

17 August, 2010

Mr Chris Pattas
General Manager
Network Regulation South
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3000

Via email: AERinquiry@aer.gov.au

Subject: Draft decision and draft determinations for the Victorian DBs

Dear Mr Pattas,

Energy Response is an aggregator and provider of Demand Side Response (DSR) services in the National Electricity Market (NEM), the Western Australian Wholesale Electricity Market (WEM), and the New Zealand Electricity Market. Since our inception in December 2004, we have provided services to a number of electricity Retailers and NSPs in the NEM, NEMMCO/AEMO, and System Manager and Network Businesses in New Zealand. We are also the largest registered provider of aggregated DSR as Reserve Capacity in the WEM and the largest provider of aggregated curtailable load operating in the New Zealand frequency markets. Our experience as a provider of demand side management services using load curtailment and local generation from industrial and commercial energy users is unmatched by any supplier of non-network solutions in these three electricity markets.

We appreciate this opportunity to comment on the Draft Decision for the Victorian DBs.

We were delighted to see that the AER approved the DSR programs as proposed by Energex and Ergon. Indeed we believe these programs can potentially change the way DBs plan and implement their capital works programs.

However, we were disappointed to see that the AER did not consider the Victorian DBs' proposals for specific Demand Management and non-network related programs.

Our detailed consideration of the DB requests was that, in our view, they represent a reasonable first step by each utility towards exploring the potential of DSR and other non-network solutions, and a minuscule funding request when compared to their Opex and Capex submissions. Indeed our analysis suggests that the DBs asked for too little to make a meaningful impact to their works programs over the next five years.

Perhaps the most frustrating aspect to this matter is that the AER did not give any reasons for rejecting the DBs Demand Management proposals in its Draft Decision.

It is critical that these DBs build expertise and experience in non-network solutions to increase their uptake of innovative DSR and non-network solutions.

Further, Demand-Side engagement requirements which will soon be imposed through the national distribution planning arrangements, mean that DBs will require additional resources to meet these new obligations. How are these businesses going to be prepared for these changes without the appropriate funding through ex ante Opex?

In making its Final Determination in relation to demand management proposals, Energy Response urges the AER to keep in mind clause 6.5.7(e) (7) and (10) of the Rules which require the AER to consider substitution possibilities through Opex and Capex and the extent to which DBs consider and make provision for efficient non-network alternatives. Also 6.5.7(a)(1) sets out that one of the Capex objectives is to allow DBs to meet or manage the expected demand for standard control services.

Our view is that the demand management innovation allowance (DMIA) as currently provided under the Victorian demand management incentive scheme (DMIS) is overly modest, and where considered pilots and trials for non-network options have been proposed above the DMIA, these should be supported through ex ante Opex.

Further, the S Factor may act as a major disincentive in the consideration of non-network solutions. Energy Response is of the view that our own risk mitigation strategies are effective and the DBs should not look to pass on that liability as end users will not accept any risk associated with their provision of DSR services. However, an exclusion for the DBs from the service performance incentive scheme for aggregated DSR programs would assist in the uptake of Demand Management programs overall. At a minimum, a relaxation of these conditions until such time as the DBs get a better appreciation of whether there is or isn't a material risk with the implementation of an aggregated DSR program, would assist. This is a learning time in the use of non-network solutions not only for the DBs but for the community of Providers (ie the end users who participate in aggregated DSR programs) and the regulators too, so flexibility now will hasten the implementation across a spectrum of non-network options, not just for aggregated DSR.

We look forward to the final determinations and sincerely hope our contribution to the debate will encourage the AER to look more favourably on those DBs who are looking to improve the efficiency of their assets through these most valuable programs.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Michael Zammit', with a stylized flourish at the end.

Michael Zammit
Managing Director