

# **ElectraNet: Request for the Australian Energy Market Commission to make a Rule to allow Transmission Network Service Providers to seek the earlier application of the network capability component of the Service Target Performance Incentive Scheme**

## **1 Introductory matters**

### **1.1 Name and address of the person making the request**

ElectraNet lodges this request for the Australian Energy Market Commission (AEMC) to make a Rule pursuant to section 91 of the National Electricity Law (Law).

The name of the person lodging this request is: Mr Rainer Korte, Executive Manager Asset Management, ElectraNet.

The address of the person making this request is: 52-55 East Terrace, Rymill Park, Adelaide, South Australia 5000.

### **1.2 Short description of the Rule that is proposed to be made**

The request relates to the making of a Rule that would allow a transmission network service provider (**TNSP**) to seek the early application of a component of the current version of the service target performance incentive scheme (**STPIS**), being the network capability component, notwithstanding that the regulatory control period (or part thereof) in respect of which the TNSP may be seeking the network capability component to apply has already commenced.

ElectraNet considers that this Rule request may be able to be dealt with by the AEMC on a relatively expeditious basis because the Australian Energy Regulator (**AER**) has already conducted a consultation on the early application of the component, and has issued draft and final decisions outlining the benefits that it considers early application would have. Specifically the AER has concluded that the early application of the network capability component would support the achievement of the national electricity objective.<sup>1</sup> Further, the AEMC has considered issues similar to those raised in this proposal when it made a Rule which allowed TNSPs to seek the earlier application of the market impact component of the STPIS in 2010.

## **2 Background**

### **2.1 The STPIS and amendments since August 2007**

Clause 6A.7.4(a) of the National Electricity Rules (**Rules**) requires the AER to develop and publish an incentive scheme or schemes (service target performance incentive scheme, or STPIS) that comply with a number of principles, including:

- that the STPIS should provide incentives for each TNSP to:
  - provide greater reliability of the transmission system that is owned, controlled or operated by it at all times when transmission network users place greatest value on the reliability of the transmission system;
  - improve and maintain the reliability of those elements of the transmission system that are most important to determining spot prices; and

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<sup>1</sup> AER, Service Target Performance Incentive Scheme for Transmission Businesses: Early Application of Version 4 – Final Position, December 2013, p 11.

- that the STPIS should result in a potential adjustment to the revenue that the TNSP may earn, from the provision of prescribed transmission services, in each regulatory year in respect of which the STPIS applies.<sup>2</sup>

The AER made the first STPIS pursuant to clause 6A.7.4 in August 2007. This STPIS had only one component to it, being a service component relating to:

- transmission circuit availability;
- loss of supply event frequency; and
- average outage duration.<sup>3</sup>

The STPIS was amended in March 2008, March 2011 and, most recently, in December 2012.

The March 2008 amendment introduced a new element to the STPIS, being the market impact component, which provides an incentive for TNSPs to minimise the market impact of outages.<sup>4</sup> Therefore, following the March 2008 amendment, the STPIS had two components, being the service component and the market impact component.

Following the introduction of the market impact component in the STPIS, a Rule change request was made to the AEMC to allow TNSPs to apply for the implementation of the market impact component in circumstances where they were part-way through their regulatory control period. The AEMC responded to the request by making a preferable Rule which allowed TNSPs the opportunity to apply for the early implementation of the market impact component of the STPIS.<sup>5</sup> A specific Rule was required to be made in order to permit the implementation of the market impact component of the STPIS because the Rules, at that time, contained a clause which in effect operated to prevent the application of any revision of the STPIS to be made within 15 months of the commencement of a regulatory period. Up until 28 November 2012, clause 6A.7.4(f) of the Rules provided:

The AER may, from time to time and in accordance with the *transmission consultation procedures*, amend or replace any scheme that is developed and published under this clause, except that no such amendment or replacement may change the application of the scheme to a *Transmission Network Service Provider* in respect of a *regulatory control period* that has commenced before, or that will commence within 15 months of, the amendment or replacement coming into operation.<sup>6</sup>

Following the making of Rules that commenced on 29 November 2012 relating to the economic regulation of network service providers, clause (f) was deleted from clause 6A.7.4.<sup>7</sup>

The March 2011 amendment to the STPIS primarily amended parameters and definitions specifically applicable to Powerlink.<sup>8</sup>

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2 Clause 6A.7.4(b)(1) and (2).

3 AER, Service Target Performance Incentive Scheme: Electricity Transmission Network Service Providers – Final, August 2007 (version 1), p 3.

4 AER, Service Target Performance Incentive Scheme (Incorporating Incentives based on the Market Impact of Transmission Congestion): Electricity Transmission Network Service Providers, March 2008, p 2.

5 AEMC, National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010: Rule Determination, 11 March 2010.

6 Version 52 of the Rules.

7 National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012, No. 9, Schedule 2, [51].

The amendments to the STPIS made in December 2012 added a third component to the STPIS, being the network capability component, together with amendments to the existing service and market impact components. This version of the STPIS as amended in December 2012 is version 4. Details on the network capability component of the STPIS are set out in the next section.

As noted above, this Rule proposal relates only to the early application of the network capability component of the STPIS.

## 2.2 The network capability component of the STPIS

The network capability component of the STPIS provides an incentive of 1.5 per cent of maximum allowed revenue subject to completion of projects that improve the capability of the transmission network at times most needed.<sup>9</sup> The explanatory material accompanying the amendment to the STPIS described the network capability component as being designed to influence a TNSP's operation and management of its network assets to develop one-off projects that can be delivered through low cost operational and capital expenditure, up to a total of one per cent of the proposed maximum allowed revenue per year.<sup>10</sup>

The application of the STPIS to a TNSP requires the development by the TNSP of a Network Capability Incentive Parameter Action Plan (**NCIPAP**) which:

- identifies for every transmission circuit or injection point on the TNSP's transmission network, the reasons for the limit for each transmission circuit or injection point; and
- proposes the priority projects (being a project that is likely to result in a material benefit to customers or wholesale market outcomes<sup>11</sup>) to be undertaken in the regulatory control period to improve the limit of the transmission circuits and injection points through operational and / or minor capital expenditure projects and sets out:
  - the total operational and capital cost of each priority project,
  - the proposed value of the priority project improvement target in the limit for each priority project;
  - the current value of the limit for the transmission circuits and / or injection points which the priority project improvement target is seeking to improve; and
  - the ranking of the priority projects in descending order based on the likely benefit of the priority project on customers or wholesale market outcomes.
- The average total expenditure of the priority projects outlined in each regulatory year must not be greater than one per cent of the TNSP's average maximum

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<sup>8</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final Decision, March 2011, p 3.

<sup>9</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, pp 11 – 16.

<sup>10</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final Decision, December 2012, p 5.

<sup>11</sup> See definition of "priority project" in the Glossary: AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 20.

allowed revenue proposed in its revenue proposal for the regulatory control period.<sup>12</sup>

The STPIS requires that the priority project improvement target must result in a material benefit.<sup>13</sup>

A TNSP is required to consult with the Australian Energy Market Operator (**AEMO**) prior to submitting the NCIPAP to the AER. This consultation is required to cover:

- whether there is potential for co-ordinated projects with other TNSPs;
- whether the proposed priority project improvement targets for its projects will result in a material benefit;
- which projects should be classified as priority projects based on their likely benefit to consumers or wholesale market outcomes; and
- the ranking of the priority projects.<sup>14</sup>

The STPIS requires that the cost of the proposed priority projects must not be included in:

- the total forecast operating expenditure proposed by the TNSP in its revenue proposal to meet the operating expenditure objectives under clause 6A.6.6 of the Rules; or
- in the total forecast capital expenditure proposed by the TNSP in its revenue proposal to meet the capital expenditure objectives under clause 6A.6.7 of the Rules.<sup>15</sup>

### **2.3 AER's consideration of the early application of the network capability component of the STPIS**

It was ElectraNet's view that there was nothing in the Rules or the STPIS that would operate to prevent the application of the network capability component specifically to ElectraNet in respect of the last four years of the current regulatory control period.

To this end, in March 2013, ElectraNet notified the AER that, consistent with the position it had set out in its revised Revenue Proposal, ElectraNet proposed to lodge an application with the AER for participation in the network capability component of the STPIS from 1 July 2014, so that it would apply for years 2 to 5 of the 2013-2018 regulatory control period. On 29 May 2013, ElectraNet wrote to the AER to confirm the basis on which the network capability component of the STPIS may be applied to ElectraNet during the regulatory control period applying to ElectraNet, being 1 July 2013 to 30 June 2018.

In August 2013, the AER published a draft decision on the early application of version 4 of the STPIS to a number of TNSPs, including ElectraNet (**Draft Decision**).<sup>16</sup> The

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<sup>12</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.2(b).

<sup>13</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.2(c).

<sup>14</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 12, clause 5.2(h).

<sup>15</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 13, clause 5.2(q).

AER's Draft Decision was that TNSPs would be allowed to opt-in to the network capability component of the STPIS in the current regulatory control period, with effect from 1 July 2014.<sup>17</sup>

The AER sought submissions from interested parties on the Draft Decision. The submissions made to the Draft Decision did not raise any issue or concern with the application of the network capability component to ElectraNet from 1 July 2014. AEMO made a submission which noted that projects that ElectraNet might undertake pursuant to the network capability component should be projects over and above those that a prudent TNSP would carry out during the ordinary course of managing their network and that AEMO would need to work closely with ElectraNet in terms of assessing the proposed projects.<sup>18</sup>

Despite the Draft Decision that the Rules permitted the early application of the network capability component to TNSPs, the AER's final position on the application of version 4 of the STPIS is that the Rules operate to prohibit the AER from applying the network capability component of the STPIS to TNSPs where the relevant regulatory control periods for those TNSPs have already commenced.<sup>19</sup> In its final position paper the AER concluded that the Rules only permit the AER to apply a revised STPIS to a TNSP as part of a revenue determination process, as the AER's decision on the values of the STPIS parameters proposed in the Revenue Proposal or revised Revenue Proposal forms part of the TNSPs' revenue determination for the regulatory control period.<sup>20</sup>

Although ElectraNet considers that the Rules do permit the application of the network capability component to ElectraNet from 1 July 2014, ElectraNet also recognises that alternative views may be taken on the issue. Therefore, ElectraNet requests that the AEMC make a Rule which explicitly allows TNSPs to seek early application of the network capability component of the STPIS to remove any ambiguity over this ability under the Rules.

### **3 Statement of the nature and scope of the issue that is proposed to be addressed and an explanation of how the proposed Rule would address the issue**

The nature of the issue that is proposed to be addressed by the proposed Rule is to permit TNSPs to seek application of the network capability component of version 4 of the STPIS earlier than would otherwise be permitted as a result of the application of clause 6A.7.4(f) of the Rules (prior to its removal from the Rules in November 2012) and / or because the regulatory control period in respect of which a TNSP is seeking the network capability component to apply has already commenced.

The scope of the issue that is proposed to be addressed is very narrow. The proposed Rule is confined to permitting TNSPs to seek early application of the network capability component of the STPIS.

ElectraNet has not sought a Rule that would provide generally for the early application of components of a revised STPIS. ElectraNet considers that such issues are

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<sup>16</sup> AER, Service Target Performance Incentive Scheme for TNSPs – Early Application of Version 4: Draft Decision, August 2013.

<sup>17</sup> AER, Service Target Performance Incentive Scheme for TNSPs – Early Application of Version 4: Draft Decision, August 2013, p 4.

<sup>18</sup> Letter from AEMO (David Swift, Executive General Manager, Corporate Development) to AER (Tom Leuner, General Manager, Wholesale Markets Branch), 30 September 2013.

<sup>19</sup> AER, Service Target Performance Incentive Scheme for Transmission Businesses: Early Application of Version 4 – Final Position, December 2013, p 11.

<sup>20</sup> AER, Service Target Performance Incentive Scheme for Transmission Businesses: Early Application of Version 4 – Final Position, December 2013, p 10.

appropriately dealt with on a case-by-case basis. This is consistent with the AEMC's position in its March 2010 determination on the Rule which dealt with the early application of the market impact component of the STPIS.<sup>21</sup> There the AEMC noted that should TNSPs wish for a future change to the implemented early, a Rule change request may be raised which would allow for any potential impacts to be appropriately assessed at that time.<sup>22</sup> The AEMC noted that the Rule change process would ensure that any potential impacts would be appropriately assessed given that future changes could change existing obligations (as opposed to introducing a new provision).<sup>23</sup>

ElectraNet also only seeks a Rule that applies to the network capability component of the STPIS and not the other revisions made in version 4 of the STPIS to the other two components, the service and market impact component, for the following reasons:

- the application of the revisions to the service and market impact components that were made in version 4 of the STPIS would require amendments to transmission determinations that have already been made as the values for these performance incentive scheme parameters are set out in final transmission determinations. ElectraNet considers that it would be inconsistent with regulatory certainty to revisit values that have been approved as part of a regulatory determination process; and
- the setting of revised targets, caps and collars to apply to the service component of the STPIS would require significant consideration by TNSPs, the AER and other stakeholders, which is best undertaken during the revenue determination process.<sup>24</sup>

The making of the proposed Rule would not result in the re-opening of revenue determinations that have already been made. This includes because where the AER makes a final decision to permit the early application of the network capability component to a TNSP, the application of this component would not require any amendments to the contents of existing transmission determinations as such determinations do not include any parameters that are relevant to the component.<sup>25</sup> Further, as the projects that would be approved by the AER to be undertaken pursuant to the network capability component could only be projects that do not already form part of approved forecast operating or capital expenditure, no adjustment is required to any approved forecast amounts in the AER's final transmission determination (including the AER's final decision on the maximum allowed revenue for the TNSP for each regulatory year of the regulatory control period).<sup>26</sup>

Specifically in ElectraNet's case, ElectraNet's Revenue Proposal of May 2012 included a number of projects which satisfy the AER's criteria of low cost operational / minor capital works to increase network capability. In its draft decision on ElectraNet's Revenue Proposal of November 2012, the AER proposed to disallow funding for these initiatives, noting the proposed introduction of the network capability component of the

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<sup>21</sup> AEMC, National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010: Rule Determination, 11 March 2010, p i.

<sup>22</sup> AEMC, National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010: Rule Determination, 11 March 2010, p 20.

<sup>23</sup> AEMC, National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010: Rule Determination, 11 March 2010, p 20.

<sup>24</sup> This was also the AER's view expressed in its Draft Decision on the application of the network capability component to ElectraNet from 1 July 2014: AER, *Service Target Performance Incentive Scheme for TNSPs – Early Application of Version 4: Draft Decision*, August 2013, p 26.

<sup>25</sup> This can be contrasted to the other two components of the STPIS, being the service and market impact components. Transmission determinations contain specific parameters (targets, caps, collars and weightings) for these two parameters. See for example, AER, *ElectraNet Transmission Determination 2013-14 to 2017-18*, April 2013, pp 5-6.

<sup>26</sup> See clause 5.2(q) of version 4 of the STPIS which provides that the cost of the proposed priority projects must not be included in the total forecast operating or capital expenditure proposed by the TNSP in its revenue proposal.

STPIS.<sup>27</sup> Consequently, ElectraNet removed all such projects from the revised expenditure forecasts in its revised Revenue Proposal lodged in January 2013.<sup>28</sup>

The Rule, if made, would be a one-off change given that the network capability component is a new provision (as opposed to an existing provision being amended) and that the early implementation will be applied prospectively. That is, the ability for TNSPs to apply for the earlier implementation of the network capability component only applies to version 4 of the STPIS.

To allow the network capability component of the STPIS to be implemented earlier, an application and assessment process would need to be established to provide for TNSPs to make applications and to provide for the AER to undertake an assessment.

The proposed Rule, if made, would apply to all TNSPs. However, in effect, a limited number of TNSPs may seek the earlier application of the network capability component of the STPIS pursuant to the proposed Rule because:

- in the case of the Victorian TNSP (SP AusNet), its next regulatory period commences on 1 April 2014 and version 4 of the STPIS will apply to it during that regulatory period;
- in the case of the NSW and Tasmanian TNSPs (TransGrid and Transend), the AER has determined that the network capability component will apply to TransGrid and Transend from the commencement of the transitional year (1 July 2014);<sup>29</sup>
- Murraylink, whose regulatory control period commenced, similarly to ElectraNet, on 1 July 2013, and Directlink, whose current regulatory control period will end on 30 June 2015, are not eligible to participate in the network capability component of the STPIS;<sup>30</sup> and
- the Queensland TNSP, Powerlink, is in the second year of its regulatory control period which commenced on 1 July 2013, and has submitted to the AER that the transmission determination made in respect of its current regulatory control period already includes expenditure allowances for a number of capital and operational projects which meet the AER's criteria of low cost operational/ minor capital works to increase network capability.<sup>31</sup>

#### **4 Explanation of how the proposed Rule will or is likely to contribute to the achievement of the national electricity objective**

In making version 4 of the STPIS, the AER considered that it was appropriate to introduce a network capability incentive to promote efficient levels of network capability from existing assets when most needed.<sup>32</sup> The AER considered that TNSPs are best

<sup>27</sup> AER, ElectraNet Transmission Determination 2013-14 to 2017-18: Draft Decision, pp 140, 155, 285-286.

<sup>28</sup> ElectraNet, ElectraNet Transmission Network: Revised Revenue Proposal 1 July 2013 – 30 June 2018, 16 January 2013, p 106.

<sup>29</sup> The AER has indicated that version 4 of the STPIS will apply to Transend and TransGrid from the start of the transitional year, with the exception of the existing service component which will continue to apply to Transend and TransGrid in the transitional year, with the service component of version 4 applying from the second year of their respective upcoming regulatory control periods. AER, *Service Target Performance Incentive Scheme for Transmission Businesses: Early Application of Version 4 – Final Position*, December 2013, p 16.

<sup>30</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, clause 2.2(a), p 5.

<sup>31</sup> Letter from Powerlink (Merryn York, Chief Executive) to AER (Tom Leuner, General Manager, Wholesale Markets Branch), 24 September 2013.

<sup>32</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final Decision, December 2012, p 23.

placed to identify the limitations on their networks which can be addressed through low cost measures and that they should be provided with an incentive to do so.<sup>33</sup> Further, that under the regulatory arrangements that existed prior to the introduction of the network capability component, TNSPs had not been provided with an incentive to address limitations on their networks that can be addressed through low cost measures, rather, the arrangements rewarded TNSPs for undertaking major capital expenditure to meet minimum reliability standards.<sup>34</sup>

As noted above, the network capability component of the STPIS developed by the AER provides for a TNSP to submit a NCIPAP to the AER which has been developed in consultation with AEMO.<sup>35</sup> The NCIPAP outlines the key network capability limitations on each transmission circuit or load injection point on the TNSP's network and includes a list of priority projects proposed by the TNSP to improve, through operational and / or minor capital expenditure, the network capability for some of the circuits or injection points.<sup>36</sup> In the NCIPAP, the TNSP is also required to rank the projects based on the likely benefit of the projects to customers or wholesale market outcomes in descending order.<sup>37</sup>

The AER is required to approve priority projects in the NCIPAP if they are consistent with the requirements in the STPIS.<sup>38</sup> Under the network capability component, the TNSP receives an incentive payment equivalent to 1.5 per cent of its maximum allowed revenue to fund projects outlined in the NCIPAP in each year apart from the final year of the regulatory control period.<sup>39</sup> In the final year of the regulatory control period, the incentive payment is 1.5 per cent of maximum allowed revenue less any reductions made by the AER for failing to achieve priority project improvement targets (with the lowest incentive payment being a negative incentive payment of -2.0 per cent of its maximum allowed revenue for the final year of the regulatory control period).<sup>40</sup>

The national electricity objective is as follows:

The objective of this Law is to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to —

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.<sup>41</sup>

In ElectraNet's specific circumstances, ElectraNet has identified a number of projects that, as noted by the AER in its draft decision on ElectraNet's Revenue Proposal, are projects that would come within the network capability component of the STPIS. As the

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<sup>33</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final Decision, December 2012, p 23.

<sup>34</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final Decision, December 2012, p 23.

<sup>35</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 12, clause 5.2(h).

<sup>36</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.2(b).

<sup>37</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.2(b).

<sup>38</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.2(k).

<sup>39</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.3(a).

<sup>40</sup> AER, Electricity Transmission Network Service Providers Service Target Performance Incentive Scheme: Final, December 2012, p 11, clause 5.3(c).

<sup>41</sup> Section 7, National Electricity Law.

transmission determination applying to ElectraNet in the current regulatory control period does not contain any allowance for these projects, ElectraNet does not have an incentive to undertake those projects as they are essentially unfunded projects during this regulatory period. Further the regulatory incentives that currently apply to ElectraNet operate to penalise ElectraNet for incurring the additional costs associated with the projects identified and so provide a disincentive to undertaking the projects.

Consistent with the criteria in the STPIS, the projects identified by ElectraNet in its NCIPAP will by definition, be required to result in improved capability of those elements of the transmission system most important in determining spot prices or improved capability of the transmission system at times when users place greatest value on the reliability of the transmission system.

Consistent with the requirements of the AER's STPIS, the proposed Rule provides that:

- the relevant TNSP would be required to consult with AEMO in relation to its NCIPAP proposals;
- the relevant TNSP would be required to submit to the AER its proposed NCIPAP for formal assessment against the criteria set out in the STPIS;
- the AER would be required to release the NCIPAP for public consultation and consider submissions received; and
- the AER would be required to issue a formal decision to permit early application of the network capability component to the relevant TNSP and the NCIPAP.

The proposed Rule would also require a TNSP seeking early application of the network capability component to set out in its proposal a description of how the TNSP has engaged with electricity consumers in developing its proposed NCIPAP and how the TNSP has sought to address any relevant concerns identified as a result of that engagement.

ElectraNet therefore submits that bringing forward the application of the incentive to undertake projects that come within the network capability component of the STPIS, will or is likely to contribute to the achievement of the national electricity objective. This is because, by definition, the projects that have been identified promote the long-term interests of consumers with respect to all of the elements listed in subparagraphs (a) and (b) of the objective.

In its Draft Decision on the early application of the network capability component to TNSPs, the AER considered that the national electricity objective would be promoted if early application of the network capability component was permitted. The AER stated:

As outlined in the AER's explanatory statement accompanying draft version 4 of the STPIS, we consider the NCC [network capability component] promotes the NEO [national electricity objective] and economic efficiency by promoting greater value out of transmission networks in the long term. Under the NCC, TNSPs are incentivised to identify the limitations on their networks which can be improved through minor operational and / or capital expenditure for the benefit of users of the network. This promotes economically efficient outcomes through the maximisation of network capability that is valued by customers or improved wholesale market outcomes at least cost. Improved wholesale market outcomes should ultimately be passed onto customers. Thus, the early application of the NCC to TNSPs would promote economic efficiency in the NEM [national electricity market]...

Lastly, the early application of the NCC would promote the NEO as it would be consistent with reliability, safety and security priorities. As outlined by the AER's explanatory statement accompanying the draft version 4 of the STPIS, the NCC incentivises increases in the capability of existing assets in the network when most needed as consistent with clause 6A.7.4 of the Electricity Rules, while maintaining adequate levels of reliability.<sup>42</sup>

The AER confirmed the above position in its final position paper, concluding that:

The AER affirms the initial view as set out in the draft decision document that the early application of the MIC of version 4 and/or the NCC would support the achievement of the NEO.<sup>43</sup>

Subject to considerations of the detail, we would also be supportive of rule change proposals to enable the early application of these components of version 4 of the STPIS to transmission businesses in regulatory control periods that have already commenced.<sup>44</sup>

The AEMC has previously recognised the benefits of bringing forward the application of components of incentive schemes where to do so will allow potential benefits to be realised sooner. The AEMC has indicated that allowing the potential benefits to be realised sooner contributes to promoting economic efficiency.<sup>45</sup>

## **5 An explanation of the expected benefits and costs of the proposed change and the potential impacts of the change on those likely to be affected**

ElectraNet considers that the costs associated with a Rule that would permit the early application of the network capability component to TNSPs are of a relatively minor and administrative nature. There will also be some costs associated with the consultation process with consumers and AEMO on the NCIPAP and the AER's review and approval of the NCIPAP.

There are also costs associated with the incentive payment that would be made under the STPIS. However, as the projects in the NCIPAP must be reviewed by AEMO, approved by the AER and must result in a material benefit, ElectraNet submits that the benefits associated with the projects will, by definition, materially outweigh the costs.

## **6 AEMC's power to make the Rule**

Pursuant to section 34(2) of the Law, the AEMC may make Rules for or with respect to any matter or thing specified in Schedule 1 to the Law.

While a number of items in the Schedule may relate to the Rule that ElectraNet requests the AEMC to make, item 23 is the most relevant. Item 23 specifies the following matter: "Incentives for regulated transmission system operators to make efficient operating and investment decisions including, where applicable, service performance incentive schemes". Other relevant items include 15<sup>46</sup> and 20<sup>47</sup>. The

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<sup>42</sup> AER, Service Target Performance Incentive Scheme for TNSPs – Early Application of Version 4: Draft Decision, August 2013, pp 13 – 14.

<sup>43</sup> AER, Service Target Performance Incentive Scheme for Transmission Businesses: Early Application of Version 4 – Final Position, December 2013, p 11.

<sup>44</sup> AER, Service Target Performance Incentive Scheme for Transmission Businesses: Early Application of Version 4 – Final Position, December 2013, p 4.

<sup>45</sup> AEMC, National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010: Rule Determination, 11 March 2010, p 6.

<sup>46</sup> The matter specified in item 15 is: "The regulation of revenues earned or that may be earned by owners, controllers or operators of transmission systems from the provision by them of services that are the subject of a transmission determination.

AEMC relied on these items in finding that the Rule that it made in March 2010 relating to the early implementation of the market impact component came within the subject matter about which the AEMC may make Rules.<sup>48</sup>

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<sup>47</sup> The matter specified in item 20 is: “The economic framework, mechanisms or methodologies to be applied or determined by the AER for the purposes of items 15 and 16 including (without limitation) the economic framework, mechanisms or methodologies to be applied or determined by the AER for the derivation of the revenue (whether maximum allowable revenue or otherwise) or prices to be applied by the AER in making a transmission determination”.

<sup>48</sup> AEMC, National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010: Rule Determination, 11 March 2010, p 5.

## Proposed drafting

### National Electricity Amendment (Early Implementation of Network Capability Incentive Parameter) Rule 2014 No. [X]

#### 1. Title of Rule

This Rule is the National Electricity Amendment (Early Implementation of Network Capability Incentive Parameter) Rule 2014 No. [X].

#### 2. Commencement

This Rule commences operation on [X] 2014.

#### 3. Amendment of the National Electricity Rules

The National Electricity Rules are amended as set out in Schedule 1.

#### Schedule 1 Amendment of the National Electricity Rules

#### Chapter 11 Savings and transitional rules

#### Part [X] Early Application of Network Capability Incentive Parameter

#### X.X Rules consequent on the making of the National Electricity Amendment (Early Implementation of Network Capability Incentive Parameter) Rule 2014

#### X.X.x Definitions

For the purposes of this Rule [X]:

**Amending Rule** means the National Electricity Amendment (Early Implementation of Network Capability Incentive Parameter) Rule 2014.

**Commencement date** means the day on which the Amending Rule commences operation.

**Priority project** has the meaning set out in the glossary to version 4 of the *service target performance incentive scheme*

**Version 4 of the service target performance incentive scheme** means version 4 the *service target performance incentive scheme* dated December 2012.

#### X.X.x Purpose

The purpose of this rule X.X is to allow certain *Transmission Network Service Providers* to seek the earlier application of the network capability component of version 4 of the *service target performance incentive scheme*

from the *AER* notwithstanding that the *regulatory control period* in respect of which the network capability component of version 4 of the *service target performance incentive scheme* may apply pursuant to this rule has already commenced.

#### **X.X.x**

#### **Early application of the network capability component of the version 4 of the service target performance incentive scheme**

- a) A *Transmission Network Service Provider* may seek the earlier application of the network capability component of version 4 of the *service target performance incentive scheme* if, as at the commencement date, version 4 of the *service target performance incentive scheme* did not apply to that *Transmission Network Service Provider*.
- b) A *Transmission Network Service Provider* may seek the earlier application of the network capability component of version 4 of the *service target performance incentive scheme* notwithstanding that the *regulatory control period* applying to the *Transmission Network Service Provider* may have commenced before the commencement date, provided that as at the commencement date, the *regulatory control period* has not ended.

#### **Submission of proposal**

- c) If a *Transmission Network Service Provider* seeks the earlier application of the network capability component of version 4 of the *service target performance incentive scheme* than otherwise permitted (other than as permitted pursuant to this Amending Rule), the *Transmission Network Service Provider* must submit a proposal to the *AER* setting out:
  - 1) its proposed start date;
  - 2) if relevant, information on whether the *Transmission Network Service Provider* can apply the network capability component of version 4 of the *service target performance incentive scheme* earlier than the proposed start date;
  - 3) its network capability incentive parameter action plan (NCIPAP) covering the applicable period that sets out the matters referred to in clause 5.2(b) of version 4 of the *service target performance incentive scheme*; and
  - 4) a description of how the *Transmission Network Service Provider* has engaged with electricity consumers in relation to its NCIPAP and how the *Transmission Network Service Provider* has sought to address any relevant concerns identified as a result of that engagement.
- d) Prior to submitting the NCIPAP to the *AER*, the *Transmission Network Service Provider* seeking the earlier application of the network capability component of version 4 of the *service target performance incentive scheme* must consult with *AEMO* with respect to the matters set out in clause 5.2(h) of version 4 of the *service target performance incentive scheme*.

- e) A *Transmission Network Service Provider's* proposal under paragraph (c) must be submitted at least 60 *business days* prior to the proposed start date.

#### **Publication and consultation on proposal**

- f) The *AER* must, as soon as practicable *publish*:
  - 1) the proposal submitted pursuant to paragraph (c); and
  - 2) an invitation for written submissions from any person on the proposal within a period specified by the *AER*, being a period not less than 20 *business days* from the date of publication of the invitation for submissions.

#### **Making of final decision**

- g) Subject to clause 6A.16(a), the *AER* must consider the proposal submitted under paragraph (c), and any written submissions made on the proposal, in its final decision and must make a final decision in relation to the proposal.
- h) In determining whether to approve a priority project and the ranking of such projects, the *AER* is to apply clauses 5.2(k), (l), (m), (n), (o), (p), and (q) of version 4 of the *service target performance incentive scheme* and is to consider any submissions made pursuant to paragraph (f)(2).

#### **Requirements relating to final decision**

- i) A final decision under paragraph (e) is a decision by the *AER* on:
  - 1) the start date; and
  - 2) the *Transmission Network Service Provider's* priority projects, setting out reasons for the decision.
- j) The *AER* may make a decision on a start date which is different to the proposed start date, provided that the start date is not later than the proposed start date.

#### **Actions performed prior to the commencement date**

- k) Any of the actions set out in paragraphs (c), (d), (e) (f) or (g) that are performed prior to the commencement date are taken, where such actions fulfil the requirements of those paragraphs, to be validly done and to fulfil the respective requirements of those paragraphs notwithstanding they were done prior to the commencement date.