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Jorgensen, Lynley

From: Burns, Jacqui
Sent: Wednesday, 2 November 2016 1:07 PM
To: Jorgensen, Lynley
Subject: FW: Re CCP4 and Powerlink [SEC=UNCLASSIFIED]

From: Groves, Michelle
Sent: Monday, 30 March 2015 7:48 AM
To: Conboy, Paula
Subject: FW: Re CCP4 and Powerlink [SEC=UNCLASSIFIED]

For discussion.

-----Original Message-----

From: Hugh Grant [hugh@aslf.org.au]
Sent: Sunday, March 29, 2015 11:15 PM AUS Eastern Standard Time
To: Groves, Michelle
Cc: 'Jo De Silva'; David Headberry; Jorgensen, Lynley
Subject: Re: Re CCP4 and Powerlink

Michelle

Haven given some thought to this over the past couple of days, it is important to me to outline some key concerns regarding the broader implications, and to suggest how this issue could be resolved.

Firstly, I believe there are 4 key considerations that have broad implications:

1. Powerlink's Conflict of interest Claim is Invalid

As outlined in David's email, I went through this issue in detail with Kurt and the AER's in-house lawyer when I was allocated to the Powerlink sub-panel 19 months ago.

I was assured then that the time lapse would render any conflict of interest claim from Powerlink invalid and unreasonable.

Powerlink has known that I was allocated to their sub-panel for some time now.

Let's be frank about this. Powerlink knows that its conflict of interest claim is invalid. The AER knows that it is invalid. Powerlink's reason for requesting my removal from the panel has nothing to do with conflict of interest. They want me removed because they know that I will subject their revenue proposal to some robust challenges – challenges that they want to avoid at all costs.

It is also very important to note that my departure from Powerlink was very amicable. Powerlink's CEO and Chair both made it very clear to me when I left that I would be welcomed back with open arms if I ever decided to come back to the industry.

I believe that there should be transparent disclosure of Powerlink's conflict of interest claim and the AER's assessment of the claim. I would have no problem with that information being in the public domain. Consumers and other stakeholders should expect no less.

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2. It Would Provide Inappropriate Power to the Networks and Undermine the Legitimacy of the CCP

As outlined by David's email, it is entirely inappropriate for the AER to accede to requests from the networks to change CCP panel membership without very substantive reasons, which in this case do not exist.

If the AER accepts Powerlink's request, it would send a strong signal to the networks that they can dictate to the AER which CCP members are allowed to assess their proposals. That would provide inappropriate power to the networks and undermine the legitimacy of the CCP.

3. It would be Unfair on Other CCP Members

CCP Members have to plan their resource commitments well in advance. Complying with the AER's conflict of interest guideline requires CCP Members to turn down work from other clients' requests for assistance on the relevant resets.

Exposing the AER's commercial commitments to the risk of being overturned at the whim of the networks would place inappropriate commercial risks on CCP members – risks which do not exist with their other clients.

4. Consumer Groups are Likely to Challenge It

I have already interacted with a number of consumer groups on the Powerlink reset. For example, four consumer groups have approached me expressing concerns about Powerlink's proposed capex forecasting approach and the AER's Draft F&A.

Over the past 19 months, I have also turned down various requests from consumer groups to develop their submissions on the Powerlink reset.

Consumer groups will therefore expect me and other CCP members to explain to them why I was removed from the Powerlink reset.

CCP members have devoted extensive effort into developing trusted relationships with consumer groups. It would be inappropriate for the AER to expect CCP Members to support an AER decision over which there has been no transparency, and which they believe to be fundamentally wrong.

Suggested Way Forward

I suggest that we need to seek a sensible way forward that avoids the above negative consequences. I suggest that the first step should involve a chat with me, you and Paula to discuss how this might be resolved.

Following that discussion, I would be happy to have a meeting with the AER and Powerlink to talk through their conflict of interest claim, with a view to identifying how any legitimate concerns can be addressed.

Please be aware that there is no urgency to have this resolved immediately. CCP4 has finalised its response to the Powerlink F&A and there are no CCP4 activities planned for a few weeks, so we do not need to rush this. In the meantime, I will refrain from undertaking any activities on the Powerlink reset.

I will be tied up in a workshop all day tomorrow and most of Tuesday, but at this stage Wednesday to Friday are reasonably good for me.

Regards

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Hugh

Hugh Grant

Executive Director, *ResponseAbility*

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From: David Headberry <davidheadberry@bigpond.com>

Date: Thursday, 26 March 2015 5:55 PM

To: Lynley Jorgensen <Lynley.Jorgensen@aer.gov.au>

Cc: "Groves, Michelle" <Michelle.Groves@aer.gov.au>, Jo De Silva [REDACTED]

Subject: Re CCP4 and Powerrlink

Dear Lynley

I have just been advised by Hugh Grant that there has been a complaint/concern expressed from Powerlink CEO Merran Yorke about Hugh's CCP4 involvement in the Powerlink reset and that Hugh should be removed from the CCP4 work related to Powerlink. I am advised that the concern is based on Hugh being an ex-employee of Powerlink and therefore has a conflict of interest.

I understand that Hugh has not been an employee of Powerlink for some 7 years which means he left well before the last reset review, so any intimate knowledge he has of Powerlink is well out of date. I also remember that Hugh raised the issue of his past employment when the whole of CCP discussed the issues of conflict of interest and his past employment with Powerlink was not seen as a problem due to the length of time since his employment there.

That AER assessment of the conflict of interest regarding Hugh's past employment is consistent with what I have seen in other areas. For example, as a director of the Victorian energy ombudsman I can advise that there is a general view that there needs to be a break of at least 3 years between being involved with a supply or demand side entity before being considered sufficiently independent to be acceptable as an ombudsman, so a 7 year break meets this requirement for separation.

I understand that the AER is seriously considering asking Hugh to remove himself as a member of CCP4 for the Powerlink review. In my view this would be inappropriate for a number of reasons.

1. The AER decided to appoint Hugh to this subpanel with full knowledge of his past association with Powerlink
2. It is entirely inappropriate for a firm to request a change in panel membership without very substantive reasons which, in this case, do not apply as time has erased any conflict of interest
3. In my view, it would be wrong of the AER to accede to any requests from networks for changes in panel membership unless there is a very clear and demonstrable reason (a vague issue of conflict of interest from 7 years ago does not appear to be sufficient) and to implement a change based on a request from a network sends a signal to networks that they have the power to initiate changes of CCP personnel and to all CCP members that doing the job to the best of their ability might result in similar requests for transfers.
4. The experience Hugh has from his CCP6 activities on the resets for TransGrid and Transend will be very useful to the other CCP4 team members and Hugh's loss will probably reduce the effectiveness of CCP4 work on Powerlink
5. Hugh, Jo and I have already commenced to build a working relationship and to develop an approach which uses the skills inherent in the team in the most time efficient manner. An unnecessary change like this just does not make our tasks easier

If there is more to this issue, then I think that it would be appropriate to share this with the whole of CCP

Regards

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