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Mr. Hugo Harmstorf
CEO
Independent Pricing and Regulatory Tribunal (IPART)

Sent by email to: hugo_harmstorf@ipart.nsw.gov.au

Dear Mr. Harmstorf



TransGrid revenue determination, 2018–23

As you are aware, the Australian Energy Regulator (AER) is responsible for the economic regulation of electricity networks in the National Electricity Market. This includes electricity transmission network assets in New South Wales, which TransGrid operates and maintains.

The AER is required to determine the revenue allowance for TransGrid for the regulatory control period commencing from 1 July 2018 to 30th June 2023. TransGrid has submitted its transmission revenue proposal and supporting information to the AER, setting out the revenue it seeks to collect from electricity consumers through transmission charges in the 2018–23 regulatory control period.¹

The purpose of this letter is to seek IPART's views on an aspect of TransGrid's regulatory proposal. TransGrid has identified increased costs relating to a new compliance framework put in place when its safety regulator changed from the NSW Department of Trade and Investment to IPART.

TransGrid's proposal to increase operating expenditure by \$37 million

As part of its operating expenditure (opex) forecast proposal, TransGrid has proposed a 'step change', a 'step up' increase to its existing opex, for off-easement risk

¹ TransGrid's proposal can be found here: <https://www.aer.gov.au/networks-pipelines/determinations-access-arrangements/transgrid-determination-2018-23>

management of \$7.5 million for each year in the regulatory control period. This increases its total opex forecast by \$37.3 million (\$June 2018).

TransGrid states that this step change is for 'off-easement risk management' to mitigate fire risks from trees that are outside TransGrid's easements but that could contact its conductors if they fell.² TransGrid submits that this requirement is related to the new compliance framework put in place when the safety regulator changed from NSW Department of Trade and Investment to IPART. Specifically, TransGrid submits that changes in its compliance requirements have been driven by a re-interpretation of its safety compliance obligations which arose out of a review by IPART. TransGrid goes on to say that the review resulted in clearer, more stringent compliance requirements being published and as a result, there is now an additional need to manage the risk presented by off-easement trees.

It is also noted that TransGrid states the regulation is not new and it has always managed vegetation within easement corridors to maximise network reliability and public safety and to minimise bush fire risk.³

Subsequent to submitting its regulatory proposal, TransGrid provided us with the following further explanation in support of why it considers its safety compliance obligations have changed:

An independent audit of TransGrid's Electricity Network Safety Management System was performed in April/May 2015 which found that TransGrid's system was compliant. This finding was accepted by TransGrid's technical regulator at the time, the NSW Department of Trade and Investment. Following the lease transaction in December 2015, the Independent Pricing And Regulatory Tribunal (IPART) became TransGrid's technical regulator who commenced an audit program in early 2016 based on a new set of audit guidelines (refer to the document titled "TransGrid-IPART-IR018-Electricity networks audit guideline-201606-PUBLIC"). These audit guidelines (specifically Table B.1 of the guidelines) set out the minimum compliance criteria, as interpreted by IPART. No specific audit guidelines existed prior to IPART becoming TransGrid's technical regulator.

The audits which have occurred under these new IPART audit guidelines have identified non-compliances in TransGrid's Electricity Network Safety Management System. One non-compliance in particular relates to TransGrid not adequately demonstrating that bushfire risk is being reduced As Low As Reasonably Practicable (ALARP). IPART have also issued TransGrid with formal notices of direction to modify its safety management system in relation to formal safety assessment of bushfire risks.

In response to the step change increase in off-easement tree incidents and in addressing the audit non-compliances as directed by IPART, the obligation associated with off-easement trees was re-assessed. While TransGrid has a robust maintenance program to address on-easement vegetation, off-easement trees have not historically been subject to an active management program. Due to the increased likelihood of off-easement tree incidents impacting the network in recent years, and the potential catastrophic consequence of bushfire which can be ignited due to off-easement tree incidents, active management of the risk posed by off-easement trees is now required.

...

² See TransGrid, Revenue Proposal 2018–23, January 2017, pp. 137–140; TransGrid, Revenue Proposal 2018/19–2022/23, Appendix D: Off Easement Risk Management Opex–Step Change.

³ TransGrid, Revenue Proposal 2018–23, January 2017, p. 138.

TransGrid is committed to meeting its compliance requirements, however, the change in technical regulator from Department of Trade and Investment to IPART has resulted in a change to how the Electricity Supply (Safety and Network Management) Regulation 2014 is interpreted and audited by the regulator. This external driver has resulted in a change to the regulatory compliance obligations imposed on TransGrid.

In re-assessing the risk associated with off-easement trees, TransGrid has proposed an efficient and prudent maintenance program to ensure the safe operation of the transmission network and meet TransGrid's regulatory obligations as interpreted by IPART.⁴

We seek to better understand TransGrid's claims

We would be grateful for any comments that IPART may be able to make in relation to TransGrid's proposed step-change for off-easement risk management. We would also like to understand any conclusions that IPART has reached as part of its own consideration of these issues.

First, we seek to clarify whether IPART has in any way changed the regulatory obligations imposed on TransGrid that relate to its electricity network safety management system. We are interested in IPART's views on whether it considers its audit criteria for electricity network safety management systems are more stringent than those applied by the previous safety and reliability regulator, the NSW Department of Trade and Investment, including in its April/May 2015 audit—as suggested by TransGrid.

Second, we seek to understand whether the scope of IPART's audit/s of TransGrid's electricity network safety management system is different to the audit conducted by the NSW Department of Trade and Investment in April/May 2015. For example, can IPART say whether the previous regulator's audit considered TransGrid's management of off-easement vegetation and the potential for 'off-easement tree events' to create bushfire risks?

Third, we seek to understand the outcomes of any IPART audits of TransGrid's electricity network safety management systems under the June 2016 audit guideline, including any subsequent directions. We are interested in IPART's views on whether any recent audit/s contemplated TransGrid's management of off-easement vegetation and the potential for 'off-easement tree events' to create bushfire risks. If IPART identified such a risk, we are also interested to know what specific directions (if any) IPART gave TransGrid to modify its electricity network safety management system with respect to off-easement trees, as part of its formal safety assessment of bushfire risks.

To facilitate an informed and transparent consultative process, we would appreciate being able to make IPART's response to this letter publicly available on our website. However, should IPART wish to provide us with confidential information, we would ask that it clearly identify the part of the information that it regards as confidential (noting that the identified information must be genuinely of a confidential nature), and where possible submit both a public and confidential version of the response. Any confidential information we receive will be treated responsibly and in accordance with relevant laws. For further information regarding the AER's policy of on the collection, use and disclosure of information please refer to the ACCC/AER Information Policy, June 2014.

⁴ TransGrid, Response to AER information request, 21 April 2017.

We ask that you please provide a response to this letter by Wednesday 24 May 2017.

If you have any questions, please feel free to contact Anthony Bell, director, on 03 9290 6914.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'Michelle Groves', with a long horizontal flourish extending to the right.

Michelle Groves
CEO