



Establishing revenue determinations for Intending TNSPs

We have made a final rule and final determination

The Australian Energy Market Commission (AEMC or Commission) has made a more preferable final rule that clarifies that the Australian Energy Regulator (AER) has the ability to establish a transmission determination for an Intending Transmission Network Service Provider (ITNSP) in response to a rule change request submitted by Marinus Link Pty Ltd (MLPL).

Our final rule supports timely and efficient investment in electricity transmission infrastructure

There is broad consensus that an unprecedented level of transmission investment is required as the National Electricity Market (NEM) transitions to net-zero. It is therefore important that the regulatory framework is sufficiently flexible to support the timely and efficient delivery of major transmission projects, while ensuring these investments support the long-term interests of consumers.

Our final rule clarifies that an ITNSP can request the AER to make a transmission determination, which improves regulatory certainty and supports timely and efficient investment in electricity transmission infrastructure. The final rule benefits consumers by supporting timely and efficient investment in electricity transmission infrastructure to enable the transition of the NEM. The final rule will be implemented on 20 January 2023, one month after the publication of this final determination and final rule.

Our final rule addresses gaps and clarifies regulatory matters for ITNSPs

Under the final rule, an ITNSP is defined as an Intending Participant or Market Network Service Provider (MNSP) who intends to provide prescribed transmission services. This includes both a person registered as an Intending Participant intending to construct a new regulated transmission project, and any existing MNSP that intends to reclassify its network services as prescribed transmission services to become a TNSP.

The Commission considers that under the current Rules, the AER has the ability to make transmission determinations for ITNSPs. However, there are gaps and regulatory matters in making transmission determinations for ITNSPs that need to be clarified. Our more preferable final rule clarifies these gaps and regulatory matters by:

- defining terms for Intending TNSP, converting transmission system and proposed prescribed transmission services
- allowing the CPA framework to apply to ITNSPs and allows contingent project costs to be included in a revenue determination
- clarifying matters relating to capitalisation of the return on capital and the application of the RORI for ITNSPs; and
- retaining the current rules which provide ITNSPs with the ability to recover revenue.

Our final rule provides flexibility over the process and timing to establish a transmission determination for an ITNSP

Our more preferable final rule provides flexibility over the process and timing to establish a transmission determination, as outlined below:

- clarifying how ITNSPs may request to commence the process of making a transmission determination and how the AER's assesses such a request

- clarifying how the AER is to provide notification of its decision on whether or not to commence the process of making a transmission determination for an ITNSP
- providing the AER with flexibility to modify the process for making a transmission determination for an ITNSP as set out below:
 - the AER has flexibility to make a transmission determination in one or more stages, to omit a draft decision stage and shorten consultation periods in certain circumstances
 - the AER may omit or defer the step to publish a F & A paper
 - the AER may omit or defer the step where the ITNSP informs the AER of its expenditure forecasting methodology
 - the AER may set a regulatory control period of less than five years
 - the AER may allow the conversion application processes and the transmission determination to be run concurrently for a converting transmission system;
 - the AER may exclude from the transmission determination some of the decisions that the AER would otherwise make under rule 6A.14, if no prescribed transmission services are expected to be provided at any time during that regulatory control period; and
 - the AER may make other modifications to the process for making a transmission determination if the AER considers these relevant in the circumstances.

We have made a more preferable rule that addresses the issue raised in MLPL's rule change proposal

Our final rule aligns with the general intent of MLPL's proposed rule as it clarifies that a revenue determination can be established for an ITNSP. Our final rule is a more preferable rule for the reasons outlined below.

- It broadly applies all of Chapter 6A to ITNSPs, but in a more flexible way than proposed by MLPL. It provides the AER with broad discretion around the process and timing to establish a transmission determination for an ITNSP.
- It makes other amendments to Chapter 6A to address gaps and clarify regulatory matters in the framework to clarify how a transmission determination can be established for an ITNSP.

MLPL's rule change request

On 3 March 2022, MLPL submitted a rule change request that sought to address the following issues that it claimed were a barrier to enabling MLPL's final investment decision for Project Marinus.

- While a TNSP that has completed a RIT-T process for an actionable Integrated System Plan (ISP) project can submit a contingent project application (CPA), the CPA does not apply for ITNSPs who do not have a revenue determination.
- To obtain a revenue determination under the National Electricity Rules, a participant must be registered as a TNSP (not be an Intending TNSP) and already provide prescribed transmission services. MLPL considered that the AER does not have the power to make a revenue determination for an ITNSP that is not yet providing prescribed transmission services.

To address these issues, MLPL proposed to amend Chapter 6A of the NER to allow the AER to establish a revenue determination for an ITNSP. Stakeholders generally supported MLPL's rule change request, but raised some issues with it.

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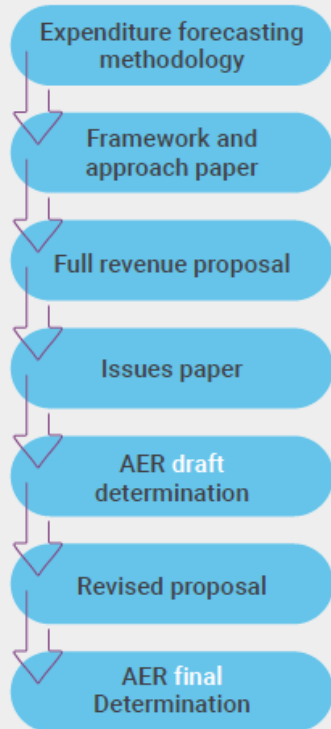
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22 December 2022

Comparison of transmission determination process steps for existing TNSPs and examples for Intending TNSPs

Existing TNSPs



KEY

- Required step
- Flexibility (AER discretion to omit or defer)

Next period of prescribed transmission services

Intending TNSPs under final rule

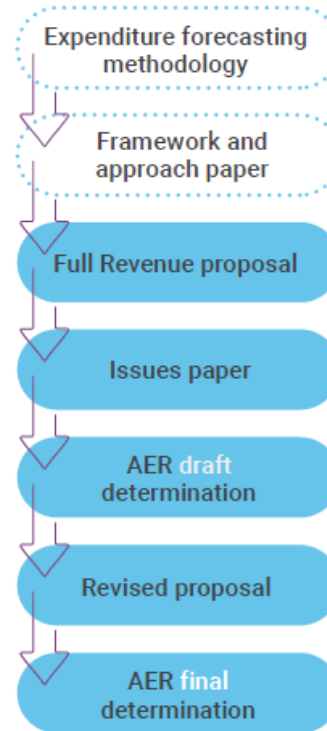
Intending TNSP submits request to commence revenue determination process

If the AER decides to commence, it must publish a Commencement & Process paper

Example:
Transmission determination in more than one stage

Example:
Transmission determination in one stage

MNSP conversion occurs through the same process as market benefits test and revenue determination.

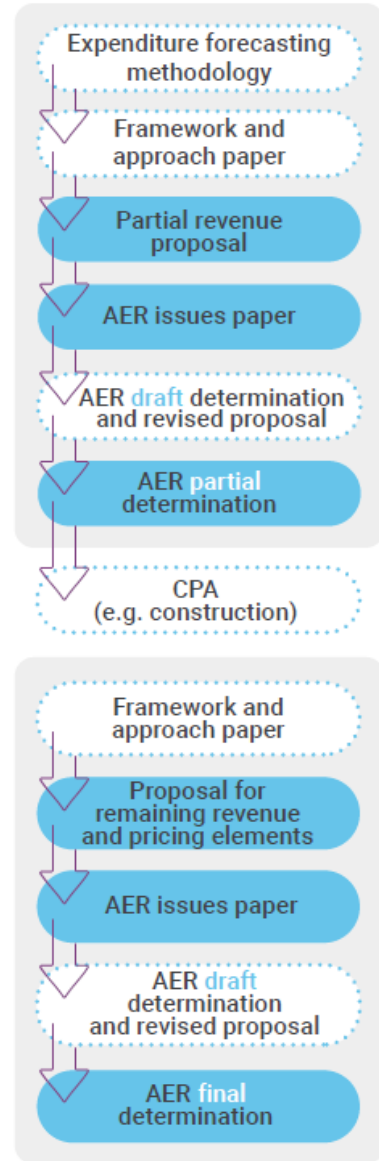


* Prescribed transmission services may not commence immediately after final determination *

Start providing prescribed transmission services

STAGE 1

STAGE 2



Start providing prescribed transmission services