

# MATERIAL CHANGE IN NETWORK INFRASTRUCTURE PROJECT COSTS

## ERC0325 – FORUM

25 AUGUST 2022

Please note this webinar will be recorded- a link to the recording will be placed on the ERC0325 project page after the webinar.

**AEMC**

# ACKNOWLEDGEMENT OF COUNTRY

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In the spirit of reconciliation, we acknowledge the Traditional Custodians of country throughout Australia and their connections to land, sea and community. We pay our respect to their Elders past and present and extend that respect to all Aboriginal and Torres Strait Islander peoples today.

# Agenda

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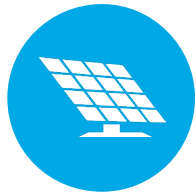
1. Introduction and welcome - Alisa Toomey
  2. Opening remarks – Charles Popple
  3. AEMC Project team presentation – Georgia Pick
  4. ENA presentation – Verity Watson
  5. EUAA presentation – Mark Grenning
  6. AER presentation – Arista Kontos
  7. Q&A – Danielle Beinart
  8. Next steps - Patrick Loughrey
  8. Closing remarks – Charles Popple
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# Overview of today

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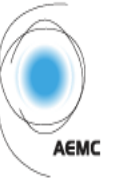
- Today we are meeting to discuss the (*ERC0325*) *Material change in network infrastructure project costs* rule change



- We have presentations from the AEMC team, Energy Networks Australia, Energy Users Association Australia, the joint rule proponents, and the Australian Energy Regulator



- After the presentations there will be time for a Q&A. Please use the chat function to ask your questions and ensure that you clearly direct your questions to the panelists accordingly
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Australian Energy Market Commission

## DRAFT RULE DETERMINATION

### NATIONAL ELECTRICITY AMENDMENT (MATERIAL CHANGE IN NETWORK INFRASTRUCTURE PROJECT COSTS) RULE

#### PROONENT

ERM Power, Energy Users Association of Australia (EUAA), Major Energy Users Inc., AGL, Delta Electricity

7 JULY 2022

RULE

## Housekeeping

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- All participants are currently in 'listen only mode'
- Asking Questions
  - Use the Q&A button on the bottom of your screen
  - Questions will be answered at a dedicated Q&A session
  - We will try and answer all questions but will prioritise questions with the most 'upvotes' first
  - **Please direct your questions to the panelist you wish to answer**
- Please engage respectfully at all times
- We must comply with the Competition Law- each entity must make an independent and unilateral decision about their commercial positions
- Presentations from today will be posted on our website after the webinar, along with a recording

# OPENING REMARKS



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CHARLES POPPLE – COMMISSIONER

# AUSTRALIAN ENERGY MARKET COMMISSION

GEORGIA PICK – PROJECT LEAD

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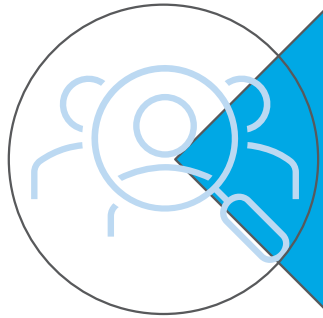
AEMC

# The rule change request sought to improve stakeholder confidence in the RIT process



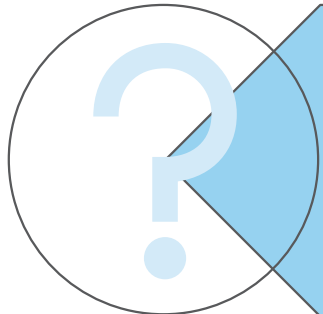
## Current MCC provisions

If in the reasonable opinion of the RIT proponent, there has been a material change in circumstances which means that the preferred option identified in the final RIT report is no longer the preferred option, the proponent must reapply the RIT, unless otherwise determined by the AER.



## Issues identified by the rule change proponents

- Costs of major transmission projects have increased considerably from initial estimates outlined in the relevant RITs.
- Questioned whether the current rules remain fit for purpose.
- Allowing capital costs to significantly increase after the RIT negatively impacts consumer and stakeholder confidence in the RIT framework.



## Rule change requested

- Unless otherwise determined by the AER, RIT proponents would be required to reapply the RIT if there had been a material change in costs following the completion of the RIT.
- 'Material change in costs' defined as a particular percentage increase depending on the type of project (transmission or distribution) and total cost (for e.g. 15% for RIT-T projects costing less than \$500m).



# The more preferable draft rule clarifies the process for determining whether a material change in circumstances has occurred

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The draft rule:

1. Places a **positive obligation** on all RIT proponents to consider whether there has been a material change in circumstances.
2. Requires RIT proponents (other than AEMO) with estimated project costs >\$100m to **develop re-opening triggers** – to help identify circumstances in which the preferred option may no longer be the most net beneficial option (e.g. change to the credible options considered in the RIT or to the ranking of these options).
3. Requires the RIT proponent to **inform the AER** if they consider that there has been a material change in circumstances and propose a course of action.
4. Allows the **AER to reject and modify** the RIT proponent's **proposed course of action**.
5. Requires **proponents of contingent projects to state in their CPA** whether or not there has been a material change in circumstances, provide supporting analysis, and (if relevant) outline the course of action that was undertaken.
6. Clarifies the **rules governing the AER guidelines for RITs** to support strengthened guidelines for cost estimate development.

# The key difference between the more preferable draft rule and the rule change request is the reopening triggers instead of a percentage cost increase trigger

<b>RULE CHANGE REQUEST</b>	<b>MORE PREFERABLE DRAFT RULE</b>
Implemented a reapplication trigger if project costs increase by a particular percentage.	Requires certain RIT proponents to develop reopening triggers.
Specified the default course of action involves reapplication of RIT unless otherwise determined by the AER.	Allows RIT proponents to propose a course of action, which the AER will approve or amend.
Applied to all RIT proponents. AER permitted to waive reapplication requirement if project costs < \$150m and \$50m for transmission and distribution projects respectively.	Requires all RIT proponents to consider whether there has been a change to the identified need and additionally requires proponents of projects with an estimated cost >\$100m to develop reopening triggers.
Would require cost estimates for the final RIT report to be based on a particular cost estimate class.	Clarifies the rules governing the guidelines for RITs in order to support strengthened guidelines for cost estimate development.
Included a transitional rule to require ElectraNet to re-assess PEC by updating the PACR.	Does not apply for RIT projects for which the draft RIT report has been submitted.

# The more preferable draft rule is likely to better contribute to the achievement of the NEO

## Promotes economic efficiency

Provides NSPs with guidance on what is a 'material change in circumstances'



## Minimises practical implementation and compliance costs

Common practice for RIT proponents to conduct sensitivity testing and outline boundary values

## Promotes efficient outcomes for consumers

- Reapplication of the RIT is a last resort
- RIT proponents encouraged to develop robust reopening triggers (since these will be consulted on)
- Support strengthened guidelines for cost estimate development

# ENERGY NETWORKS AUSTRALIA

VERITY WATSON – HEAD OF TRANSMISSION ENERGY NETWORKS AUSTRALIA

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**AEMC**

# ENA AEMC webinar MCC draft determination

25 Aug 2022

# Agenda

- » Broadly support the AEMC's Draft determination
- » Improving clarity and transparency
- » Re-opening triggers

# Broadly support the draft determination

ENA broadly supports the AEMC's proposed more preferable draft rule as a practical fit for purpose approach:

- » Should provide greater transparency to consumers around the operation of the MCC provisions and comfort that the provisions are being actively considered by NSPs, whilst supporting the overall objective of timely and efficient transmission investment
- » Agrees that the approach is more fit for purpose than a more prescriptive deterministic approach, as many factors can affect the net benefit of a particular investment and its ranking in the RIT
- » Support including re-opening triggers in the RIT process for large projects (>\$100m) to improve visibility and the NSP identifying the proposed course of action if a MCC occurs:
  - Codifying the practice will lead to greater transparency for consumers in relation to what constitutes a material change
  - Requirement to consult on re-opening triggers in the PADR/DPAR provides transparency and opportunity for consumer input
  - Support AER principled based guidance on re-opening triggers
  - Supports a timeframe on AER to make a decision regarding the proposed course of action
- » Support the distinction in obligations relating to major projects over \$100m and the greater degree of scrutiny proposed.
  - For projects below the threshold the existing BAU engagement processes continue to apply
  - Support the threshold being subject to AER's cost thresholds review
- » ENA recognises the need to improve cost estimation – will suggest the AER be required to consider AEMO advice in developing guidance on the adoption of a cost estimation system
- » ENA supports the existing transitional arrangements noting that consideration of MCC is required and TNSPs include in their CPA's

# Improving clarity and transparency

Some aspects of the draft Rule may benefit from further consideration, to ensure the Rule change is effective in providing consumers with greater confidence in the operation of the MCC provisions. In particular:

- » ENA understands that the intent is that if a re-opening trigger occurs then this is a MCC and the NSP automatically needs to propose a course of action to the AER. ENA considers this appropriate but the current drafting may not achieve this.
- » The draft Rule does not include any requirement for the AER to publish notification from a NSP of an MCC and the NSP's proposed course of action, its decision on the course of action, or any statement from the NSP on its compliance with the AER's decision.
  - Publication of documents/notices would provide greater transparency to consumers around the operation of the MCC provisions.
- » The draft Rule does not impose any obligation on, or discretion for, the AER to consult in making its decision – ENA suggests that the AER should be given the discretion to consult if it considers it appropriate.
- » Under the current drafting, the AER does not have a role in deciding that it is satisfied with the NSP's assessment that there has/has not been an MCC, as part of the CPA process:
  - Providing a role for the AER at the CPA stage in confirming it is satisfied with the information provided by the NSP relating to whether there has been an MCC would provide greater confidence in the new Rules
  - The AER's role would be appropriately limited to reviewing the adequacy of the material provided (rather than becoming a 5.16.6 review), and requesting additional information where it is not satisfied
  - Including this role for the AER as part of its decision at the CPA stage is consistent with requiring the NSPs to actively consider whether a MCC has occurred, whilst limiting the impact on the timeliness of investment
- » ENA considers the MCC provisions should also apply to AEMO, notwithstanding that there is no CPA process for Victorian investments



# Re-opening trigger

ENA has some more minor suggestions:

- » ENA suggests that the AER Guidelines should include the material the AER expects to be provided with to make its decision should a re-opening trigger occur, to avoid a need to 'stop the clock' and request additional information.
- » ENA notes that there could be a small minority projects for which there is no realistic re-opening trigger and suggests that the Rules should allow for this outcome (noting that the NSP would still need to consult on there not being a realistic re-opening trigger as part of the RIT process).
- » ENA suggests that the Rule also requires the AER to consider the costs and delays associated with its proposed action (if this differs from the NSPs).
  
- » ENA also queries the need to make parts of the RIT Guidelines binding:
  - ENA understand the AEMC's intent is only to make those areas of the guidelines relating to cost estimation and the re-opening triggers binding (although the current drafting is broader than this)
  - Binding guidelines are not consistent with the need for flexibility to adapt to circumstances arising from the energy transition
  - Stakeholders have an opportunity at the PADR stage to question any departure from the AER's guidelines (which the TNSP would need to address in the PACR) and any departure could risk a RIT-T dispute: not necessary to make the guidelines binding.

# ENERGY USERS ASSOCIATION AUSTRALIA

MARK GRENNING – JOINT PROPONENT ENERGY USERS ASSOCIATION AUSTRALIA

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**AEMC**



# MATERIAL COST RULE CHANGE

**EUAA**  
Energy Users Association of Australia

Mark Grenning  
25 August 2022



# WHY WE PROPOSED THIS RULE CHANGE AND WHAT IT IS NOT ABOUT

- Two drivers for the rule change – with our main focus on large ISP projects
  - increase in costs for Project Energy Connect from PACR (\$1.5b) to CPA (\$2.4b)
  - lack of governance means consumers had no confidence that the approved project meets the rules requirements of preferred option and has net benefits (not from feedback loop)
- We proposed a trigger mechanism that would lead to AER deciding in a limited time whether the RiT-T might be re-applied
  - we saw success as never having to re-apply – after all we were looking for an incentive for network behaviour consistent with the NEO, not a prescription
- This rule change is not about stopping or delaying ISP projects, it is all about
  - how to ensure only the efficient level of costs gets into the TNSP RAB by minimising residual risk to consumers at the time of the feedback loop/CPA
  - a risk consumers have no influence over
- Commission’s draft decision has made a qualitative judgement that there is a trade-off between **timeliness** and **rigour** and **timeliness wins**
  - Result is consumers very reliant on what the TNSP chooses to tell them
- Comments in two parts:
  1. What projects draft covers and how that could be expanded with no loss of timeliness
  2. Development of revised AER guidelines – importance of governance and what the TNSP has to do
- Designed to restore some consumer confidence in the process – but conclude that the probable influence of it will be negligible

# DRAFT DETERMINATION HAS NO APPLICATION TO ACTIONABLE ISP PROJECTS

- ‘Timeliness’ determined transitional provisions - draft only applies to ‘Future’ ISP projects as the triggers are developed as part of developing the PADR - no application to ‘Actionable’ ISP projects
  - So the Draft has no impact before 2030 and probably little after that given only QNI is interstate

	Actionable Projects \$m	Step change scenario timing			
		\$m Before 2030	\$m 2030-2035	\$m 2035-2045	\$m After 2045
Humelink	3,315				
VNI West	2,942				
Marinus	2,782				
Central to south Qld		55		476	
Darling Downs REZ		43		580	580
South east SA REZ		57			949
Gladstone reinforcement			408		
QNI major			1,253		
Power to central Qld			137	816	
Mid north SA REZ				340	582
SW Victoria REZ			930		
New England REZ				1,237	
Far north Qld REZ				1,264	
<b>Total estimated capex \$m</b>	<b>9,039</b>	<b>155</b>	<b>2,728</b>	<b>4,713</b>	<b>2,111</b>

- We suggest we can have both because the main timetable driver for large ISP projects is not the time taken to do the RIT, but social licence
  - Western Renewables Link - PACR completed in July 2019; construction – who knows?
  - Humelink – PACR completed July 2021; construction from July 2024
  - Why not have rigour continuing in parallel with finalising social licence so accurate cost estimate used in feedback loop/CPA ?

# THE LEVEL OF CONSUMER INFLUENCE AND EXTERNAL SCRUTINY IS MINIMAL

- End result of seeing the false choice between timeliness and rigor limits the external scrutiny
  - Consumers are faced with huge information asymmetry in their consultation with the network and have very limited ability to influence what the TNSP decides to do
- Let's take the example of Humelink
  - PADR (January 2020) cost for Option 3C was \$1.36b and Transgrid concluded that competition benefits were 'not material' so were excluded
  - PACR (July 2021) costs for Option 3C were \$3.3b and competition benefits were now material; exclude competition benefits and the net benefit of Option 3C was \$39m in \$3.3b; net benefits of options 1C and 2C were negative
  - AEMO consulted on whether to include competition benefits in the ISP from December 2020-May 2021; Transgrid made no submission
  - Following publication of the PACR, AEMO has a quick consultation on whether to include competition benefits in the ISP with overwhelming opposition from submissions; these benefits were excluded
  - AER's decision to approve \$322m for early works:
    - said Transgrid should have consulted on this issue given it was not part of the PADR (last RiT-T stage for consultation); should have told consumers that they could have mounted a dispute within 30 days of the PACR as the only way to get consultation on the issue; but no obligation to remind consumers of that right
    - Approved the early works expenditure despite Transgrid not meeting the AER Guideline requirements on consultation
  - Transgrid is free to include any level of competition benefits in its CPA 2 application using a methodology it did not consult on and which was rejected by AEMO
  - While the purpose of early works is to get a better cost estimate for the feedback loop, Transgrid proposes to apply for the feedback loop in July 2023 even though it will not complete its early works (and the more accurate cost estimate consumers are paying \$322m for) until July 2024

# WE CAN HAVE BOTH RIGOUR AND TIMELINESS

- We agree with the Draft that if triggers are developed as part of the PADR then actionable ISP projects should be excluded
- But why can't triggers be developed between PACR and CPA which was the focus on our original proposal?
  - Draft notes the common practice for TNSPs to conduct sensitivity testing and outline boundary values for key input assumptions
- The current rules mean that despite paying \$322m for Humelink early works, consumers will not know how accurate the feedback loop/CPA capex estimate is
  - hence what residual post construction pass through risk consumers will bear
- If that rigour means the project does not have net benefits then we are happy for the project to proceed with the support of Government funding so only the 'efficient' level of costs goes into the RAB

# SOME THOUGHTS ON THE AER GUIDELINES

- The existing Guidelines on regulation of actionable ISP projects have less influence on what a TNSP will do than originally intended
- Draft is asking consumers to be involved over 2023 in the development of amended AER guidelines that have no effect until post 2030 and, even then, probably very limited
  - depending on derogations operating then may well be applying to an ‘empty box’
  - what is the incentive for consumers with limited resources and a huge list of competing issues with more immediate impact, to get involved in that review?
- The pursuit of timeliness means little or no governance with the proponent:
  - Determining what triggers should be adopted
  - Determining the trigger level that would apply
  - Deciding if the trigger has been breached
  - Where multiple triggers adopted, deciding whether a material change means a breach of just one of any number of triggers

So:

- the current situation of the proponent determining material cost change remains and the same incentive not to say there is a MCC, remains
- Hence having provisions for a limited AER role if the proponent says there is a material cost change, seem irrelevant
- We don't think the proposed role of the proponent is good governance
- So we remain to be convinced that the Draft furthers the NEO



# AUSTRALIAN ENERGY REGULATOR

ARISTA KONTOS – ASSISTANT DIRECTOR AUSTRALIAN ENERGY REGULATOR

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**AEMC**

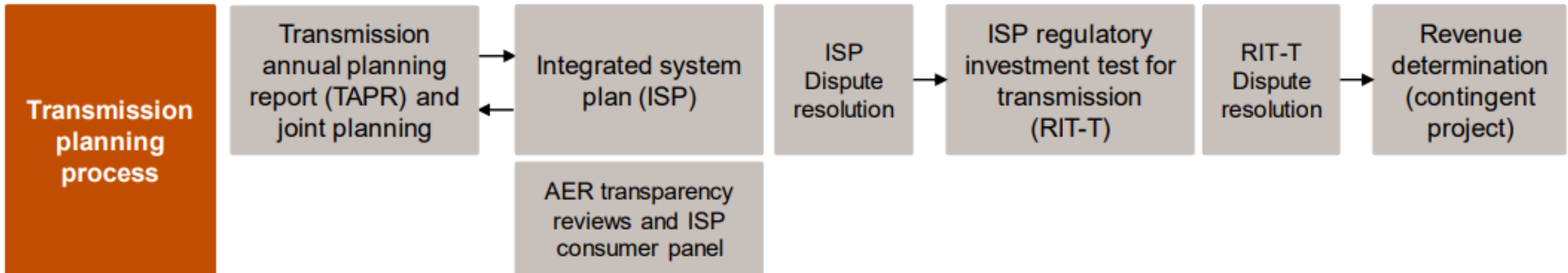


# Actionable Integrated System Plan framework

AEMC material change in circumstances rule change public forum

August 2022

# Actionable ISP project process



Source: AER, *Cost benefit analysis guidelines - Guidelines to make the ISP actionable*, Aug 2020, p 6

# AER's role in actionable ISP projects

- The AER is responsible for the economic regulation of electricity transmission and distribution services in the NEM, which promotes efficient investment in, and efficient operation and use of, these services for the long-term interests of consumers.
- The AER's role is part of the suite of arrangements to provide sufficient oversight of the ISP and RIT–T processes within the new framework.
- As such, our role in the new transmission planning framework includes:
  - providing guidance to AEMO and RIT–T proponents (and stakeholders) on the application of the NER through development and application of guidelines
  - monitoring compliance with the NER, including with the RIT–T instrument and binding guidelines, and taking enforcement action where necessary and appropriate
  - identifying best practice CBA to promote investment efficiency
  - conducting a transparency review of AEMO's IASR and draft ISP, focused on key inputs and assumptions
  - making determinations to settle ISP and/or RIT–T disputes
  - assessing proposed expenditure associated with actionable ISP projects and non-ISP projects under the revenue determination process

## Other roles in actionable ISP projects

- AEMO is the National Transmission Planner and responsible for developing and publishing the ISP (as well as Inputs, Assumptions and Scenarios Report (IASR)).
- The TNSP is responsible for conducting a RIT-T for each actionable ISP project to assess the costs and benefits of credible options and identify a preferred option.
- AEMO conducts a feedback loop assessment to check whether the preferred option selected by the TNSP through its RIT-T align with the ISP. This must be done prior to submitting a Contingent Project Application.

**National Electricity Rules (amendments, ESB)**  
Sets out high level framework

**FBPG (AER)**  
Describes forecasting process – to be based on equivalent RRO guideline

**CBA guideline (AER)**  
Describes CBA application for the ISP and RIT-T for actionable ISP projects

**Biennial ISP (AEMO)**  
Includes inputs assumptions and scenarios report (IASR), ISP methodology, draft ISP and final ISP

**RIT-T instrument (AER)**

**RIT-T application guidance for actionable ISP projects (AER)**  
Now provided in CBA guidelines

**RIT-T application guidelines for non-ISP projects (AER)**

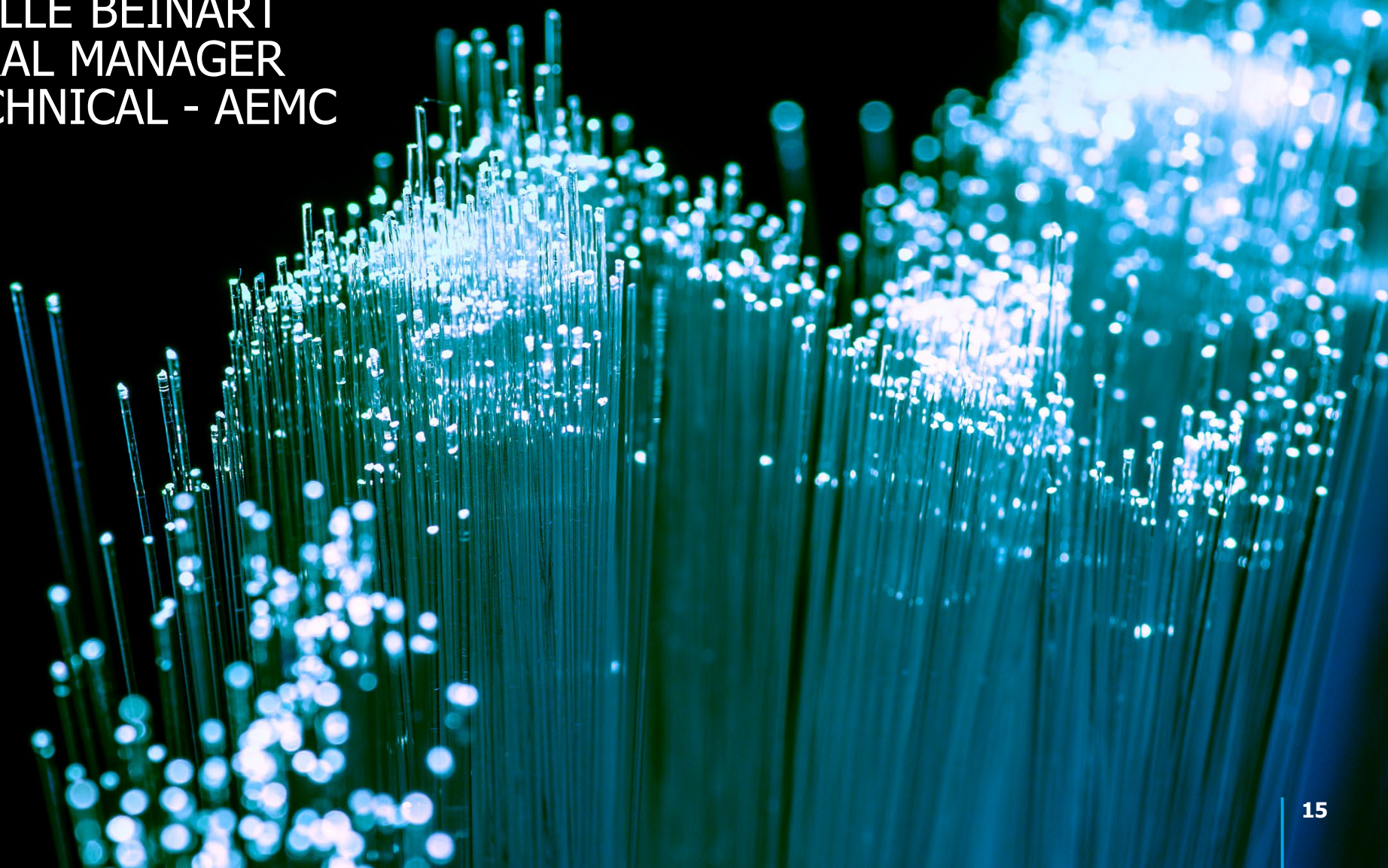
**RIT-T for actionable ISP projects (TNSP)**  
Includes project assessment draft report and project assessment conclusions report

**RIT-T for non-ISP projects (TNSP)**

Source: AER, *Guidelines to make the ISP actionable – final decision*, Aug 2020, p 5

# Q&A SESSION

FACILITATOR: DANIELLE BEINART  
A/EXECUTIVE GENERAL MANAGER  
NETWORKS AND TECHNICAL - AEMC

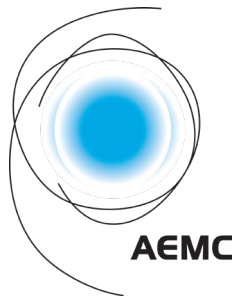


# NEXT STEPS AND CLOSE

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