SUBMISSION

AEMC – NATIONAL ELECTRICITY AMENDMENT (PROVIDING FLEXIBILITY IN THE ALLOCATION OF INTERCONNECTOR COSTS) RULE (ERC0383)

11 APRIL 2024

INTRODUCTION

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.

Thank you for the opportunity to make a submission under AEMC's National Electricity Amendment (Providing flexibility in the allocation of interconnector costs) Rule.

The EUAA is aware of issues related to fairness and equity for consumers in allocating interconnector costs for new interconnectors, particularly Marinus Link. Utilising the existing NER cost allocation methodology, Victorian and Tasmanian consumers would pay a similar gross amount. When these similar amounts are disbursed amongst the individual consumers, an individual Tasmanian consumer would pay significantly more than a Victorian consumer due to significant differences in population. This is an inherently inequitable approach and significantly disadvantages one region over the other. The EUAA agrees that this inequity in the National Energy Rules (NER) needs to be corrected.

We also recognise that this inequity can impact the viability of a project.

We have approached our submission from that basis, however conclude that the political nature of the proposed jurisdictional inter-governmental agreements could also be manipulated to create an apparent viability for a project, the cost of which is encumbered upon consumers.

The EUAA agrees that politicians have a duty to make political decisions that impact consumers, however we fundamentally disagree with the proposed methodology that will shield the politicians from external criticism and shift that criticism onto the AER.

The three ministers proposing this rule change will create an unenviable environment for the AER for the following reasons:

- The political decision may or may not be equitable to consumers across different jurisdictions, however the AER will be expected to assess the inter-governmental agreement against a set of rules and the NEO. It is difficult to conceive how the AER might perform this miracle and how the AER might influence the ministers

when preparing inter-governmental agreements so that they meet the requirements of the National Energy Law (NEL), NER and NEO.

- By having the AER approve the inter-governmental agreements, politicians are removing themselves from criticism, i.e. politicians will be able to blame the AER as the approver. We can't think of another example of where a regulator has been put in a position to "approve" political decisions, although we are not fundamentally opposed to a broad-based regulator of government.
- As is pointed out by the AER, politicians will be able to change or withdraw from the inter-governmental agreements, creating unnecessary costs and confusion for AER, the relevant transmission businesses and consumers, particularly, in the case of withdrawal of an agreement if the fallback position is to use the existing NER allocation process.
- That the Federal Government is part of the requesting group of ministers suggests that the Federal government will be a signatory to the inter-governmental agreements. This is further backed up by the ministers insistence that where Marinus Link will cross Federal waters, that the benefit accrues to the Federal Government. EUAA has three thoughts on this:
    - Who is the Federal TNSP to allocate its benefits for collection from consumers?
    - Should the AER consider interconnectors through Federal waters to be a "sunk cost" and therefore have no allocation to consumers?
    - BassLink has no Federal allocation.

RESPONSES TO SELECTED CONSULTATION PAPER QUESTIONS

Question 1: Is the issue raised material enough to require changes to the regulatory framework?

We consider that the issue raised is material enough to change the NER due to the inequality of the current rules for interconnector cost allocation for Marinus Link.

Question 3: What are your views of the costs and benefits of the proposed solution?

There is no way to determine the costs and benefits of the proposed methodology ahead of receiving an inter-governmental agreement, i.e. the politicians will decide the costs and benefits on a case-by-case basis.

Question 4: What should be the minimum set of requirements for a cost allocation agreement?

If jurisdictions were to enter into inter-governmental agreements for the purpose of specifying a different interconnector cost allocation (different from the existing NER arrangements), the minimum requirement should be to meet the requirements of the NEO and to have a fair and equitable distribution of costs to consumers.

Any requirements of inter-governmental agreements should at least sit in the NER, preferably in the NEL, requiring transparent public consultation of changes. Having requirements sit in an AER document or Guideline would create a transparency issues, particularly if Ministers press AER or the body responsible for the Guidelines to change them to allow for a politically motivated cost allocation to proceed.

Question 5: What should be the AER's role in assessing inter-governmental agreements on interconnector cost allocation?

We firmly contend that the AER should not be put in a position of assessing inter-governmental agreements. Should the ministers insist that AER has an inter-governmental agreement approval role, the NEL/NER should give the AER the ability to reject the inter-governmental agreement on the basis of not meeting a pre-determined set of requirements embedded in the NEL/NER, e.g. fairness and equity for all impacted consumers and meeting the NEO as a minimum.

The inter-governmental agreements should be treated separately in TNSP revenue determinations, similar to how the Victorian Transmission Easement Tax is treated separately as a "fixed" cost for pass-through.

Timeframes on governments to provide inter-governmental agreements should be the same as for all other processes governed by the AER. To provide risk management against sovereign risk, a minimum duration of inter-governmental agreements should be set in the NEL/NER (similar to the 5 year regulatory periods for networks), with minimal opportunities for ministers to revise or withdraw from inter-governmental agreements during this period. Should inter-governmental agreements be changed substantially, or one or more governments withdraw from the agreement, penalties for governments should be in place in the NEL/NER to minimise the impact to consumers.

Question 6: What is the best mechanism to recover costs if jurisdictions agree to an alternative cost allocation?

The EUAA believes that political decisions should be funded through governments consolidated revenue streams. This is the best mechanism for recovery of interconnector costs associated with inter-governmental agreements.

Question 7: Should any transparency requirements apply to an agreement?

All inter-governmental agreements should be published at the time of receipt by the AER to maximise transparency.

Question 9: Are there alternative, more preferable solutions?

There are two alternative solutions to the issues identified by the three Ministers.

1. Governments fund the inter-governmental agreements out of their respective consolidated revenue streams.
2. Change the allocation formula for interconnectors in the NER to allow an equitable distribution of costs. We believe this will need to occur to protect consumers from the sovereign risk of politicians withdrawing from inter-governmental agreements.

CONCLUDING REMARKS

The EUAA supports rule changes that lead to a fair and equitable outcome for consumers, have full transparency in their development, and do not create "blame" shifting mechanisms.

Given the political decisions to create inter-governmental agreements will occur behind closed doors, the EUAA has no way of knowing and therefore no confidence that any of these requirements would be met by the proposed rule-change and is unable to support this rule change in its current form.

The EUAA considers that either:

- ministers enter into an inter-governmental agreements and they pay the costs, or
- ministers enter into an inter-governmental agreements and the AER disburses the allocations to relevant TNSPs, similar to the way the Victorian Transmission Easement Tax operates, and/or
- the current NER cost allocation formula for interconnectors is adjusted to allow a fair and equitable distribution of costs to all consumers in the relevant jurisdictions.

Do not hesitate to be in contact should you have any questions.

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