

Mr John Tamblyn  
Chairman  
Australian Energy Market Commission  
Level 16  
1 Margaret Street  
Sydney NSW 2001

Dear Sir

### **AEMC Consultation: Draft National Electricity Amendment (TransGrid Participant Derogation - Treatment of Contingent Projects (Interim Arrangements)) Rule 2006**

Thank you for the opportunity to provide further comments on the abovementioned consultation. TransGrid would like to reiterate a number of points previously made as part of the consultation process to date, as well as take the opportunity to address a number of issues raised in the Australian Energy Regulator's (AER) letter to the AEMC, dated 6 February 2006, on this particular amendment.

In the first instance, TransGrid welcomes AER's agreement that, *"in the absence of a derogation, TransGrid's revenue cap cannot be adjusted to include an allowance for a contingent project until the next re-set"*, which is an appropriate (initial) summation of the issue.

TransGrid is of the view that it is not appropriate to wait for a change in the Rules, given that the Rules will apply to a subsequent regulatory period, and that a new Regulatory Test assessment is expected to be completed by late 2006 for the potential Queensland-NSW Interconnector Upgrade to which this Participant derogation is expected to assist in any likely augmentation as part of a 'contingent project' regime.

TransGrid feels, at this stage of the development of the National Electricity Rules and the delay to the AEMC Chapter 6 Review transmission revenue Rules (including those applying to savings and transitional Rules), that significant uncertainty still remains as to how these issues will be addressed. As a result, TransGrid concurs with AEMC's view that the most effective way to resolve matters with regard to this Rules amendment is through the proposed derogation process<sup>1</sup>.

Furthermore, TransGrid would like to make it clear that it supports regulatory efficiency, and the avoidance of any additional "incentive periods" outside of the main "Regulatory Period". Consequently we support any adjustment made to the Maximum Allowable Revenue calculations being adjusted 'in-period', with a roll-in of the efficient capital and operating expenditure into the Regulatory Asset Base for the relevant 'contingent projects' at the end of the existing regulatory period, and without the need for a separate incentive period on a project-by-project basis<sup>2</sup>.

This would appear to be the most pragmatic approach, and reduce any likelihood of inefficient regulatory burden for the AER and the regulated transmission businesses, namely TransGrid, in this instance. (Such an approach would avoid a multiplicity of revenue reset periods for approved contingent projects)

<sup>1</sup> AEMC Draft Rule Determination - Rule Proposal (Draft National Electricity Amendment (TransGrid Participant Derogation - Treatment of Contingent Projects (Interim Arrangements) Rule 2005) -19 January 2006, page 8.

<sup>2</sup> The AEMC accepted that the Rule change removes uncertainty surrounding investment in contingent projects and avoids the potential complexity of having multiple contingent project incentive periods running concurrently within the next revenue period (page 12).

TransGrid thus recommends that 'contingent projects' be treated in a manner consistent with that of most 'works in progress' style capital expenditure arrangements, as highlighted on page 12 of the AEMC Draft Determination:

*"Clause 8A.1.3 (c) of TransGrid's proposed Rules limits the duration of any incentive period to the end of the current regulatory period. Under this proposed Rule, at the commencement of the next revenue reset, contingent project expenditure (incurred in the current period) is to be treated in the same way [as] capital expenditure incurred under the ex ante expenditure cap".*

This is TransGrid's preferred position as being the best method in achieving the NEM Objective.

TransGrid's specific views in relation to the AER's proposed amendments are as follows:

- TransGrid would be happy to work with the AER in establishing contingent project arrangements with a 'Target Allowed Revenue' and a revised Appendix F of the "Final Decision, NSW and ACT Transmission Network Revenue Cap TransGrid 2004-05 to 2008-09" (27 April 2005) process, which allows the actual/efficient expenditure related to the 'contingent project' regime to be rolled in at the end of the regulatory period. This is preferable to the five-year 'Incentive Period' position taken by the AER due to both the uncertainty and complexity of such arrangements.
- TransGrid remains concerned that AER continues to argue for a five year incentive period (refer to AER submission to AEMC on the Chapter 6 Draft National Electricity Amendment (Economic Regulation of Transmission Service) Rule 2006 [March 2006]). Such arrangements would as *proposed*, involve the AER making intra-regulatory period decisions at a time often highlighted at various forums by the AER where they will be burdened with making determinations on an increasing number of revenue applications across the electricity and gas sectors (post 1 January 2007).

As a result, TransGrid believes it would be prudent for the AEMC to amend the AER proposal to reflect the adoption of the 'Current Regulatory Period' (instead of reference to 'Incentive Period'), where applicable, under the clauses proposed in **Section 8A.1.3 Treatment of Contingent Projects**.

- AER's proposal to extend the life of the derogation to 30 June 2014 (as per **8A.1.1 Expiry Date**) is at odds with AEMC's position, as the AEMC has acknowledged the benefit in not binding the AER or the TNSP to existing regulatory arrangements beyond the current regulatory period in the context where changed Rules would most likely be in force following the AEMC Chapter 6 Review. As a consequence, the proposed AER expiry date may need revision to **30 June 2009**.

With respect to timing, TransGrid is of the firm view that the derogation is required to give legal effect to provisions incorporated in TransGrid's current revenue cap framework. As such, the derogation is relevant for the regulatory control periods covered by that framework, and is linked directly to the expiry of that framework in favour of the new framework, as set out in the Rules for revenue cap regulation currently being developed by the AEMC. It may not be appropriate to have an expiry date for a derogation that does not align with the expiry date of the relevant regulatory framework.

Should you wish to discuss any matters raised in this submission, please feel free to contact Mr Phillip Gall, Manager/Regulatory Affairs, on (02) 9284 3434 or via e-mail [phil.gall@transgrid.com.au](mailto:phil.gall@transgrid.com.au)

Yours sincerely

  
19/4/2006  
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