

10 August 2023

Vicki Johnson
Vice-Chair
Moorabool and Central Highlands Power Alliance Inc

Dear Ms Johnson,

The Australian Energy Regulator (**AER**) is currently assessing the dispute notice submitted by Moorabool Central Highlands Power Alliance Inc. (**MCHPA**) on 26 June 2023, in relation to AEMO Victoria Planning and Transgrid's joint Project Assessment Conclusions Report (**PACR**) for the Victoria NSW Interconnector West (**VNI West**) regulatory investment test for transmission (**RIT-T**).¹

The AER is obliged to ensure that proper processes are followed.

To that end, the AER is seeking information from MCHPA to assist the AER to determine whether MCHPA is an 'interested party' within the meaning of clause 5.16B(a) of the National Electricity Rules.²

The term 'interested party' is defined in clause 5.15.1 as follows:

In clauses 5.16.4, 5.16A.4, rule 5.16B and clauses 5.17.4 and 5.17.5, *interested party* means a person including an end user or its *representative* who, in the *AER's* opinion, has the potential to suffer a material and adverse *NEM* impact from the investment identified as the *preferred option* in the *project assessment conclusions report* or the *final project assessment report* (as the case may be).

(Note: all italicised terms are defined in the National Electricity Rules (NER))

The AER has not formed a view on whether MHPCA is an 'interested party'.

The AER would be grateful for a submission from the MCHPA on why the MCHPA believes it is an "interested party" within this definition.

¹ <https://www.aer.gov.au/communication/aer-receives-notification-of-rit-t-dispute-from-mchpa>

² [National Electricity Rules, Chapter 5.](#)

To assist MCHPA in preparing this submission, the AER draws the MCHPA's attention to the kinds of impacts that the AER has indicated in its guidelines may come within the meaning of 'material and adverse NEM impact'.³

"... material and adverse NEM impacts include impacts on:

- a network operator or other stakeholders such as aggregators or energy service companies in the NEM that:
 - constrain the network operator's ability to fulfil functions mandated under the NER; or
 - undermine the stakeholder's ability to perform its operations to the extent that it can no longer operate or perform a particular function. This may result from physical obstruction or a substantial reduction in profitability; or
 - an electricity consumer, in their role as a consumer of electricity, that reduce the quality or reliability of their electricity supply below what is required under the NER or reduce the sum of consumer and producer surplus."

Please note this is not intended to be an exhaustive definition of 'material and adverse NEM impact'.

In addition to the above, the AER also draws the MCHPA's attention to the VNI West and WRL Ministerial Order published in the Victoria Government Gazette (**Order**).⁴ Pursuant to clause 5.2 of the Order, clauses 5.16A (application of the RIT-T to actionable ISP Projects) and 5.16B (disputes in relation to application of regulatory investment test for transmission) of the NER do not apply in respect of VNI West as described in Schedule 1 of that Order. The AER is considering whether this limits the ability of a party to dispute conclusions in the PACR, at least as they relate to the Victorian component of VNI West.

To the extent MCHPA considers that it or its representatives have the potential to suffer a material and adverse NEM impact from the investment identified as the preferred option in the PACR, it would assist the AER to understand the basis on which MCHPA believes it may give a dispute notice in respect of that impact given the provisions of the Order disapplying clauses 5.16A and 5.16B of the NER.

To the extent MCHPA considers it is a representative of a person or persons who have the potential to suffer a material and adverse NEM impact from the investment identified as the preferred option in the PACR, it would also assist the AER if MCHPA could provide a copy of

³ [AER, Regulatory Investment Test for Transmission \(RIT-T\) application guidelines, Aug 2020, pgs 68-69](#)

⁴ [VNI West and WRL Ministerial Order, No. S 267, 27 May 2023.](#)

its rules of association and register of members kept in accordance with section 56 of the *Associations Incorporation Reform Act 2012*.

Please provide your response to the above request for information by Wednesday, 23 August 2023 by emailing it to AERPolicy@aer.gov.au.

If you have any questions regarding this matter, please contact Jesse Price at jesse.price@aer.gov.au

Yours sincerely



Justin Oliver
Member
Australian Energy Regulator