7 December 2023

Mr James King
Senior Advisor
Australian Energy Market Commission

Sent by email to james.king@aemc.gov.au

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Dear Mr King

Re: Updated national energy objectives – harmonising rule changes – AEMC Draft Determination

Jemena Welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) Draft Determination on the rules changes seeking harmonisation of the National Electricity Rules (NER) and National Gas Rules (NGR) with the recently updated national energy objectives.

As a member of the Energy Networks Australia (ENA), Jemena also welcomes and supports ENA's submission to the AEMC's Draft Determination.

In general we support harmonising the NER and NGR with the amended national energy objectives that have been expanded to include scope for emissions reduction. The Draft Determination promotes certainty for regulated electricity and gas distribution businesses and stakeholders by ensuring that the Australian Energy Regulator (AER) has the authority to approve prudent and efficient expenditure that supports emissions reduction targets. It will also allow the AER to consider the benefits of emissions reduction alongside price, quality, safety, and reliability of supply when informing their decision-making processes.

To ensure regulatory certainty in terms of how the AER will exercise its discretion when determining a balanced application of the energy objectives, we suggest the following refinements be incorporated into the NER and NGR amendments to enhance clarification in terms of interpretation and implementation of the revised NER and NGR changes. Further refinement can avoid unintended consequences and not hinder regulated energy businesses' ability in supporting the government's commitment to net zero emissions by 2050.

These suggested refinement opportunities include the following key areas:

- **Emissions reductions targets:** In an evolving energy policy environment there is the potential for emissions reduction targets—as defined in the targets statement—to change after a regulated energy business has submitted its price reset proposal.

  The Draft Determination currently provides limited scope under the NER and NGR to enable amendment to an energy businesses expenditure proposal to account for a change in emission reduction targets, unless instructed by the AER to do so during a price reset process.

We suggest the AEMC consider a more general drafting to the NER and NGR around amendments to a regulatory proposal to ensure that submissions can include any changes to emission reductions targets that may warrant revision to an energy business proposed expenditure forecasts during the price reset process thereby clarifying the powers of the AER to address these types of changes.

This suggestion is not seeking for regulatory decisions themselves to be reopened on the basis of target statement amendments, only for in-train price resets processes to flexibly reflect changing targets in the targets statements during the price reset process.

- **NGR expenditure rules:** The Draft Determination proposes changes to the capital and operating expenditure criteria as outlined in rule 79(1) and 91(1) of the NGR to include reference to emissions reduction targets.

  Requiring all expenditure to be incurred "in a manner that contributes to meeting emissions reductions targets" may constrain the AER's decision making process to only approve expenditure that is considered "lowest cost" that can limit an energy business's ability to support emissions reduction. In meeting emission reduction targets an energy business may have to consider new approaches to asset management and design that can diverge from traditional 'lower cost' solutions.

  Rather than requiring all expenditure to be incurred "in a manner that contributes to meeting emissions reductions targets", this criterion could instead refer to the service provider "having regard to" emissions reduction targets. A suggested alternative is to add an additional limb to rule 79(1) which states:

  > 'the service provider has had regard to the need for the capital expenditure to contribute to achieving emissions reductions targets'; and

  Add a new subrule 91(3) which provides that:

  > 'in preparing the forecast of required operating expenditure under subrule 91(2), the pipeline service provider must have regard to the need for the operating expenditure to contribute to achieving emissions reductions targets'.

  This alternative wording ensures that the proposed rule change has the intended outcome and avoid the unintended consequence of expenditure unrelated to emissions reductions needing to be assessed for contribution towards emissions reductions targets. This would also promote more effective harmonisation of the NGR with the NER, which similarly is proposed to require a regulated energy business to include capital and operating expenditure in its building block proposal that it considers necessary to contribute to emissions reduction targets.

If you have any questions or require further information regarding our response, please do not hesitate to contact Andre Kersting, Regulation Manager Gas Networks, at Andre.Kersting@jemena.com.au.

Yours sincerely,

ADijanosic

Ana Dijanosic
General Manager Regulation