Tasmanian Small Business Council
Uniting Small Business

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Ms Anna Collyer
Chair
Australian Energy Market Commission
Level 15, 60 Castlereagh St
Sydney NSW 2000

Friday 11 Aug 2023

Dear Ms Collyer

Submission on Concessional Finance for Transmission Network Service Providers Rule Change Consultation Paper

I have pleasure in providing a submission from the Tasmanian Small Business Council (TSBC) on the above rule change. Thank you for allowing us the opportunity to provide a submission and for providing us with additional time to do so. As explained, being a small resource constrained organization, we sought an extension of time due to our need to secure an Energy Consumer Australia (ECA) grant to help us with technical advice for the submission and the timing of securing this funding did not allow us to submit by the due date.

Our submission takes the form of this covering letter supported by answers to the questions in your Stakeholder Feedback Template, which is attached.

About the TSBC

The TSBC is an association of associations, each of which represents a specialist industry sector. By bringing these sectors together, we provide small businesses with the opportunity to access information and advice across the wider small business community. We also represent small businesses as we communicate their interests and needs to government, regulators, other organisations and the public.

There are more than 37,000 small businesses in Tasmania. They make up over 96 per cent of all businesses in the State and provide more than half of its private sector employment. This shows the sector's importance to Tasmania, its economy and society.

Our interest in this rule change

The availability of government concessional finance to help build new transmission infrastructure required for the NEM to transition towards greater reliance on renewable sources of energy and storage through mechanisms such as the Clean Energy Finance Corporation (CEFC) and the Rewiring the Nation (RTN) program raise the issue of how and to whom the benefits of such preferential arrangements are to be distributed. Currently, the National Electricity Rules (NER) are silent on this, raising the prospect that such benefits could be allocated in a way that does not reflect the National Electricity Objective (NEO), which seeks to ensure that decision making under its auspices is done in the long-term interests of consumers of electricity. We strongly support this objective.

This has raised the need for a change to the NER such that it recognizes the likely increased use of concessional finance being provided to TNSPs and how consumers should benefit from this. The primary benefits of such concessional finance are that transmission prices can be lowered to reflect the availability of cheaper finance, that additional transmission investment can take place to transport new sources of electricity to consumers, that the investment is made sooner and/or that the continued reliability of the electricity system is ensured.

Hence, our interest is, first and foremost, that consumers (including small business) can benefit from the availability of concessional finance and that the benefits are not captured by the TNSPs. We see reduced transmission prices as the primary way that this can be done in a manner that is reasonably transparent and identifiable to consumers, although as mentioned above benefits may occur in other ways. The use of government provided concessional finance through a Government Funding Body (GFB) means that taxpayers are contributing non-commercial finance to the building of such assets and they should be compensated for the use of taxpayer money in this way. One way to do this is for the benefits provided by the concessional finance to flow through to electricity consumers (who can be seen as a reasonable proxy for taxpayers given the ubiquitous nature of electricity), including small business.

Moreover, we note the comment in the Minister's letter in putting this rule change proposal before the Commission that:

> *"These changes to the NER are necessary to enable the benefits of concessional finance to be shared with consumers, such as the low-cost finance provided through Rewiring the Nation."*

It would be unconscionable for TNSPs to capture these benefits. TNSPs will obtain benefits from concessional finance in other ways, including the additions to their assets for long periods of time and the increased throughput of their networks.

Tasmanian Issues: Marinus Link and North West Transmission Developments

Closer to home, our interest in this rule change is driven by the current proposals to build Marinus Link (ML) as a second interconnector across Bass Strait and the associated North West Transmission Developments (NWTD), which are listed as Actionable Projects in AEMO's 2022 Integrated Systems Plan (ISP). On current indications, these developments will cost upwards of $3.8 billion to build, with recent comments from the Tasmanian Government indicating the this has blown out considerably and could risk the project going ahead unless additional funding is obtained. An agreement between the Federal, Tasmanian and Victorian Governments has allocated 80 per cent of the costs of ML/NWTD under a concessional low-cost loan from the CEFC, although it is unclear how the recent cost blowout has impacted this. The remainder of the costs to build are to be paid for by the three states through equal equity shares.

It is of concern to the TSBC that the terms and conditions of these financial arrangements remain largely unknown, as does how they will impact energy consumers. It is inevitable that Tasmanian consumers will be required to pay for some of the costs of building ML/NWTD, although the exact share and how it will be allocated is still unknown. In saying this, we acknowledge that the Tasmanian Government has consistently sought to ensure the Tasmanian consumers pay no more than a fair share of these costs reflecting the benefits of the project to them.

The 19 October 2022 joint Media Release announcing the governmental agreement said that:

“This low-cost financing from Rewiring the Nation will reduce the annual cost of Project Marinus for electricity customers by up to half. By working together, we have been able to achieve a solution that will see, once Marinus Link is built, Tasmanian customers to [sic] pay no more than 15% of estimated total project costs across both the Marinus Link and North-West Transmission Developments.”

The above highlights the importance of the rule change on concessional finance to the TSBC. We see the rule change as potentially helpful in ensuring that the benefits of the large amount of concessional finance available to ML/NWTD will support that Tasmanian consumers pay lower transmission charges for their use of the project’s assets through a proportionate share the consumer benefits of concessional finance being passed on to them, although the lack of detail about the CEFC loan is a source of uncertainty about this.

Our position is reinforced by the large increases in electricity prices experienced by Tasmanian small businesses recently, with regulated tariffs having risen by 20 per cent over the past two years. Combined with increases in inflation, interest rates, labour costs and other inputs, this has made many Tasmanian small businesses more vulnerable.

Our position on the key issues

Our position on key issues for the concessional finance rule change is summarised below. This is elaborated on in the Attached Stakeholder Feedback Template.

Need for the rules to recognize concessional finance and sharing its benefits with consumers

We agree that there is a need for the rules to be changed to include provisions on concessional finance and how its benefits are to be shared with consumers. Our preferred position is that all such benefits should go to consumers, unless the reasons for not doing so are justifiable in terms of the NEO and stated clearly in a public document that consumers can respond to.

Whether the TNSP should notify the AER about a concessional finance arrangement
We firmly believe that it is imperative that the AER needs to be made aware of such arrangements and that, in the first instance, the relevant TNSP be responsible for making them aware of this. Furthermore, the AER should have the ability to cross-check the details of the arrangement if it deems this necessary, including with the GFB.

Should the benefits to consumers be deducted from the RAB or should the MAR be adjusted?

We believe that there are pluses and minuses with either method of returning benefits to consumers. At this stage, we have not formed a firm view on whether one should be preferred and, if so, which one should be preferred. We are looking to the Commission to undertake further analysis of this and consult with stakeholders on this. At this stage, we would not be averse to giving the AER a choice of which method to use in particular circumstances, so long as the delivery of maximum benefits to consumers is paramount.

Additional Issues

There are a few additional issues that we would like to put before the Commission for consideration.

Lack of transparency in concessional finance arrangements

We are concerned that GFB concessional finance arrangements seem to lack transparency. This became obvious to us in the case of the CEFC concessional loan to ML/NWTD about which little detail has been provided. In our view, transparency is critical in ensuring that consumers benefit from concessional finance as intended.

Need to involve consumers in assessing that the benefits of CF are flowing through to them

If consumers are to feel satisfied that the benefits of concessional finance are flowing through to them, it is important that they are afforded opportunities to assess the arrangements that give rise to the pass through of such benefits and that there is maximum possible transparency and sharing of information. This is particularly so when public money is used. Therefore, the process for the consideration of passing through the benefits of concessional finance to consumers' needs to include opportunities for consumer engagement. We suggest that AEMC give consideration to this during the rule change process and ensure that this will be achievable either within existing processes or otherwise that such opportunities will be included in the rule change.

Disclaimers and acknowledgement

The following disclaimers and acknowledgements are made as part of our submission.

This project was funded by Energy Consumers Australia (http://www.energyconsumersaustralia.com.au) as part of its grants program for consumer advocacy and research projects for the benefit of consumers of electricity and natural gas. The views expressed in this document do not necessarily reflect the views of the Energy Consumers Australia. This submission has been produced with the assistance of Goanna Energy Consulting Pty Ltd for the Tasmanian Small Business Council (TSBC). However, the views expressed are those of the TSBC and not necessarily the consultants involved.

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We look forward to the Commission's draft rule change. In the meantime, should you have any questions about this document I would be pleased to assist and can be contacted on Tel: (03) 6234-9174 or Email: robert@thefrontman.com.au

Yours sincerely

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AEMC

Concessional Finance for Transmission Network Service Providers

STAKEHOLDER FEEDBACK TEMPLATE

The template below has been developed to enable stakeholders to provide their feedback on the questions posed in the consultation paper and any other issues that they would like to provide feedback on. The AEMC encourages stakeholders to use this template to assist it to consider the views expressed by stakeholders on each issue. Stakeholders should not feel obliged to answer each question, but rather address those issues of particular interest or concern. Further context for the questions can be found in the consultation paper.

SUBMITTER DETAILS

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PROJECT DETAILS

NAME OF RULE CHANGE:	**Concessional Finance for Transmission Network Service Providers**
PROJECT CODE:	**ERC0349**
PROPONENT	**The Honourable Chris Bowen MP, Minister for Climate Change and Energy**
SUBMISSION DUE DATE:	**14 July 2023**

CHAPTER 2 – THE PROBLEM RAISED IN THE RULE CHANGE REQUEST

1. The regulatory treatment of concessional finance	
Do you agree that the Rules need to recognise concessional finance to share benefits with consumers?	Given the current absence of any concessional finance arrangements in the NER, the infrastructure needs of the NEM, along with the availability of low-cost government finance for transmission upgrades to support the energy transition, we can see the need for rules changes that deal with concessional finance whilst ensuring that consumers benefit from this.

CHAPTER 3 – THE PROPOSED SOLUTION AND IMPLEMENTATION

2. Responsibility to inform the AER about the existence of a concessional financing arrangement	
Do you agree that the TNSP should notify the AER about the existence of a concessional finance arrangement?	If consumers are to benefit from the availability of concessional finance to build additional transmission links in the NEM and given the AER's role in setting regulated transmission revenues, the AER need to be made aware of the existence and terms and conditions of any concessional finance arrangements In the first instance, it would seem appropriate that the relevant TNSP should be responsible for doing this.

3. What types of information about the concessional finance arrangement should be provided to the AER and by whom?	
Do you agree with the types of information that should be provided to the AER, as detailed in the rule change request, and that the TNSP be required to provide the information?	TSBC generally agrees with the types of information to be provided to the AER. However, given its importance to consumers, including small business, to the rule change and to the AER's intended role, we believe that it should be made explicit that the agreement between the TNSP and GFB on the sharing of benefits of the concessional finance, should be part of the information provided.
4. How the AER confirms the intent of the concessional finance and the method(s) through which the AER can treat the concessional finance benefits	
1. Do you agree that the AER should confirm the amount to be treated as a benefit to consumers and/or TNSPs with the TNSP and the GFB?	In the interests of full and accurate information transparency and given the role that the AER will be expected to play in returning the benefits of concessional finance to consumers, we agree that the AER should be able to confirm this with both the TNSP and GFB.
2. Do you agree that this amount should be treated as either a capital contribution and deducted from the RAB or as a MAR adjustment? Do you prefer one method over another? Why?	On the basis of current information, we do not favour any one approach over the other as both have pluses and minuses for consumers (see our response to the next question). On this basis, we would not rule out one over the other at this time and would encourage the AEMC to undertake further work on this as part of its draft determination; and engage with consumers on this.
3. Do you see any issues with treating some or all of the benefits as either a capital contribution or as a revenue adjustment?	As noted above, each approach has its pluses and minuses. For example, and without capturing all the relevant points, MAR adjustments seem simpler and more meaningful to consumers but their accuracy or contractual intent may degrade over time, including across regulatory periods. On the other hand, RAB adjustments may be a preferred way to capture consumer benefits over longer periods of time but would be less transparent to consumers. In the end, it should be incumbent on the AER to clearly and transparently say in its regulatory determinations what the consumer benefits are and how they are being passed to consumers.
4. Do you agree the AER should be required to seek submissions from the government funding body: • To ensure benefits are passed on to customers and/or TNSPs as intended, and • to determine whether they intended that some or all of the benefit of the concessional finance be treated as a capital contribution or a MAR adjustment, if required? If not, how should the AER confirm intent and treatment of consumer benefits?	We believe that it is very important to consumers and application of the NEO to this rule change that there is a full and accurate accounting of the distribution of the benefits of any concessional finance in the AER's regulated revenue determinations. To this end, it is vital that the AER has the powers and ability to confirm and verify what these arrangements are in each case. Whilst the TNSP should be willing and able to do this, the AER should also be able to cross-check with the GFB to verify them if they see a need to do so. We note that consumers (as a proxy for taxpayers) have a right to expect that government funding through concessional finance will benefit them and not the TNSP concerned. The AER, as the regulator of TNSP revenues must be able to confirm and verify that the consumer benefits are being dispersed accurately and appropriately, and if there is any contractual agreement between the GFB and TNSP on how this should be done (i.e.., by way of the RAB or MAR adjustment). Whilst this imposes and additional requirement on the regulatory process where concessional GFB finance is in play, we believe that the cost will be minor and the benefits of full and accurate treatment of the consumer benefits of concessional finance will outweigh this. We have a particular interest in the application of this rule change to the proposed Marinus Link interconnector (and the associated North-West Transmission Developments in Tasmania). The CEFC has agreed to provide up to 80% of the finance for these transmission developments (or over $3 billion) through a concessional finance loan. Such a large amount of money justifies accuracy in treatment by the AER to ensure that all intended benefits flow to consumers, including Tasmanian small businesses.
5. Proposed solution	
1. Do you think the proposed solution is the most appropriate way to share benefits of concessional finance with consumers, or is there another more effective solution that could be implemented (including non-	Given the use of concessional finance through a GFB, the need for an agreement between it and a regulated TNSP and the regulatory role of the AER, a NER based approach would seen to suit the circumstances. We could envisage a situation where the Government directed a GFB to distribute benefits to consumers in a certain way and this formed part of the agreement outside the NER (in much the same way as the current rules do) but for regulated TNSPs there would still be a need to return the consumer benefits via an AER revenue determination within the NER. A non-rules solution would seem to be less less desirable and create risk for consumers about benefits pass through.

rules based solutions)?	
2. Do you think the proposed solution: a. is targeted, fit for purpose and proportionate to the issues it is intended to address? b. considers the broader direction of reforms in transmission infrastructure? c. provides for simplicity and transparency in regulatory arrangements?	a. We see the proposed solution as directed at the issue, able to reasonably deal with it and proportionate to the NER issues created by the availability of concessional finance for transmission. b. We note that the Commission has previously raised concessional finance in the context of its broader investigation into transmission issues. We also note that it addresses an important issue in the context of the significant upgrades that are expected in NEM transmission infrastructure. We have some doubts about the wisdom of some of these upgrades, and would be concerned if the rule change supported transmission links that are not the most efficient solution to the transition issues being experienced by the NEM, for example. c. Whilst the proposed solution in some ways extends existing regulatory arrangements, we see this as necessary and that it does so in a way that is reasonably simple and transparent (provided there is full disclosure of consumer benefits) and proportionate to the problem being addressed.
6. Costs and benefits of the proposed solution	
What do you think the direct and indirect costs and benefits of the proposed solution are likely to be? Are the costs likely to be proportionate to the problem they are intended to address?	We see the major benefit being that the availability of concessional finance provided to TNSPs will be shared with consumers, including small business. This could come via offsetting reductions in transmission charges, the building of additional transmission infrastructure, more timely construction and improved security of supply (though we have some doubts about the wisdom of all elements of AEMO's ISP). The direct costs are mainly regulatory and administrative (and likely to be small relative to the benefits), although there is a risk that the rule change will incentivise concessional finance in a way that gives rise to the building of inefficient transmission links (of which Marinus Link and VNI-West appear to be two examples), disadvantage non-network solutions, entrench existing operational or regulatory inefficiencies in transmission, crowd out private capital or mis-allocates resources. The AEMC should consider such risks.
7. Implementation considerations	
1. Do you have any suggestions regarding the commencement timeframe?	Generally, we would favour commencement as soon as possible, though we would prefer that the necessary time is taken to ensure that the rule change is well developed, operates as intended and has minimal unintended consequences.
2. Are there additional measures that should be considered that would support the effective implementation of the desired solution?	We would suggest that the Commission give consideration to the need for similar arrangements to cover concessional finance in relation to the regulation of distribution assets, noting the need for upgrades of distribution systems to compliment new transmission links and the impact of this rule change on contestability opportunities between transmission upgrades and alternatives such as CER.
8. Compliance and enforcement	
Do you have any feedback on the compliance and enforcement role proposed for the AER?	Generally, we would simply observe that the AER needs to have adequate powers to do its intended job in relation to the treatment of concessional finance in its revenue determinations but that it also needs to be measured in how it exercises its powers. It will inevitably have some discretion on how it operates and needs to exercising this wisely.
9. Are there alternatives solutions that would be preferable?	
Can you share any alternative solutions that you think would be preferable and more aligned with the long-term interests of consumers?	We have mentioned some concerns about the availability of concessional finance to inefficient projects and that this rule change might contribute to these. We would therefore welcome consideration being given to measures that could overcome some of these concerns but we recognise that these issues cannot be solved entirely within this rule change process.

CHAPTER 4 – MAKING OUR DECISION

10. Assessment framework	
Do you agree with the proposed assessment framework?	We support the framework, particularly the inclusion of consumer benefits, which should be the paramount consideration.