SUBMISSION

NATIONAL ELECTRICITY AMENDMENT (ACCOMODATING FINANCABILITY IN THE REGULATORY FRAMEWORK) RULE (ERC0348) - DRAFT DETERMINATION

08 FEBRUARY 2024

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade. Our membership covers most of the major gas users in the east coast gas market who all rely on reliable and competitively priced gas for their business sustainability.

The EUAA support the pursuit of net zero targets but this must be achieved at least cost, not at any cost. Additionally, we seek an equitable allocation of the costs and risks associated with the transition as all too often energy consumers are expected to carry the heavy weight of market (i.e. shareholder and/or debt providers) risk that should sit with market participants. We firmly believe that this transfer of risk is inconsistent with the NEO.

The EUAA welcomes the opportunity to make this brief submission to the National Electricity Amendment Accommodating Financeability in the Regulatory Framework Draft Determination (Draft Determination).

While acknowledging the Draft Determination does contain some improvements over the original rule change (largely process related matters), the EUAA continues to be concerned because this rule:

1. Will result in a significant increase in transmission costs in the short to medium-term (cost recovery is front loaded as a result of this Draft Determination) and therefore an increase in final energy bills at a time when they are already escalating at an unprecedented rate.
2. Transfers risk that equity (and/or debt) should be taking (as they are in the best position to manage it) to consumers (who have no ability to manage or mitigate it).
3. Increases in transmission prices are locked in (once the project is complete) while benefits are highly variable in both quantum and timeliness making net benefit analysis extremely unreliable. Front loading cost recovery would further exacerbate this situation. Specifically:
    a. While transmission prices are locked in via the regulatory process, capital costs are highly variable up to the point of project completion leaving open the very real possibility that these projects will end up costing up to 50% more than the "advertised price" (this is the experience to date). It is this final cost that consumers will pay.
    b. Net benefit modelling conducted by project proponents consistently show that large transmission projects will not begin to deliver net benefits to consumers for between 10-15 years. Front loading revenue recovery will not only significantly increase energy bills now but push net benefits even further out into the future.

4. Creates significant intergenerational inequity whereby consumers pay more today while future consumers may receive a majority of the benefits.

One of the main beneficiaries of new transmission (and therefore this rule change) are the new assets connecting to it (i.e. VRE, batteries etc) who will see benefits flow from day-one, yet they make close to zero contribution to cost recovery.

In the absence of a more equitable cost recovery method (e.g. contributions to transmission cost recovery by connecting VRE and batteries) the issues should be dealt with through other means including re-structuring of debt and equity and for Government to play a significant role over the next 10-15 years via Rewiring The Nation (or other state based approaches) to help ensure a smooth transition to net zero is achieved and consumers are shielded from the risks and uncertainty that is inevitable during this time.

We have not seen anything in the Draft Determination that compels us to change the views that we expressed in our 3 August 2023 submission to the rule change consultation paper.

The AEMC seems to have dismissed and/or rejected a number of our concerns and alternative pathways in the Draft Determination without providing a detailed assessment or explanation as to why.

For example, the AEMC state that this Draft Determination will benefit consumers in both the short- and long-term yet provides no evidence that this will be the case. Whilst we are prepared to accept that future benefits may outweigh todays costs, it is difficult to comprehend that a significant and immediate increase in network costs as a result of this Draft Determination will deliver near term benefits for consumers. Net benefits modelling conducted by project proponents shows that net benefits are likely to occur some 10-15 years into the future and we fear this Draft Determination will push that timeline out even further, especially given significant increases in capital costs that all infrastructure projects are suffering.

While we can understand the need for “certainty” in the process, we would have preferred the AER maintain a high level of discretion in determining if a project qualifies for assistance under these proposed new rules. The Draft Determination does provide some level of discretion that could be quickly eroded if the Financability Guidelines are developed in a way that removes much of this discretion. We will watch this very closely to ensure AER discretion to make prudent and efficient determinations is maintained. This decision must also reflect a benchmark debt to equity ratio of the applicant to ensure that, at the very least, equity participants are not transferring risk that should be theirs onto consumers.

Given the scale of change required we are also concerned that what should be a “last resort” response to exceptional circumstances facing a TNSP will quickly become standard operating practice and therefore all future projects obtain preferential depreciation schedules. If even more risk is being removed from TNSP shareholders at the expense of consumers we would argue that the rate of return afforded those shareholders under the current regulatory framework be adjusted to reflect this.

We will watch this very closely as the new rules come into play.

We also note that successful Contingent Project Applications for Early Works by project proponents already act as a form of accelerated depreciation as cap ex is brought into the proponents regulated asset base well before project completion. This should be considered when assessing a proponent's application under this proposed rule.

We remain concerned about the increases in the network component of the bill that this rule change will drive. However, the recent expansion of the Capacity Investment Scheme (CIS) by the Commonwealth is likely to shield all energy users from much of the cost and risk of deploying renewable energy and storage assets to meet the 82% by 2030 targets. We are yet to understand the "swings and roundabouts" aspects of (hopefully) lower wholesale prices as a result of the CIS and higher network prices brought about by significant network expansion and this rule change. Our hope is that the net effect is that the total bill do go down in real terms, but there is no guarantee that this will be the case in the near to medium term.

While we will now shift our focus to ensuring the guidelines are as robust as possible and that decision making not only delivers prudent and efficient outcomes but are highly transparent, we request that the AEMC reviews the current Draft Determination prior to the Final Determination to reflect the best interests of all consumers, both now and into the future as per the requirements of the NEO.

Do not hesitate to be in contact should you wish to discuss these comments further.

Regards

Andrew Richards
Chief Executive Officer