

Consultation paper

National Electricity Amendment (Providing flexibility in the allocation of interconnector costs) Rule 2024

Proponents

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About the AEMC

The AEMC reports to the energy ministers. We have two functions. We make and amend the national electricity, gas and energy retail rules and conduct independent reviews for the energy ministers.

Acknowledgement of Country

The AEMC acknowledges and shows respect for the traditional custodians of the many different lands across Australia on which we all live and work. We pay respect to all Elders past and present and the continuing connection of Aboriginal and Torres Strait Islander peoples to Country. The AEMC office is located on the land traditionally owned by the Gadigal people of the Eora nation.

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Summary

- 1 We are seeking your views on a proposal to enable flexibility in the allocation of interconnector costs by giving effect in the National Electricity Rules (NER) to jurisdictional inter-governmental agreements that determine the cost allocation for a specific transmission interconnector (interconnector). The proposed rule change aims to enable the delivery of net beneficial interconnectors that may face barriers to delivery under the current regulatory framework.
- 2 The Honourable Chris Bowen MP, Minister for Climate Change and Energy, The Honourable Nick Duigan MLC, Minister for Energy and Renewables and The Honourable Lily D'Ambrosio MP, Minister for Energy and Resources (the proponents or the Ministers) submitted this rule change request on 8 December 2023.
- 3 The National Energy Market (NEM) is undergoing a once in a generation transformation as it transitions to net zero, underpinned primarily by renewable forms of electricity generation and storage. The Australian Energy Market Operator's (AEMO) Integrated System Plan (ISP) has identified an optimal development path (ODP) for the transmission system, including a number of interconnector projects.
- 4 These interconnectors are necessary to enhance or provide new interconnection between NEM regions, as well as the connection of new Renewable Energy Zones (REZs) to the NEM. As a result, these interconnectors will provide net benefits to consumers and play an essential role for the optimal development of the transmission system.
- 5 The AEMC has commenced its consideration of the rule change request, and this consultation paper is the first stage.
- 6 We are seeking your feedback on:
 - the problem and the materiality of the problem raised in the rule change request
 - the solution proposed in the rule change request, and
 - our proposed assessment criteria for this rule change request.

We are seeking your views on whether the existing arrangements for the allocation of interconnector costs could be a barrier to interconnector delivery

- 7 The proponents have identified cost allocation issues that impact the ability of Transmission Network Service Providers (TNSPs) and jurisdictions to progress interconnector projects which are net beneficial through the regulatory framework. The Ministers argue that the existing cost allocation framework for interconnectors in the NER and associated guidelines are not sufficiently flexible to resolve these issues.
- 8 More specifically, the proponents have identified the following issues with the existing regulatory framework:
 - The existing rules are unclear or inapplicable for interconnectors spanning Commonwealth waters.
 - The cost recovery of an interconnector may result in a material bill impact to one or both jurisdiction's electricity consumers. A materially higher bill impact in one jurisdiction compared to another jurisdiction may make it difficult for projects to proceed.
 - Jurisdictional agreement and support may be required to address uncertainty and enable Nationally Significant Transmission Projects to proceed.
- 9 The proponents state that without the rule change, actionable ISP interconnector projects may not

be delivered and net market benefits to the NEM may go unrealised. Additional generation investment may be required to fill the gap that non-delivery of these project would create to meet electricity demand, system security and reliability requirements, and to achieve jurisdictional emissions reduction targets and net zero commitments in the electricity sector.

10 We are interested in stakeholders' views on the issues raised and the materiality of the problem.

We are also seeking your views on the proposal to give effect in the rules to jurisdictional inter-governmental agreements to determine cost allocation

11 The rule change request proposes amendments to the national electricity rules (NER) to give effect to inter-governmental agreements on the allocation of project and ongoing transmission costs for an interconnector that passes through the relevant jurisdictions. The Ministers considered this would minimise the risk of critical interconnector projects, such as Marinus Link, not proceeding.

12 The proposed solution would require a written agreement to be submitted to the Australian Energy Regulator (AER) to enable the AER to make its determination on the validity of the agreement. In order for the AER to take a jurisdictional agreement into account, it would need to meet certain criteria. The rule change request proposes that AER guidelines could set out such criteria to provide high-level guidance to governments. Such guidance could, for example, require an agreement to:

- be legally binding on the States and Territories in question
- clearly specify the allocation of interconnector project costs to each jurisdiction and how, if at all, the allocation is to change over the life of the asset (e.g., percentage allocation of overall costs)
- specify the time frame over which the agreed allocation would exist (e.g., the life of the asset), and
- be submitted to the AER prior to a specified regulatory deadline.

13 The proposed amendments would not change the existing cost allocation framework in the NER for interconnectors where jurisdictions have not agreed to enter into an agreement on the allocation of interconnector costs. As a result, the rule change request, if implemented, would effectively provide two pathways for the allocation of interconnector costs:

- one new pathway where governments would agree the specific cost allocation, and
- the existing pathway in the NER.

14 The rule change request does not seek to change the regulatory approval process for projects. The proponents note that under the proposed solution transmission projects would still need to pass the Regulatory Investment Test for Transmission (RIT-T) and AEMO's feedback loop - to ensure they generate net benefits for the NEM.

15 We are interested in stakeholders' views on the solution proposed in the rule change request, including implementation considerations.

We propose four assessment criteria for this rule change request

16 Considering the NEO¹ and the issues raised in the rule change request, the Commission proposes to assess the rule change request against four assessment criteria:

¹ Section 7 of the NEL.

- 17 Please provide feedback on our proposal to assess the request against:
- **Emissions reduction** – would the rule change efficiently contribute to achieving government targets for reducing, or that are likely to reduce, Australia’s greenhouse gas emissions?
 - **Principles of market efficiency** - would the rule change support market efficiency by supporting the delivery of net beneficial interconnectors, which will enable increased generation assets to connect and reduce wholesale costs for consumers?
 - **Implementation considerations** - would the rule change assist in timely delivery, reduce uncertainty and implementation of a successful market wide solution?
 - **Principles of good regulatory practice** - would the rule change complement other reforms underway?
- 18 We are interested in stakeholders’ views on our proposed assessment criteria.

Submissions are due by 11 April 2024 with other engagement opportunities to follow

- 19 There are multiple options to provide your feedback throughout the rule change process.
- 20 Written submissions responding to this consultation paper must be lodged with Commission by **11 April 2024** via the Commission’s website, www.aemc.gov.au.
- 21 There are other opportunities for you to engage with us, such as one-on-one discussions or industry briefing sessions. See the section of this paper about “How to engage with us” for further instructions and contact details for the project leader.

Full list of consultation questions

Question 1: Is the issue raised material enough to require changes to the regulatory framework?

Do you consider the issue raised by the proponents is a material one? Why do you consider this?

Question 2: Would the proposed solution address the issue raised by the proponent?

Do you consider the proponents’ proposed solution would address the issue identified in the rule change request?

Question 3: What are your views of the costs and benefits of the proposed solution?

What do you consider will be the benefits and costs of the proposed solution?

Question 4: What should be the minimum set of requirements for a cost allocation agreement?

If jurisdictions were to enter into an inter-governmental agreement for the purpose of specifying a different interconnector cost allocation (different from the existing NER arrangements), what minimum requirements should apply to such an agreement? Should all interconnectors be eligible or only a subset, such as actionable ISP projects? Should the minimum criteria sit in the NER or in AER or other guidelines?

Question 5: What should be the role for the AER and what should be the timeframes for jurisdictions submitting an agreement?

What should be the AER's role in assessing inter-governmental agreements on interconnector cost allocation? How should an agreement impact on revenue determinations or other processes? What timeframes should apply to jurisdictions when submitting such agreement to the AER?

Question 6: What is the best mechanism to recover costs if jurisdictions agree to an alternative cost allocation?

What is the best mechanism to recover costs if jurisdictions agree to an alternative cost allocation? Could this be facilitated through the current arrangements for transmission pricing? If not, what changes are required?

Question 7: Should any transparency requirements apply to an agreement?

Should jurisdictions or TNSPs have an obligation to publish any details of the cost allocation agreement?

Question 8: Are there other important implementation considerations?

How long would it take to implement the changes suggested in the rule change request? Are there additional measures that should be considered that would support the effective implementation of the desired solution?

Question 9: Are there alternative, more preferable solutions?

Do you consider alternative, more preferable solutions exist to address the identified issue?

Question 10: Assessment framework

Do you agree with our proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

How to make a submission

We encourage you to make a submission

Stakeholders can help shape the solutions by participating in the rule change process. Engaging with stakeholders helps us understand the potential impacts of our decisions and, in so doing, contributes to well-informed, high quality rule changes.

We have included questions in each chapter to guide feedback, and the full list of questions is above. However, you are welcome to provide feedback on any additional matters that may assist the Commission in making its decision.

How to make a written submission

Due date: Written submissions responding to this consultation paper must be lodged with Commission by **11 April 2024**.

How to make a submission: Go to the Commission's website, www.aemc.gov.au, find the "lodge a submission" function under the "Contact Us" tab, and select the project reference code **ERC0383**.²

You may, but are not required to, use the stakeholder submission form published with this consultation paper.

Tips for making submissions are available on our website.³

Publication: The Commission publishes submissions on its website. However, we will not publish parts of a submission that we agree are confidential, or that we consider inappropriate (for example offensive or defamatory content, or content that is likely to infringe intellectual property rights).⁴

Other opportunities for engagement

There are other opportunities for you to engage with us, such as one-on-one discussions, bilateral and multilateral discussions.

For more information, you can contact us

Please contact the project leader with questions or feedback at any stage.

Project leader:	Christian Dunk
Email:	christian.dunk@aemc.gov.au
Telephone:	+61 2 8296 0699

² If you are not able to lodge a submission online, please contact us and we will provide instructions for alternative methods to lodge the submission.

³ See: <https://www.aemc.gov.au/our-work/changing-energy-rules-unique-process/making-rule-change-request/submission-tips>.

⁴ Further information is available here: <https://www.aemc.gov.au/contact-us/lodge-submission>.

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1 The context for this rule change request

This consultation paper seeks stakeholder feedback on the rule change request submitted by The Honourable Chris Bowen MP, Minister for Climate Change and Energy, The Honourable Nick Duigan MLC, Minister for Energy and Renewables and The Honourable Lily D'Ambrosio MP, Minister for Energy and Resources (the proponents or the Ministers) to provide flexibility in the allocation of transmission interconnector (interconnector) costs to facilitate timely delivery of transmission projects that are critical for the transition to net zero.

1.1 The proponents have proposed rule changes to provide flexibility in the allocation of interconnector costs

The National Energy Market (NEM) is undergoing a once in a generation transformation as it transitions to a net zero carbon future. Renewable forms of electricity generation and storage underpin the transition, and require connection to the NEM via transmission. The Australian Energy Market Operator (AEMO) has identified the need for a rapid expansion in the number of transmission projects, including interconnectors, in its long term planning of system needs (the integrated system plan or ISP).⁵ Consumers will receive net benefits from these identified transmission projects.

1.1.1 The proponents consider flexibility could reduce delays in investment decisions on interconnectors

The proponents have identified cost allocation issues that impact the ability of Transmission Network Service Providers (TNSPs) and jurisdictions to progress net beneficial interconnectors through the regulatory framework.⁶ The rule change request states that the current cost allocation framework for transmission in the National Electricity Rules (NER) and associated AER guidelines is not sufficiently flexible enough to address unique scenarios, for example where an interconnector would have disproportionately adverse price consequences for a State or Territory's household or businesses or the interconnector passes through Commonwealth waters.⁷

This rule change presents an opportunity to improve the regulatory framework by addressing the identified issues with the existing regulatory framework.

The proponents state that actionable ISP projects may not be delivered on time and net market benefits to the NEM may go unrealised without the rule change. To fill the resulting gap would require additional generation investment to meet electricity demand, ensure system security and reliability, and to achieve jurisdictional emissions reduction targets and net zero commitments in the electricity sector.⁸ Further detail on the problem raised in the rule change request is provided in Chapter 2.

Interconnectors form part of the ISP's ODP and provide net benefits for consumers as the system transitions to net zero

AEMO estimates in its draft 2024 ISP that the transmission projects, including interconnectors, identified in its Optimal Development Path (ODP) - around 5,000 kilometres over the next ten years

⁵ An interconnector is defined as "a transmission line or group of transmission lines that connects the transmission networks in adjacent regions." See Glossary of the NER.

⁶ References to TNSPs in this consultation paper includes Intending TNSPs.

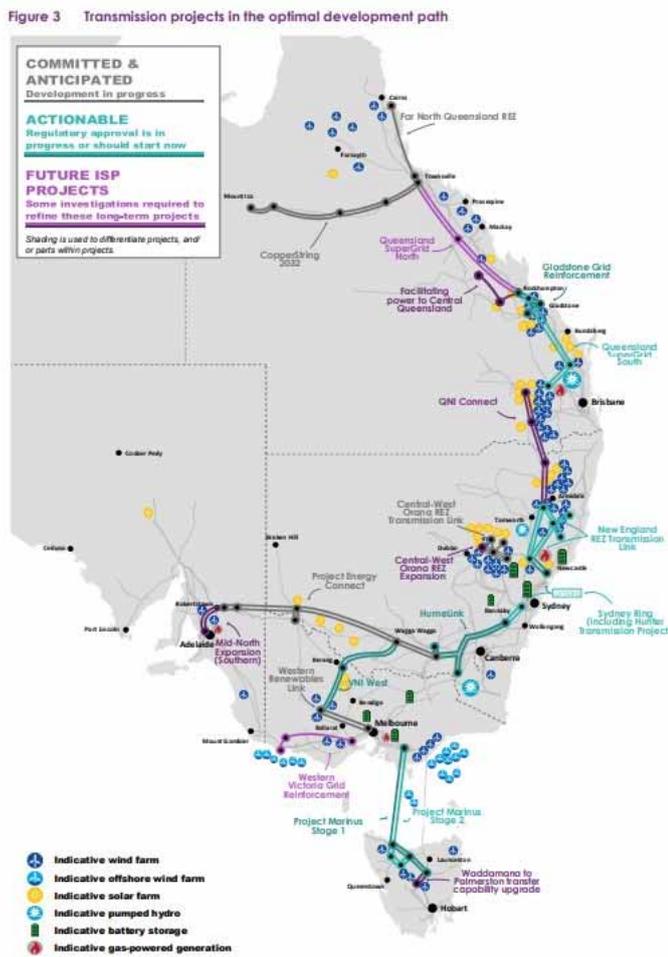
⁷ Rule change request (providing flexibility in the allocation of interconnector costs), p. 4.

⁸ Rule change request, pp. 2, 5.

and around 10,000 kilometres by 2050 - will deliver net market benefits of \$17.45 billion.⁹ AEMO’s 2024 draft ISP has identified the following interconnectors on its ODP:¹⁰

- Project EnergyConnect
- Project Marinus
- Queensland - New South Wales Interconnector (QNI Connect)
- Victoria - New South Wales Interconnector West (VNI West).

Figure 1.1: Transmission projects in the optimal development path



This map shows indicative new generation and storage in 2040, and transmission projects that include new transmission lines, increase capacity by 1,000 MW or more, and are required in all scenarios by 2050.

Source: AEMO, Draft 2024 ISP, December 2023, p. 13.

AEMO’s ISP provides a pathway to a future energy system that is secure and reliable while meeting emissions reduction targets at the lowest cost.¹¹ AEMO has indicated that alternative approaches that do not deliver the transmission projects identified in the ODP may result in higher costs for consumers.¹²

9 AEMO, *Draft 2024 Integrated System Plan*, December 2023. The final ISP is expected to be published by AEMO in late June 2024.

10 AEMO, *Draft 2024 ISP*, December 2023, p. 13.

11 Clause 5.22.2 of the NER describes the purpose of the ISP.

12 AEMO, *Draft 2024 Integrated System Plan*, p. 8

Marinus Link, an actionable ISP project, is highlighted in the rule change request as an example of an interconnector where the current framework is a potential barrier to the project reaching a positive final investment decision. This is due to the project running through Commonwealth waters which is not considered in the current cost allocation framework.

1.1.2 The Ministers propose that jurisdictions should be able to agree allocation of overall project and ongoing transmission costs

The rule change request proposes amendments to the national electricity rules (NER) to give effect to jurisdictional inter-governmental agreements on the allocation of overall project and ongoing transmission costs for an interconnector that passes through their jurisdiction. The Ministers consider this would minimise the risk of critical interconnector projects, such as Marinus Link, not proceeding.¹³

The proposed solution would require jurisdictions to submit inter-governmental agreements to the Australian Energy Regulator (AER) to enable it to make its determination on the validity of the agreement. The agreement would need to meet a certain criteria to be taken into consideration by the AER. The proponents suggest that the agreed cost allocation would then be reflected in each relevant TNSPs' transmission determination.¹⁴ The proposed solution is outlined and discussed in further detail in Chapter 3.

The rule change request suggests a greater role for jurisdictions in the delivery of critical interconnector projects due to the existing responsibilities of jurisdictions outside the NER. Jurisdictions already have a role in securing easements and environmental and planning approvals, all of which are critical to the timely delivery of interconnectors. The Ministers consider an inter-governmental agreement on cost allocation may ensure jurisdictional support for critical projects.¹⁵ The proponents argue that without the proposed rule changes the current cost allocation frameworks are not flexible enough to ensure jurisdictional support, if there will be disproportionately adverse price consequences for a State or Territory's household or businesses.

The proposed amendments would not change the NER cost allocation framework for projects without a jurisdictional agreement. As a result of the proposed approach, if implemented, the rules would effectively provide two pathways for the allocation of interconnector costs:

- one new pathway where governments would agree the specific cost allocation, and
- the existing pathway in the NER.

The proponents note that the proposed solution would not change the regulatory approval process for transmission projects. Transmission projects would still need to pass the Regulatory Investment Test for Transmission (RIT-T) and AEMO's feedback loop - to ensure they generate net benefits for the NEM.¹⁶

1.2 This rule change request complements ongoing work to promote the timely delivery of critical transmission projects

Other policy and regulatory work is underway to promote the timely delivery of transmission projects. This rule change request complements the following rule changes and other initiatives:

13 Rule change request, pp. 5-6.

14 Rule change request, p. 6.

15 Rule change request, p. 5.

16 Rule change request, p. 9.

- The Commonwealth’s \$20 billion low cost finance Rewiring the Nation plan to upgrade Australia’s electricity grids. The Clean Energy Finance Corporation (CEFC) is the financing body for the plan.¹⁷
- Agreement by the Energy and Climate Change Ministerial Council Meeting (ECMC) to develop the Nationally Significant Transmission Projects Framework.¹⁸
- Australian Energy Market Commission (AEMC or the Commission) rule changes which are currently under consideration on *Sharing concessional finance benefits with consumers* and *Accommodating financeability in the regulatory framework*.¹⁹ If made, our draft rule for *Sharing concessional finance benefits with consumers* would provide a mechanism for government funding to flow through to reduced interconnector charges, while this proposed rule would provide a new mechanism for allocating those reduced charges between interconnected regions.
- The Commission also undertook the *Transmission Planning and Investment Review* in 2022-23 to examine short, medium and long term improvements to the regulatory framework and several rule changes have been initiated or completed as a result of that work.
- The Public Interest Advocacy Centre has submitted a Transmission charging rule change request which proposes changes to the allocation of interconnector costs to align with a beneficiary pays principle.²⁰ PIAC’s rule change proposes a holistic review of the standard allocation of transmission projects costs on the basis of energy flows. This rule change does not consider whether jurisdictions require flexibility to make agreements on cost allocation outside of the standard cost allocation framework, which the Ministers’ rule change seeks to provide.

1.3 We have started the rule change process

This paper is the first stage of our consultation process.

Figure 1.2: Timeline for the rule change

Timeline for rule change



A standard rule change request includes the following formal stages:

17 The Commonwealth and Victorian Governments have announced that Marinus Link will receive concessional debt financing through Rewiring the Nation, subject to the CEFC’s statutory decision-making process. See The Hon Chris Bowen MP, Minister for Climate Change and Energy, Joint media release: Investing in the future of Tasmanian energy with Marinus Link, 3 September 2023, <https://minister.dcceew.gov.au/bowen/media-releases/joint-media-release-investing-future-tasmanian-energy-marinus-link#:~:text=Marinus%20Link%27s%20latest%20cost%20estimates,to%20be%20%24106%2D117%20million.>

18 ECMC, Meeting Communique, 24 November 2023.

19 Available at <https://www.aemc.gov.au/rule-changes/sharing-concessional-finance-benefits-consumers> and <https://www.aemc.gov.au/rule-changes/accommodating-financeability-regulatory-framework>

20 PIAC, Transmission pricing rule change request, 23 February 2024, p. 1. Available at <https://www.aemc.gov.au/rule-changes/allocation-costs-transmission-projects>

- a proponent submits a rule change request
- the Commission commences the rule change process by publishing a consultation paper and seeking stakeholder feedback
- stakeholders lodge submissions on the consultation paper and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a draft determination and draft rule (if relevant)
- stakeholders lodge submissions on the draft rule determination and engage through other channels to make their views known to the AEMC project team
- the Commission publishes a final determination and final rule (if relevant).

Information on how to provide your submission and other opportunities for engagement is set out at the front of this document.

You can find more information on the rule change process on our website.²¹

To make a decision on this proposal, we seek stakeholder feedback on:

- the problem raised in the rule change request and the materiality of the problems (Chapter 2)
- the proposed solution (Chapter 3), and
- our proposed assessment criteria (Chapter 4).

²¹ See our website: <https://www.aemc.gov.au/our-work/changing-energy-rules>

2 The problem raised in the rule change request

2.1 There are scenarios which do not fit neatly into the existing cost allocation framework for interconnectors

The proponents state that there are and will continue to be unique scenarios where interconnectors do not fit well within the existing cost allocation framework.²² The Ministers consider that a lack of flexibility in the cost allocation for these projects may delay the development of interconnectors on AEMO's ODP, or result in interconnectors not proceeding. These delays may hinder the achievement of Australia's emissions targets and the efficient delivery of the NEM's transmission system needs, impacting electricity price security and reliability benefits for consumers as the system transitions.²³

The rule change request outlines the following scenarios that could contribute to a circumstance where the proponents consider it may be beneficial to provide flexibility in the regulatory framework:²⁴

- The existing rules are unclear or inapplicable for interconnectors spanning Commonwealth waters.
- The cost recovery of interconnectors may result in a material bill impact to one or both jurisdiction's electricity consumers. A materially higher bill impact in one jurisdiction compared to another jurisdiction may make it difficult for projects to proceed.
- Jurisdictional agreement and support may be required to address uncertainty and enable Nationally Significant Transmission Projects to proceed.

Marinus Link has been identified in the rule change request as an example of a project that would benefit from additional flexibility.²⁵ It is an actionable ISP project which would see the development of a sub sea high voltage direct current interconnector between Tasmania and Victoria.²⁶ Marinus Link will provide 1500MW of transfer capacity, and is expected to deliver large relative market benefits in both Progressive Change (\$1 billion) and in Green Energy Exports (\$3.71 billion) scenarios in the 2024 Draft ISP.²⁷ It is considered a critical project in delivering electricity price security, and reliability benefits for consumers as the system transitions to net zero.

The cables are to pass through Commonwealth waters in the Bass Strait which would mean that half of the value of the asset is not located in NEM regions (Victoria or Tasmania).²⁸ The cost allocation for sections of the project that lie in Commonwealth waters is unclear. The proponents state there is no precedent in the NEM and therefore no obvious means for determining the initial allocation of project costs for the portion of the assets located in Commonwealth waters.²⁹ The rule change request suggested that uncertainty in cost allocation arrangements for Marinus Link may lead to it not being developed without a clarifying rule change.

22 The example raised in this rule change request is interconnectors passing through Commonwealth waters.

23 Rule change request, p. 4.

24 Rule change request, p. 4.

25 Rule change request, p. 5.

26 The project is to be progressed in two stages of two cables of 750 MW transfer capacity each. The draft 2024 ISP modelling indicates Stage 1 to be in service in June 2030 and Stage 2 to be in service in June 2032 (subject to negotiation).

27 AEMO 2024 draft ISP, Appendix 6, p.50 https://aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem_consultations/2023/draft-2024-isp_consultation/appendices/a6-cost-benefit-analysis.pdf?la=en.

28 Basslink is an existing subsea interconnector between Victoria and Tasmania built in 2006. However, it was built to operate as an unregulated interconnector or Market Network Service Provider (MNSP) and therefore not subject to the same cost allocation framework. Basslink's owners, APA Group, have applied to the AER to convert Basslink from a MNSP to a TNSP.

29 Rule change request, p. 5.

The proponents consider that the issues highlighted in the rule change request could also impact future interconnectors as the system continues to transition. For example, jurisdictions may not support projects that offer net market benefits to all energy consumers if the energy consumers in its jurisdiction are disproportionately affected by price consequences.³⁰

Question 1: Is the issue raised material enough to require changes to the regulatory framework?

Do you consider the issue raised by the proponents is a material one? Why do you consider this?

2.1.1 The current cost allocation framework has successfully delivered interconnectors previously

New interconnector assets will help to facilitate greater interconnection between NEM regions and new REZs. The timely and efficient delivery of transmission infrastructure and interconnectors will be critical to delivering electricity price security, and reliability benefits for consumers as the system transitions to net zero.

The Ministers note that the current rules and regulatory framework for cost allocation have been successful in the development of interconnectors to date. They therefore do not propose wholesale changes to the cost allocation framework for interconnectors, however consider that flexibility is needed for interconnectors in specific circumstances.³¹

The Commission's rule on *Inter-regional transmission charging* established the current charging arrangements in 2013, providing TNSPs with the possibility to recover some costs associated with interconnector investments from TNSPs in other regions.³² The Commission's final determination to introduce these arrangements recognised the interconnected nature of the NEM, to provide efficient price signals for TNSPs to undertake investments where the benefits may extend to other regions.³³

An explanation of how interconnector costs are allocated to electricity consumers is provided below:³⁴

Box 1: The current process for allocating interconnector costs to electricity consumers

The AER determines a TNSP's **aggregate annual revenue requirement (AARR)** based on a number of inputs, including the value of a TNSP's Regulatory Asset Base (RAB). This is the revenue requirement for the provision of prescribed transmission services.^[1]

The AARR is allocated to each connection point, and ultimately recovered from the electricity consumers connected to that connection point. There are a number of different components of the AARR that would need to be considered under this rule change request. The key components relevant for this rule change request are:

1. Prescribed transmission use of system (TUOS) charges are one category in the AARR, and they are generally split on a 50/50 basis into a **non-locational** and **locational** component.^[2]

30 Rule change request, p. 5.

31 Project Energy Connect reached a final investment decision and is currently under development: <https://www.projectenergyconnect.com.au/>.

32 AEMC, *Inter-regional transmission charging* final determination and final rule, 28 February 2013.

33 NER clause 6A.23.3(d)(1)-(2).

34 AEMC, *Coordination of generation and transmission investment*, final report, 21 December 2018.

2. A TNSP recovers the **non-locational** component on a postage stamp basis ie. it does not vary by location of the transmission customer or their level of utilisation of transmission assets.

3. A TNSP allocates the **locational** component to the connection points of transmission customers within its transmission system plus the connection point between the TNSP system and the neighbouring TNSP's system using its prescribed cost reflective network pricing methodology. This attributes the cost of transmission assets to the connection points based on their proportionate use of the investing TNSP's system.

4. The **modified load export charge (MLEC)** is the locational charge the TNSP in each region levys TNSPs in neighbouring regions. The MLEC is trued up in subsequent years to reflect actual utilisation in the regulatory year.

Given all regions import and export electricity, it results in a net payment between TNSPs of neighbouring regions. The MLEC, as calculated under the current arrangements, only recovers the locational component of TUOS charges. The locational component only covers half of the revenue required to recover the costs of prescribed TUOS charges.

Source: Note: [1] The AARR is the maximum allowed revenue adjusted in accordance with clause 6A.22.1. of the NER [2] Clause 6A.23.3 of the NER. The AER may approve an alternative method that better reflects future investment.

3 The proposed solution and implementation

3.1 Will giving effect to jurisdictions' inter-governmental agreements on the allocation of interconnector costs resolve the problem?

The proponents have recommended a rule change that would enable the rules to give effect to jurisdictions' inter-governmental agreements on the allocation of costs that would be recovered from the consumers of each jurisdiction (through which the interconnector passes). This would provide additional flexibility in the rules to facilitate development of interconnectors that are expected to deliver net market benefits but are presented with barriers under the existing regulatory framework.

The Ministers' solution is to enable jurisdictions to enter into a binding inter-governmental agreement specifying the agreed cost allocation for an interconnector. The agreement would override specific elements of the NER that would otherwise prescribe the method for cost allocation.³⁵ The proponents state that the proposed solution is 'future-proofed', allowing for consideration of additional issues beyond those identified in the rule change request (should any arise with future interconnector projects).³⁶

Introducing flexibility into the rules by enabling jurisdictions to agree to cost allocation for interconnectors would provide an alternative pathway to progress interconnector projects. In the absence of an inter-governmental agreement, the existing regulatory framework for the allocation of interconnector costs would apply. Under the proposed rule there would effectively be two pathways under which cost allocation could be determined. This rule change process will need to consider the interactions between the two frameworks that would result from the proposed changes (if a rule is made).

See section 3.3 for implementation considerations relating to the proposed solution.

Question 2: Would the proposed solution address the issue raised by the proponent?

Do you consider the proponents' proposed solution would address the issue identified in the rule change request?

3.2 What are the costs and benefits of the proposed solution?

3.2.1 The proponents consider that rule change request will not impose material costs

The proponents consider that the rule change request is unlikely to impose a material cost on regulatory bodies. They noted that the AER may need to adjust its processes to enable jurisdictions to use the proposed new process to allocate interconnector costs. This may include updates to AER guidelines or guidance notes.

Likewise, the proponents do not expect the rule change to impose significant costs on TNSPs, market participants or consumers. Total cost to consumers will not be impacted by the rule change, although the cost allocation to consumers in different jurisdictions may change. State governments (jurisdictions) are likely to be affected should they determine to enter into an inter-governmental agreement. The proponents anticipate that the benefits of increased flexibility will

³⁵ Rule change request, p. 6.

³⁶ Rule change request, p. 5.

outweigh any costs arising from an increased administrative burden on state governments in developing an agreement.³⁷

3.2.2 The proponents consider the benefit of the rule change request is the timely delivery of interconnectors

The proponents suggest that the rule change would support development of interconnectors that deliver net benefits to consumers (in line with AEMO's ODP in its most recent ISP) in circumstances where the existing framework may present challenges (see Chapter 2 for further detail on challenges).³⁸

Question 3: What are your views of the costs and benefits of the proposed solution?

What do you consider will be the benefits and costs of the proposed solution?

3.3 What implementation issues might arise?

The Ministers have asked the Commission to determine certain details relevant to the implementation and operation of the rule change request.

3.3.1 Need to develop a set of minimum requirements for an inter-governmental agreement

The proponents asked the Commission to consider the development of a set of criteria that agreements would need to satisfy, in order for the AER to consider an agreement as valid. The proponents indicative list of requirements included that the agreement must:³⁹

- be legally binding on the States and Territories
- clearly specify the allocation of interconnector project costs to each jurisdiction and how, if at all, the allocation is to change over the life of the asset (e.g., percentage allocation of overall costs)
- specify the timeframe over which the agreed allocation would exist (e.g., the life of the asset), and
- be submitted to the AER prior to a specified regulatory deadline.

The proponents suggested that the AER could set out in AER guidelines such criteria to provide high-level guidance for governments.

We welcome stakeholder views on the proposed criteria for a cost allocation agreement, i.e. are the proposed criteria necessary to ensure efficient and transparent allocation of interconnector costs? We are also seeking input on any other relevant criteria that should define the scope or eligibility for a jurisdictional cost allocation agreement. Further, would it be necessary to define the boundaries of any given interconnector as part of the criteria?

We would additionally appreciate perspectives on whether those criteria should be set out in the rules or in AER or other guidelines.

³⁷ Rule change request, pp. 9 -10.

³⁸ Rule change request, p. 9.

³⁹ Rule change request, p.6.

Question 4: What should be the minimum set of requirements for a cost allocation agreement?

If jurisdictions were to enter into an inter-governmental agreement for the purpose of specifying a different interconnector cost allocation (different from the existing NER arrangements), what minimum requirements should apply to such an agreement? Should all interconnectors be eligible or only a subset, such as actionable ISP projects? Should the minimum criteria sit in the NER or in AER or other guidelines?

3.3.2 Need to consider the AER's role and timeframes for jurisdictions submitting agreements

The Ministers suggested that the AER be responsible for taking any agreement into consideration in its decision-making.⁴⁰ The role that the AER would need to play would depend on how the cost allocation is facilitated. We will need to consider the interaction of the cost allocation agreement with existing regulatory processes, such as the timing of the revenue determination process for TNSPs, as part of the rule change process.

The proponents suggested that jurisdictions will need to submit agreements by a specified deadline prior to the beginning of the next regulatory control period, to be eligible.⁴¹ This is because the cost allocation agreement could potentially impact a TNSP's AARR and the TNSP's RAB.⁴² The Ministers asked the Commission to determine the required timeframes as part of the rule change. They indicated that any timeframes would need to balance allowing sufficient time for reaching a jurisdictional agreement with providing the AER with adequate time for its processes.⁴³

We welcome stakeholder views on what an efficient process would look like, and to what extent we could draw on or augment existing processes. We are also interested in stakeholders view on the AER's role on receipt of an agreement. For example:

- Should the AER's role be to confirm its consistency with the specified criteria but not to otherwise assess the agreement, which would have been subject to decision-making processes within jurisdictions?
- Would the AER apply an agreement to a TNSP's revenue determination based on existing processes or is this unnecessary?

Question 5: What should be the role for the AER and what should be the timeframes for jurisdictions submitting an agreement?

What should be the AER's role in assessing inter-governmental agreements on interconnector cost allocation? How should an agreement impact on revenue determinations or other processes? What timeframes should apply to jurisdictions when submitting such agreement to the AER?

40 Rule change request, p. 6.

41 Revenue determinations are subject to specific timeframes defined in Chapter 6A, Part E of the NER.

42 The AARR is the TNSP's adjusted maximum allowed revenue under clause 6A.22.1 of the NER. See box 1 for further information.

43 Rule change request, p. 7.

3.3.3 Need to determine the mechanics of cost recovery

The rule change request noted that the Commission will need to determine the mechanics for the recovery of the agreed cost allocations from consumers.⁴⁴ The proponents asked the Commission to consider how a TNSP's pricing methodology would give effect to any agreed cost allocation.

The mechanics for elements of cost allocation such as the MLEC will also require consideration.⁴⁵

We note the rule change request proposed that the existing framework would apply in the absence of an agreement between jurisdictions. The rule change request also proposed that at a future point an agreement may lapse or be amended by agreement between signatories such that the existing rules apply. The rule change will need to consider the process if amendments to the agreement are made or the agreement ends. Therefore, as part of the rule change process we will need to consider the interaction between the existing framework and the implementation of an agreement so that costs can be recovered efficiently.

Question 6: What is the best mechanism to recover costs if jurisdictions agree to an alternative cost allocation?

What is the best mechanism to recover costs if jurisdictions agree to an alternative cost allocation? Could this be facilitated through the current arrangements for transmission pricing? If not, what changes are required?

3.3.4 Need to consider the transparency requirements that should apply to any agreements

The proponents have noted the need for some form of guidance on transparency requirements for agreements, particularly if a jurisdictional agreement results in a material impact on cost recovery.⁴⁶ The proponents suggested that the jurisdiction or TNSP could publish agreement details to ensure that stakeholders have clarity and transparency about the allocation of costs in an agreement.

We are seeking stakeholder input on the extent to which there should be an obligation on parties to publish guidance to affected consumers, and if so, what should be the timing and responsible party to provide that information to consumers.

Question 7: Should any transparency requirements apply to an agreement?

Should jurisdictions or TNSPs have an obligation to publish any details of the cost allocation agreement?

3.3.5 There may be other implementation considerations

We will consider if other amendments to the NER are required to ensure consistency with the Ministers' proposed reforms (if a rule is made). We are seeking input from stakeholders on the need for the Commission to consider changes to other provisions in addition to those outlined in the rule change request.

⁴⁴ Rule change request, p. 6.

⁴⁵ See box 1 above. Rule change request, p. 6.

⁴⁶ Rule change request, p. 7.

We are also seeking feedback on the time it would take to implement the changes suggested in the rule change request.

Question 8: Are there other important implementation considerations?

How long would it take to implement the changes suggested in the rule change request? Are there additional measures that should be considered that would support the effective implementation of the desired solution?

3.4 Could we resolve the problem in a different or more efficient way?

We are seeking input from stakeholders on whether there are more preferable ways to address the Ministers' identified barriers. For example, would it be more efficient to amend other parts of the regulatory framework to provide greater certainty and flexibility for jurisdictions around the allocation of costs? We are also interested if there are other approaches to address cost allocation for assets that are located in Commonwealth waters.

Question 9: Are there alternative, more preferable solutions?

Do you consider alternative, more preferable solutions exist to address the identified issue?

4 Making our decision

When considering a rule change proposal, the Commission considers a range of factors.

This chapter outlines:

- issues the Commission must take into account
- the proposed assessment framework
- decisions the Commission can make
- rule-making for the Northern Territory.

We would like your feedback on the proposed assessment framework.

4.1 The Commission must act in the long-term interests of consumers

The Commission is bound by the National Electricity Law (NEL) to only make a rule if it is satisfied that the rule will, or is likely to, contribute to the achievement of the national electricity objective.⁴⁷

The NEO is:⁴⁸

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; and
- (c) the achievement of targets set by a participating jurisdiction—
 - (i) for reducing Australia’s greenhouse gas emissions; or
 - (ii) that are likely to contribute to reducing Australia’s greenhouse gas emissions.

The targets statement, available on the AEMC website, lists the emissions reduction targets to be considered, as a minimum, in having regard to the NEO.⁴⁹

4.2 We propose to assess the rule change using four criteria

4.2.1 Our regulatory impact analysis methodology

Considering the NEO and the issues raised in the rule change request, the Commission proposes to assess this rule change request against the set of criteria outlined below. These assessment criteria reflect the key potential impacts – costs and benefits – of the rule change request. We consider these impacts within the framework of the NEO.

The Commission’s regulatory impact analysis may use qualitative and/or quantitative methodologies. The depth of analysis will be commensurate with the potential impacts of the proposed rule change. We may refine the regulatory impact analysis methodology as this rule change progresses, including in response to stakeholder submissions.

⁴⁷ Section 88 of the NEL.

⁴⁸ Section 7 of the NEL.

⁴⁹ Section 32A(5) of the NEL.

Consistent with good regulatory practice, we also assess other viable policy options - including not making the proposed rule (a business-as-usual scenario) and making a more preferable rule - using the same set of assessment criteria and impact analysis methodology where feasible.

4.2.2 Assessment criteria and rationale

The proposed assessment criteria and rationale for each is as follows:

- **Emissions reduction** – Would the rule change efficiently contribute to achieving government targets for reducing, or that are likely to reduce, Australia’s greenhouse gas emissions?
- **Principles of market efficiency** - Would the rule change support market efficiency by supporting the delivery of net beneficial interconnectors, which will enable increased generation assets to connect and reduce wholesale costs for consumers?
- **Implementation considerations** - Would the rule change assist in timely delivery, reduce uncertainty and implementation of a successful market wide solution?
- **Principles of good regulatory practice** - Would the rule change complement other reforms underway?

Question 10: Assessment framework

Do you agree with our proposed assessment criteria? Are there additional criteria that the Commission should consider or criteria included here that are not relevant?

4.3 We have three options when making our decision

After using the assessment framework to consider the rule change request, the Commission may decide:

- to make the rule as proposed by the proponent⁵⁰
- to make a rule that is different to the proposed rule (a more preferable rule), as discussed below, or
- not to make a rule.

The Commission may make a more preferable rule (which may be materially different to the proposed rule) if it is satisfied that, having regard to the issue or issues raised in the rule change request, the more preferable rule is likely to better contribute to the achievement of the NEO.⁵¹

4.4 The proposed rule would not apply in the Northern Territory

Parts of the NER, as amended from time to time, apply in the Northern Territory, subject to modifications set out in regulations made under the Northern Territory legislation adopting the NEL.⁵²

The proposed rule would not apply in the Northern Territory, as it amends provisions in NER chapter 6A that do not apply in the Northern Territory.⁵³ Consequently, the Commission will not

50 The proponents describe their proposed rule in section 4 of the rule change request.

51 Section 91A of the NEL.

52 National Electricity (Northern Territory) (National Uniform Legislation) Act 2015 (NT Act). The regulations under the NT Act are the National Electricity (Northern Territory) (National Uniform Legislation) (Modification) Regulations 2016.

53 Under the NT Act and its regulations, only certain parts of the NER have been adopted in the Northern Territory. The version of the NER that applies in the Northern Territory is available on the AEMC website at: <https://energy-rules.aemc.gov.au/ntner>.

assess the proposed rule against additional elements required by the Northern Territory legislation.

Abbreviations and defined terms

AARR	Annual Aggregate Revenue Requirement
AEMC	Australian Energy Market Commission
AEMO	Australian Energy Market Operator
AER	Australian Energy Regulator
CEFC	Clean Energy Finance Corporation
Commission	See AEMC
ECMC	Energy and Climate Change Ministerial Council
ISP	Integrated System Plan
MLEC	Modified Load Export Charge
NNSP	Market network service provider
NEL	National Electricity Law
NEM	National Electricity Market
NEO	National Electricity Objective
ODP	Optimal Development Path
Proponent	The proponent of the rule change request
RAB	Regulatory Asset Base
REZs	Renewable Energy Zones
RIT-T	Regulatory investment test for transmission
TNSP	Transmission Network Service Provider
TUOS	Transmission use of system