

18 August 2022

Ms Anna Collyer
Chair
Australian Energy Market Commission
Sydney South NSW 1235

By online submission

Dear Ms Collyer,

Transmission Planning and Investment Review (EPR0087)

The Australian Energy Market Operator (AEMO) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC) Stage 3 options paper on Contestability, which forms part of its Transmission Planning and Investment Review (TPIR). The level of development of electricity infrastructure over the coming decades will be orders of magnitude greater than in the previous two decades across the NEM. It is therefore important that the frameworks are actively considered and are fit for purpose for the energy transition that is occurring, which includes consideration of the potential for contestability to provide benefits to timeliness and efficiency in delivering these investments.

When considering contestability arrangements, consideration should be given to aspects of project delivery that are better suited to contestable provision, and those which are more suitable to be delivered by the Jurisdictional Planning Body (JPB). Some considerations for this include magnitude, how separable projects are to the rest of the network, as well as complexity, the potential for duplication of activities across multiple parties involved, and also clarification of roles and responsibilities.

Given the above, we are of the view that, of the four options considered in the Options Paper:

- Options 1, 2 and 3 have the potential to deliver net benefits compared to the counterfactual and would be appropriate for further assessment. Option 3 is a tried and tested model which is currently used in Victoria.
- Option 4 is a material shift compared to the counterfactual that carries a high degree of risk associated with it. In addition, the time and effort required to undertake a detailed design would be far greater than for Options 1, 2 and 3. Finally, we note the significantly longer lead time to implement this Option. As a result, AEMO notes it is not appropriate to consider in more detail at this time, partly given the significant changes to the regulatory framework being considered as part of Stage 3 as a whole which are likely to deliver some of the same benefits in a much shorter timeframe and for less cost.

Should you wish to discuss any of the matters raised in this submission, please contact Kevin Ly, AEMO Group Manager – Reform Development & Insights (kevin.ly@aemo.com.au).

Yours sincerely,

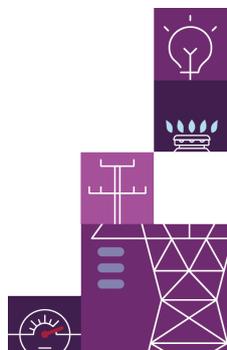


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ATTACHMENT 1:

AEMO'S ANSWERS TO SPECIFIC QUESTIONS

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?

AEMO considers the stages identified in the options paper, as well as the key activities and functions that sit within these, are broadly accurate and provide a useful basis for discussion of options to introduce contestability, including variants of these.

Despite this, it is likely that further clarity on the exact activities undertaken within each stage will be required when detailed design is undertaken for one or more of these models in the next stage of the process.

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?

AEMO considers the spectrum of options identified provides the appropriate breadth to consider at this stage in the process.

We are of the view that there is potential for Options 1, 2 and 3 to be workable in the NEM. Option 3 is a model currently used in Victoria.

In contrast to the first three options, Option 4 is a material change to the counterfactual which would require significant investment in time and effort to design, with large risks associated with it. It is therefore less clear that this model would be workable.

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?

AEMO is of the view that Options 1, 2 & 3 are more likely to deliver net benefits to consumers against the counterfactual compared with Option 4. As a result, we would be comfortable with any of these options proceeding to the AEMC's high level assessment.

When considering the individual features that AEMO finds attractive relating to these options:

- Option 1 has the advantage of ensuring the PTNSP still undertakes tasks which it has experience and knowledge to undertake, such as contracting with non-network providers and O&M.
- Option 2 has the advantage of the tenderer being the single point of contact for design and construction, land approvals, contract with non-network providers and O&M.
- Option 3 is a model that is used in Victoria, and therefore should require a lower level of investment in time and resourcing when undertaking a high-level assessment.

When considering features which may be problematic, for Options 1 & 2 the AER's role in determining the MAR requires clarification. There are also other interactions between certainty of cost recovery and timeliness in progressing works that should also be explored.

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?

We are of the view that Option 4 carries significant risks relative to Options 1, 2 & 3 for consumers. For example, by simply articulating a high level identified need that would be used to guide bidders to propose solutions provides a significant risk that bidders would lack the necessary clarity to design and offer a solution, in contrast to the relatively detailed specification that currently exists. The assumption in this option is that there would be a material benefit in giving bidders more flexibility for them to propose more wide-ranging solutions which have the potential to deliver greater efficiencies, but we are not aware of any clear examples in other jurisdictions where a markedly different solution has been suggested which has led to significant efficiencies. There would also be time taken in confirming whether the markedly different solution would in fact meet the identified need, and additional time would need to be factored into the procurement process to allow for this.

In addition, the costs of developing a high level (and later more detailed) design are likely to be far greater for this option, as is the likely lead time for implementation.

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?

AEMO notes the assessment criteria proposed mostly aligns with the assessment framework for the broader review, and therefore is broadly appropriate. However, AEMO does note the energy minister's communique released on 12 August 2022 which proposed to put an emissions objective into the NEO, and questions whether the explanation section in Table 4.1 regarding "decarbonisation" would need to provide greater clarity to the objective of the NEO.

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?

AEMO urges the AEMC to keep an open mind on the potential trade-offs noted in the options paper. For example, the assumed trade-off between timeliness and efficiency may not eventuate when considering whether contestability should be considered for ISP projects. It is equally possible that introducing contestability could have a negative impact on both timeliness (i.e., due to the additional time for the additional steps in the procurement process and potential for delays in delivery due to interface issues with the PTNSP) and efficiency (i.e., due to a lack of competitive tension being achieved), or a positive impact on both.

Given the above, any proposed weighting, or option that attempts to deal with these proposed trade-offs must be flexible enough to cater for varying levels of trade-offs.

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?

AEMO acknowledges that contestability will be more likely to achieve efficiencies for projects with specific characteristics, which could include the magnitude of the investment, as well as the location within the network (i.e., how separable are these from the rest of the network). It would also be appropriate to consider the stage of the project and the suitability of that project stage to contestability. These elements would be important in determining a level of competitive tension necessary to drive efficient bids.

In addition, consideration of timeliness will be paramount when determining appropriate criteria or principles, given the importance of projects being delivered in accordance with the optimal timing outlined in the ISP. Consideration of applying different approaches to different stages of the project delivery may also be appropriate.

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 (e.g., prescriptive versus discretionary approach)?

A flexible or hybrid approach where an independent jurisdictional planning body (which is not the PTNSP) would determine whether projects are suitable for competitive delivery with minimal criteria would appear to ensure tailored decisions can be made by the JPB. Too much prescription has the potential to lead to perverse outcomes (for example if a competitive process is compulsory if certain criteria are achieved, which may have additional risks associated with it that were not contemplated when the criteria was determined).