

20 June 2024

Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
Sydney NSW 2001

Project Reference code: ERC0381

Dear Ms Collyer,

Draft rule determination- Targeted Ex-post review of ISP projects

Energy Networks Australia (ENA) welcomes the opportunity to respond to the Commission's Draft Rule Determination on Targeted Ex-post review.

ENA represents Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia.

ENA supports the notion that targeted ex-post review of actionable Integrated System Plan (ISP) projects should be conducted separately from the existing ex post review of 'business as usual' capital expenditure.

In earlier submissions on this matter ENA has suggested that narrowing the focus of an ex post review to a specific ISP project will assist with managing the cost uncertainty created by these large-scale projects, and the potential impact that it could have on the regulatory treatment of the Transmission Network Service Provider's (TNSP) other capital expenditure. This clarifying rule also promotes timeliness by providing greater certainty for TNSPs and their investors in arriving at an investment decision.

To further support certainty and timeliness, ENA considers the final rule should acknowledge the differences between a TNSP's ex ante capital allowance, which relates to numerous, changing project needs, and the allowance for a single ISP project. The latter is more exposed to forecast risk, unforeseen but necessary scope or route changes and other cost pressures.

In ENA's view these differences mean that the optimal combination of capital expenditure incentives for an ISP project are unlikely to be the same as that for an ex ante expenditure allowance. Further, the optimal combination may differ between ISP projects. The ENA notes that a flexible approach to the application of the incentive schemes may be achieved by requiring the Australian Energy Regulator (AER) to give effect to this approach in its Capital Expenditure Incentive Guidelines. This could also be achieved in the final rule by providing for expenditure incentives in respect of reviewable ISP projects to be determined as part of the contingent project application process. This provides both transparency for stakeholders and clarity for businesses

up front on the nature and scope of ex post review to be undertaken at the conclusion of an ISP project.

Clarity concerning reviewable ISP projects?

In relation to the question asked in the Commission's Draft Rule determination, ENA considers that it is sufficiently clear which ISP projects are to be reviewed.

Practical concerns with review trigger

ENA has identified a practical concern with the way the Draft Rule would operate. In our view this issue should be addressed in the final rule.

To promote the certainty intended by the Rule, it is important that ex-post reviews of ISP projects are conducted as soon as possible after the relevant expenditure occurs.

It is also important that the timing of the review, and therefore the 'trigger', is unambiguous and clearly understood by the relevant TNSP and the AER.

The Draft Rule proposes that ex post review of ISP projects is triggered by the relevant project being 'energised and commissioned'.

ENA is concerned that the trigger proposed in the Draft Rule is ambiguous and will not be workable in all cases.

Our concern relates to the appropriate treatment of costs, such as the cost of inter network testing, which cannot begin to be incurred until after the project is physically complete. This issue is compounded when multiple TNSPs are involved. This is illustrated by Project EnergyConnect in which the South Australian part was energised in 2023, but inter network testing on the full project is currently not expected to finish until the first quarter of 2027, which is after ElectraNet's next Revenue Proposal will be submitted.

With this timing, it is possible that cost will continue to be incurred in relation to Project EnergyConnect substantially after the reviewable ISP project, in this case the South Australian part of Project EnergyConnect, is commissioned and energised.

In this situation it is not clear whether ex post review for the TNSP that reaches the review trigger first must be delayed until the second TNSP also reaches the trigger, creating a delay of five years or more. Delaying the review in this way creates a circumstance in which capital expenditure would be added to a Regulatory Asset Base and later removed if the AER concludes that some of the overspend is not prudent and efficient. It also creates a situation in which the prudence of project expenditure is being reviewed well after project completion.

This issue is also likely to arise for the VNI West interconnector project and any actionable (interconnector) projects in the 2024 ISP.

To resolve this concern ENA considers it preferable for the Rule to allow for the trigger point and scope for ex post review for a particular reviewable ISP project to be agreed up front between the relevant TNSP and the AER through the Revenue Proposal or at the time of a continent project decision. This could include the extent to which post commissioning costs are subject to later ex post review, if at all.

Principles for ex post reviews

In addition to the above matters, ENA considers that uncertainty can be minimised by including the following key principles in the final rule and final determination:

- » Ex post reviews should be conducted in a way that minimises uncertainty for the relevant TNSPs and consumers, thus contributing to efficiency.
- » Ex post reviews should only be based on information reasonably available to the relevant TNSPs at the time decisions were made. They should not be conducted with the benefit of hindsight.
- » That cost estimates are not properly described as point estimates, but have error margins consistent with the cost estimate classification system published by the Association for the Advancement of Cost Engineering, which was recently adopted in the AER's RIT-T guideline. For this reason ex post reviews should be limited to instances where overruns are material having regard to the nature of the estimate prepared originally, including any scope changes to reflect route or other changes needed after the revenue determination.

ENA looks forward to working with the Commission as it progresses to a Final Rule. In the meantime, if you would like to discuss this submission, please contact Verity Watson in the first instance at the following email address:
vwatson@energynetworks.com.au.

Yours sincerely



Dominic Adams

General Manager - Networks