3 August 2023

Australian Energy Market Commission
GPO Box 2603
SYDNEY NSW 2000

Lodged electronically: aemc@aemc.gov.au

Reference: ERC0348

Dear Sir/Madam,

RE: Submission to AEMC Accommodating financeability in the regulatory framework, Consultation paper and ENA proposal

Origin Energy (Origin) appreciates the opportunity to provide a response to the Australian Energy Market Commission's (AEMC) Accommodating financeability in the regulatory framework, Consultation Paper and the accompanying Energy Networks Australia (ENA) rule change request.[1]

Where financeability concerns arise, we agree that allowing transmission network service providers (TNSPs) to propose amended depreciation profiles for actionable Integrated System Plan (ISP) projects may be appropriate. We consider that a principle-based approach should be applied, providing the Australian Energy Regulator (AER) with the necessary discretion to assess applications on a case-by-case basis. We expect these principles to be set out in the National Electricity Rules (the Rules) with guidelines developed by the AER to provide clarity to stakeholders and promote transparency.

We do not support the ENA's proposed prescriptive approach to depreciation adjustments via a financeability formula embedded in the Rules. Such an approach would not be appropriate because it potentially exposes customers to the risk that projects are automatically accepted without an adequate review of individual circumstances.

We consider that the treatment of biodiversity offsets should be consistent with conventional accounting practices. Where the costs associated with biodiversity offsets are able to be classified as a depreciable asset (as per conventional accounting practice) we agree that applying depreciation is appropriate. However, we question the appropriateness of depreciating biodiversity offsets on an as incurred basis given completion risk is effectively transferred to customers. We seek clarification from the AEMC on how completion risk will be addressed in the regulatory framework.

To the extent that different depreciation treatments are applied to different asset classes, we agree it would be appropriate for the AER to document this.

Origin's response to relevant questions identified in the paper are set out below at Attachment A.

[1] Energy Networks Australia (2023) Ensuring the Financiability of Actionable ISP Projects, 9 June.

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Attachment A

2. How to assess financeability applications	
(a) Should TNSPs have to submit an application to the AER to vary the depreciation profile of actionable ISP projects? If so, what information should this include?	We consider that TNSPs should be required to submit an application to vary the depreciation profile of actionable ISP projects. The application should include at a minimum: • Project details. • Project timeframe. • Project benefits (particularly customer benefits). • Consequences of delaying or not proceeding with the project. • Anticipated financial exposure i.e. why the project adversely impacts the TNSP's financial position. • Details of financing options explored by the TNSP. • Assets to be depreciated and proposed depreciation profile and rationale. • Customer impacts from accelerated depreciation.
(b) Should the AER vary the depreciation profile of actionable ISP projects using principles or a prescriptive approach?	We consider that a principle-based approach is preferred. A principle-based approach provides the AER the required flexibility to assess proposed variations to depreciation profiles on a case-by-case basis. Principles should be included in the Rules, and we expect the AER to develop depreciation guidelines to describe how the AER will address financeability concerns (as per the principles). While the principles provide for a flexible assessment approach, we expect the AER guidelines to provide TNSPs/financiers with a clear understanding (ahead of time) of how an application for an adjustment to depreciation will be assessed. We stress that a depreciation adjustment should only be applied when necessary, e.g. when there are identified financeability issues which would lead to sub-optimal transmission delays and outcomes. If deemed appropriate, we consider that depreciation should be accelerated to the minimum extent possible while addressing financeability issues. This would ensure that consumers do not bear unnecessary risks or costs.

	We do not support the ENA's proposed prescriptive approach via a financeability formula embedded in the Rules. With prescription, depreciation profiles could be automatically adjusted if the threshold is met, without the AER being satisfied, through its discretionary powers, that the TNSP has demonstrated that all financing options have been exhausted, and the application adequately addresses customer impacts, intergenerational issues, cost of living implications etc. This would expose consumers to a higher level of risk than if the AER were given the discretion to address financeability issues. We also consider that the AER guidelines (based on principles prescribed in the Rules) are capable of providing the necessary certainty for the treatment of depreciation adjustment applications, without the need for further prescription in the Rules
(c) What level of AER discretion is appropriate?	We consider that the AER requires considerable discretion to accommodate individual circumstances. The principles should remain relatively broad and the proposed AER guidelines should set out the framework for when and how the assessment principles will be applied. This should provide transparency for stakeholders and ensure that TNSPs are clear on what is required by the AER in demonstrating a case for varying the depreciation profile of actionable ISP projects. Embedding a formulaic approach in the assessment as proposed by the ENA compromises the ability of the AER to assess applications on their individual circumstances and is not supported, as noted above.
(d) Do you consider that the proposed principles are appropriate? Should any other assessment factors be taken into account?	We consider the proposed principles are appropriate. We consider these will provide the AER with the required discretion to consider individual circumstances associated with each project.

<table>
<tr><td colspan="2">3. Level of financeability assessment</td></tr>
<tr><td>(a) Should the financeability assessment be at the TNSP RAB level or the ISP project level?</td><td>Any financeability assessment should be conducted at the TNSP regulatory asset base (RAB) level. We agree with the AEMC that this approach:
Provides TNSPs with a reasonable opportunity to recover at least their efficient costs, and
Is consistent with the current regulatory approach to setting revenues.
This allows for a holistic review of a TNSP and its financial position.

We consider that the ENA’s proposed project specific assessment is not consistent with current regulatory practice and we do not support the proposal.</td></tr>
<tr><td colspan="2">4. Financeability assessment process and timing</td></tr>
<tr><td>Is the proposed process and timing to assess requests to vary depreciation for actionable ISP projects practical and efficient? If not, what alternative processes and timings do you suggest be specified in the NER?</td><td>The proposed process and timing appear appropriate. TNSPs require sufficient lead-time to develop applications and a degree of certainty regarding how applications will be assessed.

It is important therefore that the AER assessment guidelines are developed as a priority. We expect the guidelines to provide TNSPs with sufficient time to understand the necessary information requirements.</td></tr>
<tr><td colspan="2">5. Will the proposal solve the problem?</td></tr>
<tr><td>(a) Will the proposed solution to vary depreciation profiles resolve the problem raised in the rule change request? Would it reduce or eliminate the need for concessional finance from governments for ISP projects?</td><td>We agree that the proposal to vary depreciation profiles has the potential to address financeability issues.

The use of depreciation adjustments has the potential to reduce the need for concessional finance in many cases. However, we consider that the option for concessional finance ought to be retained to provide flexibility in addressing financeability issues on a case-by-case basis.</td></tr>
<tr><td colspan="2">6. AER guidance</td></tr>
<tr><td>Should the AER be required to publish guidance on how it may vary the depreciation profile for assets that form part of an actionable ISP projects?</td><td>We agree that the AER should be required to develop guidelines setting out the information required in a TNSP’s application to vary depreciation and its approach to assessing applications. The guideline should also set out the proposed method for varying depreciation profiles.</td></tr>
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7. Transitional arrangements	
(a) If the proposed rule is made, should the AER be required to develop any guidance, or amend any AER models, before or after the commencement of the rule? If so, what level of prescription should be included in the NER?	We consider that the AER should be able to make assessments based on the proposed principles as soon as the rule is made. This limits any delay to implementation and means that applications could be submitted prior to the development of the AER guidelines. We would expect the AER's models to require amendment to accommodate any adjustment to depreciation profiles. The AER can assess impacts on its models and ensure the models incorporate sufficient flexibility to accommodate depreciation adjustments and/or different asset categories prior to the implementation of the rule change.
9. Recognising and managing biodiversity offset costs	
(a) Does the AER already have discretion to do what the rule change request is proposing (i.e. applying depreciation as incurred for transmission assets)?	It is not clear that transmission assets are currently able to be depreciated on an as incurred basis. As discussed in the consultation paper, while not specifically addressed, it appears that the Rules do not prevent depreciation to be recovered from assets on an 'as incurred' basis. We suggest that the AEMC obtain legal advice to confirm the AER's discretion in this regard.
(b) Should land purchased specifically for the purpose of meeting biodiversity offset obligations be depreciable? Should other costs of meeting biodiversity offset obligations be depreciable?	We consider that conventional accounting practices should be applied to the treatment of biodiversity assets. Under conventional accounting practice, land is a non-depreciable asset. On this basis, we are not in favour of treating land purchased as a biodiversity offset as a depreciable asset. We request the AEMC obtain specialist advice to determine the appropriateness of applying depreciation to other (non-land) biodiversity offsets and to ensure the treatment is consistent with conventional accounting practices. Where other costs associated with biodiversity offsets are able to be classified as a depreciable asset (as per conventional accounting practice) we agree that depreciation is appropriate.

(c) Do you agree or disagree that recovering depreciation of biodiversity offset costs as incurred (as opposed to as commissioned), would be an appropriate solution to the financeability problem? Does this re-allocate completion risk from TNSP's to consumers?	We agree that biodiversity offsets add value when the project commences as opposed to when the associated project is commissioned. This may provide justification for a different approach to depreciation. We note that the application of an as incurred basis means that completion risk is transferred to the customer. It is not clear that customers should bear this risk or are best placed to manage this risk. Where an as incurred approach is proposed, the AEMC will need to satisfy itself that the benefits outweigh the shifting of completion risk to consumers. .
(d) Are the nature of biodiversity offsets different from other assets that comprise a specific actionable ISP project, such that biodiversity offsets should be depreciated on a different basis to other assets?	We agree that biodiversity offsets are different from other ISP project assets in that they effectively do not have service potential. Rather, they are required to be purchased for their offset value and that this value may apply from the commencement of the project (rather than on its commissioning). Whether the difference is sufficient to justify a different depreciation approach is not clear. We seek clarification from the AEMC regarding the treatment of biodiversity assets under conventional accounting practice.
10. Application of proposed solution to intending TNSPs	
If TNSPs are able to recover depreciation of biodiversity offsets on an as incurred basis, should this be extended to intending TNSPs (ITNSPs)?	We note that ITNSPs are prohibited from recovering depreciation during the period before an ITNSP starts recovering revenue for the provision of prescribed transmission services. On this basis, we do not consider that any proposal to allow biodiversity assets to be depreciated on an as incurred basis should be extended to ITNSPs.
11. Clarifying depreciation treatment of asset classes	
(a) Do you agree with the proposal to require the AER to explicitly outline how depreciation would apply to all asset classes in actionable ISP projects? Should this include biodiversity assets?	To the extent that different depreciation treatments are applied to different asset classes, we agree it would be appropriate for the AER to document the application of depreciation.
(b) If you agree that the deprecation treatment of asset classes should be documented, how should it be implemented — through the NER, AER guidelines and/or other methods?	We consider that the Rules should provide the AER the discretion to apply different depreciation treatments where the AER deems appropriate. AER guidelines should set out the circumstances where different depreciation treatments will be considered and the associated process.

12. Assessment framework	
Do you agree with the proposed assessment framework? Are there additional principles that the Commission should take into account or are there principles that are not relevant?	The proposed assessment framework appears appropriate.

If you have any questions regarding this submission, please contact Gary Davies in the first instance at gary.davies@originenergy.com.au.

Yours sincerely,

Sarah-Jane Derby
Energy Regulation Manager