

1 September 2022

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Australian Energy Market Commission
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Lodged electronically: www.aemc.gov.au (ERC0325)

Dear Commissioners

Material change in network infrastructure project costs – Draft rule determination – 7 July 2022

EnergyAustralia is one of Australia's largest energy companies with around 2.4 million electricity and gas accounts across eastern Australia. We also own, operate and contract a diversified energy generation portfolio across Australia, including coal, gas, battery storage, demand response, wind and solar assets, with control of over 4,500MW of generation capacity.

We generally support the Commission's draft rule in that it provides clarity on the obligations of project proponents and the AER in any reopening of Regulatory Investment Test (RIT) assessments. Importantly, it would ensure that the AER, rather than a project proponent, is ultimately responsible for deciding whether a RIT outcome remains valid in the face of changed circumstances, and if not, what action must be taken in response.

We consider the Commission has taken a balanced approach in applying these requirements to projects above \$100 million in value, as well as providing proponents the flexibility in proposing particular review triggers for the AER's assessment. Noting that customer interests are served by not prolonging regulatory approvals, the draft rule also appropriately requires the AER to consider the costs and delay that may result from any reapplication of the RIT or other actions proposed by the proponent.

We consider it is critical that these new provisions apply to Actionable ISP projects, as their scale, complexity and limited precedent means they are likely to be subject to large and unavoidable cost estimation errors. These projects are also highly visible, attracting the attention of diverse sets of stakeholders, and will have a more material impact on customer bills. This includes direct costs paid in network charges, and potentially larger indirect costs that arise in approving marginal or inefficient projects, which then become embedded in subsequent assessments and so could steer the NEM's future development down a sub-optimal pathway.

As noted by several stakeholders, in preparing RIT assessments proponents typically explore cost sensitivities and identify cost 'boundaries' whereby candidate projects are no longer a preferred option or would not deliver forecast net benefits. The draft rule



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would ensure that such analyses are always completed, are transparent and subject to explicit regulatory scrutiny.

We agree with the Commission's assessment that meeting these requirements would not likely be overly difficult or burdensome for project proponents. For this reason, we consider these provisions should also apply to AEMO in its role under Victorian transmission planning.

Given the Commission is generally looking to codify best practice by project proponents, we consider there should also be some form of explicit obligations in relation to projects that have already passed the PADR stage. The Commission's draft transitional rule would exclude, for example, Humelink, VNI West and Marinuslink. These projects are now valued at \$9.3 billion. Projects that progress as staged developments could be subjected to a specific transitional requirement for stage two contingent project applications. While there may be no scope for stakeholder consultation on what reopening triggers are applied, proponents could be required to update and reconfirm 'boundary' cost analysis for the AER's consideration. Such oversight of stage two analysis would still provide stakeholders comfort over the bulk of project costs, and in reflection of more accurate estimates resulting from stage one works. This step would align with existing ISP feedback loop assessments, which the Commission correctly notes do not explicitly determine whether candidate projects are still preferred over alternatives.

We expect the cost of each of these projects to continue to increase given the high inflationary environment, skills shortages and bottlenecks with investment out to 2030. This bottleneck includes timing overlaps with several large NSW transmission projects that will fall outside of the RIT-T framework. Stakeholders need confidence in the rigour of the regulatory framework in the face of likely cost increases. Including more, rather than less, of these high-profile Actionable projects within the scope of this rule change will help minimise negative impacts on social licence, avoid delays and improve investment uncertainty.

If you would like to discuss this submission, please contact me on 03 8628 1655 or Lawrence.irlam@energyaustralia.com.au.

Regards

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