

14 July 2022

Ms Anna Collyer
Chair
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Electronic Submission – EPR0087

Stage 2 Draft Report – Transmission Planning and Investment Review

Dear Ms Collyer,

Energy Networks Australia (ENA) welcomes the opportunity to provide a submission to the Australian Energy Market Commission's (AEMC's) Stage 2 Draft report for its Transmission Planning and Investment Review ('the review').

ENA is the national industry body representing Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia. This response is on behalf of ENA transmission members.

It is important that the AEMC's review delivers material benefits to customers and does not expose them to critical risks as the energy market transitions to a low carbon energy future. ENA supports the AEMC's focus on issues that are practical to implement and will deliver long term, realisable benefits to consumers in relation to price, reliability and system security.

The rapid pace of the energy transition and the acceleration in the optimal timing identified by AEMO for new, major transmission projects necessitates flexible regulatory arrangements to facilitate timely investments. At the same time, it is important that the regulatory arrangements continue to provide strong protections for consumers that ensure that the right projects are delivered and that the cost of the investment is prudent and efficient. It is also important that there is active engagement with consumers throughout the planning and investment process to maintain social licence for these investments.

The overall regulatory framework also needs to provide a coherent and practical, end-to-end framework for planning and investment activities. Given the multiple stages of the AEMC's Transmission Review, and the AEMC's separate but related consideration of the *Material Change in Network Infrastructure Project Costs* Rule change, the ENA encourages the AEMC to maintain a close focus on how all elements of its recommendations interact.

The key points that have shaped our more detailed response to the questions posed by the AEMC are outlined below. The detailed responses are provided in the AEMC template **attached**.

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Addressing financeability concerns

- » ENA strongly supports the recognition by the AEMC that concerns around the financeability of major transmission investments raises the risk of those investments being delayed, which would not be in the long-term interests of consumers:
- » ENA supports the AEMC's draft recommendation for changes to the Rules, to make clear the discretion available to the Australian Energy Regulator (AER) to accept proposals from TNSPs to adopt alternative depreciation profiles for actionable ISP projects (including accelerated depreciation), where the TNSP can provide compelling evidence that this will help address financeability difficulties for that specific project.
- » Relevantly, the AER's draft Rate of Return Instrument released in June has materially reduced prospective allowed returns and investment incentives likely to apply to major transmission projects, and withdrawn the proposal for a weighted trailing average approach to setting the return on debt, a measure identified by the AEMC as potentially assisting financeability concerns.
- » This means the AEMC's final recommendations on financeability as part of the review needs to take into account that the financeability challenges underlying the draft recommendations have materially *increased* since the release of the draft Rate of Return Instrument. This supports an increased emphasis on access to depreciation flexibility rather than the Rate of Return Instrument assisting to meet financeability concerns around major transmission projects.
- » ENA therefore encourages the AEMC to also include, as part of the recommended Rule change, key principles that the AER should have regard to in making its decision on a TNSP's proposed depreciation profile:
 - Without inclusion of specific principles to guide the AER's exercise of discretion, ENA is concerned that the change in the Rules may not in practice result in different outcomes and therefore may be ineffective.
 - Inclusion of guiding principles in the Rules would provide greater certainty earlier as to whether a TNSP's proposal for an alternative depreciation profile is likely to be accepted by the AER, rather than leaving this issue unresolved until the final contingent project application (CPA).
 - The principles should include consideration of the timing of benefits associated with the major project, to balance project financeability and inter-generational equity considerations. ENA has provided, in the attached submission template, suggested principles for further consideration.
- » In terms of implementation, the specific drafting proposed by the AEMC warrants further consideration.

Social licence activities

- » Genuine community engagement and acceptance are key to ensuring not only the timely delivery of major projects, but ongoing support for the hosting of major energy infrastructure over its life, with social licence activities extending beyond just engagement with and compensation to directly affected landholders.
- » The impacts of major energy infrastructure are felt broadly across the community, such as increased heavy traffic and noise during construction and significant maintenance activities.

- Building social licence across the broader community is essential to support the operation and maintenance of (and potential reinvestment in) the infrastructure over its entire life.
- » TNSPs remain best-placed to engage with and manage their community and stakeholder engagement.
- » ENA considers that prescribing additional requirements relating to engagement is not necessary.
 - As recognised by the AEMC, TNSPs are all evolving their approach to engagement on social licence issues, actively seeking to raise the bar in this area and to work directly with their stakeholders to implement effective consultation that meets the needs of affected communities.
 - TNSPs and industry stakeholders are increasingly applying the IAP2 Public Participation Spectrum as a framework to guide and measure effective engagement. This includes bringing engagement activities forward to the RIT-T stage (or even ahead of the formal commencement of the RIT-T), where suitable.
- » It may be helpful to elevate the recognition of social licence at the RIT-T stage by explicitly amending the Rules to confirm that a ‘credible’ network option includes one that is ‘deliverable’.
 - This may include engagement with potentially affected communities’ views and preferences to ensure stakeholders understand how their concerns have been reflected in key project decisions (e.g. the RIT-T Project Assessment Conclusions Report).
- » ENA agrees with the AEMC that, overall, the current arrangements for cost recovery for social licence activities are appropriate. However, it would be helpful to provide principles in the Rules to guide the AER’s determination on whether the level of these costs is efficient:
 - This is particularly the case in relation to landowner compensation, where prudently negotiated outcomes may be efficient in order to maintain social licence and avoid investment delays, even where they are above current market values or any government mandated compensation.
 - However, whilst ENA is supportive of appropriate compensation to land owners impacted by new transmission infrastructure, it is also important to recognise that as regulated businesses this compensation is funded by all consumers, and so the costs need to be prudent and may be below those that can be paid by commercial developers.

Cost recovery of planning activities

- » ENA considers that the use of the term ‘early works’ by AEMO and the AER is not necessarily problematic in itself. If this term is removed from AER and AEMO documents, it would still be desirable for AEMO in the ISP to provide clarity on what implementation-related planning activities it considers should be progressed where an ISP project is staged.
- » ENA understands the distinction that the AEMC is seeking to draw between planning activities at the project selection (i.e., RIT-T) stage (‘preparatory activities’) and the project implementation stage. However, in practice planning activities will not always fall neatly into these categories, and there may be a degree of overlap, including for social licence activities that are undertaken throughout the project planning and implementation stages. Community engagement may also need to occur ahead of formal commencement of the RIT-T.

- » Further, the AEMC's presumptive mapping of different planning activities to cost recovery routes is more prescriptive than current practice. For example, expenditure on 'preparatory activities' (including the RIT-T) will often be capitalised if the project proceeds, allowing those costs to be recovered from consumers over a longer timeframe than if they were required to be recovered via opex. Recovery of these through the CPA also avoids the need for a separate, cost pass-through process.
- » ENA therefore cautions against introducing more prescription in the categorisation and cost recovery of planning activities and supports maintaining the flexibility to enable preparatory activity costs to be treated as capex where appropriate, noting that all cost recovery is subject to the approval of the AER.
- » ENA supports the clarity provided by the AEMC that TNSPs should be able to propose a nominated cost pass-through event relating to 'unforeseeable preparatory activities', to which multiple preparatory activities could be grouped together in a single cost pass through application. However, Rules are likely to be needed to guide the AER's discretion in this area, if this is to be accepted in practice.

Improving the workability of the feedback loop

- » ENA supports the AEMC's proposed Option 2 (i.e., feedback loop and PACR exclusion window between the final IASR and draft ISP). This is a pragmatic approach to ensuring that the assumptions underpinning the TNSPs' RIT-T assessment and AEMO's most recent draft or final ISP are aligned, which will support the feedback loop being progressed in a timely manner.
- » ENA also supports the feedback loop and CPA process being allowed to run concurrently, in order to prevent the timing of the feedback loop being a cause of delay to the end-to-end regulatory process.

In addition, ENA considers that it would be reasonable for a 40 business day timeframe to be placed on AEMO to complete the feedback loop, consistent with the timeframe applying to the AER to make its CPA determination. This would support the aim of the AEMC's proposed changes to enable the feedback loop to be completed in a timely manner.

ENA welcomes the constructive ongoing engagement with the AEMC and would be happy to assist the AEMC with any rule change revisions if this were beneficial.

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

Yours sincerely,



Andrew Dillon

CEO