

Australian Energy Markets Commission (AEMC)

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18 August 2022

## **Submission to AEMC EPR0087 Transmission Planning and Investment Review Contestability Options Paper**

The Australian Energy Council welcomes the opportunity to make a submission to the AEMC EPR0087 Transmission Planning and Investment (TPI) Contestability Options Paper (Options Paper).

The Australian Energy Council (AEC) is the peak industry body for electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. AEC members generate and sell energy to over 10 million homes and businesses and are major investors in renewable energy generation. The AEC supports reaching net-zero by 2050 as well as a 55 per cent emissions reduction target by 2035 and is committed to delivering the energy transition for the benefit of consumers.

The NEM is changing and will continue to do so as it transitions to a market with more variable renewable energy (VRE) and an overall lower carbon footprint. Transmission planning and investment is vital to support the transformation from an energy system dominated by thermal generation to one consisting largely of VRE and energy storage. The speed and magnitude of the investment required necessitates a robust, efficient and flexible transmission planning and investment regime. To illustrate this, the 2022 AEMO ISP contains over \$18 billion of committed, anticipated and actionable transmission projects which when completed will almost double the NEM's transmission regulatory asset base.<sup>1</sup>

The AEC supports the development of regulatory frameworks to unlock transmission investment deemed integral to facilitating this energy transformation at least cost to consumers. As part of this the AEC considers contestability for major transmission projects critical in delivering the most efficient outcomes for electricity consumers.

As the Australian Energy Regulator (AER) has noted, increasing contestability would be expected to drive efficient project delivery, enhance innovation and value add in the identification and delivery of solutions, reduce information asymmetries by revealing efficient costs and address the perceived barriers to the equal assessment of non-network options at the planning stage.<sup>2</sup> To put this simplistically if contestability could achieve a 10 per cent cost reduction in the ISP projects outlined above (excluding the Victorian projects), approximately \$1.5 billion could be saved.<sup>3</sup>

Furthermore, the 28 March 2022 Ofgem decided to implement early-stage contestability and stated:

“We still consider (as supported by our updated Impact Assessment) that the continued development of the arrangements to allow early competition in electricity transmission represents good value for money for consumers. This is because it is relatively low regret, whilst we expect that the potential savings and other benefits (for example in terms of

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<sup>1</sup> <https://aemo.com.au/-/media/files/major-publications/isp/2022/2022-documents/a5-network-investments.pdf?la=en>

<sup>2</sup> <https://www.aer.gov.au/system/files/AEMC%20Transmission%20Planning%20and%20Investment%20%28TPI%29%20review%20-%20AER%20Submission.pdf>

<sup>3</sup> Victoria already has contestability.

innovation) over the longer-term will be significant.”<sup>4</sup>

The AEMC should take Ofgem’s findings into account. The July 2022 KPMG Case Studies report commissioned by the AEMC appears to have overlooked Ofgem’s March 2022 decision.

Contestability would also address Transmission Network Service Providers’ (TNSPs) concerns about the financeability of major transmission projects raised in recent rule change processes (ie, Transgrid’s and Electranet’s financeability of ISP projects rule change requests) and reviews (ie, the AEMC’s subsequent Transmission Planning and Investment Review). Allowing other investors the opportunity to bid for major transmission project delivery would be expected to reduce the pressure TNSPs feel to undertake these projects while facing financeability concerns.

The final report for this stream is expected in the first half of 2023. Then if the AEMC deems it to be “beneficial to explore contestability in detail” it will commence a 12 to 24 month process in mid-2023. Hence, any expansion of contestability will not be in place until mid-2025. The AEC does not understand why this process which was commenced last year will take four years. To put this in perspective, the 2005-2006 AEMC Review of Transmission Revenue and Pricing Rules took less than 18 months before new rules were published<sup>5</sup> and NSW appears to have created contestability arrangements for REZs in less than two years since the Electricity Investment Act received assent on 3 December 2020 (noting that the Act allows for contestability).

It appears that by mid-2025 most of the large-scale transmission projects in AEMO’s 2022 ISP would already have been awarded to incumbent TNSPs because of the long lead times required for these projects. For example, TransGrid commenced work on Humelink in 2019 with construction expected to commence in 2024 and completion by late 2026.<sup>6</sup> A seven-year process. Applying this seven-year lead time to completion would make many of the future projects in the ISP’s optimal development path unlikely to be subject to any early competition new contestability arrangements.<sup>7</sup>

For reforms of this nature, the AEC considers this project’s timeline to be excessive. In comparison, the ESB’s highly complex and significant market reform Congestion Management project is expected to have new rules in place by the end of December 2023. Furthermore, Victoria has had contestability similar to strawperson 3 in place for decades. Hence, there is readily observable history of this level of contestability in the Australian context.

The AEC (and the AER and Ofgem) believe contestability can offer significant benefits for electricity consumers through competitive tension creating efficiencies and innovation. Accordingly, the AEC thinks there is value in the AEMC considering if there are ways to accelerate the timeline for this project to ensure as many future projects as possible are subject to the competitive tension created by contestability.

## QUESTION 1: CONTESTABILITY STRAWPERSON MODELS

*1. Have we captured the key stages of the transmission planning and investment life-cycle, and the key activities and functions involved within each stage, in a useful way and are these reflective of what happens in practice?*

From its perspective the AEC considers the Options Paper has captured the key stages of the transmission planning and investment life-cycle.

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<sup>4</sup> <https://www.ofgem.gov.uk/sites/default/files/2022-03/Early%20Competition%20Decision%20Final.pdf>, p5.

<sup>5</sup> <https://www.aemc.gov.au/markets-reviews-advice/review-of-electricity-transmission-revenue-and-pri>

<sup>6</sup> <https://www.transgrid.com.au/projects-innovation/humelink>

<sup>7</sup> <https://aemo.com.au/-/media/files/major-publications/isp/2022/2022-documents/2022-integrated-system-plan-isp.pdf?la=en>, pp76-77.

*2. Do these four strawperson models of contestability represent the broad spectrum of options that the Commission should consider? Do you consider that each of these strawperson models is likely to be workable in the NEM? Are there any additional models that the AEMC should consider, including a hybrid of some of these strawperson models?*

The AEC believes the four straw person models adequately capture the spectrum of contestability options for this early stage of the process. As the process progresses additional nuance can be added to the models noting that the AEC believes strawperson 1 should not be considered further as it is largely similar to what currently happens in practice. One aspect that has not been considered in the Options Paper is different levels of contestability for different types of projects. For example, levels of contestability could increase with the size of projects such that straw person 4 is the approach for very large discrete projects and straw person 2 or 3 for medium sized projects.

*3 Which strawperson model(s) do you consider is most likely to deliver net benefits to consumers and should proceed through to the AEMC's high-level assessment? Which feature(s) of this model is particularly attractive to you and why? Is there a feature(s) of this model that is problematic to you and why?*

Strawperson 4 represents the greatest degree of contestability and is also potentially the most challenging to introduce. However, it also represents the greatest opportunities for achieving the most efficient innovative outcomes. In light of this the AEC believes work should continue to explore strawperson 4 (ie, very early-stage competition) in that some derivative of this approach may be appropriate for a limited range of system investment needs where it may draw out innovative and cheaper solutions than what might normally be decided by AEMO.

The AEC is of the view that strawpersons 2 and 3 are likely to offer the best balance in delivering expanded contestability. In the interests of a timely delivery of reform the AEC believes the degree of early competition provided by strawperson 2 and strawperson 3 should be pursued with a more rapid timeline.

*4. Is there a strawperson model that you consider is unlikely to be workable in the NEM or unlikely to deliver net benefits to consumers and therefore should not proceed to the AEMC's high-level assessment? Which feature(s) of this model is particularly problematic to you and why?*

As noted in the Options Paper, Straw person 1 provides for little change between the current arrangements as it only spells out contestability for projects that are generally already contestably procured.<sup>8</sup> Any benefits from this approach are likely to be extremely limited and would not justify expending further resources progressing with this option.

## **QUESTION 2: ASSESSMENT FRAMEWORK**

*1. Are the assessment criteria appropriate for guiding the Commission's consideration of the strawperson models of contestability? Are there any other relevant criteria that have not already been captured?*

The AEC would like to see an assessment criteria that addresses monopoly power and how the options reduce or leave it unchanged. Another useful criteria would be how each option reveals the efficient price for investments and how this could assist the AER in its regulation of TNSPs

*2. How should the Commission approach the key trade-offs inherent in the different assessment criteria? How would you weight the different criteria against each other?*

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<sup>8</sup> Options Paper, p51.

When it comes to the trade-off described in the Consultation Paper, the AEC supports the AEMC favouring efficiency over timeliness and accountability.<sup>9</sup> With respect to implementation versus efficiency the AEC's preference is for rapid implementation as we have discussed earlier in this submission.

### **QUESTION 3: IDENTIFYING PROJECTS SUITABLE FOR CONTESTABLE DELIVERY**

*1. What criteria or principles should be used to identify the subset of major transmission projects likely to be suitable to competitive delivery?*

The AEC considers the Victorian rules represent a workable approach to identifying contestable projects. However, we consider the \$10 million threshold is too low. The AEC believes this should be increased to at least \$50 million or possibly \$100 million. For example, the Murraylink interconnector operated by APA and owned by Energy Infrastructure Investments has a regulatory asset base of approximately \$105 million.<sup>10</sup> The logic for this is:

- There is adequate scope for efficiency savings to justify the contestable process; and
- The size of the asset and returns would be adequate to attract bidders to the contestable process and for the successful bidder to establish the necessary corporate and operational systems to operate and maintain the asset.

Alternatively, there could be a tiered arrangement where increasing levels of contestability apply as project sizes increase. This was recently suggested by VicGrid.<sup>11</sup> Increasing levels of contestability could be closed process from a pre-established panel of suppliers to a fully open tender process and also increasing contestability with respect to what stage of the process contestability starts eg, late, early and very early.

*2. Which approach to decision-making regarding identifying projects suitable to competitive delivery and whether to proceed with a competitive procurement process for a specific project, is preferred and why (eg, prescriptive versus discretionary approach)?*

The AEC is supportive of the hybrid approach where criteria are prescribed but there AEMO still has discretion if there are other factors that would make it inappropriate for a contestable process. However, if AEMO wishes to use this discretion, the onus of proof should be on AEMO to justify the use of its discretion.

Any questions about our submission should be addressed to Peter Brook, by email to [peter.brook@energycouncil.com.au](mailto:peter.brook@energycouncil.com.au) by telephone on (03) 9205 3103.

Yours sincerely,



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<sup>9</sup> Options Paper, p26.

<sup>10</sup> <https://www.aer.gov.au/system/files/AER%20-%20Issues%20Paper%20-%20Murraylink%202023-28%20transmission%20revenue%20proposal%20-%20March%202022%2813609836.8%29.pdf>

<sup>11</sup> <https://engage.vic.gov.au/victorian-transmission-investment-framework>