4 April 2019

Ms Suzanne Falvi

Executive General Manager

Security and Reliability

Australian Energy Market Commission

PO Box A2449

Electronic Lodgement: ERC 0265

Attention: Elizabeth Bowron

Consultation Paper – Application Period for Contingent Project Revenue

Dear Suzanne,

Energy Networks Australia welcomes the opportunity to provide a submission to the Australian Energy Market Commission (AEMC) on the Consultation Paper, Application period for contingent project revenue. The Energy Security Board (ESB) proposed a rule change to speed up regulatory processes in respect of contingent projects.

Energy Networks Australia is the national industry body representing businesses operating Australia's electricity transmission and distribution and gas distribution networks, with 21 member companies providing more than 16 million electricity and gas connections to almost every home and business across Australia.

Energy Networks Australia supports the intent of the rule change proposal and its treatment as an expedited rule applying to both transmission and distribution, and is particularly keen on this being progressed to avoid delay for ISP projects.

The remainder of this submission outlines the basis of this expedited treatment and addresses a number of minor drafting issues to be considered in finalising the proposal for implementation.

Support the rule change proposal as an expedited rule

Energy Networks Australia supports the intent of the rule change to provide more timely assessment of contingent project applications and regulatory certainty, particularly for time critical Integrated System Plan (ISP) projects. Energy Networks Australia understands that the ESB's proposal does not impact the Australian Energy Regulator's (AER) discretion on their assessment of contingent project applications nor should it affect the timing of the commencement of revenue recovery. Further, the

ESB does not propose any changes to the Regulatory Investment Test – Transmission (RIT-T) process itself, which is to ensure that any potential investments are subject to a thorough and transparent assessment and that customers and other stakeholders continue to have the opportunity to provide input.

Energy Networks Australia supports the rule change as an expedited rule change given that it is unlikely to have an adverse impact on market participants or a significant impact on the energy market.

However, Energy Networks Australia has a number of recommendations to improve the proposed drafting.

Suggested drafting amendments

The ESB has submitted this rule change so that transmission and distribution businesses are no longer prevented from submitting a contingent project application to the AER in the 90 business days before the end of a regulatory year. The ESB proposed this provision would operate:

- except where that regulatory year is the last year of the regulatory control period.
- on the basis that any incremental revenue approved by the AER in respect of an application made during the 90 business day window could not start to be recovered until the second regulatory year after the application is submitted.

The Energy Networks Australia proposes that the new Rule would better operate without these express limitations. In this regard it is recommended that the arrangements established in the cost pass through provisions of the Rules also be applied here. Nothing prevents lodgement of a cost pass through application at any time (even in the final year and closing months of a regulatory period) provided it is within the prescribed period of the event, and to then recover the revenue in the next pricing year whenever that falls.

These matters are addressed further in turn below.

A contingent project application should be allowed at any time in the regulatory control period subject to threshold triggers being met

The rule change request seeks to still maintain the restriction of a contingent project application not being submitted in the 90 business days before the end of the last year of the regulatory control period. The Consultation Papers states that whilst the additional revenue could not be recovered in the current regulatory control period, the revenue could commence recovery in the second year of the next regulatory control period.

The Consultation Paper also states that contingent projects are projects which are uncertain in their timing within a current regulatory control period. Energy Networks Australia considers that there should be the flexibility to seek a contingent project application at any time in the regulatory control period with revenue recovery which may span across regulatory control periods.

The timing of whether the contingent project threshold triggers will or won't be met within the current regulatory period when developing the next period's revenue proposal may be uncertain. The Consultation Paper suggests that despite the fact that a contingent project has uncertain timing and the AER has already required it as a contingent project, that the Network Service Provider (NSP) should place the expenditure forecasts in the regulatory proposal just in case they are approved by the AER or the triggers are met late in the current period.

The rules suggest that a contingent project application submitted to the AER 91 business days prior to the end of year 5 would have the AER determining revenue for recovery in the next period. Equally an application 89 business days prior to the end of year 5 should be treated in the same manner rather than be potentially rejected. In both of these situations it may be considered too late to amend the AER's final revenue determination and a contingent application process with public consultation would offer more transparency.

Rather than prevent a contingent project application in year 5, Energy Networks Australia suggests that the AEMC adopt a similar approach as was adopted to removing the dead zone for cost pass through arrangements.

- Grid Australia, Feb 2012[1] sought provisions to address the 'dead zone' issue for events that occur in a previous regulatory control period, but which have not been incorporated in the network service providers' forecasts for the subsequent regulatory control period in relation to cost pass through events where the timing of the event is uncertain.
- The AEMC amended the Rules to enable NSPs the opportunity to recover the efficient costs they incur as a result of a pass through event regardless of whether the pass through occurs late in a regulatory control period and the costs are not recovered until the next regulatory control period. AEMC concluded that NSPs should be provided with the reasonable opportunity to recover, in future regulatory years, the efficient costs they incur as a result of unexpected events. [2]

Energy Networks Australia suggests that the restriction on contingent project applications not being submitted in the last 90 business days of a regulatory year should also be removed for the last year of a regulatory control period.

No need for additional regulation limiting the commencement of revenue recovery

The rule change proposal suggests that any incremental revenue approved by the AER in respect of a contingent project application submitted during the 90 business day window (in year T) could not start to be recovered by the relevant NSP until the second year (T+2) that commences after the application is submitted.

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[1] AEMC Rule Determination Cost pass through events for Network Service Providers
, 2 August 2012, page i
[2] Ibid p9

In transmission if a contingent project were made 91 business days prior to the end of the regulatory year (T), assuming the AER required no further information on the application, the AER could make a decision on the application within 40 business days after public consultation. However in transmission the annual transmission prices are published on 15 March each year some 3.5 months prior to the end of the regulatory year. The timings mean that it is impractical that revenue recovery could commence in the next regulatory years transmission prices (T+1). Similarly distribution tariffs are submitted to the AER for approval 3 months prior to the end of the regulatory year.

There is no need for the 90-day limitation in any regulatory year and the timing of AER's revenue decision on the contingent project and the revenue recovery looks after itself under the Rules without the need for this proposed prescription.

Should you have any queries on this response please feel free to contact Verity Watson, vwatson@energynetworks.com.au.

Yours sincerely,

Andrew Dillon

Chief Executive Officer