

## **AEMC NATIONAL ELECTRICITY AMENDMENT (BRINGING EARLY WORKS FORWARD TO IMPROVE TRANSMISSION PLANNING) RULE 2024 (ERC0380)**

**4 JULY 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 National Electricity Amendment (Bringing Early Works Forward to Improve Transmission Planning) Rule 2024.

### **DISCUSSION**

The EUAA supports TNSPs performing early works on ISP Contingent Projects in order to provide a better cost estimate and to provide more surety in delivery dates. While the Commission has identified improved outcomes to consumers through the TNSPs performing more works to inform the RIT-T and to order long Leadtime items, at this stage the benefits are theoretical and not backed by evidence.

We believe that any improved cost estimates should be delivered at an AACE Class 3<sup>1</sup> or better, or else the early works do not save consumers' costs and only leads to the TNSP transferring risk to consumers. Likewise, saving time on long-lead time items only benefits if the TNSP can manage the rest of the project timelines to achieve the desired energisation date. To-date, TNSPs have not been able to deliver these outcomes from CPAs after the RIT-T process, and we have severe reservation that bringing the CPA process forward to be run in tandem with the RIT-T or ahead of the RIT-T process will deliver the desired outcomes. Having an AACE Class 3 or better cost estimate and real project timelines with strict deadlines is standard practice amongst our members.

In practice, from our observations to date, Early Works CPA is simply another form of accelerated depreciation for the TNSP. The proposed rule change is likely to increase the amount and timing of costs brought forward.

We are pleased, that the Commission are proposing to insert clauses in the NER that define these outcomes, although the current drafting does not guarantee the desired outcomes as the drafting is vague, e.g. *"improving the accuracy of cost estimates for that project"*, where the definition of "improving" is subjective and without specifications of the level of accuracy expected.

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<sup>1</sup> <https://web.aacei.org/>

We are concerned that releasing money earlier for ISP Contingent Projects through earlier CPAs means more up-front costs for consumers, many years ahead of the benefits being realised. Our members are split on this issue, with some happy to pay costs now if it **guarantees** a lower consumer cost overall, while others would prefer to begin paying for ISP Contingent Projects only when the benefits begin to be realised. The current drafting of the proposed rule change achieves neither of these objectives.

Further, the CPA process effectively accelerates depreciation by bringing forward cost recovery. TNSPs advise that accelerated depreciation improves financeability, and thus it's only logical that so too should early works. However, this has not been the case to-date. Our observations of early works after the RIT-T has done nothing to improve financeability. We have reservations that the proposed earlier works prior to completion of a RIT-T will achieve improved financeability without very specific requirements in the NER. But, it will transfer more risk and costs to consumers.

We are also concerned that the current ISP process does not involve an independent ex-post review to confirm that the benefits suggested at the ISP and RIT-T stages are actually realised as expected, once the project is completed. Having this ex-post review for both the ISP and individual projects would give us more confidence as consumers that the ISP and RIT-T process for ISP Contingent Projects are valid in the benefits that they describe, and therefore for the early release of funds through the CPA process. Ex-post reviews could be performed now on the Eyre Peninsula Link and other minor upgrades (VNI minor, QNI minor etc), and in the next 12 months on PEC stage 1. These ex-post reviews would provide important information to all current Actionable Projects and future RIT-T and CPA processes. Ex-post reviews are standard practice for all projects in industry and amongst our member organisations.

We also have concerns with the implementation of the definition of the early works:

*“(d1) In assessing whether to approve the costs of early works for an actionable ISP project where that project has not been the subject of a completed regulatory investment test for transmission, the AER must have regard to whether the:*

- (1) early works are common to all ISP candidate options and any other options that would be identified in a regulatory investment test for transmission for the actionable ISP project; and*
- (2) outcome of the early works can be sold or utilised to support other projects.”*

While we commend the Commission on the definitions, there is no clause to prevent “double dipping”, i.e. the TNSP can purchase the items, recover part or all of the cost from consumers, and then on-sell the items to another project (either internally or with another ISP) without the need to reimburse consumers. With a transfer of asset internally, we would expect the asset value to be deducted from the project receiving the items, as the TNSPs customers are already paying for the items. When sold to another TNSP, we would expect reimbursement to the customers and the cost to be transferred to the purchasing TNSP for their customers to pay.

We also support the Commission’s proposal to allow AEMO to define recommended preparatory and/or early works in the ISP, however these recommended activities must have measurable benefits to consumers and not be made to meet the requests of the Energy and Climate Ministerial Council and the jurisdictional Governments. The make-up of these preparatory and early works also needs to be defined to limit the proposed works by AEMO. While the draft rule change has a definition for early works, none exists in the NER for preparatory works.

Lastly, we are supportive of the Commission's proposal to delay its ISP process review until 2027, given the many ISP reforms that have taken place in the last 12 months and further reforms to take place during 2024 and 2025. To perform a complete review of the ISP process in 2025 does not make sense. However, we would encourage the Commission to perform a shorter interim review of the ISP process in 2025, to provide consumers with confidence in the ISP including an update on the current reforms as they are implemented.

## OUR PROPOSED APPROACH TO EARLY WORKS

As discussed above, we support the objectives of the proposed rule change, but consider that it will not deliver an outcome that is tangibly or measurably different to the existing outcome. Tangible and measurable differences are what are needed to gain consumer support.

Given our experiences to-date with CPA processes, any future CPA works, whether after, during or prior to the RIT-T must deliver the following:

- The TNSP must provide timelines for the RIT-T and early works
- The cost estimate must be an AACE Level 3 or better;
- Must include robust and genuine community consultation
- Must include an ex-post review of the benefits of both the early works and the project as a whole and compared to the claims in the RIT-T and CPA's
- As the early works "will improve cost estimates and reduce time delays", cost escalations and time delays (that the TNSP can manage) must be capped, and the risk carried by the TNSP
- That any CPA costs recovered from consumers is reimbursed and/or re-allocated should the project not proceed and the early works are transferred to another project

We believe that these requirements should be reflected in the NER.

## PROPOSED WORDING OF NER CLAUSES

To accommodate the above discussions, we propose the following amendments to the proposed drafting of the rule change:

*(d1) In assessing whether to approve the costs of early works for an actionable ISP project where that project has not been the subject of a completed regulatory investment test for transmission, the AER must have regard to ~~whether the:~~*

- (1) the timeline of the early works and the regulatory investment test for transmission in the context of the project's optimum delivery date in the ISP;*
- (2) the level of improvement in the cost estimate as defined by AACE or equivalent (with a minimum of AACE Level 3 or equivalent required);*
- (3) the level of community engagement during the early works;*
- (4) the TNSP's commitment to an ex-post review of the project benefits against the benefits defined in the CPA and RIT-T*
- (5) that any assets purchased as part of early works are transferrable:*

- (i) early works are common to all ISP candidate options and any other options that would be identified in a regulatory investment test for transmission for the actionable ISP project; ~~and~~*
- ~~(2)~~ (ii) outcome of the early works can be sold or utilised to support other projects; and*
- (iii) if early works are sold or transferred, TNSPs must legally commit to either reimburse consumers and/or transfer the cost to the other project.*

### **early works**

*Activities undertaken by a Transmission Network Service Provider in respect of an actionable ISP project:*

*(a) prior to the construction of the preferred option; and*

*(b) which:*

*(i) improve the accuracy of cost estimates for that project to at least an AACE Level 3 equivalent or better; ~~and~~*

*(ii) facilitate that project being delivered within the timeframes specified by the most recent Integrated System Plan.*

*(c) Noting that where early works were approved, actual project costs above 20% of the estimate, or costs associated with time delays of greater than 6 months will be at the TNSPs risk and will not be transferred or reimbursed from consumers.*

## **CONCLUDING REMARKS**

All TNSPs are Corporate Partners of the EUAA and we are members of their respective customer panels. We appreciate that transmission assets have become significantly more difficult to develop (and more expensive) than we had hoped or expected. We are not saying any of this is easy. Equally, we do not want to see risks moved from project proponents to consumers who have no means at all of managing these risks. Consumers simply can't be expected to carry the entire burden of the transition to net zero.

In this regard we encourage all TNSPs to engage with consumers and state and federal governments about a more equitable, shared funding model that will help shield energy consumers from significant cost increases over the coming 10-15 years of the "messy middle" of the energy transition.

We have seen a number of projects receive early works packages through the CPA process after the RIT-T and have been disappointed that there have been very little, if any, real benefits for consumers of the early works. What we have seen is benefits to the TNSPs through the ability to charge consumers earlier, however the TNSP lauded benefit of improved financeability has also not been delivered to-date. We have expressed this to the relevant TNSPs.

In order for early works to be brought forward, the benefits need to be tangible and measurable. We believe our proposed changes to the drafting of the proposed rule change will deliver a better outcome for TNSPs, communities and consumers.

We consider that providing the ability for AEMO to propose preparatory and/or early works in the ISP is an improvement, but consider the boundary of these definitions needs to be defined to prevent over-reach.

Lastly, we support the Commissions delay of the ISP Process Review to 2027, however encourage the Commission to perform an Interim ISP Process Review to the current timelines to provide consumers with confidence.

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



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