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Ms Kami Kaur
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Australian Energy Regulator
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Draft NSW – Transmission Efficiency Test and Revenue Determination Guideline for non-contestable network infrastructure projects

Dear Ms Kaur,

Energy Networks Australia (ENA) appreciates the opportunity to comment on the Draft NSW – Transmission Efficiency Test (TET) and Revenue Determination Guideline for non-contestable network infrastructure projects consultation paper (Consultation paper).

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.

ENA is supportive of the NSW arrangements to improve the timeliness of transmission delivery in the move to net zero. The integration of renewable energy zones (REZ) into the existing transmission (and distribution) networks is an important enabler in the delivery of the NSW Roadmap. ENA supports a robust and transparent end to end revenue determination process to ensure outcomes are in the long-term interests of NSW electricity consumers who will be funding the transition.

ENA welcomes consistency with the National Electricity Rules (NER) and also the flexibility to utilise the amended Electricity Infrastructure Investment (EII) Chapter 6A. Any future changes to the NER Chapter 6A will also be consulted on and may be applied in this Guideline whilst retaining flexibility to progress the NSW Roadmap.

In summary, ENA recommends that:

- » Should the AER proceed with the proposed amendments in the interim, ENA suggests that the AER provide further clarity in its final decision on what additional information may be required for alternative depreciation schedules;
- » The AER provides further clarity on the application of the transmission incentive framework to individual non contestable network projects;
- » The proposed 25 business days to develop a revised Revenue Proposal should be amended to align with the current NER 45 business days; and
- » The AER provides clarity on the timing on the development of the confidentiality and ring fencing guidelines.

Financeability supported at network project level

ENA recognises that non-contestable projects could range from small upgrades to more significant infrastructure builds and in some cases financing these large projects may be an issue for the relevant Network Operator.

The EII Act (38 (10) b)) allows the AER to take into account any loans or financial arrangements entered into by the Network Operator for the purposes of carrying out the network infrastructure project. Further, the objects referred to require the AER to modify depreciation to encourage investment in network and related infrastructure by reducing the risk for investors where they are satisfied it is reasonably necessary. Whilst the guideline reflects these project level arrangements in the Act and Regulations, the AER in the consultation paper states:

"This Regulation permits us to adjust depreciation if we consider that there is merit in doing it on a whole of business basis assessing, amongst other things, key financial metrics."

ENA welcomes an approach that reflects the size of the transition and the need to efficiently finance projects. Financeability remains a key issue for funding of the rapid transition to enable better matching of revenue and costs.

ENA notes that the national arrangements are contemplating the financeability issue. ENA strongly recommends that the AER not pre-empt the national approach.

However, should the AER proceed with the proposed drafting in the interim, ENA makes the following suggestions.

Given the intent of the NSW Roadmap framework is to encourage investment for the purpose of meeting the objects of the EII Act, it is not clear why any proposed depreciation schedules need to conform with the NER as opposed to the provisions of the EII Chapter 6A, refer S6A.1.3 (7) (iv). ENA suggests the AER provides further clarity in its final decision on how its proposed approach aligns with the objects of the EII Act and what additional information may be required in relation to demonstrating alternative depreciation schedules.

One aspect that may require further attention is the breadth of the financeability assessment that is undertaken to determine the appropriate depreciation profile. As noted above, the AER should not pre-empt the national arrangements for financeability which we understand will be progressed by the AEMC during 2023. ENA welcomes further engagement with the AER on the appropriate breadth of the financeability assessment to be undertaken.

Query application of the incentive framework at individual network project level

ENA understands that the NSW framework can direct or authorise network infrastructure projects to support a REZ or to deliver a Priority Transmission Infrastructure Project (PTIP) and each of these will have a revenue determination made by the AER in accordance with the amended Chapter 6A. ENA seeks clarification on the application of the Capital Expenditure Sharing Scheme and Efficiency Benefit Sharing Scheme to an individual project level revenue determination as this is contracted project work on an incumbents' network. The AER approved revenue will be funded by the Scheme Financial Vehicle, any sharing schemes with end use customers will be opaque at best and will also be complicated by any roll into the Network Service Providers' NER revenue determination at a later date.

Further the transmission Service Target Performance Incentive Scheme is better suited to transmission network projects progressed under the NER where the planning and connections are managed by the incumbent TNSP. ENA therefore welcomes further clarity from the AER on its application of the transmission incentive framework at a project determination level.

The Network operator should be afforded a reasonable timeframe to respond to the AER Draft Decision

This TET and revenue determination framework can apply to new or upgraded transmission and distribution network or to larger PTIPs. The Network Operator should be afforded a reasonable opportunity to respond to an AER Draft Decision and develop its revised Revenue Proposal. These processes can include extensive documentation and sign off processes, usually at the Board level, and may need additional information from subcontractors or procurement.

The proposed 25 business days to develop a revised Revenue Proposal should be amended to align with the 45 business days currently provided in the NER arrangements in rule 6A.12.3(a).

Timing and clarification of the development of the further Guidelines

The Consultation paper notes that many of the NER transmission Guidelines and incentive schemes will apply to the relevant Network Operator. The consultation paper highlights that a ring-fencing guideline, confidentiality guideline and a service target performance incentive scheme (modified and applied from the second regulatory period) will be developed, however no timing has been indicated for their development.

The Minister for Energy has directed Transgrid to deliver the Waratah Super Battery Project as a priority transmission infrastructure project with the non-contestable regulatory determination application scheduled in the Order to be with the AER by 31 March 2023.

ENA is seeking clarity on the timing of the development of the confidentiality and ring-fencing guidelines given the imminent first use of the revenue determination framework.

ENA and its NSW members welcome further engagement with the AER as this aspect of the framework evolves.

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

Yours sincerely



Tamatha Smith

Acting Chief Executive Officer