



26 October 2012

OFFICE OF THE CHIEF EXECUTIVE

Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Attention: Richard Khoe

Dear Richard

ERC0134/ERC0135/GRC0011
Savings and Transitional Arrangements - Economic Regulation of NSPs

This submission is made in response to the AEMC's Consultation Paper, released 14 September 2012.

The AEMC's paper proposes arrangements to transition network service providers (NSPs) to the new Rules on the Economic Regulation of NSPs. Powerlink understands that the AEMC's key concern is to establish transitional arrangements that will facilitate application of the new Rules (to be determined in November 2012) to all service providers as soon as possible, mindful that a number of regulated businesses are due to commence their regulatory review processes with the Australian Energy Regulator (AER) in 2013.

Based upon discussions with the AEMC and AER, Powerlink also understands that in relation to:

- *Guidelines* - the AER is required to develop a number of key Guidelines in a very short timeframe (for example, the Rate of Return Guideline must be made by 30 November 2013 and Capex Incentive Guideline by 30 August 2013). To allow active participation in this process by NSPs in particular and, to allow NSPs to have regard to these Guidelines when preparing their regulatory proposals, there is support for clearing the regulatory reset schedule in 2013. This would result in a delay to commencement of the regulatory determination process for NSPs due to submit in 2013 by a year;
- *1-year delay* - a one-year delay to the determination process for the seven NSPs due to submit in 2013 will have consequential congestion and AER resourcing impacts in relation to the nine NSP regulatory proposals due for submission after 2013. To avoid this overlap, the AEMC proposes that the NSPs due to submit after 2013 (but before end May 2016), also have their next full regulatory periods delayed by a year;
- *two determinations* - there is significant concern amongst industry and the AER about the AEMC's proposal that the AER make two determinations in a short period of time for each regulated business to transition to the new Rules. That is, a determination for a one year period and determination for x-number of years soon after to achieve full transition to the new Rules. To address these concerns, TransGrid proposed an alternative model which involves the concept of a placeholder revenue for the transitional year and a 'true up' mechanism for the transitional year as part of the AER's full regulatory determination process; and

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- *alignment of TNSP resets* – there is some flexibility to permit the AER to set the length of the next full regulatory period at less than five years (or greater than five years in the case of Powerlink) with the agreement of the relevant NSPs. While the AEMC and AER are open to exploring the option of aligning electricity TNSP regulatory periods, as proposed in the AEMC's Second Interim Report on the Transmission Frameworks Review, this is clearly a second order issue. However, to the extent alignment for the electricity TNSP regulatory determination processes is sought, timing consistent with ElectraNet's 2018/19 to 2022/23 regulatory period would present the optimal opportunity from an AER resourcing perspective.

Powerlink's current regulatory period ends on 30 June 2017. In the interim, the AEMC is expected to make its Final Rule Determination on the transitional arrangements in mid November 2012, the AER will undertake consultation on and finalise all the regulatory Guidelines required to be put in place under the new Rules in 2013 and, a number of the regulated businesses will undergo the transitional arrangements in potentially varying forms. As a result, much of the current uncertainty surrounding the details of these arrangements as they apply to the network businesses supposed to submit in 2013 will be resolved. This may include, for example, information requirements, the detailed nature of the 'true-up' process and practical application of the new Rules processes for transmission, such as the Framework and Approach process.

Further, given the urgency to discuss and address such matters in relation to the NSPs required to lodge regulatory proposals in 2013 and near years thereafter under the current timeframes, Powerlink and the AER have had very little opportunity to talk through and clearly understand the precise nature of the arrangements as they might apply to Powerlink's next regulatory determination process in 2016. This includes the issue of alignment of resets.

Within this context, Powerlink is cautious about locking in arrangements applicable to its next regulatory reset at this time. The outcomes of a number of key processes that will significantly inform any transition that may be required to either manage AER resources or align TNSP regulatory period are not known at this time but will be by the time Powerlink's next revenue proposal is due. Therefore, at this time, Powerlink requests that the AEMC allow sufficient flexibility in the transitional Rules to allow Powerlink and the AER to agree and adopt a different timing for its next regulatory period which is currently scheduled to commence on 1 July 2017 to 30 June 2022. Such agreement could be required to be made by, for example, 30 June 2015.

Notwithstanding this, Powerlink recognises and supports the AEMC's intention to transition to the new Rules as soon as possible and to allow the AER sufficient time to properly prepare, consult on and finalise any Guidelines required under the Rules. It is also important that all stakeholders have adequate opportunity to engage in the Guidelines and regulatory reset processes.

If you have any queries in relation to this submission, please contact Jennifer Harris on (07) 3860-2667 or via email at jharris@powerlink.com.au.

Yours sincerely



Merryn York
CHIEF EXECUTIVE