Energy Action Group

Comments in Regard
to
the
Australian Energy Regulator
Proposal Transmission Guidelines
by the
Energy Action Group
August 2007

Yet another EAG submission made in spite of the NEM Advocacy Panel deficient funding arrangements

Introductory Comments

Regulators (the AER) and rule makers (AEMC) appear to have the view that if a number of parties complain or oppose their processes they have made a good decision. There is an alternative view that has considerably more merit and that view is they have got the process and decision making wrong! The development of the Transmission Guideline falls under this latter position of being poor process with bad outcomes.

Taking these Guidelines to the Regulators today in haste highlights several deficiencies that could be overcome with further consideration. The first is that there is some time available to the Regulator to hone and refine the Guidelines, given that the next transmission regulatory reset is TransEnd, followed by Energy Australia and TransGrid. All three of these companies had a substantial increase in tariffs and charges from their last ACCC reset and on the evidence available from their planning reports, all three of these businesses will be substantially increasing their capital investment in the forthcoming AER reset process.

There has been a considerable change in the approach to regulation over two or three regulatory periods. TransGrid for instance has had two ACCC revenue resets and the forthcoming AER reset and the Guideline development process would appear to have failed to take account of the learning experience of the past two resets. When this observation is coupled with the variable quality of the information available in the ACCC/AER Electricity regulatory reporting for the four years 2002/3 to 2005-6, consumers need to have considerably more certainty of the information if they are to try and understand the regulatory and business drivers given the variable quality of information available in these four reports. One of the specific reasons for the variable quality of these four reports is the lack of specific precise transmission Guidelines over this period o9f time. Unfortunately the Guidelines as currently drafted will not help any assessment of the effectiveness of Building Block Incentive Regulation.

EAG is of the opinion that the Guidelines as currently promulgated fail to differentiate sufficiently on a number of issues so to clarify the information requirements for the transmission businesses. EAG believes that PowerLink made a move in the right direction in their first AER price reset by presenting a significant proportion of their data over several price resets, enabling consumer groups (particularly the EUAA) to examine the information on offer to judge the merits of their application. EAG determined not to continue to make any further submissions to the AER PowerLink revenue reset due to the impacts of rapid growth of energy demand in South East Queensland and substantial electro-industrialisation in Central and North Queensland.

The electricity transmission system is the critical piece of regulated infrastructure that ensures that the National Electricity Market can deliver competitive, reliable and secure energy services to consumers.

A well reasoned and debated set of Transmission Guidelines are pivotal in ensuring that consumers have confidence in the Australian Energy Regulator and the integrity of transmission revenue reset process.

EAG would under the current circumstances if we were a for profit business adopt the same approach as the transmission companies appear to be using for each regulatory reset. One of the legitimate strategies adopted by a number of the transmission companies is to change the ground rules for each successive determination as a constantly changing approach makes it considerably harder for the regulator to understand the business drivers and to set the economically efficient performance frontier. This problem is exacerbated by the high turnover of ACCC / AER staff so that the regulatory history, evaluative skills set and approach to regulatory resets change in every successive determination. How can consumers have confidence in a constantly changing regulatory environment? The Guidelines have to ensure long term co9ntinutiy so that the businesses can be evaluated over time, not just within a regulatory reset time frame.

The Energy Action Group, along with the MEU (and the EUAA) view present at the 17th of July forum and was of the belief that there would have been further consultation on a draft before the Guidelines were approved by the Regulators. The process of consultation used by the AER in developing these Guidelines doesn't inspire our confidence in the development of the Transmission Guidelines. EAG notes that the Major Energy Users share our serious concerns on this issue.

Many of the assets and investments made by transmission companies every revenue reset period will be in service for over fifty years. The process is dependent on the AER having access to meaningful information over a number of regulatory resets so that an effective comparison can be made on the performance of the investments made during the regulatory period. This is particularly important in assessing the role of inter regional energy trading and the impact of new generation options and load growth on each of the transmission companies. It is critical if this process has any veracity that there is to have a long term consistent methodology to measure and track the changes over a significant time frame of **at leas**t three regulatory periods, (which is the current timeframe of the current reform process),

For instance, the changes in peak load in Victoria are instructive. The peak load predicted for 2015 in the 1996 Tariff Order were exceeded in 2001. Fortunately the 220 and 500 KV transmission backbone of the Victorian system had sufficient capacity to minimise the investment up until the current reset period, when SPI

AusNet has asked for a considerable increase in capex expenditure. EAG understands that the increased capex will be used to address the issue of an aging asset base, an increasing peak load growth mainly driven by small to medium size consumer's peak load growth and the Victorian government's commitment to electro-industrial and the Victorian Renewable Energy Target scheme (VRET). It is EAG's contention that under the current AER Guidelines it is almost impossible to derive the contribution of each of these items to the SPIAusNet management of the RAB. The issue of RAB management is further complicated by the relatively opaque tariff order filing and Australian National Transmission Statement (ANTS) along with the NEMMCo Statement of Opportunities (SOO).

One of the major deficiencies of the current and the proposed regulatory reset arrangements is that the final 12 month expenditure information is not available to the regulator to assess the effectiveness of the transmission companies' performance over the previous regulatory period. This issue takes on greater meaning when the transmission planning and project implementation timeframe is taken into consideration. Many projects proposed in the regulatory period will be completed in the next regulatory period. The TransGrid 500 KV transmission project to reinforce Sydney, Newcastle and Wollongong, for instance, will take several regulatory resets to complete. PowerLink has a similar issue in the reinforcement of the South East Queensland transmission system. The AER proposal to limit the regulatory assessment to four years of a regulatory cycle fails to address this issue!

The approach adopted by a transmission company for a regulatory reset on depreciation, particularly, those items that relate to long lived assets, will have a marked impact on the businesses debt to equity ratio and the revenue requirements over a long period of time. The guidelines must require information that will enable consistent transparent information that facilitates analysis over the long term to evaluate the regulatory and business performance of transmission companies.

The current guidelines provide little incentive for a transmission company to plan for projects for the next regulatory reset and beyond even, though the companies have to adapt to changing load conditions over time.

EAG is cognisant that the level of transmission business capex has dramatically increased over each successive regulatory period. EAG is of the view that the drivers of this change must be clear and transparent and consistent over time. The Guidelines as they are currently being presented to the Regulators for decision fail to do this!

More specific comments on the draft Guidelines.

EAG strongly agrees with the comments made by the MEU in their May and August submissions. It is disappointing to the EAG that many of the points that MEU made in the two submissions, along with their comments in the July 17th workshop,p appear to have been completely ignored by the AER in finalising the transmission Guidelines

It would have been useful for the market to have seen the revised Roll Forward Model that had been sent to ENTOF and Energy Australia before the Guidelines are approved.

The Post Tax Revenue Model

EAG, along with the MEU and EUAA (and their predecessor organisations), have had to analyse and make submissions on a constantly changing approach to regulation of transmission businesses since the market's start. Changes have occurred over time where the regulatory approach has moved from pre tax to post so that we currently have a situation that after two revenue resets for a transmission business it is not possible to assess the effectiveness of the regulatory processes as the rules keep changing so that it is impossible to compare like with like

The obvious examples come from the various applications of CAPM, WACC and the changes to various parameters like the **Market Risk Premium, equity beta** along with **debt premium** and other issues related to **depreciation** and the various transmission companies' management of their **Regulated Asset Base**. The current Guidelines fail to provide any firm direction or even guidance in resolving these issues.

EAG supports the MEU position on these issues.

Service Target Performance Incentive Scheme

There are a number of examples under the former jurisdictional distribution regulatory approach where the determination has made a provision to compensate the distribution companies for payments under the Guaranteed Service Scheme. The company under the building block approach gets to keep the underspent amount. Under this approach no revenue is at risk!

The approach adopted by the AER under the Guidelines is sufficiently obtuse as to hide whether this practice is part of the AER approach to the Building Block Incentive Regulation.

EAG strongly supports the MEU position on this point.

Efficiency Benefit Sharing Scheme

This needs scheme greater clarification as many of the issues and the definitions of specific cost items have not been defined in the Guidelines.

EAG strongly supports the MEU position on this point.

Submission Guidelines

The AER has adopted an approach that there is no need to audit the TNSP's

EAG strongly supports the MEU position on this point.

Cost Allocation Guidelines

The Guidelines' fail to clarify a consistent way forward on this issue! The comments in the Introductory Comments in this submission on the ACCC/AER Electricity regulatory reports reinforce the problems that consumers have in understanding the changes in transmission business behaviour over time and the effectiveness of Incentive Regulation in delivering an outcome in the best long term interests of consumers as required under the NEL.

EAG strongly supports the MEU position on this point.

Information Guidelines

EAG supports MUE’s position on this issue.

John Dick
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