

Level 17, Casselden
2 Lonsdale Street
Melbourne Vic 3000
GPO Box 520
Melbourne Vic 3001
tel: (03) 9290 1800
www.aer.gov.au

Our Ref: 63054
Your Ref: ERC0265
Contact Officer: Ali Hassan
Contact Phone: 02 9230 9106

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Mr John Pierce AO
Chair
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

Submission on amendment to NER clauses 6A.8.2(b)(1) and 6.6A.2(b)(1)

The AER welcomes the opportunity to comment on the AEMC's consultation paper regarding the amendment of National Electricity Rules (the Rules) clauses 6A.8.2(b)(1) and 6.6A.2(b)(1) (the "relevant clauses").

We support the proposed amendments. We are strongly in favour of an initiative that contributes to the National Energy Objective and that, in this case involves, promoting the reliability and security of electricity services in the National Electricity Market (NEM) while maintaining network charging outcomes for consumers.

We consider the proposed rule change necessary to remove administrative barriers to network service providers in submitting contingent project applications. As they stand, the relevant clauses prevent a transmission network service provider (TNSP) or distribution network service provider (DNSP) from submitting a contingent project application within 90 business days of the end of a regulatory year. This has the potential to delay the regulatory assessment of transmission projects that in some cases need to be considered urgently. For instance, for Group 1 transmission projects identified in AEMO's inaugural Integrated System Plan, the contingent project application could be delayed as a result of clause 6A.8.2(b)(1). Importantly, delaying the time at which NSPs gain certainty regarding revenue recovery for these projects resulting in the potential delay in the implementation of these projects.

The 90 business day exclusion period was designed to prevent contingent project applications from being submitted after a point where it would no longer be possible to recover incremental revenues in the following regulatory year. Importantly, the proposed rule change maintains the purpose of the relevant clauses by preserving the timeframes for the recovery of network charges.

In regards to the penultimate year of a regulatory control period, we support the proposal to remove the 90 business day exclusion period. This is because a network service provider can submit a contingent project application before and after the 90 day exclusion period in the penultimate year. Additionally, time-sensitive projects may be assessed faster in the penultimate year if they are considered through a contingent project application rather than through the revenue proposal for the following regulatory control period. Further, clauses 6A.6.7(h) and 6.5.7(g) allow a TNSP and DNSP respectively, to recover contingent project costs over multiple regulatory periods, so there is no reason to delay a project assessment until the next revenue determination.

As noted in the proposal, we consider that the 90 business day exclusion period is still needed in the final year of a network service provider's regulatory control period. In particular, we support retaining the 90 business day exclusion period in the last year of a regulatory control period for the following reasons:

- There would be no remaining years in the regulatory control period in which revenue could be adjusted.
- The next regulatory control period would have already commenced in the event the AER utilises the full 100 business days (available under the Rules) to make a decision on the contingent project application. Hence, the AER's decision on the contingent project application would come after the revenue determination for the next regulatory control period.

We believe that this would also render clauses 6A.6.7(h) and 6.5.7(g) inoperable since they require the revenue proposal for the next regulatory control period to include the amount of unspent capex.

We also consider that the proposed rule could bring forward contingent project applications by three to four months without affecting the timing of network costs to consumers or other stakeholders. This would be of benefit for a time critical project because it would give the relevant TNSP or DNSP greater certainty regarding the recovery of costs such that it could commence works on the project at an earlier stage.

If you would like to discuss any aspect of this submission please contact Ali Hassan, on (02) 9230 9106.

Yours sincerely



Paula Conboy
Chair
Australian Energy Regulator