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Wednesday, 5 June 2024

Australian Energy Regulator

Lodged via email: RITguidelines@aer.gov.au.

AER's CBA and RIT Guidelines consultation paper

Transgrid welcomes the opportunity to respond to the Australian Energy Regulator's (**AER**) review of the cost benefit analysis (**CBA**) guidelines, as well as its instruments and application guidelines for its regulatory investment tests (**RIT-T** & **RIT-D**). The consultation paper aims to provide stakeholders with the opportunity to provide informed and targeted input into the process.

As the jurisdictional planner, operator and manager of the transmission network in NSW and the ACT, Transgrid has a responsibility to ensure that we perform and consult with stakeholders on major investments before proceeding to invest in our network. We strongly believe that it is important that any investment we make serves the National Electricity Objective (**NEO**) and ensures that we do so transparently and collaboratively. Furthermore, Transgrid fully supports reforms that will ensure that we transition to a clean energy future and that make a better system for Australians.

Transgrid is broadly supportive of the AER's work in reviewing the CBA and RIT Guidelines. This is because the review ensures that the large amount of work that has and continues to be conducted by jurisdictions, market bodies and market entities to facilitate the timely investment in the NEM to support the energy transition is appropriately reflected in these Guidelines.

Our submission highlights our support for the incorporation of emissions and social licence into the CBA and RIT Guidelines with suggested amendments. We believe these two topics are of particular importance given the community awareness and support for reforms to these key areas. The submission also responds to other matters in the consultation paper including concessional finance, feedback loop and early works.

We appreciate the opportunity to provide a submission to the review and look forward to continuing to work with the AER on updating the Guidelines. If you would like to discuss this submission, please feel free to contact Zainab Dirani, Policy Manager, at zainab.dirani@transgrid.com.au.

Yours faithfully

Monika Moutos
General Manager of Regulation and Policy

2024 Review of the cost benefit analysis and regulatory investment test guidelines

Transgrid submission to the AER's consultation paper

Summary

This submission provides Transgrid's response to the Australian Energy Regulator's (**AER**) consultation paper on updates to the Cost Benefit Analysis (**CBA**) Guidelines, the Regulatory Investment Test (**RIT**) application guidelines and RIT instruments (collectively referred to as the **Guidelines**), published on 24 April 2024.

Transgrid supports changes to the National Electricity Rules (**NER**) and the Guidelines which support certainty and enable the timely and efficient delivery of the transmission infrastructure required as Australia transitions to a low carbon future.

We understand the RIT-T provides consumers with confidence in ensuring that transmission businesses have performed and consulted on the cost benefit analysis of options before making major investments in their networks. Whilst we fully support this objective; Transgrid has not experienced any objections and has had minimal stakeholder or consumer interest/engagement for Replacement Capex RIT-Ts, since its introduction. We believe the cost threshold should be significantly increased for replacement capex. This will help reduce costs to consumers and improve time to realise benefits of replacement capex investments.

We understand that the AER will commence the RIT-T cost threshold review before end of July 2024 however we believe it is important to highlight this in this review.

The rest of our submission is structured as follows:

- Including an emissions reduction benefit in the ISP and RIT
- Social Licence
- Sharing concessional finance benefits with consumers
- Improving the workability of the feedback loop
- Early works contingent project application before completion of a RIT-T

1. Including an emissions reduction benefit in the ISP and RIT-T

Transgrid supports the emissions reduction objective update to the national energy objectives, and recent emissions reduction related changes to the National Electricity Rules (NER or rules). These changes allow for coordinated contribution from the energy industry to support achievement of government net zero targets and secure social licence through the transition.

The AER is seeking stakeholder views on:

- How emissions reduction should be included in the RIT and cost benefit analysis (CBA) guidelines.

- Views on the option to include the value of greenhouse gas emissions reduction (VER) in the inputs to market modelling as a cost on fossil-fuel generators and implications of the current carbon budget methodology remaining in place for the ISP.
- Which additional material factors should be considered in calculating emissions. Additionally, whether the AER should consider including specific guidance on any of the factors.

Transgrid response to each aspect of the AER's consultation on emissions reduction assessments is included in the sections below.

1.1. Assessing emissions of a transmission infrastructure option

Transgrid strongly supports the AER providing clear guidance on the assessment of all scopes of emissions related to RIT-T options. This is important as the emissions benefit category has been drafted to include all greenhouse gas emissions, and is also broader than changes in emissions affecting parties in the National Electricity Market (NEM) (given wording in the rules is specific to changes in greenhouse gas emissions Australia-wide).

Transgrid strongly encourages the AER to provide clear guidance and explicit permission on the assessment of sulfur hexafluoride (SF6) emissions, where material for a RIT-T assessment. Importantly, this should be permitted for inclusion whether or not changes in generator emissions are also quantified for that RIT-T. SF6 is a highly potent greenhouse gas, so in order for the electricity sector to support achievement of government emissions reduction targets (i.e. the intent of the emissions reduction objective) SF6 gases need to be considered.

Transgrid also strongly encourages the AER to provide guidance on estimating emissions changes in the wider economy. This should include consideration of situations where a RIT-T option:

- Enables increased electrification across the economy and in doing so reduces emissions.
- Involves connection of an emissions intense activity in the economy, such as mining or fossil fuel generation.
- Includes the use of imported materials, in which Australian emissions are zero, over domestically produced materials. Noting it would be perverse for the assessment of the emissions reduction class of market benefit to inhibit the ability to utilise lower emissions and locally sourced materials.

1.2. How emissions should be considered in the RIT-T and CBA guidelines

Transgrid considers that the AER should provide flexibility on how to consider emissions reduction in the RIT-T and CBA guidelines. Guidance in this area should not be binding, to allow for the needed flexibility and to properly account for the evolving practice and data sets related to quantifying greenhouse gas emissions.

Transgrid agrees with the AER's statement that emissions reduction benefits only need to be quantified where they are expected to be material. Transgrid suggest that the AER should also clarify that:

- Materiality should be assessed in relation to whether the inclusion of an emissions benefit is expected to impact the identification of the preferred option. Similar reductions in emissions across options will not impact option selection, even if these emissions reductions are large, and so should not mandatorily be quantified.

- If elements of the likely change in emissions, between options and the base case, can only be estimated with poor precision (for example due to a lack of transparent data from a reputable and independent source) or at a significant cost (that outweighs the benefits of quantifying this benefit) they should not be required to be assessed given it would have a limited value in assessing the impact on option rankings.

Where changes in emissions are assessed as a material class of market benefits, quantification of emissions should utilise reputable and trusted data sources. Given these data sources, are evolving over time we encourage the AER to allow TNSPs the flexibility to factor in new information as it becomes available. Transgrid strongly encourages the AER to develop a list of potential emissions factors with an 'opt in' rather than 'opt out' mechanism for inclusion in the RIT-T market benefits assessment, where these impacts are material and can be estimated with confidence.

The AER should require AEMO to establish the inputs and assumptions report as a source of reputable data for calculating emissions. This should be focused not only on the proposed approach for estimating emissions in the 2026 ISP but also wider data sets that can be used for RIT-Ts which may consider emissions at a greater level of granularity than the ISP.

Transgrid supports guidance and worked examples being provided in the AER's guidelines on the quantification of benefits associated with changes in Australia's greenhouse emissions, to reflect the additional benefit category that has been added to the NER. This guidance should clarify that the benefit category in the RIT-T refers to changes in Australia's greenhouse gas emissions, rather than only reductions.

1.3. Market modelling in the ISP and RITs

Where emissions are considered to be a potentially material class of market benefits, we support energy market related emissions being calculated via market modelling. This would involve assessing both the investment and base cases, with any reduction in emissions in the investment case relative to the base case valued at the Interim Value of Emissions Reduction for inclusion as a market benefit. However, we recommend that a proportionate approach to estimating changes in generator emissions should also be permitted under the guidelines, where the cost of market modelling is disproportionate to the scale, size and potential difference in benefit from changes in emissions across options.

We do not support the assessment of this class of market benefit being limited to assessing changes calculated via market modelling of generator emissions. TNSPs should have the flexibility to quantify changes in emissions, outside of generator emissions, where they are assessed as material.

Transgrid supports the AER's suggested approach that the ISP and RIT-Ts:

- Continue to utilise carbon budgets as this is likely to result in more realistic modelling outcomes.
- Do not include a value of emission reduction as an additional cost in dispatch within market modelling, as it would result in ISP and RIT modelled outcomes departing from reality.

1.4. Discounting emissions reduction benefits

Transgrid encourages the AER to consider and explore the benefits of allowing a different discount rate assumption to be used for this emissions reduction benefits, to support the achievement of government emissions reduction targets. One consideration in favour of this approach is that it would provide a continuous incentive to reduce emissions throughout the assessment period of the RIT-T option.

2. Social licence

The AER's seeks stakeholder views on:

- how transmission businesses might ensure that a credible option can be implemented in sufficient time to meet the identified need as required by the definition of credible option. The AER expects that in its consideration of credible options, a RIT-T proponent will establish how social licence issues have been considered to meet each of these criteria.
- the costs associated with addressing social licence that can be included in the RIT-T, including worked examples.
- the expectations on transmission businesses regarding engagement with local communities and other stakeholders affected by major transmission projects as part of preparatory activities and during the RIT-T.

Transgrid supports the AER's work in exploring ways to integrate social licence into the Guidelines. We support the key aspects outlined in the AER's paper and make the following points:

- Expectation that transmission network service providers (TNSP) will undertake best practice engagement, in accordance with broadly accepted guidance in the sector that is fit-for-purpose.
- Allowing for flexibility and not intended to be prescriptive on types of costs that could be related to social licence.
- Social licence is a subjective term. There is a challenge in determining whether social licence has been gained given the subjective nature of what social licence is. However, it is important to TNSPs to show that there has been a change in sentiment towards a project as this would illustrate effort and actions on the part of the TNSP.

The AER has posed several questions in relation to the treatment of social licences. Our responses are included in the table below.

AER question	Transgrid's response
What factors or criteria should a RIT-T proponent consider when determining whether a project: • is going to be delayed, or is not likely to proceed such that the project is no longer technically feasible? • is not likely to be delivered in sufficient time to meet the need? What might be some objective measures of any factors identified above?	From a social licence perspective, factors include: • Reasonably impacted communities and stakeholder level of acceptance (or lack of) toward the considered proposed option, and appreciation/understanding of its positive impacts in supporting the transition to renewable (the benefits it brings at a macro level) • Social, economic and culture potential adverse impacts introduced through the proposed development (similar to environment considerations).
If initial community engagement indicates that an option may not be credible, what further engagement or other action should a transmission business undertake to determine if an option may later become credible?	If initial engagement indicates that an option may not be credible, further enhanced engagement may be required including but not limited to: • Developing and executing an engagement plan, identifying the relevant stakeholders,

AER question	Transgrid's response
	mapping their interests, influence, and priorities. • Tailored communication channels, tools and messages addressing, among other topics, the community and stakeholders perceived and actual concerns (e.g. access and compensation processes and related regulations), the proposed option socio-economic benefits for the hosting communities (micro level) and the capacity building and support programs that the developer will provide to the impacted community and stakeholders (e.g. access the legal advice, mental health support)
Is there a need to clarify costs and benefits that may be included in the RIT-T to address social licence issues? What worked examples would be useful?	Yes. We would encourage the AER to consider including: • a social licence activities allowance. An example of this is a potential opportunity to address an identified social impact from initial engagement with the community and council. This could assist in gaining community acceptance earlier and provide a larger benefit to community. Telecommunications in regional areas is an example of this and, • social licence engagements allowance. An example of this is if enhanced engagement is required as per lack of engagement or acceptance or that there is an opportunity to engage earlier and identify a more optimal route according to community consultation then this would allow for community to have greater influence over the preferred route of a transmission line.
Are any additional classes of costs and market benefits necessary to address social licence issues, and available within the framework provided by the Rules?	We believe there are additional cost classes which warrant further consideration and be included in the regulatory framework. These include social, economic and culture impact mitigation programs. However, we note that the actual impacts on the above three areas will unlikely be known at the RIT-T stage. Therefore, consideration for allocating the respective cost allowance should be given (respectively to Capex and Opex allowances). There needed to be classes that are identified to support the impacted community as a benefit not just for the end energy consumer.
How could the effect of delays on the costs and market benefits of each credible options be assessed and justified?	The cost effect of delays on a credible option due to social licencing issues could be attributed to the following: • Impacts associated with evolving land and easement compensation regulations,

AER question	Transgrid's response
	• design changes and, • general construction cost increases. As a result of potential delays, consumers could be potentially disadvantaged through the loss of benefits that the option is forecast to deliver. For example, each day delay of an option could equate to $/day of unrealised benefit to the consumers). ANU has completed research that identified engagement as the second highest justification for project delay.
If a RIT-T were to include forecast expenditure on social licence activities to address an identified reduction in market benefit due to project delay, what justification would be required to demonstrate this expenditure will reduce the potential project delay?	Given the subjective nature of social licencing, it is challenging to establish a direct correlation between the additional cost incurred through social licence activities and the reduction to the potential project delay. Instead, the TNSPs could demonstrate that the social licence activities are the outcome of an engagement process which would have been tested for prudency and efficiency. Therefore, this would illustrate that these activities are necessary to develop and maintain social licence. There could be benefit from using external research that has been conducted on infrastructure project construction in communities as a guide. In addition, we would also suggest focusing on other examples across project of other industries such as roads and water that may provide a benchmark.
Should the Guidelines be prescriptive about these matters or should set out principles within which RIT-T proponents should operate.	We believe the Guidelines should be principles-based. The concept of social licence is an area that is new in the regulatory framework, and therefore we would envision this concept would evolve over time however having a principle-based approach would provide flexibility to the framework to evolve in collaboration and input with TNSPs. We would utilise existing guidelines being prepared at a federal level such as Department of Climate Change, Energy, Environment and Water's (DCCEEW) Community Engagement Guidelines to be a reference point rather than creating more principles and guidelines.
What criteria should be used to establish when a stakeholder is 'reasonably expected' to be affected? Are there conditions to consider other than the presence of a stakeholder group in the geographical area of a project?	We believe that engaging with the 'reasonably expected' which includes local stakeholders (such as local communities, affected landowners, councils and first nations communities) from the project Area Of Influence (**AOI**) is fundamental. Even though the AOI becomes more defined during the RIT-T, it is critical to make a sound judgement to identify the "reasonably expected" stakeholders. Engagement with other stakeholders which is referred to as 'interested parties', which includes both state level and federal level parties, is also

AER question	Transgrid's response
	likely to be required (such as varies government departments and environment groups not situated in the AOI).
What threshold should be considered when assessing whether a stakeholder is 'Reasonably expected' to be affected? To what extent are RIT-T proponents able to assess the materiality of effects on stakeholders before engaging with them? How should interested parties be identified?	We believe the threshold should be defined by the extent of the environmental, social, economic and cultural impacts which are captured through a project base line study (i.e. referred to Environment Impact Statement (EIS) in NSW). This will define the project AOI. Ideally the stakeholders which are ''Reasonably expected'' to be affected need to align with the base line studies definition. However, we understand that these definitions will become available in the later stages of the RIT-T. In the earlier stages of a RIT-T, TNSPs should undertake reasonable endeavours to identify and engage with "Reasonably expected" to be affected stakeholders from the project geographic area. This should be adequate for the early stages of the RIT-T.
Should reasonably affected stakeholders be identified nominally, by constitution of a list in advance?	We believe that reasonably affected stakeholders can be identified through early engagement and mapping. This should be documented and included in a Community and Stakeholder Engagement Plan (**CSEP**) for the project. This CSEP should be created in concept design and modified and amended as the project transitions through the project stages.
Should RIT-T proponents identify specific affected stakeholders, or rather ensure that the consultation addresses each category of stakeholder?	With limited exceptions, the category of stakeholder's approach appears be adequate for the RIT-T purpose. If there is opportunity to engage with specific affected stakeholders, then this should be conducted if the stakeholder is interested in engaging at this early stage.
Is it necessary or sufficient to have representation of each category of stakeholders?	We believe it should be sufficient to have representation of each category of stakeholders in the early stages of the RIT-T process. This is correct as when you are examining a project footprint in early RIT-T the area maybe too large and not practical to engage with landowners. It I not until the route selection process where this stakeholder group would be included in engagement.
While community engagement expectations require that "reasonable endeavours" should be used, how should this be interpreted and what would be the minimum expectations for tailoring engagement materials and communication methods to meet the needs of different stakeholders?	TNSPs could demonstrate adopting and implementing an industry engagement best practice or standard as evidence of the ''reasonable endeavours''. TNSPs have to show agility and attempts of change in engagement tools, frequency and multiple attempts to demonstrate these 'reasonable endeavours' reliance cannot just be on frequency

AER question	Transgrid's response
	and reliance of one engagement tool such as a letterbox drop.
The community engagement expectations include that "stakeholders (will be) provided with a range of opportunities to be regularly involved throughout the actionable ISP projects, future ISP projects and REZ stages". Should there be guidance on what opportunities for regular involvement the RIT-T proponent could consider providing stakeholders with?	We would appreciate more guidance or examples from the AER as this would be useful. We believe that TNSPs have to provide community with an understanding on what is negotiable and not negotiable with a project. The transparency on a process along with other factors such as cost, environment and engineering also have to be identified as constraints that are considered. In the route selection process, you need to offer an opportunity to conduct genuine consultation where this engagement can inform change to the route which is critical in gaining community acceptance. If this is available to be offered to community at the early stages of a project, then this has found to be a much more supported process from community. Community involvement does need to be through the project, but you need to be transparent with the process on what can and cannot be accommodated to set the engagement expectations.
What requirement should the guidelines contain for a RIT-T proponent to publish an engagement plan on how it will make reasonable endeavours to satisfy community engagement expectations?	We believe TNSPs publishing a project community and stakeholder engagement plan for ISP projects would be satisfy community expectations.
How can we promote continuity and avoid duplication between AEMO's engagement work, and the engagement undertaken by the RIT-T proponents?	We believe communication and collaboration between AEMO and the TNSPs and consideration for synergies would suffice. However, we note, that in-depth engagement that entails on the ground communications with communities for ISP project is currently being undertaken by the jurisdictional TNSP.
For the draft and final reports, is the normal means of consultation (by publication on proponent and/or AEMO website) sufficient to be in accordance with the expectations?	We believe it is sufficient.
What should we require proponents to include about stakeholder feedback in the draft and final reports?	We believe the inclusion of a stakeholder position for each stakeholder's category. In addition, the TNSPs Community and Stakeholder Engagement Plan and any change to the plan from engagement should also be included. In addition to this if there was an allowance to support social licence initiatives in the RIT-T then this should also be included in the final report. These opportunities should show engagement and the informed initiative to support the social impact of that community.

3. Sharing concessional finance benefits with consumers

The current regulatory framework does not facilitate sharing of the benefits of concessional financing with consumers. As this may lower the costs to consumers, the AER is exploring how this can be reflected in the cost-benefit assessment on the RIT-Ts.

Transgrid supports the sharing of concessional finance benefits with consumers. The AER to allow an agreed benefit, determined through negotiation by the TNSP and government funding body (GFB), to be passed onto consumers.

Specifically, we support:

- The AER provides flexibility by not outlining any specific guidance on the level of funding certainty required before it can be considered in the RIT. We believe this should be left up to the NSP.
- Not including any confidential information that may be contained in the concessional finance agreement, in the RIT-Ts given they are out of scope of a RIT guidance.
- The NSP should be responsible to notify the AER where there has been an agreement to share concessional finance benefits with consumers.
- That concessional finance benefits, including the mechanism in the revenue-setting framework that facilitates the timely sharing of these benefits, should be determined through negotiation by the TNSP and GFB.
- In the event in which an agreement is yet to be finalised, a sensitivity analysis in the RIT-T can be done so that the to avoid a re-run of the CBA.

4. Improving the workability of the feedback loop

The AER is seeking stakeholder views on updates to the CBA guidelines to provide clarity on the timing of a feedback loop request, in line with the March 2024 Rule Change.

Noting that the AER is to update the Guidelines to reflect the AEMC's final rule determination, we strongly recommend the AER's proposed wording for the Guideline be amended to:

"TNSPs should not submit a feedback loop request between the publication of the final IASR and the publication of the draft ISP, unless AEMO has agreed to consider such a request." (Proposed addition underlined)

This wording would better facilitate the AER's proposed guidance on AEMO retaining discretion to consider feedback loop requests from TNSPs during this period. More generally, as set out in our response to the AEMC's draft rule determination Transgrid is concerned that a feedback loop exclusion window in the AER's Guidelines may cause delays to transmission projects, which would be to the detriment of customers and the achievement of Australia's emission reduction targets.

5. Early works contingent project application before completion of a RIT-T

The AER is seeking stakeholder views on amendments to the Guidelines to allow TNSPs to undertake early works before completing, or commencing, a RIT-T for actionable ISP projects. This also includes sunk costs.

We support the AER's amendment to allow TNSPs to put forward an early works CPA before a RIT-T is complete. We support the AER's work in incorporating the costs and conditions of early works in the Guidelines. This is an important as it will provide TNSPs with funding to undertake early works concurrently with the RIT-T and thus improve the cost certainty of a project earlier in the process, as opposed to waiting until the conclusion of the RIT-T and feedback loop process for greater cost certainty. The front-end loading risk of large transmission projects will be minimised.

Early works can deliver significant value to consumers by fine-tuning the option selection and improving the accuracy of the project cost forecasts. Early works activities that can be undertaken before a RIT-T commences include:

- Stakeholder engagement and social licence acceptance.
- Detailed design works and equipment specifications.
- Early phase procurement, including the development of tender documentation and contractor engagement.
- Land valuation and securing land purchase options.
- Commencement of the project development and approval process.

We also support the AER's position to include the costs of the early works that is completed ahead of a RIT-T to be included in the RIT-T assessment for the relevant options. To be clear, we believe that these costs should only be applied to options to which those early works relate to.