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Thursday, 30 January 2025

Ms Anna Collyer
Chair
Australian Energy Market Commission
Lodged online: www.aemc.gov.au

Project Ref: ERC0391

Dear Anna,

AEMC's Non-network options draft decision

Transgrid welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) Improving the cost recovery arrangements for Transmission non-network options (**NNO**) draft decision. The AEMC's draft decision seeks to improve cost recovery certainty and timing flexibility for Transmission Network Service Providers (**TNSP**) when they implement a NNO project by amending the processes by which TNSPs seek cost recovery approval from the Australian Energy Regulator (**AER**).

As the NSW TNSP, Transgrid must plan for, build, maintain and operate the backbone of this new grid while meeting our obligations to maintain the safety, reliability and security of the transmission system in accordance with the National Electricity Rules (**NER**). Transgrid is actively pursuing the use of innovative non-network options as alternatives to conventional 'poles and wires' infrastructure to improve energy reliability, reduce delivery times, and reduce costs for consumers.

The level of network support payments, as well as other costs incurred by TNSPs in relation to negotiating and delivering the network support services, is forecast to grow significantly as these solutions become an increasingly important part of the efficient operation of modern transmission systems.

Transgrid supports a number of proposed changes outlined in the AEMC's draft decision. These include:

- Ability for a TNSP to apply to the AER for an ex-ante adjustment of network support allowances within a regulatory control period and approval of a payment methodology.

- Requirement that the AER have regard to an approved methodology when making future determinations. This includes when assessing bespoke payments that a TNSP may have included in the methodology, such as an early termination payment.
- The creation of an AER guideline that provides clarity and detail on the required content for methodologies, including for bespoke payments like early termination, and on applying to set or amend a network support payment allowance.
- Immediate application of the final rule through use of a transitional arrangement.

These fundamental elements outlined in the draft decision will provide the necessary assurance to TNSPs when making NNO investment decisions.

In addition to supporting the above proposed changes, Transgrid would encourage the AEMC to consider the areas outlined below.

1. Threshold wording

The AEMC has stated that *“under the draft rule, the eligibility criteria to use this new process would be defined in an AER guideline, but it is expected to apply to **significant** new projects”*

We understand that the AER will determine, in the new network alternative support payment guideline, the threshold that will need to be met before a TNSP is able to submit an ex-ante application. However, we believe the language that is set out by the AEMC in their draft determination, including the word *significant*, will have a material influence on the AER’s final decision regarding the threshold.

The benefit to consumers from this amendment to the rules is directly tied to whether a TNSP can utilise these new arrangements or not. If the eligibility criteria are limited to only significant new projects, many non-network options will be forced to rely on existing arrangements risking delays or higher costs due to increased regulatory uncertainty. If the AEMC is minded in requiring a threshold, we would encourage it being set with stakeholder engagement and consideration. This will ensure that the appropriate level of projects are considered under the improved arrangements.

- Consistent with the AEMC’s assessment criteria of ‘aligning with good regulatory practice’, we consider that eligibility criteria should only be set where the regulator can demonstrate that the benefits outweigh the potential costs.
- Recommendation: We encourage the AEMC to:
 - Consider only applying a threshold to a payment allowance (either an application to set or amend) and not to apply the threshold to payment methodology. This approach would limit the administrative burden the AEMC believes would arise from omitting a threshold from the eligibility criteria.
 - remove reference to the materiality of the threshold in its’ draft determination, i.e. words and phrases such as expected to apply to **significant** new projects.

- Remove the proposed materiality threshold for the transitional rule which is currently requires an agreement's expected average annual payment to exceed 1% of a TNSPs unsmoothed revenues in a regulatory year. This would ensure a small number of existing non-network projects can utilise the transitional arrangements, avoiding risks of delays.

2. Process should be flexible for multiple projects to be assessed together

In some situations, multiple non-network option projects may be required to meet a single need. In these situations, the AER's approval and assessment of prudence and efficiency should be required to be made in consideration of the sum of projects. This would ensure an efficient assessment that considers each project and how they interact with each other to meet the single network need.

Importantly we encourage the AEMC to consider this aspect in finalising the wording for the transitional arrangements. It is important that both the eligibility criteria and materiality threshold set in the transitional arrangements cater to multiple projects being assessed together as a portfolio.

Recommendation: We encourage the AEMC to ensure this section of the rules is written flexibly to allow multiple projects to be considered in a single application to the AER. This should also be a consideration in relation to how the eligibility threshold is set, in that any eligibility requirements should be set in aggregate for projects meeting the same need.

3. Timing of payment methodology approval

The AEMC requires that applications to the AER for a payment methodology determination must be made at the same time as an application to amend the network support allowance. This has the unintended effect of disallowing projects from benefiting from a methodology approval if payments are not expected until the next regulatory control period. Transgrid considers this will create a barrier to projects with long lead times.

Recommendation: We strongly encourage the AEMC to allow methodology approvals to be sought without requiring it to occur simultaneously with an application to amend the network support payment allowance.

4. Administrative costs

The AEMC has stated that clause 6A.7.2 does not explicitly make reference to recovery of these costs and at present the AER guidance is that it will decide these matters on a case-by-case basis. Given the significant uncertainty in this area, we strongly encourage the AEMC to clarify whether administrative and other costs related to an NNO project, that are prudently and efficiently incurred, can be recovered under the pass-through arrangements.

Common additional costs that are relevant to a NNO project that support prudent and efficient expenditure could include:

- economic and technical modelling,

- procurement and tender processes, contract negotiations and contract administration,
- RIT-T and other regulatory submissions and/or,
- expert third party advice on technical, accounting, regulatory, legal and auditing matters.

5. Drafting clarifications

We have identified a number of drafting issues that we would encourage the AEMC to clarify, including:

- An amendment to an existing approved methodology would have effect beyond the regulatory control period in which that amendment was approved as the current drafting of 6A.7.2A seems to suggest it would only bind the AER for the current regulatory period.
- If a TNSP has no existing network support allowance that it would still be eligible to set a new one via the proposed rule mid regulatory control period.

Conclusion

We look forward to working with the AEMC as it develops its final determination. If you or your staff require any further information or clarification on this submission, please contact Zainab Dirani, Policy and Advocacy Manager at zainab.dirani@transgrid.com.au.

Yours faithfully



Monika Moutos
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