

AER DRAFT AMENDMENTS TO TRANSMISSION EFFICIENCY TEST AND REVENUE DETERMINATION GUIDELINE FOR NON-CONTESTABLE NETWORK INFRASTRUCTURE PROJECTS

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The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

Thank you for the opportunity to make a submission under AER's Draft Amendments to Transmission Efficiency Test and Revenue Determination Guideline for Non-Contestable Network Infrastructure Projects.

Given the short timeframe imposed on the AER by the *NSW Energy Infrastructure Investment Act* (EII Act) of 126 business days (or approximately 6 months) for assessment and determination of the Transmission Efficiency Test and revenue determinations, the EUAA supports the AER's proposed approach presented in the Draft amendments to the Transmission Efficiency Test and revenue determination guideline for non-contestable network infrastructure projects (Draft Guidelines), which bring this process closer to that for the Integrated System Plan contingent projects, with the additional step of a Position Paper.

Specifically:

- The EUAA supports the AER developing a Position Paper in the first 60 days after submission by the Network Operator, instead of a Draft Determination, or as per ISP contingent projects, no report. We believe that the timeframe required to develop the Position Paper while allowing for consultation and a determination does not allow for AER to develop a considered Draft Determination,
- Likewise, we consider the ISP contingent project approach of no paper for non-contestable projects to be below the level of transparency required by consumers for State based political schemes. i.e. In developing the contingent projects presented in the ISP, consumers are consulted.
- The EUAA considers that the 15 business days (or 3-weeks) for consultation on the Position Paper is below the preferred 4 weeks provided under the ordinary processes, however we understand that the truncated consultation period only allows 51 business days (or 10 weeks) for the AER to consider submissions and decide. Our preference is for the normal 4 weeks, however without the NSW government changing the legislation to allow a longer period, we support the shorter consultation period proposed by AER.
- Due to the nature of non-contestable projects, EUAA supports the AER prioritising its assessment time on the cost component of the application, given that the cost component will likely not be derived from a competitive assessment process nor determined using a competitive contractual process by the Network Operator. We believe that the AER is best placed to test the efficiency and prudence of non-contestable

costs, and it is under the AER’s advice that consumers can feel comfortable that Network Operators are not “gold-plating” an investment.

- The EUAA supports the amendments to section 3 of the Guidelines (pre lodgement) to ensure
 - That the Network Operator consults with stakeholders prior to lodging its application to the AER, with consultation to be consistent with the AER’s Better Resets Handbook, and requiring the Network Operator to raise issues from stakeholder consultation with the AER as soon as the Network Operator is aware of issues.
 - That the Network Operator provides a cost allocation methodology for AER’s assessment prior to lodgement of the application. While we disagree with the requirement of the AER to provide an initial determination of the cost allocation methodology within 30 days of receipt (or the allocation methodology is assumed to be approved), we understand that this is a requirement of the EII. We would welcome discussions with the AER at this step to discuss the cost allocation methodology from the perspective of large consumers.

Further to the above discussion, the EUAA also considers that the AER might give thought to:

- Improving transparency, efficiency and prudence on Network Operator overspend to ensure that any overspend is appropriate (continues to be prudent and efficient). i.e. what will AER do in the event of the Network Operator exceeding the maximum capital expenditure?
- Likewise, timeline delays need closer attention from the regulator to ensure that time delays have minimal impact to overspend, and delay benefits accruing to consumers who will likely already be paying.
- Provide guidance in the Guidelines to Network Operators of AER’s approach in the event that the Infrastructure Planner fails to provide sufficient information or to perform a function as required under the EII Act and/or EII Regulation in delivering its recommendations.
- Likewise, provide guidance in the Guidelines of AER’s approach if the Network Operator fails to provide sufficient information or fails to deliver its pre-lodgement requirements or fails the initial compliance test after lodgement.
- While we understand that the AER intends to apply the current NER Chapter 6A guidelines, incentive schemes and models to non-contestable infrastructure projects under the EII Act, we also note that Network Operators are able to provide evidentiary arguments to modify or remove, in particular, incentive schemes. The EUAA does not support the removal of the efficiency benefit sharing scheme (EBSS) nor the capital expenditure sharing scheme (CESS) and would encourage the AER to have a high requirement for the evidence for major modification, and discourage the removal of the EBSS or CESS in its determinations.
- Likewise, we understand that the rule change for financeability is now in place and encourage the AER to ensure the requirement for evidence of financeability issues to support accelerated depreciation are maintained at a high level that encourages Network Operators to truly explore all alternative financing options.

The EUAA is a strong supporter of efficient, prudent and transparent processes and encourages the AER to ensure that the Network Operators prioritise consultation with consumers and other stakeholders. In recognition of the limited scope of engagement available to the Network Operator, due to the EII Act requiring the Consumer Trustee’s authorisation or Minister’s authorisation or direction, we believe it is critical that the Network Operator engage with impacted stakeholders and consumers to ensure that, at the very least, they are aware of the project and impacts.

Do not hesitate to be in contact should you have any questions.

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