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17 August 2023

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY, NSW, 2001

Dear Ms Collyer

Updated National Energy Objectives – Harmonisation rule changes

The Australian Energy Regulator (**AER**) welcomes the opportunity to comment on the recent consultation paper released by the Australian Energy Market Commission (**AEMC**) regarding harmonising the rules framework with the updated energy objectives.

The AER does not consider that the national energy rules require a large number of detailed changes to align with the updated national energy objectives relating to emissions reduction.

Our preferred approach is the rules be amended to:

- make it clear that emissions reduction can be taken into account in relevant planning, investment and expenditure processes, and;
- Enable the AER to address the detail of 'how emissions reduction is factored into network planning or network expenditure' through the various guidelines which the AER administers. These include the Cost Benefit Analysis Guideline, and Expenditure Forecast Assessment Guideline.

Network/pipeline expenditure

The rule change proponent has identified several rules governing both distribution and transmission operating and capital expenditure (opex and capex), noting that these are currently drafted to largely replicate the substance of the historical energy objectives. It will be necessary to amend these rules to make it clear that emissions reduction can be taken into account.

The AER considers that the National Electricity Rules (NER) should specify the range of emissions reduction activities by networks for which expenditure can be recovered under Chapters 6 and 6A. In addition, the NER should also specify the types of emissions at which

those activities can be directed. The AER also considers similar provisions should be included in the National Gas Rules (**NGR**).

For example, we consider that it would be too broad to include an additional objective in the opex and capex criteria referring simply to “activities to support emissions reduction”. Such an objective would not tie the permitted expenditure to the supply of regulated services (e.g. prescribed transmission/distribution services). The AER considers that any addition to the capex and opex objectives to capture emissions reduction should be explicitly linked to the provision of regulated services.

It would also be beneficial for the AEMC to be clear as to whether the rules only accommodate emissions directly associated with provision of network services, or whether further downstream emissions may also be incorporated. For instance, the rules will need to be clear on how to assess the prudence of network expenditure related to the installation of electric vehicle charging stations. This is because the associated emissions reduction benefits will not be related directly to the provision of that network service, rather the reductions that arise from facilitating the switching from fossil-fuelled cars to electric vehicles.

Electricity network planning and investment framework

The rule change proposal includes emissions reduction as a class of market benefit in the Integrated System Plan (**ISP**), and Regulatory Investment Test for Transmission and Distribution (**RIT-T** and **RIT-D**).

The AER supports these amendments to ensure that emissions reduction is appropriately considered in network investment decisions. The AER notes that these changes will be required to progress amendments to the RIT instruments and the Cost Benefit Analysis (**CBA**) Guideline and that this will need to be undertaken expeditiously given the timeframes discussed below for AEMO’s 2026 ISP.

The AER notes that AEMO intends to include emissions reduction benefits in the 2026 ISP, ideally as part of consultation on the Draft Inputs, Assumptions, and Scenarios Report (due December 2024). For this to occur, both the rule change and updates to the associated AER network planning instruments and guidelines (being the RIT-T instrument, RIT-T Guideline and the CBA Guideline) are required by October 2024.

Given the nature of these timelines, the AER expects to undertake concurrent consultation to update its guidelines prior to any harmonisation rule change taking effect. In order for this to occur, the AER requests the AEMC incorporate a transitional arrangement that recognises any concurrent consultation undertaken by the AER prior to the final harmonisation rule taking effect.

A possible provision would be as follows:

If, prior to the commencement date, and for the purpose of updating the [relevant guidelines] in anticipation of the Amending Rule, the AER undertook consultation or steps equivalent to that as required in the Rules consultation procedures, then that consultation or steps undertaken is taken to satisfy the equivalent consultation or steps under the Rules consultation procedures.

This will allow the AER to update the network planning guidelines within the required time limit for implementation in AEMO's 2026 Draft Inputs, Assumptions and Scenarios report.

The AER also requests that the transitional arrangements provide sufficient timing flexibility for the AER to prioritise updates for key guidelines. The AER requests a 12-month period to undertake these updates, given the number of network investment and planning guidelines involved.

Updating AER guidelines

The proposed omnibus process will enable the AER to significantly streamline the guideline update process and avoid significant administrative burden for both the AER and stakeholders. In particular, it would avoid the need to undertake multiple parallel consultation processes.

The national energy objectives are referenced within upwards of 50 AER guidelines. These guidelines will all require updating (albeit some may be minor or administrative in nature). If these guidelines are updated through individual processes this will be burdensome and administratively difficult for the AER to complete and will limit the ability for stakeholders to meaningfully engage in consultation processes.

The distribution consultation procedure is a single stage consultation process, consisting of consultation on a draft document which goes to inform a final document. We consider that this process is ideal for undertaking updates which are less significant in nature (and therefore do not require consultation on an initial position paper). Our view is that most AER guideline updates would fall into this category.

The AER would also benefit from the discretion to use multiple omnibus processes to group guideline updates of a similar nature. For example:

- A single consultation process to update the network planning guidelines (including the RIT-T Guideline, the RIT-D Guideline and the CBA Guideline), noting that the NER require each Guideline be updated under a different consultation procedure.
 - Further, given the timing of the Transmission Planning and Investment Review and emissions reduction rule changes, the AER is likely to be directed to update each of the network planning guidelines for these rule changes at the same time. The AER would prefer to run one consultation process for all these updates.
- A consultation process for guidelines requiring substantive change. The AER request the flexibility to group similar guidelines, while updating others individually via a separate process.
- A consultation process, or consultation processes for defined groups of guidelines, that require updates that the AER considers are less substantive, but more than 'minor and substantive' amendments. This request relates to the bulk of the Guidelines mentioned by the rule proponent.

We do not envisage updating all AER guidelines using an omnibus process. For example, there may be guidelines which require substantial and complex amendments, and where we consider these would benefit from a distinct consultation process which would allow those issues to be contemplated in detail.

We thank the Commission for the opportunity to provide input to this consultation. If you have any questions about our submission, please contact Chris Ridings on [REDACTED].

Yours sincerely



Anthea Harris
Chief Executive Officer
AER

Sent by email on: 17.08.2023