement that the GPS be no less onerous than the performance standard in the GPS be removed. This is to avoid any unintended restrictions to modifications to legacy plants which have an overall benefit to the system strength and stability.

2. Time frames needed for requesting additional data and information during the R1 process

Following commencement of the R1 assessment, the draft rule makes clear that NSP or AEMO can request further information or additional data to enable it to assess the capability of the Connection Applicant's generating system: draft clause 5.3.7A(c). However, we are concerned that there is no timeframe for making this request.

We recommend that there should be a specific timeframe for making this request within the NER and that this should be within 10 business days of receiving a request in draft clause 5.3.7A(a). In doing so, there would be regulatory consistency with the other parts of the NER[1].

Recommendation

There should be a time frame within the NER for requesting further information and data.

3. Written justification for requests for additional remodelling information

We are broadly supportive of the rule change in so far as it permits the Connection Applicant to request each of the NSP or AEMO to provide written reasons for its request for further information or additional data (under draft clause 5.3.7A(d)). This goes some way to addressing the information asymmetry between the Applicant and the NSP/AEMO. However, this is subject to our comments below.

3.1 Evidence supporting reasons

A core element of the CEC's Rule Change Request was to place a stronger burden of proof on NSPs when requesting additional modelling (and delaying energisation of an asset) during the R1 stage of the connection process. The original policy intent, as negotiated through the original CRI process, was to reverse the onus of proof post finalisation of GPS in the Connection Agreement. The logic is that once a generator has met all the onerous requirements of GPS negotiation and has received a 534A letter, the burden of proof should switch to the NSP to demonstrate that additional modelling and analysis is required.

The CEC's original rule change enabled this reversal of the onus of proof through the proposed 'Type' process. A key element of this overall design was the Type 1 process, where it could be shown that only non-material differences exist between the original and R1 models. We proposed the development of clear definitions of what is a material and non-material difference – this was one of the key ways we sought to ensure that connecting generators were only required to undertake additional and costly modelling in instances where a material issue had arisen.

While we disagree with the conclusion reached, the CEC understands the AEMC's reasoning regarding moving away from this Type classification process. In lieu of this more robust Type process to impose discipline and restraint on what information can be requested by NSPs, we strongly encourage the AEMC to strengthen the evidentiary provisions in the draft rule.

Specifically, the provisions included in draft NER clause 5.3.7A(e) and (f) should be made more specific, with clearly defined obligations on AEMO/NSP as to exactly what evidence they must provide in responding to a request under draft rule clause 5.3.7A(d).

The AEMC states that the draft rule is intended to allow the applicant to *pinpoint* the system security issues required to be addressed: see page 18 of the draft determination**.** However, this is unlikely to be achieved unless the draft rule outlines the detailed evidence to be included when providing the written reasons under draft clause 5.3.7A(e)(2) and (f)(2).

We recommend that in providing reasons for its request for further information and data, the NSP and AEMO should at least be required to:

- refer to the specific provision in the NER generator access standards and the negotiated performance standard to which the requested information and data relates
- specify which part of that rule or GPS the generating system is not capable of complying with and give detailed reasons as to why this is the case
- provide a detailed explanation of the specific risks to power system security and stability, identifying those risks by reference to the various matters outlined in Chapter 4 and Schedule 5 of the NER, and identifying the particular elements of the power system or generating systems that may be affected as part of the identified risk
- identify how performance and/or power system security and stability will be adversely impacted if the additional modelling analyses is not undertaken
- specify if the additional modelling analyses needs to be undertaken prior to registration and, if so, why.

These specific details are best laid out in the NER, so there is no uncertainty for any party as to exactly what evidence can be requested and must be provided. A second best alternative would be for AEMO to define these specific evidentiary requirements in a guideline, subject to well defined principle requirements in the NER.

Recommendation

We recommend that the NER/guidelines should:

- *particularise the evidence needed when providing the written justification for requesting additional modelling analyses. The NSP/AEMO should identify concerns regarding the capability of the generating system to comply with its generating performance standards by reference to the relevant parts of the rules in the NER and the GPS and concerns regarding adverse impacts on power system security by reference to specific rules of the NER; and*

- *require the NSP/AEMO to specify if the additional modelling analyses is needed prior to registration and, if so, why.*

3.2 No specific time frame for providing written justification

We consider that the requirement that the NSP and AEMO provide written reasons to justify its request for additional modelling analyses, in response to a request under draft clause 5.3.7A(d) of the NER, "within a reasonable time" is too uncertain. There should be a requirement to provide the written justification within a specific time frame and we recommend that this be within 5 to 20 business days from the date of the request under draft clause 5.3.7A(d) of the NER.

Recommendation

We recommend that written justification must be provided within a specific time frame.

3.3 Specific amendments

As currently drafted, under draft clause 5.3.7A(e) and (f), a Connection Applicant can only be informed if the data and information they have provided is inadequate based on the subjective and unqualified assessment of the NSP and AEMO as to whether the data provided was 'adequate' (as per draft clause 5.3.7A(d)(1)).

Recommendation

We recommend that:

- *the assessment of the adequacy of the data and information to support the request in draft clause 5.3.7A(a) be separated from the right to request written justification for the additional modelling assessments under draft clause 5.3.7A(d).*

- *AEMO and NSP be required to indicate whether the data and information provided is complete within a defined time frame. We consider a reasonable timeframe might be in the range of 5 to 10 business days from receiving the request under draft clause 5.3.7A(a).*

- *deletion of draft clause 5.3.7A(d)(1). However, If AEMC does not delete this sub-clause, we recommend it does not refer to "adequate data" but instead refers to data which can be more objectively assessed eg data agreed to be provided in the R1 package.*

- *deletion of draft clause 5.3.7A(d)(3) as this has the potential to reopen the adequacy of information and data provided in support of the 5.3.4A letter.*

4. Responding to GPS assessment

We support the rule change insofar as it provides that the NSP and AEMO must jointly notify the Connection Applicant whether they are satisfied with the outcome of the R1 assessment. However, we are concerned that:

- there is no timeframe for the NSP and AEMO to complete the R1 assessment
- no requirement for AEMO and the NSP to give written reasons if the outcome is unsatisfactory or to provide guidance of steps to be taken to make the outcome satisfactory
- no obligation on AEMO and the NSP to agree with the Connecting Applicant a solution or pathway which will allow the generating system to achieve a satisfactory assessment and be registered.

4.1 No timeframe for responding

There is no timeframe within which AEMO and NSP must complete their R1 assessment.

However, we note that AEMO indicated at page 6 of their submission on the Rule Change Request that:

- it would not be opposed to the application of a time limit to respond provided that this timeframe commences on provision of a complete R1 package and includes a reasonable endeavours qualification similar to other timebound obligations in the NER for AEMO and NSPs; and
- in principle the time limits proposed in the CEC Rule Change Request are reasonable (when it is applied in a similar manner as the NER 5.3.4A).

TransGrid in its submission on the Rule Change Request also supported prescribing timeframes in the NER for the R1 assessment to establish consistency between the R1 assessment process and generator performance standard negotiation. TransGrid noted that it generally responds to R1 submissions within the same timeframes that apply to the application to connect submission.

Recommendation

We propose that there should be a reasonable endeavours obligation to complete the R1 assessment within the timeframe suggested by the CEC in the Rule Change Request, as this will reduce uncertainty and variability in NSPs' and AEMO's response times. Specifically:

- *AEMO should be under a reasonable endeavours obligation to provide advice to NSPs on AEMO advisory matters within 20 business days of receipt of a request under clause 5.3.7A(a), and*
- *AEMO/NSP should be under a reasonable endeavours obligation to complete the assessment of a R1 model within 30 business days of receipt of a request under clause 5.3.7A(a).*

4.2 Reasons and guidance should be given if the outcome of the GPS assessment is unsatisfactory

We support the rule change insofar as it provides that the NSP and AEMO must jointly notify the Connection Applicant whether they are satisfied with the outcome of the R1 assessment. However, the draft rule change is unsatisfactory in so far as it does not require AEMO and the NSP to give written reasons if the outcome is unsatisfactory or to provide guidance of steps to be taken to make the outcome satisfactory.

AEMO and the NSP should be required to do so:

- as a matter of procedural fairness
- for regulatory consistency[3]
- to take into account the asymmetry between the Connection Applicant and AEMO/NSP. This will be particularly important where there have been changes to external network conditions (as discussed further below).

Recommendation

AEMO and the NSP must give written reasons if the outcome of the assessment is unsatisfactory or provide guidance of steps to be taken to make the outcome satisfactory.

4.3 Negotiation and dispute resolution needed

There needs to be a negotiation and dispute resolution process if the outcome of the assessment is unsatisfactory. We recommend:

- the Connection Applicant be given the option to request a meeting in order for AEMO, the NSP and the Connection Applicant to negotiate in good faith with a view to identifying and

[3] Written reasons must be given if the application for registration as a generator is refused under clause 2.9.2 of the NER, if a negotiated access standard is refused under clause 5.3.4A(g) or if a system strength remediation scheme is refused under clause 5.3.4B(m)). Guidance must be provided when a negotiated access standard is rejected under clause 5.3.4A(g)(2).

reaching agreement on a solution which would permit the Connection Applicant to comply with its GPS and be registered under clause 2.2.1(e) of the NER.

- If the matter is not resolved by negotiation, the Connection Applicant should have the right for the matter to be dealt with under one or more of the dispute resolution mechanisms provided under the NER.

The dispute resolution procedure should be flexible enough to deal with disputes concerning:

- the request for additional modelling assessments on technical and commercial grounds. By way of example, there could be a dispute as to whether interactions affecting oscillations with other parts of the network are possible or whether the amount of additional work (and costs) is disproportionate to the materiality of the risk posed to power system security and quality; and

- administrative or procedural matters. By way of example, there could be a dispute concerning the reasonableness of the request for additional modelling assessments, or a decision not to approve a GPS reduction where there is no material adverse impacts to power system security and quality. There should be the possibility for the dispute to be resolved through an Alternative Dispute Resolution process agreed between the parties.

The dispute resolution procedures in the NER that the parties can utilise should be stipulated in the NER. We note there may be more than one dispute resolution mechanism depending on the nature of the issue in dispute and that the existing dispute mechanisms in the NER (under rule 5.4, 5.5 and 8.2 of the NER) may need to be amended to permit their use in resolving disputes arising out of the R1 assessment and the failure to accept a reduced GPS at the R1 stage. The limitations of the existing dispute resolution mechanisms to the R1 stage are discussed at pages 27-28 of the CEC Rule Change Request.

We note that the possibility of the Connection Applicant pursuing a dispute resolution mechanism would provide further incentive for a solution to be agreed upon efficiently and quickly.

The negotiation and dispute resolution framework proposed above is consistent with the framework in place following the NSP's rejection of a system strength remediation scheme in clause 5.3.4B(m) - (p) of the NER.

4.4 Changes to external network conditions

We note that the AEMC has not addressed changes to external network conditions since the 5.3.4A letter was issued which affect the capability of the generating system to meet or exceed agreed generator performance standards.

Without the input and guidance from AEMO and NSPs, the Connection Applicant will find it extremely difficult, if not impossible, to find a solution to enable to it to obtain a satisfactory R1 outcome and be registered under clause 2.2.1(e) of the NER – as the changes to the grid involve confidential information which only AEMO and the NSP holds. The Connections Simulation Tool and Connections Scorecard does not provide the granular information about wider network conditions to find a solution.

The obligation to give written reasons if the outcome of the assessment is unsatisfactory and to provide guidance of steps to be taken to make the outcome satisfactory, and the negotiation and dispute resolution framework, proposed above will be critical to deal with any impasse the generator faces in finding a solution which would enable its generating system to be connected to the grid.

In addition, to address changes to external network conditions, there should be a requirement for AEMO, the NSP and the Connection Applicant to use their best endeavours to identify and implement the most efficient, timely and lowest cost solution to consumers, to enable to it to obtain a satisfactory R1 outcome and be registered. The solution would not necessarily be carried out by the Connection Applicant. For the reasons given by the CEC in the Rule Change Request, NSPs are best positioned to resolve system strength issues quickly and efficiently and at the lowest cost to consumers. The NSP has the modelling data and information to identify the lowest cost solution and, if necessary, can coordinate works involved in the single lowest cost solution (e.g. collective retuning). We note that AEMO also considers that all options for finding a solution should be considered. At page 9 of their submission on CEC's Rule Change Request, AEMO states:

> *In principle, AEMO would support the most expeditious and cost-effective solution for identified issues, whether those solutions are internal or external to the project. AEMO considers that during R1 assessment, all options should be considered for remediation based on implementation timeframes, technical and commercial feasibility. The remediation pathways should consider actions from the proponent and actions by the NSP and AEMO.*

More generally, as noted in our original Rule Change Request, we recognise there may be deeper changes needed to NSP (and AEMO) obligations regarding maintenance of power system stability, to allow NSPs (and AEMO) to take on a more proactive role in the management of power system issues that are affecting the stability of connecting generators. This may be enabled through the existing system strength frameworks. We also note the ongoing work being progressed within the CRI related to the concept of collective retuning. We encourage the AEMC to consider these deeper issues and consider how they can be addressed at lowest total system cost – rather than simply imposing these costs on connecting generators, who are least equipped to manage them.

Recommendation

Where AEMO and the NSP advise the Connection Application that the generating system of the Connection Applicant is not capable of meeting or exceeding any of its performance standards, if requested by the Connection Applicant, AEMO, the NSP and the Connection Applicant must meet within 10 business days and negotiate in good faith with a view to identifying and reaching agreement on a solution which would permit the Connection Applicant to comply with its GPS and be registered under clause 2.2.1(e) of the NER.

Where the generating system of the Connection Applicant is not capable of meeting or exceeding any of its performance standards due to unforeseen changes in the external network conditions since the date the Connection Agreement was executed, the parties must use their best endeavours to identify and implement the most efficient, timely and lowest cost solution to consumers.

If the matter is not resolved by negotiation, we recommend that the Connection Applicant should have the right for the dispute to be dealt with under one or more of the dispute resolution mechanisms under the NER.

4.4 Lack of clarity as to NSP's role

Draft clause 5.3.7A(b) makes clear that AEMO is assessing the R1 package for the purpose of determining eligibility for registration under clause 2.2.1(e)(3) of the NER. However, there is no explicit obligation on the NSP to assess the R1 package and it is not made clear if the NSP is assessing for GPS compliance or system strength impacts.

Recommendation

More clarity should be provided around the NSP obligations and role in the R1 assessment.

5. Conditional Approval

A key element of the CEC's original proposal, as negotiated through the original CRI processes, was to allow for sensible 'conditional approval' of an R1 package, on the proviso that these issues were resolved within a defined timeframe. This informed the originally proposed 'Type 3' process.

The AEMC formed the view that the NER was not a barrier to conditional registration and noted that NSPs and AEMO could continue with conditional approval as a discretionary practice, "as is supported by AEMO and some NSPs". The AEMC also noted that to date conditional approval has been granted at defined timeframes during both commissioning or post-commissioning, where the circumstances are appropriate: see pages 25 to 26.

We note that AEMO in their submission on the CEC Rule Change Request supports an explicit NER mechanism for conditional approval with effective frameworks for compliance enforcement and cost-recovery, rather than conditional approval as a discretionary and ad hoc practice.

We support AEMO's position that the conditional approvals should be formalised within the legislative framework of the NER with clear enforcement and operational mechanisms which can be imposed for non-compliance. If there is uncertainty as to whether conditional approvals are permissible, or as to recourse available for non-compliance with the conditions, we are concerned that conditional approvals will be under-utilised and that minor issues will continue to cause delays in registration or be less efficiently dealt with under the clause 5.3.9 of the NER. As AEMO notes at page 11 of their submission on CEC's Rule Change Request:

> *In the absence of a responsive and effective compliance framework, AEMO would need to factor in the impacts and risk of non-compliance in determining whether a conditional approval should apply. Conversely, if an effective framework is established with appropriate and timely recourse breach of conditions post-energisation, AEMO may be able to grant conditional approval for more material issues than under the current compliance framework (on the basis of reduced risk).*

Recommendation

We recommend that the AEMC reconsider amending the NER to make it clear that AEMO can approve registrations subject to conditions, with clear enforcement mechanisms for non-compliance.

We recommend that the AEMC consult with the AER as to how, as a matter of enforcement, it will treat a generating system which is registered conditional on it resolving certain issues post registration and post commissioning for the purposes of rule 4.15(1)(a) and (f) of the NER (both Tier 1 Civil Penalty Provisions) – in particular, the AEMC should seek to clarify whether the AER would seek enforcement action against a generator for failing to meet or exceed its performance standards.

We recommend that AEMO develop and provide guidance to industry as to when conditional approvals will be granted by NSPs and AEMO as part of the CRI workstreams.

6. Truncated timeframes for renegotiation of GPS considered during R1 stage

We note that AEMO and the NSP may consider a reduction in a performance standard to take into account (often unforeseen) changes made during the construction stage which may affect performance. We note that many of these changes are not material.

We consider that the timeframes for renegotiation of a GPS already considered by AEMO and NSP during the R1 assessment should not take as long as those provided for in clause 5.3.4A and should be truncated to 15 business days.

7. AEMO guidelines

The AEMC recommends that AEMO update or produce new guidelines to provide greater transparency and certainty for parties involved in the R1 stage of the connections process. We support AEMO developing such guidelines in the context of the CRI workstreams. However, the guidelines should not replace the need for legislative certainty about the R1 processes, roles and responsibilities.

As discussed above, a key concern remains that there is a lack of clarity as to what is a material change between GPS negotiated in the Connection Agreement and the R1 models. We therefore recommend this be addressed in the AEMO guidelines.

8. Bias towards Automatic Access Standards

The AEMC considers that changes to the NER to adjust bias towards the Automatic Access Standard are not best placed in this rule: see pages 34 of the draft determination.

We support AEMO dealing with this separately as part of the CRI 5.3.9 workstream and that any rule change to revise the AAS be dealt with on an expedited basis.

As always, the CEC welcomes further engagement from the AEMC on this reform. Further queries can be directed to Diane Staats on dstaats@cleanenergycouncil.org.au.

Kind regards

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