

ABN 70 250 995 390

180 Thomas Street, Sydney
PO Box A1000 Sydney South
NSW 1235 Australia
T (02) 9284 3000
F (02) 9284 3456

Thursday, 18 August 2022

Ms Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2001

Submitted online: www.aemc.gov.au

Dear Anna,

Transmission Planning and Investment Review - Contestability Options Paper

Thank you for the opportunity to respond to the Australian Energy Market Commission's (Commission) contestability Options Paper as part of its Transmission Planning and Investment Review.

The Commission's Review is being conducted in the context of the Energy Ministers agreement to establish a new National Energy Transformation Partnership to support the transformation of Australia's energy sector. Initial priorities of the Partnership include introducing an emissions reduction objective into the national energy objectives and identifying and declaring transmission of national significance to progress the timely delivery of this infrastructure. The Commission should take the priorities of the National Energy Transformation Partnership into account in coming to a decision on whether there should be greater contestability of transmission investment.

In this context, Transgrid also seeks further clarity from the Commission that any introduction of greater contestability of transmission investment will not impact those critical projects that are already being progressed under the existing National Electricity Rules, in particular HumeLink and VNI West. It is essential that there be a settled framework for these projects to enable transmission network service providers (TNSPs) to invest and progress them in the orderly and timely fashion that Governments are seeking.

At this stage, Transgrid does not propose to comment in detail on the four 'strawperson' contestability models in the Options Paper, other than to note that the Victorian model (strawperson 3) should not be pursued further. The Victorian model would involve significant changes to the existing planning and investment framework that extend well-beyond contestability, as AEMO would become the jurisdictional planner in each NEM region. These changes would be costly and disruptive to introduce. Furthermore, there is no reason to suppose that transferring existing roles and responsibilities to AEMO will provide any benefits for consumers.

While the Victorian model should not be pursued further, Transgrid supports the Commission's Review of one or more of the remaining models. In conducting this Review, Transgrid considers it important to have regard to the following points:

1. Consumer benefits should be maximised through evidence-based analysis;
2. Extending contestability is not entirely risk-free or costless; and
3. Competition must be fair and transparent.

We comment on each of these points in turn.

1. Maximising consumer benefits, supported by evidence-based analysis

The Commission's analysis should focus on consumer benefits, especially in the context of affordability concerns and the growing realisation that transmission investment is needed urgently to deliver the transition, to ensure the security of supply is maintained and to confer the \$28 billion of net benefits identified in AEMO's 2022 Integrated System Plan (ISP). To maximise consumer benefits, the Commission's assessment framework should focus on the expected costs and benefits of different contestability models compared to the status quo.

Transgrid is concerned that the Commission may make significant and costly changes to the current arrangements without sufficient evidence the changes are in the long term interests of consumers. Specifically, the Commission has identified a conceptual 'gap' in the current arrangements where the TNSPs have a right to invest, but no obligation. As a consequence, the Commission points to a theoretical risk that TNSPs may decide not to invest:¹

This risk arises from primary TNSPs having an exclusive right, but no corresponding obligation, to invest in transmission infrastructure, including major transmission projects required to underpin the transition to net zero.

While the Commission has identified a theoretical risk, the real world evidence is that TNSPs have a strong record in delivering transmission investment. An evidence-based approach would require the Commission to consider the TNSPs' actual investment record before embarking on a remedy to a problem that we believe has never manifested itself. One of the reasons for the TNSPs' strong investment record is that the regulatory framework is actually designed to encourage this by promoting efficient investment in accordance with the National Electricity Objective. The framework has continued to, and should continue to, evolve over time to ensure that it provides appropriate incentives to invest for the long-term benefit of consumers.

Transgrid considers that major reform, such as the introduction of contestability, must be justified by robust cost-benefit analysis, rather than conceptual or theoretical concerns. Only evidence-based analysis can provide stakeholders and consumers with confidence that costly reform initiatives will deliver net benefits through efficiency savings and/or service improvements.

2. Extending contestability is not risk free or costless

Transgrid considers it important to emphasise that reforming the national transmission planning and investment arrangements to extend contestability is not entirely risk-free or costless for consumers.

¹ Australian Energy Market Commission, Transmission Planning and Investment – Contestability Options Paper, 7 July 2022, page i.

We say ‘extend’ contestability because approximately 85% of the costs of a major project is already subject to contestability, as primary TNSPs typically conduct competitive tender processes to select third party contractors to construct new infrastructure. The potential benefits from extending contestability are, therefore, likely to be modest (compared to the status quo), while the associated risks and costs may be significant. To illustrate this point, we highlight several risks and costs below that should be factored into any cost-benefit analysis:

- **Potential delays in project delivery.** The Commission’s timetable indicates that a contestable model would not be introduced before 2025. By that date, the planning phases of the urgently needed projects identified in the 2022 ISP will need to be well-progressed. There is a significant risk to TNSPs engaging in early works for these projects if these are then to be made contestable. The Commission needs to articulate the transition arrangements at the earliest possible time to ensure that the potential introduction of a new contestability model does not cause any delay in the delivery of these projects.
- **Split accountability.** There are significant benefits of the current single point of accountability for TNSPs that will be lost under a contestable model where multiple parties could own, maintain and / or operate significant transmission assets that form the backbone of the energy system. The loss of a single point of accountability creates new risks that are currently managed ‘in-house’ by the TNSP. Different contestability models will introduce different breakpoints in accountability, including between planning; design; construction; operation and maintenance; ownership and operation; and overall system control. These newly created risks at each breakpoint will need to be managed through contractual arrangements. Not only are contractual arrangements expensive to design and administer, they also expose consumers to the possibility that the risks have not been properly understood or mitigated fully.
- **Standards and security.** Primary TNSPs, as the owners and operators of national critical infrastructure, are subject to rigorous and complex security, cyber, data and technical standards and regulations. It is essential that contestability does not allow new service providers to adopt lower standards or avoid obligations that expose consumers to increased risk.
- **Operational risks.** If contestability results in the separation of the ownership and operation of assets, risks arise for the integrity of the system that need to be understood and managed. For example, will there be a single operator in a given jurisdiction or multiple operators. If the former, the NER will need to be amended to provide for this or, if it is proposed that there will be multiple operators, the system integrity implications of this need to be considered. Also, the liability regime will need to ensure that any system operator is not held responsible for any losses as a result of the failure of a third party’s assets.

In considering operational risks, the Commission may want to consider lessons learned from other jurisdictions. For example, in the United States the role of a Reliability Coordinator was created to enable a wide area system view of the network and create a single point of accountability. The Reliability Coordinator also has the ability to take action to prevent rolling system events. These events are more difficult to prevent where there are multiple operators which each only have a view of a small and separate component of the network as a whole.

- **Future developments.** Efficient upgrades to the transmission network would become more complex where there are multiple transmission providers. In future, for example, the primary TNSP may want to seek an upgrade or modification to a third party’s assets as part of a larger transmission project. If a third party is able to withhold consent, however, the net result may be a less efficient outcome for

electricity consumers. To avoid such situations arising, projects that are likely to form part of the meshed network in the future may need to be treated as non-contestable

In light of the above, the key observation at this stage is that the risks and costs of extending contestability need to be properly understood and quantified as part of the Commission's assessment framework.

3. Competition must be fair and transparent

The potential benefits from contestability can be substantially eroded if is not regarded as fair and transparent. In particular, a level playing field should apply so that the primary TNSPs are able to compete on equal terms to deliver the best outcome for consumers. In this regard, Transgrid's view is that:

- It is not appropriate for a project to revert to regulated status if the outcome of the contestable process is considered to be less efficient. To treat the regulatory provision of transmission infrastructure as a 'fallback option' will undermine the competitive process.
- The ring-fencing guidelines that the AER is currently developing should not restrict the primary TNSPs from providing contestable transmission services, nor impose obligations on the primary TNSPs that make it more expensive to compete (and therefore results in higher costs for consumers).

The Options Paper comments that once a project has been identified as suitable for competitive provision, it is not necessarily the case that a competitive tender process will always be feasible or beneficial if, for example, there is limited competition. While we agree with the Commission's observation, a potential lack of competition needs to be considered in making a decision on whether the new framework should be introduced in the first place. The competitive process will be undermined if stakeholders do not have confidence that a tender process will result in a competitively sourced service.

Transgrid's view is that a new framework for contestability should only be introduced if the Commission's cost-benefit analysis provides a high level of assurance that it will deliver a net benefit to consumers. Transgrid looks forward to working with the Commission as it undertakes this analysis.

If you or your staff require any further information or clarification on this submission, please contact myself or David Feeney at david.feeney@transgrid.com.au.

Yours faithfully,



Brett Redman
Chief Executive Officer