

# System security network support payment guideline

For ex-ante determinations on draft system  
security network support payment contracts

AER guideline – explanatory statement

November 2024

© Commonwealth of Australia 2024

This work is copyright. In addition to any use permitted under the *Copyright Act 1968* all material contained within this work is provided under a Creative Commons Attributions 3.0 Australia licence except for:

- the Commonwealth Coat of Arms
- the ACCC and AER logos
- any illustration diagram, photograph or graphic over which the Australian Competition and Consumer Commission does not hold copyright, but which may be part of or contained within this publication.

The details of the relevant licence conditions are available on the Creative Commons website as is the full legal code for the CC BY 3.0 AU licence.

Inquiries about this publication should be addressed to:

Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601  
Tel: 1300 585 165

AER reference: 16496129

**Amendment record**

Version	Date	Pages
Draft	November 2024	30

## Contents

<b>1</b>	<b>Introduction</b>	<b>1</b>
1.1	The AER’s role	1
1.2	Consultation on the Guideline	4
1.3	Confidentiality	4
1.4	Structure of the guideline	4
1.5	Process for revision	5
<b>2</b>	<b>Regulatory framework</b>	<b>6</b>
2.1	Purpose of the determination	6
2.2	Nature of the determination	8
2.3	Operationalising clause 6A.6.6A	11
<b>3</b>	<b>Processes, timelines, thresholds and information we may have regard to</b>	<b>12</b>
3.1	Pre-application	12
3.2	Lodging an application – timing	13
3.3	Lodging an application – eligibility & thresholds	14
3.4	Consultation on an application	17
3.5	Assessing prudence and efficiency	18
3.6	Timeframe for decision	24
<b>4</b>	<b>Information requirements to make an application</b>	<b>26</b>
4.1	Demonstrating eligibility and thresholds	26
4.2	Demonstrating prudence and efficiency	27
	<b>Glossary</b>	<b>29</b>
	<b>Appendix A: TNSP decision tree on contracting system security network support services</b>	

# 1 Introduction

The Australian Energy Regulator (AER) exists to ensure energy consumers are better off, now and in the future. Consumers are at the heart of our work, and we focus on ensuring a secure, reliable, and affordable energy future for Australia as it transitions to net zero emissions.

As the independent regulator, the national energy objectives guide the AER's work in the long-term interests of consumers.

The purpose of this Guideline is to outline how the AER will determine whether proposed expenditure for a system security network support (SSNS) service, as set out in a draft contract between a transmission network service provider (TNSP) and SSNS service provider (i.e. typically a generator or battery), is likely to be prudent and efficient (i.e. consistent with the operating expenditure objectives, criteria and relevant factors, and network support pass through factors in the NER).<sup>1</sup> The AER is required to make these determinations and publish this Guideline under the [Improving Security Frameworks for the Energy Transition Rule Change](#), published on 28 May 2024.

## 1.1 The AER's role

The *Improving Security Frameworks for the Energy Transition rule change* (the ISF Rule), published on 28 May 2024, changes the way TNSPs recover the costs of SSNS payments made for system security services. System security services include system strength, inertia, and network support and control ancillary (NCAS) services typically provided by a synchronous generator or battery to ensure the power system is secure as we transition to more renewable generation.

In addition to introducing a revised method for forecasting and recovering TNSP expenditures for SSNS services through a new annual transmission pricing process<sup>2</sup> and revisions to the existing ex-post network support payment (NSP) pass through process,<sup>3</sup> the ISF Rule:<sup>4</sup>

- allows (but does not require) TNSPs to seek an ex-ante AER-determination from the AER review that an proposed expenditure for a proposed SSNS payment, or a methodology for such a payment as set out in a draft contract between the TNSP and

---

<sup>1</sup> ISF Rule, NER, 6A.6.6A.

<sup>2</sup> ISF Rule, 6A.23.3(h)(2). This rule change does not require a change to the AER's existing [Transmission Pricing Methodology guidelines](#).

<sup>3</sup> ISF Rule, 6A.7.2(i)(3a). The AER Guideline [Procedural guideline for preparing a transmission network support pass through application June 2011](#) outlines the existing (pre-ISF Rule) process for undertaking annual NSP pass throughs. The AER is currently considering what, if any updated may be needed to this guideline to reflect the modified annual cost pass through approach in the ISF Rule.

<sup>4</sup> ISF Rule, NER 6A.6.6A.

SSNS provider (e.g. a generator or battery) will likely be prudent and efficient (i.e. consistent with the operating expenditure objectives, criteria and factors, and ~~amended relevant~~ NSP pass through factors)

- requires the AER to publish a guideline by 1 December 2024, setting out a process for the AER to undertake these ex-ante ~~reviews determinations on the prudence and efficiency of expenditure for a proposed payment or payment methodology~~ in relation to select (i.e. ~~significant~~ large) draft SSNS payment contracts.

~~The primary aim of this Guideline is to set out how the AER undertakes these ex-ante determinations. Specifically, this Guideline sets~~ In particular, by setting out the processes, eligibility criteria and thresholds, timing, consultation processes and information the AER may have regard to when assessing the prudence and efficiency of proposed payments or payment methodologies in a draft SSNS payment contracts. Enabling TNSPs to seek ~~an~~ the AER's view on the prudence and efficiency ~~review~~ of significant (i.e. large) draft contracts aims to improve TNSPs' confidence in cost recovery processes ~~their ability to recover efficient SSNS operational costs~~, thereby improving the efficiency and ability of TNSPs to enter these types of contracts and helping to ~~levelling~~ the playing field between network and non-network solutions to meeting system security requirements.<sup>5</sup>

~~The AER will only be reviewing a subset of all the SSNS payment contracts TNSPs are required to enter into to meet the planning standards specified in Schedule 5.1 of the NER. This Guideline may also inform TNSP decision making when contracting the wider set of SSNS payment contracts~~ required ~~the~~ under Schedule 5.1 ~~security they required.~~

Appendix A of this Guideline provides a flowchart showing key (numbered) decision points a TNSP may need to navigate in contracting SSNS services, and how this Guideline, and the AER's related *Efficient Management of System Strength Framework* guidance, can help inform TNSP decision making.<sup>6</sup>

Appendix A shows that after completing the network planning and regulatory requirements to identify preferred options for meeting system security standards (1) and procuring offers for required SSNS services (2), a TNSP may, including by having regard to section 3.5 of this Guideline, consider whether a draft contract payment terms are likely to be prudent and efficient (3). Where the TNSP concludes this is the case, it may choose to sign the contract without AER review (4a), or may apply for an AER ex-ante determination on the draft contract, and sign the contract if prudence and efficiency is confirmed (4b).

---

<sup>5</sup> AEMC, *Rule determination, National Electricity Amendment (Improving security frameworks for the energy transition) Rule 2024*, 28 March 2024, p. 42.

<sup>6</sup> The flow chart also shows how the AER's *Efficient Management of System Strength Framework* guidance, developed in parallel with this Guideline, may inform TNSP decisions to proactively plan for, and procure system strength services under the *Efficient management of system strength on the power system rule change*, made on 21 October 2021.

Where a TNSP concludes the contract terms are unlikely to meet the prudence and efficiency criteria in section 3.5 of this Guideline, the TNSP may:

- reapproach the market seeking better payment terms
- seek AER approval of an alternative (lower cost) option to the preferred options identified through the initial network planning and regulatory processes, where one is available (i.e. under a ‘material change in circumstances’ (5a)
- not sign the contract on the basis that it considers it has made ‘reasonable endeavours’ to proactively plan for and procure the required level of system strength but concluded that the best available offer likely represents unreasonable costs. Section 3.1 of the AER’s *Efficient Management of System Strength Framework* guidance note, November 2024, provides further guidance on the issues a TNSP should consider when assessing whether a package of steps taken to meet a system strength standard may constitute reasonable endeavours.

The AER notes that there should be a financial incentive for the suppliers of SSNS services (i.e. generators and batteries) to make reasonable offers to TNSPs procuring SSNS services to meet the planning standards specified in Schedule 5.1 of the NER. This Guideline and the related *Efficient Management of System Strength Framework* guidance note aims to do this by establishing a framework under which suppliers of SSNS services are likely to be better off making reasonable offers that can be contracted, relative to being uncontracted and compensated if their services are needed and they are directed on by AEMO.

We encourage TNSPs to engage with us before applying for determinations dealt with in the Guideline. This will help to ensure that parties are making high quality applications, that are appropriately justified by relevant information included with the application, and that can be decided in a timely manner.

### **Submissions on section 1.1**

*Issue: greater clarity on the role this Guideline in the efficient procurement of SSNS services by TNSPs*

ENA submitted that it would improve the efficiency and timeliness of procuring system security services if the AER explicitly acknowledged in this Guideline that TNSPs may have regard to the principles in the Guideline (including on prudence and efficiency in section 3.5) when determining if an option is commercially feasible during the RIT-T regulatory process. ENA noted that this would facilitate TNSPs and SSNS providers (i.e. typically generators or batteries) being ‘on the same page when negotiating a contract concurrent with the RIT-T process’, and would assist TNSPs form a view on whether an option under consideration is commercially feasible (and therefore a credible option) during the RIT-T process, rather than needing to wait until the RIT-T has been completed. ENA further suggested that the flowchart presented in Appendix A of the draft Guideline be updated to reflect that this Guideline can inform the TNSPs’ assessment of options during the RIT-T process, as shown in stage 1 of the flow chart.

ENA noted that while some of this type of guidance may be best located in the AER’s related *Efficient Management of System Strength Framework* guidance note that was published at the same time as this Guideline, given the interrelationship between the RIT-T and contracting processes it would be helpful to also include this type of guidance in this

Guideline. ENA also raised this issue in its submission to the AER's draft System Strength guidance note.

### ***Our response***

We agree that providing a clearer explanation of the role this Guideline can play in TNSP contracting decisions would help to improve the efficiency and timeliness of procuring system security services. We have amended the Guideline above and the flow chart in Appendix A to provide clearer guidance on the role this Guideline may have in assisting TNSPs to navigate the key decision points in contracting SSNS services.

## **1.2 Consultation on the Guideline**

The AER released its draft [Guideline](#) on 9 October 2024 and called for submissions on the [Guideline](#). The AER received 6 submissions, which are available on the [AER's website](#).

The key issues raised in submissions and our responses are summarised in each section of this Guidelines under the Submissions headings. Changes made to guidance between the draft Guideline and this final version of the Guideline are shown as tracked changes through this document. A 'clean' version of this Guideline (i.e. without track changes, submission summaries and our responses) is also available on the [AER's website](#).

## **1.3 Confidentiality**

The AER's obligations regarding confidentiality and the disclosure of information provided to it by a TNSP is governed by the *Competition and Consumer Act* (2010), National Electricity Law and the NER.

This Guideline discusses information that may be commercial in confidence and / or confidential. When a TNSP provides us with information in an application seeking an [ex-ante review determination](#) or in subsequent information provided, it can claim confidentiality over any part of the information. To make a claim for confidentiality, we ask that the confidential information is clearly identified, and reasons are provided to support the confidentiality claim. Any such information must be of a genuinely confidential in nature and not otherwise publicly available. We encourage parties to limit confidentiality claims to the extent possible, so that the AER can conduct reviews as transparently as possible.

Further details on how TNSPs should make confidentiality claims over information submitted to us is provided in the [AER's Confidentiality Guideline](#). Further guidance on how the AER collects, uses and discloses confidential information is available in the [ACCC/AER Information Policy](#).

## **1.4 Structure of the Guideline**

The Guideline is structured as follows:

- Chapter 2: Regulatory framework for ex-ante determinations of SSNS payment contracts
- Chapter 3: Processes, timelines, eligibility criteria and thresholds, and information we may have regard to
- Chapter 4: Information requirements to make an application

- Appendix A: TNSP decision tree on contracting system security network support services

## **1.5 Process for revision**

The AER may amend or replace this Guideline from time to time. This Guideline is not subject to the Transmission Consultation Procedures under NER 6A.20.



## 2 Regulatory framework

This chapter outlines the regulatory framework established under the ISF Rule for the AER's ex-ante review determination of draft SSNS payment contracts.

### 2.1 Purpose of the determination

The purpose of the ISF Rule clause ~~NER 6A.6.6A~~ of the NER is to enable TNSPs to seek a determination from the AER that ~~an proposed expenditure for a proposed~~ payment or payment methodology in a draft SSNS payment contract ~~likely meets~~ will be consistent with the relevant opex and network support payment criteria, which we collectively refer to as 'prudence and efficiency'.

**Box 1** lists the full NER requirements under clause 6A.6.6A, including the NER criteria we must have regard to in making an ex-ante determination, and the nature of the SSNS payment Guideline.

The AEMC states that the aims of these ex-ante review determinations include:<sup>7</sup>

- providing a level of comfort to TNSPs, before signing ~~the~~ a contract, about the AER's expectations and approaches to making ex-post assessments of expenditures incurred under the executed contract (i.e. as part of the AER's subsequent network support payment (NSP) pass-through determinations). This should improve TNSPs' confidence when entering into a contract that they will be able to recover efficient operational costs.
- improving the efficiency and ability of TNSPs to contract SSNS services
- leveling the playing field between network and non-network expenditure in meeting system security needs.

Clauses 6A.6.6(e)(13a) and 6A.7.2A(i)(3a)(iii) also requires the AER to take into account an ex-ante determination made on a draft contract in any future related NSP pass through determination for costs incurred under the same contract.

Where the AER has made an ex-ante determination with respect to a payment or payment methodology, any future related NSP pass-through determination will not re-examine whether that payment or payment methodology is consistent with the relevant opex and network support payment criteria. It will examine whether the costs being assessed in the pass-through determination were incurred by the TNSP in a manner that is consistent with the contract's payment methodology that was the subject of the ex-ante determination, alongside the other factors that the AER is required to take into account in making a pass-through determination under clause 6A.7.2(i). If a TNSP alters the payment methodology contained in a contract that was the subject of an ex-ante determination, then the AER may,

<sup>7</sup> AEMC, *Rule determination, National Electricity Amendment (Improving security frameworks for the energy transition) Rule 2024*, 28 March 2024, pp. 51-52.

in any related NSP pass-through determination, reconsider whether the payment or payment methodology used was prudent and efficient.

**Box 1: NER clause 6A.6.6A AER power to make advance determination with regard to future operating expenditure**

- (a) The AER may, on application by a Transmission Network Service Provider, make a determination that expenditure for a proposed system security network support payment, or a methodology for such payment, specified in the determination, will be consistent with:
  - (1) the operating expenditure objectives (6A.6.6(a));
  - (2) the operating expenditure criteria (6A.6.6(c));
  - (3) the operating expenditure factors (6A.6.6(e)); and
  - (4) the factors in clause 6A.7.2(i) relevant to a system security network support payment.
- (b) An application submitted by a Transmission Network Service Provider under paragraph (a) must comply with any relevant requirements in the system security network support payment guidelines.
- (c) The AER may (but is not required to) consult in a manner it considers appropriate on the application submitted under paragraph (a) before making a determination.
- (d) A determination made by the AER under paragraph (a) must be consistent with the system security network support payment guidelines.
- (e) The AER must make and publish, and may amend, guidelines (system security network support payment guidelines) that set out:
  - (1) the information to be included in an application submitted under paragraph (a);
  - (2) any eligibility criteria or thresholds that will apply for system security network support payments before the AER will accept an application for under paragraph (a);
  - (3) the process and timeframes for the AER to make its determination under paragraph (a); and
  - (4) any other matters the AER considers relevant.
- (f) The transmission consultation procedures do not apply to the making or amendment of the system security network support payment guidelines.

**Submissions on section 2.1**

*Issue: greater clarity is needed on the relationship between an ex-ante determination on a draft contract and a related ex-post NSP pass-through determination*

Transgrid submitted that the draft Guideline wording, which states the AER's ex-ante determinations 'will assess if the proposed payment or payment methodology in the draft contract is likely to result in a prudent and efficient amount of expenditure if the contract

terms are followed’, does not provide sufficient comfort to TNSPs to enable them to sign SNSS payment contracts.

Transgrid requested that the Guideline clarify the situations in which any ex-post assessment of the prudence and efficiency of actual costs incurred under a SSNS payment contract could differ from an ex-ante determination. Transgrid suggested examples where clarification could be provided including:

- where a SSNS payment contract is amended after an ex-ante determination is made
- the type of TNSP’s actions and decisions following an ex-ante determination that could result in a different ex-post decision.

ENA submitted that the Guideline should provide further guidance on the relationship between an ex-ante determination on a draft contract and any subsequent related pass-through determination to provide TNSPs with greater certainty that TNSPs will be able to recover efficient operating costs incurred under financially significant contracts. ENA emphasised that a high degree of confidence on cost recovery is required to avoid TNSPs from facing a disincentive to enter into non-network contracts compared to implementing network solutions.

Specifically, ENA submitted that the Guideline should clarify that where the AER makes an ex-ante determination that a payment methodology in a draft contract is prudent and efficient, the Guideline should be provided a higher degree of confidence that it will be able to recover those costs in any subsequent pass-through determination as long as these costs are incurred in line with the contract reviewed. ENA noted that if a payment methodology in a draft contract subject to an ex-ante determination is subsequently altered, then the AER could reconsider the prudence and efficiency of the contract terms as part of any related pass-through determination (except where the change in methodology is based on a request from AEMO to vary the contract to facilitate its enablement procedures).

### ***Our response***

We acknowledge that TNSPs seek greater certainty about how the AER will take into account an ex-ante determination made on a draft contract in any future related NSP pass-through determination for costs incurred under the same contract. While the AER cannot bind a future decision making process or be prescriptive on the specific circumstances under which it will make a future related NSP pass-through determination, we have amended the Guideline above to note that where we have made an ex-ante determination, we will consider whether the costs being assessed in the pass-through determination were incurred in a manner that is consistent with the contract’s payment methodology, and we will not re-examine the prudence and efficiency of the payment or payment methodology already reviewed ex-ante.

## **2.2 Nature of the determination**

The opex objectives, criteria and factors under [clause 6A.6.6A \(a\)\(1\)-\(3\) of the NER](#) are the same criteria the AER is required to assess when deciding whether to accept a TNSP’s proposed forecast opex in a revenue determination under clause 6A.6.6. In the context of a revenue determination, we interpret these criteria together as requiring consideration of whether forecast opex can be reasonably considered to be ‘prudent and efficient’.

Clause 6A.6.6A(a)(4) of the NER also requires the AER to determine whether ~~the expenditure for a proposed payment or payment methodology~~ expenditure or payment methodology in a draft contract ~~is will be~~ consistent with the factors in clause 6A.7.2(i) relevant to a SSNS ~~pass through determination~~ payment. However, clause 6A.6.6A(a)(4) does not explicitly specify which factors in clause 6A.7.2(i) are relevant.

Box 2 lists the factors in clause 6A.7.2(i) that we consider relevant to a system security support payment.

**Box 2: Factors in clause 6A.7.2(i) relevant to a system security network support payment**

We consider that all factors in clause 6A.7.2(i), except clause 6A.7.2(i) (2) and (3), are relevant to a system security support payment due to the opening text “except to the extent subparagraph (3a) applies”. The meaning of this expression is that if subparagraph (3a) is applicable, subparagraph (2) and (3) does not apply. As subparagraph (3a) specifically relates to system security support payment, it would always be a relevant factor to the AER’s assessment under clause 6A.6.6A(a)(4). It follows that subparagraphs (2) and (3) would not be regarded as relevant factors to a system security network support payment for the purposes of the ex-ante determination under clause 6A.6.6A(a)(4).

Therefore, the relevant factors from clause 6A.7.2(i) for the purposes of an ex-ante determination include:

(1) the matters and proposals set out in any statement given to the AER by the Transmission Network Service Provider under paragraph 6A.7.2(c);

....

(3a) in the case of a network support event to which a system security network support payment relates (for both a negative network support event and a positive network support event):

(i) the total costs for system security network support payments the Transmission Network Service Provider incurred in the preceding regulatory year;

(ii) (the efficiency of the Transmission Network Service Provider's decisions and actions in relation to the risk of the event, including whether the provider has failed to take any action that could reasonably be taken to reduce the magnitude of the system security network support payments and whether the provider has taken, or omitted to take, any action where such action or omission has increased the magnitude of the amount in respect of that event; and

(iii) if applicable, a determination made by the AER under clause 6A.6.6A;

(4) the time cost of money based on the allowed rate of return for the provider for the relevant regulatory control period;

(5) the need to ensure that the provider only recovers any actual increment in costs under this paragraph (i) to the extent that such increment is solely as a consequence of a network support event; and

(6) any other factors the AER considers relevant.

We will interpret the factors under NER-clause 6A.6.6A (a) )(1)-(4) of the NER together as requiring-meaning that the AER can, on application from a TNSP, make a determination on whether a SSNS payment, or a methodology for such a payment, as described in a draft contract provided by the TNSP, is likely to result in future expenditure which can be reasonably considered to be prudent and efficient.

We note that we do not approve a specific forecast amount of expenditure as part of an ex-ante reviewdetermination, rather we assess if the proposed payment or payment methodology in the draft contract is likely to result in a prudent and efficient amount of expenditure if the contract terms are followed. We are also not required to provide a view on other terms in the proposed draft contract, or on the efficiency of AEMO's operational enablement of the contract, once executed, to meet real-time system security needs.

However, the AER may, at its discretion, comment on any component of the draft contract that it considers is relevant to its overall assessment of prudence and efficiency.

### **Submissions on section 2.2**

*Issue: AER should consider all draft contract clauses with a financial implication*

The EUAA submitted that while it acknowledges that the AER is not required under the ISF Rule to provide a view on terms in a draft contract beyond those related to 'expenditure for a proposed system security network support payment, or a methodology for such payment', it considered the AER should 'review all clauses that have a financial implication'.

***Our response:***

We note that section 4.1 of the Guideline requires TNSPs to include in any application all relevant details for the draft contract, including the SSNS services being engaged, the service provider(s), the proposed payments and payment methodologies in the draft contract, and details of any other costs, costs components and triggers for all potential expenditures included in the draft contract.

The determination we must make under NER clause 6A.6.6A is focused on the 'expenditure for a proposed system security network support payment, or a methodology for such payment'. The AER may, at its discretion, examine any potential expenditures or costs and associated triggers in a draft contract and may comment on these if it considers those matters are relevant to the ex-ante determination. We have added text to clarify this to section 2.2 above.

*Issue: the existing framework for forecasting and recovering SSNS payments needs reform*

The JEC expressed concern that the overall regulatory framework through which TNSPs forecast and recover the costs of SSNS payments (including the ex-ante determination of draft SSNS payment contracts) does not incentivise TNSPs to achieve SSNS standards at least cost. The JEC submitted that there is no clear incentive under the framework for TNSPs to reduce costs beyond the AER's prudence and efficiency test applied as part of the ex-ante determination of draft SSNS contracts or the ex-post pass through assessment. The JEC

noted that TNSPs are able to pass the full SSNS costs to consumers if the AER approves the pass-through amount.

The JEC questioned whether the AER can ‘meaningfully assess decisions made by TNSPs because it does not have oversight over the level of SSNS services being procured by TNSPs’ (i.e. the level is determined by TNSPs based on their interpretation of AEMO demand forecasts and the NER technical standards). The JEC stated that the framework should revert to previous arrangements whereby AEMO assessed the level of SSNS services required via a shortfall forecast. Further, the JEC proposed that TNSPs should be required to identify alternative modes of procuring the required services, including directing existing generators to provide them on an as needs basis, or to positively assert that no alternatives to procuring from a dedicated system security service provider exists.

In addition, the JEC submitted that it is unclear what contingencies AEMO will have in place should a generator be unable to provide a SSNS service (for example, due to an outage), and recommend AEMO clarify the minimum requirements in terms of system security redundancy.

***Our response:***

We note that the overall framework, including the network planning function of TNSPs and AEMO, and the process by which TNSPs forecast and recover NSSP costs is out of scope for this Guideline. We have referred the JEC submission to the AEMC and AEMO for further consideration.

## 2.3 Operationalising clause 6A.6.6A

Chapter 3 sets out how we will implement clause 6A.6.6A, including:

- the processes and timeframes for the AER to make its determinations
- eligibility criteria and thresholds that will apply before the AER accepts an application for determination
- the information we may have regard to in order to:
  - determine that a draft contract is eligible for review (under 6A.6.6A(e)(2))
  - make a determination on the prudence and efficiency of a proposed payment or payment methodology in a draft contract (under 6A.6.6A(a))
- ~~and~~ any other matters the AER considers relevant.

### 3 Processes, timelines, thresholds and information we may have regard to

This chapter outlines the processes, timelines, eligibility criteria and thresholds, and information we may have regard when undertaking an ex-ante ~~review~~determination of a draft SSNS payment contract.

**Appendix A** of this Guideline provides a flowchart showing key decision points a TNSP may need to navigate in contracting SSNS services, and how this Guideline, and the AER's *Efficient Management of System Strength Framework System Strength*~~g~~Guidance ~~n~~Note, may help inform TNSP decision making.<sup>8</sup>

#### 3.1 Pre-application

We encourage TNSPs to engage with us before applying for a determination. ~~The primary aim of any early engagement is to provide targeted is will help to ensure that the assistance to TNSPs is to enable them to make~~ing an eligible and high quality applications that, and providing all the the relevant information needed in the application to enable the AER to make a timely decision~~determination~~.

~~Early engagement will be is~~ at the AER's discretion. ~~Generally, we it~~ will not provide ~~advice~~views at this stage on whether

~~Early engagement with the AER may also assist a TNSP to determine if a proposed network support payment, or payment methodology is unlikely to be considered prudent and efficient and further options should be investigated. This may include whether a TNSP should reapproach the market or consider alternatives to contracting an offer (Appendix A), and early engagement will be limited to circumstances where:~~

- any RIT-T and related regulatory processes have been substantially~~ignificantly~~completed
- there is sufficient information available on payments or payment methodologies
- there is a material need to engage before an application can otherwise be made
- AER resourcing is available.

---

<sup>8</sup> The flow chart also shows how the AER's *Efficient Management of System Strength Framework* guidance note, developed in parallel with this Guideline, may inform TNSP decisions to proactively plan for, and procure system strength services under the *Efficient management of system strength on the power system* rule change, made on 21 October 2021.

## 3.2 Lodging an application – timing

Applications to the AER for an ex-ante ~~draft contract review~~determination should be made after the regulatory investment test for transmission (RIT-T)<sup>9</sup> and any related regulatory processes to identify the preferred option have been completed, but prior to contract execution.

Generally, RIT-Ts should be complete, including the resolution of disputes. Similarly, AER approval of ‘secondary options’ based on a ~~to enable confirmation that the RIT-T does not need to be redone due to a~~ ‘material change in circumstances’ (for example, if contract costs are materially above the assumptions in the RIT-T, such that the preferred options could change) should be completed.

Tender processes should be largely final~~ized~~ized to enable TNSPs to provide information on costs, payments and pricing-payment methodologies in an application that is likely to reflect the contract that is executed.

### **Submissions on sections 3.1 and 3.2**

*Issue: greater flexibility is needed to enable TNSPs to make earlier applications where a TNSP can make the case*

AEMO submitted that there is an ‘imminent need’ for TNSPs to contract SSNS services to meet their SSNS obligations in full and on time,<sup>10</sup> and expressed concern that TNSPs may delay signing contracts until they have an AER determination. AEMO indicated that the draft Guideline requirements (in section 3.2 and 3.3) that an application must be made after completion of all relevant regulatory processes (including RIT-T appeals and material changes in circumstances), and that services in the draft contract must be ‘preferred options’ under a completed RIT-T, or a ‘secondary option’ approved by the AER, may delay TNSPs from contracting the required level of SSNS services in time. To speed the contracting process, AEMO asked that the AER consider whether the ex-ante assessments could be undertaken in parallel with the RIT-T (instead of after RIT-T completion).

ENA and Transgrid emphasised that there is a ‘timing crunch’ to get the first wave of SSNS payment contracts in place, particularly ahead of the full commencement of the system strength procurement requirements on 2 Dec 2025. Both submitted that the Guideline should allow flexibility to enable applications to be made before RIT-T processes are completed. To this end, ENA and Transgrid proposed amendments to the Guidelines to allow the AER discretion to accept applications earlier (for example, prior to the end of the dispute period following completion of the RIT-T, or during the RIT-T process itself), where a TNSP can justify a need.

<sup>9</sup> Where required.

<sup>10</sup> TNSPs are required to have the first round of contracts in place by 2 December 2025.



Transgrid further submitted that applications for executed contracts should be allowed where it can be demonstrated it is prudent to enter the contract to meet an urgent need.

***Our response:***

We acknowledge the need for timely determinations, particularly as the initial 2 December 2025 compliance deadline approaches for TNSPs to have executed SSNS (particularly system strength) payment contracts in place. However, we note that consistent with the prudency factors in section 3.5 of the Guideline, the AER does not expect to be able to make a formal determination on a payment or payment methodology in a draft contract until the RIT-T and any related regulatory processes have been completed and preferred options have been identified.<sup>11</sup>

Consistent with section 3.1 of the Guideline, our view is the best approach to ensuring timely determinations is to enable targeted and effective pre-application engagement, which assists TNSPs to make quality applications that meet the eligibility criteria and threshold, and that include all the required information. We believe this approach appropriately balances the potential benefits of an ex-ante review with time and resourcing constraints, and is consistent with the aims of the ISF Rule as set out in section 2.1.

The AER is of the view that making a determination on an already executed contract would be not consistent with the aims of the ISF Rule as set out in section 2.1 of the Guideline.

### 3.3 Lodging an application – eligibility & thresholds

Consistent with [clause 6A.6.6A\(b\)](#), an application submitted by a TNSP must comply with all relevant requirements in this Guideline, including any eligibility criteria or thresholds that apply before the AER will accept an application for review under [paragraph-clause 6A.6.6A\(e\)\(2\)](#).

**Box 3** lists the eligibility criteria and materiality threshold that the AER will apply under [paragraph-clause 6A.6.6A\(e\)\(2\)](#) ~~to determine if~~[before](#) we will accept an application for ~~review~~[determination](#).

The eligibility criteria and materiality threshold will ensure that the AER has all relevant information needed to begin ~~and undertake a timely~~[assessment of](#) an application, and that reviews will target only financially significant SSNS payment contracts as intended by the ISF Rule.

---

<sup>11</sup> Section 3.5 of the Guideline notes that the prudency test includes that a service being contracted must have been identified by the TNSP as a 'preferred option' through the RIT-T process, or an amendment to the process, or is a 'secondary option' approved by the AER following a material change in circumstances (for example, on the basis it is a lower cost option than the RIT-T preferred options).

Chapter 4 outlines the type of information and supporting documentation TNSPs must include in an application to demonstrate a draft contract meets the eligibility criteria and the threshold set out in **Box 3**.

### **Box 3: Eligibility criteria and materiality threshold to make an application for an ex-ante determination**

#### Eligibility criteria

- The application ~~must~~ should be made after completion of all relevant regulatory processes (including completion of RIT-T appeals-disputes and AER determinations on 'material changes in circumstances'), and before a contract is executed.
- All services in the draft contract being reviewed must be 'preferred options' under a completed RIT-T, or a 'secondary option' approved by the AER on the basis it is a lower cost option than the RIT-T preferred options following a 'material change in circumstances'.
- The application must include the relevant information outlined in Chapter 4 of this Guideline.

#### Materiality threshold

- The ~~draft contract's~~ expected average annual payment under a draft contract, -or a portfolio of draft contracts with the same payments or payment methodologies, must exceed 1% of AER approved unsmoothed revenues in a regulatory year for the current regulatory control period.<sup>12</sup>
- Draft contracts in a portfolio must meet the same need and be substantially identical in regard to their proposed payments or payment methodologies.<sup>13</sup> There must also be a material benefit in having the contracts reviewed by the AER as a group.<sup>14</sup>

### **Submissions on section 3.3**

*Issue: eligibility criteria potentially exclude intending (newly regulated) TNSPs*

APA submitted that the eligibility criteria that all services in a draft contract must be preferred options under a completed RIT-T or a 'secondary option' approved by the AER would potentially exclude intending (newly regulated) TNSPs that have yet to undertake a RIT-T but may be required to procure SSNS services. APA, noting the example of Basslink, proposed that the eligibility criteria be updated to provide flexibility in these circumstances.

<sup>12</sup> Or 1% of forecast revenues for intending (newly regulated) TNSPs.

<sup>13</sup> This may be demonstrated through an independent review and assessment of the draft contracts in the portfolio.

<sup>14</sup> The AER will accept an application that includes a portfolio of contracts at its discretion and subject to resourcing.

**Our response:**

We agree and have amended the Guideline to note that the AER has discretion to waive the eligibility criteria where appropriate for intending (newly regulated) TNSPs.

*Issue: the 1% materiality threshold should be expanded to apply to portfolios of smaller similar contracts, and lowered to 0.5% of annual approved revenues*

AEMO submitted that the 1% materiality threshold for a single contract should be expanded to apply to a portfolio of contracts. AEMO submitted that its application to a single contract only may disincentivise TNSPs from entering into smaller but efficient contracts that would not be eligible for an AER determination.

Similarly, ENA submitted that the 1% threshold should apply to grouping of contracts where a TNSP can justify why it is reasonable to assess the contracts as a group. ENA stated that the nature of the SSNS services and the potential for innovation means that TNSPs are likely to engage in a number of smaller contracts with the same type of providers, which would not meet the draft Guideline materiality threshold individually. Allowing groupings of smaller contracts of a similar type and structure to be eligible for an ex-ante determination would improve TNSPs' confidence in entering these contracts. ENA suggested amendments to the Guideline to enable contracts of a similar type, or which address a similar need to be eligible for ex-ante review, where a TNSP can make the case for packaging the contracts together.

Transgrid also expressed concern that the proposed threshold is too high and would exclude a significant proportion of contracts. Transgrid noted the example of smaller contracts for grid forming battery energy storage systems (BESS) projects, stating that excluding these from the ex-ante contract determination could stifle innovation and increase the risk of cost recovery for smaller contracts. To limit these risks, Transgrid proposed that the Guideline:

- allow TNSPs to submit a group of similar contracts that collectively meet the threshold
- lower the materiality threshold to 0.5% of maximum allowable revenues
- include an exception clause that would allow the TNSP to submit a contract that does not meet the threshold for ex-ante determination, where the AER's determination is integral to progressing with the project.

**Our response:**

We agree that there may be merit, in limited circumstances, to allowing the materiality threshold for applications to apply to a portfolio of smaller otherwise identical contracts. Where a TNSP can demonstrate that all contracts in the portfolio meet the same need, are substantially identical in regard to the proposed payments or payment methodologies, and there is a material benefit in having the contracts reviewed as a group, the AER may, at its discretion and subject to resourcing, accept an application to assess a portfolio that meets the 1% materiality threshold. This approach should allow the AER to undertake a streamlined assessment process to review these contracts as a class rather than on an individual basis. The AER may, at its direction, make a determination on one or more of the draft contracts in the portfolio, depending on the nature of variation between them. We believe this approach appropriately balances the potential benefits of an ex-ante determination with time and resourcing constraints, and is consistent with the aims of the ISF Rule as set out in section 2.1.

We do not agree with lowering the 1% materiality threshold to 0.5% or introducing an exception clause. Under the ISF rule, the focus of these ex-ante determinations is on allowing TNSPs to seek the AER's view on the prudence and efficiency of significant (i.e. large) draft contracts only. The purpose of this is to improve TNSP confidence in their ability to recover SSNS costs, thereby improving the efficiency and ability of TNSPs to sign the contracts. We consider a 1% threshold applying to significant individual contracts or a portfolio of substantially identical contracts appropriately balances the potential benefits of an ex-ante review with time and resourcing constraints, and is consistent with the aims of the ISF Rule as set out in section 2.1.

**Issue:** *the threshold should be amended to accommodate intending (newly regulated) TNSPs*

APA submitted that the materiality threshold should be modified to accommodate intending (newly regulated) TNSPs that do not yet have an approved revenue allowance and suggested forecast revenues could be used instead.

**Our response:**

We agree and have amended the Guideline to note that the 1% threshold will relate to forecast revenues in the case of an intending (newly regulated) TNSP that does not have an AER approved revenue allowance.

### 3.4 Consultation on an application

**Clause** 6A.6.6A(c) states that the AER may, but is not required to, consult in a manner it considers appropriate on the application before making a determination.

We propose to adopt a similar consultation approach as used for pass through applications under the NER.<sup>15</sup> In the case of an ex-ante ~~draft contract review~~ **determination**, this means the AER may consult with the relevant TNSP and such other persons as the AER considers appropriate, on any matters arising out of application as the AER considers appropriate.

In practice, the consultation process ~~may~~ include:

- publishing notification that an application has been received, and the likely timeframe for the assessment
- publishing ~~the a summary of the~~ application, with appropriate redactions for confidential and commercial-in-confidence information, including an outline of the payments and payment methodologies being assessed
- calling for submissions on the application

---

<sup>15</sup> NER 6A.7.3 (i).

- using information requests and targeted consultation with the TNSP or other parties as necessary
- publishing ~~the~~ a summary of the determination, with appropriate redactions for confidential and commercial-in-confidence information, including our reasoning for decisions on the prudence and efficiency of the payments and payment methodologies assessed.

#### **Submissions on section 3.4**

***Issue:** benefits of greater transparency while complying with confidentiality and commercial sensitivities*

ENA submitted that it would be useful for the AER to explain in its published determination, to the extent possible given confidentiality requirements and commercial sensitivities, the reasoning for why a payment or payment methodology meets (or does not meet) the prudence and efficiency criteria. ENA stated that transparency on the AER's reasoning could be an effective mechanism for providing TNSPs with greater confidence about recovering efficient costs in similar contracts, and enable this Guideline to be leveraged during contract negotiations between TNSPs and SSNS service providers.

EUAA submitted that there are tensions between the confidentiality requirements in section 1.3 of the Guideline requiring the redaction of commercial-in-confidence material in draft contracts under review and the AER's ability to usefully consult on applications. EUAA noted that consultation could be worthless if too much information is removed and requested that the AER consider how an application can be usefully consulted on to avoid it being a 'tick a box' process.

***Our response:***

We acknowledge the practical tensions between addressing confidentiality requirements and commercial sensitivities, and the benefits of more transparency in these determinations. We have amended the Guideline to reflect the use of summarised material in some circumstances, and that while it may not be possible to publish a given application, we will provide public notification that an application has been received. The exact nature and level of detail included in the application and decision documents to be published, and the extent to which we undertake public consultation processes, will be determined once we see the nature of information TNSPs can provide as part of the initial round of applications.

### **3.5 Assessing prudence and efficiency**

Consistent with clauses 6A.6.6A (a)(1)-(4), this section describes the information the AER may have regard to when determining whether an expenditure for a proposed SSNS payment, or a payment methodology described in a draft contract provided by the TNSP, is likely to result in future expenditure that can be reasonably considered to be prudent and efficient.

This Guideline provides principles-based guidance on how the AER will interpret the relevant criteria under clause 6A.6.6A of the NER to determine the prudence and efficiency of expenditure for a proposed SSNS payment, or payment methodology. The specific information the AER considers in any assessment will vary on a case-by-case ~~case-by-case~~

basis depending on the ~~circumstances of the TNSP and the~~ nature and circumstances of the draft contract being reviewed and the available information and evidence.

**Prudency** is based on providing sufficient evidence and information to enable the AER to establish that there is a reasonable need to contract for the service that is subject to include the proposed SSNS payment or payment methodology in the draft contract being reviewed.

Information we could have regard to determine prudency~~this~~ includes whether the payment ~~and~~ or payment methodology in a draft contract is for a SSNS service that:

- has been identified by the TNSP as being is required to ~~comply with~~ meet a network standard as defined in the NER, or other binding AEMO declaration ~~the minimum level of system security identified by an AEMO shortfall forecast~~
- has been identified by the TNSP as a ‘preferred option’ through the RIT-T process, or an amendment to the process, or is a ‘secondary option’ approved by the AER following a material change in circumstances (for example, on the basis it is a lower cost option than the RIT-T preferred options~~s~~).

AEMO has identified payment components that a SSNS payment contract should include for enablement, including transfer of energy revenue availability, activation and usage payments.<sup>16</sup> There may be a variety of prudent contract structures, and payment or payment methodologies depending on circumstances. ~~We~~ The AER may ~~could also~~ have regard to the prudency of the contract structure and components of a proposed payment or payment methodology, the mix or structure of the components, and conditions for triggering a payment or component of a payment. For example, the AER may consider whether a draft contract ~~may includes~~ unnecessary ~~fixed~~ cost components, unnecessarily large cost components, or triggers for cost ~~components~~ that could be considered unnecessary, or overly ambiguous and likely to result in unnecessary costs being incurred.

### **Submissions on section 3.5 - Prudency**

***Issue:** clarifying the performance standards for system security in the prudency test*

AEMO submitted that the draft Guideline’s prudency test implied that a contract should only be for “the minimum level of system security identified by an AEMO shortfall forecast”. AEMO noted that the system strength framework now includes an obligation for procurement of all system strength requirements and submitted that the Guideline should reference these NER requirements of a network rather than refer to ‘the minimum level of system security’.

***Our response:***

We agree and have amended the Guideline text above to reflect that in assessing prudency the AER will have regard to whether a SSNS service is required ‘to meet a network standard as defined in the NER, or other binding AEMO declaration’.

<sup>16</sup> AEMO, [Provisional Security Enablement Procedure \(Improving Security Frameworks\)](#), 30 June 2024.

**Issue:** *clarifying that there can be a range of prudent contract structures and payment methodologies*

ENA submitted that different contracting approaches (including different mixes of fixed and variable payments) may be appropriate and prudent in different circumstances, noting that section 4.2 of the draft Guideline recognised this and asks that TNSP's 'provide an explanation and supporting documentary evidence to demonstrate the prudence of the structure of the components of the payments methodology, or cost structure and triggers used.' ENA suggested amending section 3.5 of the Guideline to also reflect this.

**Our response:**

We agree and have included wording to this effect.

**Issue:** *clarifying the proactive role TNSPs have in meeting SSNS service standards*

The EUAA noted that wording in the draft Guideline implied that TNSPs have a reactive approach under the regulatory framework in identifying SSNS shortfalls and planning to meet the standards, rather than the proactive requirements imposed under the NER.

**Our response:**

We agree and have clarified the wording in the Guideline and in the flow chart in Appendix A to note the TNSPs' requirement to proactively identify and address SSNS shortfalls.

**Efficiency** is based on providing sufficient evidence and information to enable the AER to establish that the payment or payment methodology in a draft contract is reasonably likely to reflect efficient costs, or the least cost that the TNSP could reasonably achieve in the circumstances.<sup>17</sup>

Information we could have regard to determine this includes the extent to which the payment ~~and~~ or payment methodology for a given service:

- is the outcome of a competitive approach to market, or where a competitive process is not available, reflects the least cost the TNSP could reasonably achieve in the circumstances through a direct / negotiated approach to a SSNS service provider
- is not unreasonable, having regard to:
  - the economic cost and / or other relevant cost information used in the RIT-T process, including any early or indicative quotes from SSNS service suppliers (e.g. generator or battery)

---

<sup>17</sup> Circumstances can include, but are not limited to, location, the number, type and costs characteristics of available SNSS service provider(s), and available technology.

- the costs of realistic alternatives for obtaining the same service, including the direction compensation that the SSNS service supplier (e.g. generator or battery) would otherwise receive in similar circumstances if directed on by AEMO, having regard to AEMO’s direction compensation recovery approach<sup>18</sup> with reasonable additional compensation for a SSNS service supplier guaranteeing its availability by entering a contract factored in
  - the level of compensation needed to recover all reasonable costs incurred, net of alternative revenue sources, in providing the SSNS service
  - payments and/or payment methodologies for similar services in similar circumstances, including in other draft SSNS payment contracts reviewed by the AER or other publicly available cost information
- does not include unreasonable costs, cost components, mix of cost components, or triggers (i.e. there is no evidence of unnecessary costs or an unreasonable risk that triggers of cost components will lead to unnecessary costs).

Chapter 4 outlines the type of information and supporting documentation TNSPs must include in an application to demonstrate a payment, or a payment methodology in a draft contract is prudent and efficient.

### **Submissions on section 3.5 - Efficiency**

*Issue: having regard to costs of alternatives, including AEMO direction compensation*

AEMO stated it does not consider the level of direction compensation a SSNS supplier would receive if uncontracted is an appropriate factor to have regard to when assessing the efficiency of a draft contract payment or payment methodology. It submitted that the level of direction compensation is only intended to cover the short-run costs of complying with a direction at times of atypical plant operation, and so is unlikely to be sufficient to ensure existing SSNS service providers remain operating in the market or stimulate new entrants. AEMO submitted that use of direction compensation as a factor may increase the risk there will not be a SSNS service provider available to be directed if services are not contracted.

The ENA supported inclusion of the direction compensation factor for assessing the efficiency of draft contract payments, but suggested additional wording to broaden the focus of the efficiency assessment to whether a payment or payment methodology is least cost having regard to the ‘realistic alternatives for obtaining the same service’ including the compensation the SSNS service supplier would receive if directed on by AEMO. However, the ENA noted that AEMO direction compensation should be considered by also having regard to the benefits of having a long-term system security contract in place, rather than solely what the direction compensation would be in isolation.

---

<sup>18</sup> <https://aemo.com.au/en/energy-systems/electricity/national-electricity-market-nem/data-nem/settlements-data/direction-compensation-recovery>



***Our response:***

We agree with the ENA’s submission that the AER should consider information on the costs of ‘realistic alternatives for obtaining the same service’ more generally when assessing the efficiency of draft contract payments or payment methodologies, and have included wording to this effect in the efficiency factors in the Guideline.

The AEMO direction compensation factor is not intended as a benchmark of what the AER considers is a reasonable cost for providing a SSNS service under contract. It is included as a reference to the cost of a realistic alternative to obtaining the SSNS service if not through the contract under review. The AER recognises that AEMO direction compensation represents the short-run costs of complying with a direction and may not reflect the level of costs required to incentivise and compensate a SSNS provider for committing, via contracting, to be available to provide SSNS services when required. We have added additional wording to this factor in the efficiency guidance to reflect that the AER will have regard to reasonable additional costs related to incentivising longer-term availability, when considering the AEMO direction compensation factor.

***Issue: providing greater clarity on what is efficient or inefficient***

AEMO requested that the AER provide greater clarity in the Guideline on what could be considered a reasonable (efficient) or unreasonable (inefficient) cost, noting high prices for SSNS services can be due a range of factors beyond a lack of competition, including higher costs of equipment and supply at certain locations. AEMO further submitted four factors it considered would be relevant to determining if a draft contract price (payment) is reasonable, including that a payment or payment methodology:

- accounts for additional revenues that the SSNS provider may recover in providing ‘linked services’ (such as revenue earned by being dispatched in the energy market)
- reflects costs of atypical operation that might be required under a system strength contract
- is no higher than necessary to stimulate competition in the provision of SSNS services
- is comparable to the revenues (or costs) of providing linked services in the market (such as the revenues of a gas peaking generator may earn when participating in the electricity market).

***Our response:***

We agree that a payment or payment methodology in a draft contract should:

- allow for recovery of all reasonable costs a SSNS service supplier incurs for guaranteeing its availability by entering a contract and for providing SSNS services when called upon
- avoid unreasonable double recovery of costs where a SSNS service provider supplies linked services
- incentivise, to the extent possible, competitive supply of SSNS services over the long run.

To this end, the Guideline efficiency factors above have been amended to include that the AER may have regard to the level of compensation needed to recover all reasonable costs incurred, net of alternative revenue sources for provision of linked services in making an efficiency determination. The factors also include that when having regard to AEMO's direction compensation recovery approach we will factor in reasonable compensation for a SSNS service supplier guaranteeing its availability by entering a contract.

We believe AEMO's factor that a payment or payment should be 'comparable to the revenues (or costs) of providing linked services' is accounted for in the Guideline by the factor 'having regard to payments and / or payment methodologies for similar services in similar circumstances'.

**Issue:** *structure of payments methodologies and risk allocation between TNSPs, SSNS suppliers and consumers*

Transgrid submitted that it faces a material cashflow risk from the large, highly variable and uncertain month to month enablement payments it will have to make under the SSNS payment contracts it is required to enter into.<sup>19</sup> Transgrid noted that modelling indicates that its annual SSNS enablement payments could be more than double its operating expenditure, with significant and uncertain month to month variability in payments over a year. Transgrid submitted that this could create significant month to month cashflow risk for TNSPs, and may lead to variable and unstable prices for consumers year to year.

Transgrid requested the Guideline provide more guidance on how the AER will consider the prudence and efficiency of payment methodologies in draft contracts, which are structured to minimise this type of cash flow risk to TNSPs. In particular, Transgrid asked how the AER will consider a fixed payment approach to contracting SSNS services that aims to avoid cashflow risks to TNSPs caused by potentially large, and uncertain month to month SSNS enablement payments.

**Our response:**

Consistent with guidance in the prudence section above, we note there may be a variety of contract structures and payment methodologies that could be considered efficient or least cost depending on circumstances. However, contracts that use fixed price structures and payment methodologies to minimise cash flow uncertainty for a TNSP (to the extent they are available from SSNS suppliers), may be relatively higher cost options compared to contract structures and payment methodologies that allow for a more even balance of risks between the TNSP and the SSNS supplier. For example, a supplier of SSNS services would likely seek a significant premium to enter into a fixed price contract that wholly or largely shifts the risks related to the uncertain level of services they may be required to provide onto them. Fixed

---

<sup>19</sup> Under the *Efficient management of system strength on the power system* rule change, made on 21 October 2021.

price contracts may also be less likely to result in efficient expenditures as their payments methodology is less likely to directly reflect the economic cost provision of SSNS services.

Given this, a TNSP should consider what is an appropriate sharing of risks between TNSPs, providers, and consumers that is likely to produce an efficient and overall least cost outcome. In any application, the TNSP would need to explain the basis of the draft contract structure and payment methodology they are proposing (including the rationale for how the cost components, structures, and triggers appropriately shares risks between TNSPs, SSNS service providers, and consumers), and why the structure or methodology will likely be least cost compared with available alternative structures. To this end, we note in section 4.2 that an application should include an explanation of why the payments, payment methodology or cost structure and triggers used in the draft contract are efficient and do not result in unreasonable costs, or an unreasonable risk of unnecessary costs.

### 3.6 Timeframe for decision

We propose to adopt a similar timeframe for a decision as set out by the NER for assessing cost pass through applications.<sup>20</sup> In the case of an ex-ante draft contract review, the AER will make a determination within 40 business days from the later of the date it receives an application that meets the eligibility criteria and materiality threshold out in section 3.3, or the date it receives ~~any~~the additional information sought by the AER in a subsequent information request.

This timeframe aims to balance the need to ensure that a draft contract subject to review can be executed in a timely manner, while allowing for any consultation processes that the AER may carry out as part of the determination process, including seeking further information from the relevant TNSP, or other parties as necessary.

If the AER is satisfied that the making of a determination involves issues of such complexity or difficulty that the 40-business day limit should be extended, the AER may extend that time limit by a further period of up to 60 business days. In this case, the AER will advise the TNSP in writing of the additional time required. It is expected this option to extend the timeframe for a decision will only be used in exceptional circumstances.

#### Submissions on section 3.6

*Issue: greater flexibility in the timeframe for making a determination*

AEMO submitted that the draft Guideline requirement that the AER will make a determination within 40 business days of receipt of all required information, and in exceptional circumstances may extend this by up to 60 business days, may delay TNSPs from contracting the required level of SSNS services in time. AEMO stated that there is an ‘imminent need’ for TNSPs to contract SSNS services to meet their SSNS obligations in full

<sup>20</sup> This timeframe is consistent with the timeframe for a cost pass thought determination under NER clause 6A.7.3(e).

and on time,<sup>21</sup> and asked the AER to consider whether a ‘light-handed assessment leveraging previous tests (i.e. RIT-Ts) could be considered to speed the determination process.

ENA submitted that speed and flexibility around the AER’s decision-making timeframe would be helpful given there will be ‘timing crunch’ over 2025 to get SSNS payment contracts (particularly for system strength services) in place. ENA also observed that non-network providers are often only willing to hold prices for a relatively short period in contract negotiations and that more timely determinations would assist in securing suitable offers. ENA supported the Guideline’s 40 business day timeframe for making an ex-ante determination with the option to extend this by 60 business days in exceptional circumstance, but submitted that any information requested by the AER should ‘stop the clock’ on the 40 business day timeframe rather than ‘restart’ it from zero.

APA submitted that 40 business days should be the maximum time limit for a determination.

***Our response:***

We acknowledge the need for timely determinations, particularly as the initial 2 December 2025 compliance deadline approaches for TNSPs to have executed SSNS payment contracts in place. To this end, we will undertake fit-for-purpose, proportional and targeted assessments of applications that will, to the extent possible, leverage the analysis already undertaken as part of the TNSP’s network planning and regulatory assessment processes. However, we believe that adoption of a ‘stop the clock’ provision on the 40 business day timeframe, where the AER issues an information request, is unlikely to materially speed the determination process compared with the proposed reset provision. Our view is the best approach to ensuring timely determinations is to enable targeted and effective pre-application engagement to assist TNSPs to make quality applications that meet the eligibility criteria and threshold, and which include all the required information.

---

<sup>21</sup> TNSPs are required to have the first round of contracts in place by 2 December 2025.

## 4 Information requirements to make an application

Consistent with [clause 6A.6.6A \(e\)\(1\)](#), this section sets out the information a TNSP must include in an application for an ex-ante review of a draft SSNS payment contract:

- to demonstrate the draft contract meets the eligibility criteria and threshold set out in section 3.3
- to demonstrate [expenditure for a proposed](#) payment or payment methodology in a draft contract is prudent and efficient as set out in section 3.5.

### 4.1 Demonstrating eligibility and thresholds

The AER considers that ~~the~~ TNSPs must provide the following information to demonstrate that ~~an~~ [the](#) application meets the **eligibility criteria** for an ex-ante ~~review~~ [determination](#):

- all relevant details for the draft contract, including the SSNS services being engaged, the service provider(s), the proposed payments and payment methodologies in the draft contract, and details of any other costs, costs components and triggers for all [other](#) potential expenditures included in the draft contract
- a statement with supporting documentary evidence demonstrating that:
  - the TNSP has completed all relevant regulatory processes (including RIT-T appeals and any [‘material change in circumstances’](#)) and that the draft contract has not yet been executed
  - all SSNS services in the draft contract ~~are~~ [have been identified by TNSPs as](#) ‘preferred options’ under the completed RIT-T process, or ‘secondary options’ approved by AER as a lower cost option than RIT-T preferred options under ‘material change in circumstances’
  - [all](#) required information outlined in Chapter 4 of this Guideline has been provided.

[Where an application includes a portfolio of draft contracts, a TNSP must demonstrate that:](#)

- [all draft contracts in a portfolio meet the same need and are substantially identical in regard to their proposed payments or payment methodologies \(for example, via an independent review and assessment of the draft contracts\)](#)
- [clearly document in summary form how the payments or payment methodologies in the draft contracts are substantially identical, and the nature and reasons for any variations in an individual contract’s payment or payment methodology](#)
- [there is a material benefit in having the contracts reviewed as a portfolio.](#)

To determine that an [individual](#) draft contract, [or portfolio of draft contracts](#), meets the **threshold**, the TNSP must provide the AER with details of all assumptions and calculations used to show that the ~~draft contract’s~~ [expected average annual payments of the draft contract, or portfolio of draft contracts](#), is forecast to exceed 1% of the TNSP’s AER approved unsmoothed revenues in a regulatory year for the current regulatory control.

This information should be presented in a spreadsheet that shows how the ~~draft contract's~~ expected average annual SSNS payment was calculated, the basis of the AER approved unsmoothed revenues, and include the application of CPI, and estimates of the time cost of money. The spreadsheet should show all formulas and input data.

## 4.2 Demonstrating prudence and efficiency

In addition to the information provided in [section 4.1](#), the AER considers that the TNSPs must provide the following information to demonstrate a payment or payment methodology in a draft contract is **prudent**:

- an explanation with supporting documentary evidence outlining why the TNSP believes contracting the SSNS service(s) in the draft contract is prudent (necessary). This can include:
  - a statement with supporting documentary evidence showing that ~~the any~~ payment ~~and/or~~ payment methodology in the draft contract is for a SSNS service(s) that:
    - ~~required to comply with the minimum level of system security identified by the TNSP as informed by an AEMO forecast~~ has been proactively identified by the TNSP as being required to meet a network standard as defined in the NER, or other binding AEMO declaration
    - ~~that~~ has been identified by the TNSP as a 'preferred option' through the RIT-T process, or an amendment to the process, or a 'secondary option' approved by the AER on the basis it is a lower cost option than the RIT-T preferred options.

The TNSP must also provide an explanation and supporting documentary evidence to demonstrate the prudence of the structure of the components of the payments or payment methodologies, and the conditions for triggering a payment or component of a payment in the draft contract. For example, unnecessarily large cost components, or unnecessary cost components may be considered not prudent. Likewise, triggers for costs that could be considered unnecessary, or overly ambiguous and likely to result in unnecessary costs being incurred may be considered not prudent.

The AER considers that the TNSPs must provide the following information to demonstrate a payment or payment methodology in a draft contract is **efficient**:

- an explanation with supporting documentary evidence outlining why the TNSP believes the payment ~~and/or~~ payment methodology in a draft contract is efficient. This can include:
  - a description of a competitive tender or procurement process used to establish the payment ~~and/or~~ payment methodology in a draft contract, including the type of approach(es) used, the offer(s) received, any subsequent negotiations or actions taken to achieve a competitive payment ~~and/or~~ payment methodology
  - where a competitive process was not available, a description of why a competitive process was not possible, the approach(es) to supplier(s) used in place of a competitive process, the offer(s) received, what steps the TNSP took to achieve the least cost offer, including any subsequent negotiations or actions to achieve the best available offer in the circumstances

- an explanation of why the payment or payment methodology ~~or cost structure and triggers used in the draft contract are~~ efficient and does not result in unreasonable costs, or an unreasonable risk of unnecessary costs.

Where a TNSP seeks ~~AER a determination review of~~ a draft contract that is part of a portfolio of draft contracts, the TNSP should consider what / if any information from the other draft contracts in the portfolio (which may or may not be eligible for an ex-ante ~~review determination~~) may be ~~required relevant~~ to enable the AER to assess the prudence and efficiency of the draft contract ~~under being~~ reviewed.

## Glossary

Term	Definition
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
NEO	National Electricity Objective
NER	National Electricity Rules
RIT-T	Regulatory Investment Test for Transmission
SSSP	System Strength Service Provider
TNSP	Transmission Network Service Provider



## Appendix A: TNSP decision tree on contracting system security network support services

