14 July 2023

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

Dear Anna,

### Concessional Finance for Transmission Network Service Providers - Consultation paper

Energy Networks Australia (ENA) welcomes the opportunity to make this submission in response to the Commission's Consultation Paper on Concessional Finance for Transmission Network Service Providers (TNSPs), following the National Electricity Rule change request lodged by the Honourable Chris Bowen MP, Commonwealth Minister for Climate Change and Energy.

ENA represents Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia. Our electricity transmission members are focused on delivering the actionable ISP projects, which are urgently needed to facilitate the energy transformation that is central to Australia's carbon reduction commitments.

ENA's focus is to deliver value for consumers by ensuring the arrangements for passing through the benefits of concessional finance are simple and efficient. Specifically, TNSPs recognise the need to minimise cost-of-living pressures on consumers, while continuing to provide much needed investment that will also contribute to lower overall electricity costs.

In this submission, ENA's key positions are:

1. The purpose of the Rule change is strongly supported, as it will ensure that consumers enjoy the benefits of concessional finance through lower network charges, when that is the intention of the Government Funding Body (GFB). Concessional finance will need to be defined appropriately to ensure that there are no unintended consequences arising from the new Rules.
2. For each project, the TNSP and the GFB should select their preferred adjustment mechanism, which could be an adjustment to the Regulatory Asset Base (RAB) or the Maximum Allowed Revenue (MAR). It is important that reasonable steps are applied to minimise the potential for forecasting error in the adjustment mechanism and its impact on consumers and TNSPs.
3. Each TNSP should be responsible for providing the Australian Energy Regulator (AER) with the information it requires to determine the adjustment for concessional finance, without the need for separate consultation with the TNSP and GFB as proposed in the Rule change request.
4. The Commission should consider whether equivalent Rule changes are required for concessional finance provided to transmission projects in the Northern Territory and distribution projects regulated in accordance with Chapter 6 of the Rules.

Further explanation of these matters is set out below.

Energy Networks Australia www.energynetworks.com.au
Unit 5, Level 12, 385 Bourke Street Melbourne VIC 3000
P: +61 3 9103 0400 E: info@energynetworks.com.au
Energy Networks Association T/A Energy Networks Australia
ABN: 75 106 735 406

**ENA supports the Rule change request**

ENA strongly supports the purpose of the Rule change request, which is to enable the benefits of concessional finance to be passed onto consumers in accordance with the intentions of the GFB providing that finance.

As explained in the Rule change request and the consultation paper, the Commonwealth has committed $20 billion in low-cost finance, the 'Rewiring the Nation' fund, for the urgent upgrade and expansion of Australia's transmission networks. This finance is intended to facilitate lower costs and faster delivery of critical transmission infrastructure.

Under the current Rules, however, it is not possible for the AER to require any of the benefits of concessional finance be passed on to consumers in accordance with the intentions of the GFB. Evidently, this is a gap in the framework that needs to be addressed.

ENA recognises that cost-of-living pressures heighten the need for measures that put downward pressure on consumers' electricity bills. In this regard, introducing Rules that enable the benefits of concessional finance to be reflected in lower network charges will outweigh the costs of making this change.

In addition, consumers may benefit from the accelerated delivery of a transmission project if the GFB wishes to use concessional finance to bring forward transmission investment. To ensure that consumers may enjoy the benefits of both reduced network charges and accelerated transmission investment, the Rule change request provides for the allocation of concessional finance benefits between TNSPs and consumers, in accordance with the intention of the GFB. ENA strongly supports this approach.

ENA notes that 'concessional finance' will need to be defined appropriately so that the new Rules avoid any unintended consequences. As the Rule change request does not include specific drafting, ENA looks forward to working with the Commission to ensure that the Rules drafting is fit for purpose.

**Choice of adjustment mechanisms should be determined by the TNSP and GFB**

The Rule change request sets out two alternative adjustment mechanisms that would pass through the benefits of concessional finance when this is the intention of the GFB:

- An adjustment to the TNSP's MAR; or
- An adjustment to the TNSP's RAB, which would treat the benefit of concessional finance as if it were a capital contribution. This is referred to as the RAB adjustment mechanism.

In both cases, the total benefit of concessional finance is calculated with reference to:

- the debt/equity at the concessional rate of debt/equity; and
- the debt/equity cost at the benchmark efficient rate (as determined in accordance with the AER's applicable Rate of Return Instrument).

ENA supports the approach adopted in the Rule change request, which explains that the choice of adjustment mechanism should be decided by the TNSP and the GFB. In making this choice, the TNSP and GFB are likely to consider the overall impact on consumers, having regard to the specific circumstances of each project and the level of concessional finance. For example, the TNSP and GFB may conclude that the revenue profile under one approach may be more desirable in terms of the resulting revenue and price path.

ENA considers that the TNSP and GFB are best placed to select the preferred adjustment mechanism, noting that the AER will be responsible for validating the adjustment calculation through the revenue determination process.

Whichever adjustment mechanism is adopted, it is important that reasonable steps are taken to minimise forecasting error and its impact on consumers and TNSPs. The potential for forecasting error arises where the benefit of concessional finance cannot be known in advance – for example, where the benefit depends on the allowed rate of return in future years, which can only be estimated. To date, this is not a matter that appears to have been considered in the Rule change request or the consultation paper. ENA considers it important that the Commission's draft determination provides details of how this issue will be addressed, including worked examples.

**Responsibility for information provision should reside with the TNSPs**

The Rule change proposes that the AER be required to consult with the TNSP, the GFB, and if relevant, the entity that received the concessional finance, to ensure that the intent of the funding provided by the government body is clearly determined.

ENA considers that the simplest and most efficient approach is to place a requirement on the TNSP to provide the information that the AER requires for revenue setting purposes. In practice, this information is likely to be provided as part of the TNSP's contingent project application or Revenue Proposal, as the concessional finance arrangements will be agreed prior to lodging these submissions. These submissions typically contain a significant amount of information, which the TNSP provides to the AER in good faith and is published for stakeholder consultation. The Rules also set out certification requirements where the AER requires additional assurance regarding the accuracy of the information provided.

In this context, ENA does not consider it necessary for the AER to consult with the GFB to verify that the information provided by the TNSP is accurate. In addition, it is unclear why the AER would need to consult with the entity that received the finance.

Only TNSPs and intending TNSPs are subject to economic regulation under Chapter 6A. As such, it should be sufficient to place an obligation on the TNSP to provide information relating to any concessional finance to support the provision of prescribed transmission services. It is therefore unnecessary for the Rules to distinguish between the TNSP and the entity receiving the concessional finance.

As already noted, ENA's focus is to ensure that the Rules provisions relating to concessional finance are simple and efficient. A reasonable and practical way of achieving this objective is to place an obligation on the TNSP to provide the relevant information regarding concessional finance to the AER. If the Commission considers that it is necessary, it could impose a further requirement that Directors of the NSP certify the information provided. ENA considers this implementation approach would be lower cost and involve more streamlined decision-making processes than the proposal to require the AER to consult with other parties to the concessional finance agreement.

**Application to the Northern Territory and distribution projects regulated under Chapter 6**

ENA notes that transmission assets and transmission prescribed services are regulated in the Northern Territory under Chapter 6, National Electricity Rules – Northern Territory. To the extent that a GFB may fund transmission assets (the equivalent of actionable ISP projects) in the Northern Territory with the intention that the benefits flow through to lower network charges, then equivalent changes may also be required to those Rules.

In addition, if a GFB provides concessional finance for distribution projects, then equivalent changes in Chapter 6 could also be considered. For example, consequential distribution works may be required to facilitate a nationally significant transmission project.

ENA would welcome the opportunity to work with the Commission on the drafting of any required amendments.

ENA looks forward to working with the Commission as it progresses this Rule change request. In the meantime, if you would like to discuss this submission, please contact Verity Watson (vwatson@energynetworks.com.au) in the first instance.

Yours sincerely

Dominic Adams,
**Acting Chief Executive Officer**