

Mr John Pierce AO
Chair
Australian Energy Market Commission
Level 6, 201 Elizabeth Street
SYDNEY NSW 2000

By email: john.pierce@aemc.gov.au

Dear Mr Pierce 

Amendment to NER clauses 6A.8.2(b)(1) and 6.6A.2(b)(1)

Please attached a rule change request to speed up the regulatory processes in respect of contingent projects.

Yours sincerely



Kerry Schott AO
Chair, Energy Security Board

Rule Change Request

Amendment to NER clauses 6A.8.2(b)(1) and 6.6A.2(b)(1)

1. Name and address of rule change proponent

Kerry Schott AO
Chair, Energy Security Board
Level 6, 201 Elizabeth St
Sydney NSW 2000

2. Description of the Proposed Rules

This rule change request relates to speeding up the regulatory processes in respect of contingent projects. Specifically, this rule change request focuses on changing the effect of clause 6A.8.2(b)(1) and 6.6A.2(b)(1) (the “relevant clauses”).

The rationale for the existence of the relevant clauses is linked to charging. Transmission and distribution charges are set on a year by year basis. There are a number of steps that must be undertaken after contingent project revenues are approved before the associated transmission and distribution charges can be recovered in retail prices. For example, transmission charges must be included within distribution charges, and these must be passed through to retailers before the end of the regulatory year¹. These steps take some time. The relevant clauses prevent a contingent project application being submitted after a point when it would be no longer possible to recover any incremental revenue in the following regulatory year.

It is considered that the relevant clauses could be modified so that they still achieve the aim of limiting the time when new transmission charges are able to be recovered in the following regulatory year, but do not prevent contingent project applications being submitted.

The proposed rule change would achieve this by amending the relevant clauses such that they:

1. Would no longer prevent a contingent project application from being submitted in the 90 business days before the end of a regulatory year, except where that regulatory year is the last year of a regulatory control period; but
2. Would recognise that any incremental revenues approved by the AER in respect of a contingent project application submitted during the 90 business day window could not start to be recovered by the relevant network service provider until the second regulatory year that commences after the application is submitted.

To take an example, for network service providers with regulatory years commencing on 1 July, if the rule change were made then for a contingent project application submitted to the AER on 10 May 2019 any incremental revenue approved by the AER relating to a contingent project could not be recovered in the 2019-20 regulatory year. However, the AER could still approve the revenues, and any incremental revenue approved by the AER would be recovered in the 2020-21 regulatory year.

¹ For most but not all network service providers the regulatory year is 1 July to 30 June.

In this example the rule change would not affect the timing of recovery of network charges, because:

1. If the rule change is not made the contingent project application could not be submitted till the 2019-20 regulatory year and the network charges could not start to be recovered till the 2020-21 regulatory year;
2. The rule change, if made, would specifically provide that the new network charges could not start to be recovered till the 2020-21 regulatory year, even if the contingent project application is submitted less than 90 business days before the start of the regulatory year.

Thus, even though the rule change would not affect when the network service provider could recover incremental revenues approved in respect of a contingent project, it would potentially bring the AER consideration and approval of a contingent project forward three to four months. This could be of benefit for a time critical project because it would give the relevant TNSP or DNSP greater certainty regarding the recovery of costs such that it could commence works on the project at an earlier stage.

3. Background to the proposed rules

At the COAG Energy Council meeting on 19 December 2018, Ministers discussed and agreed on an approach to deliver Group 1 transmission projects identified in AEMO's Integrated System Plan as soon as possible including rule changes to streamline regulatory processes. Subsequent to that meeting, the potential for clause 6A.8.2(b)(1) delaying certain of the Group 1 projects have been understood.

TNSPs have identified that generally this rule may delay time critical projects more generally.

Given that this clause applies equally to both TNSPs and DNSPs, we consider that it would be desirable for the same arrangements to apply to both transmission and distribution in this instance in order to minimise differences between the regimes.

4. Nature and scope of the issues the proposed rules will address

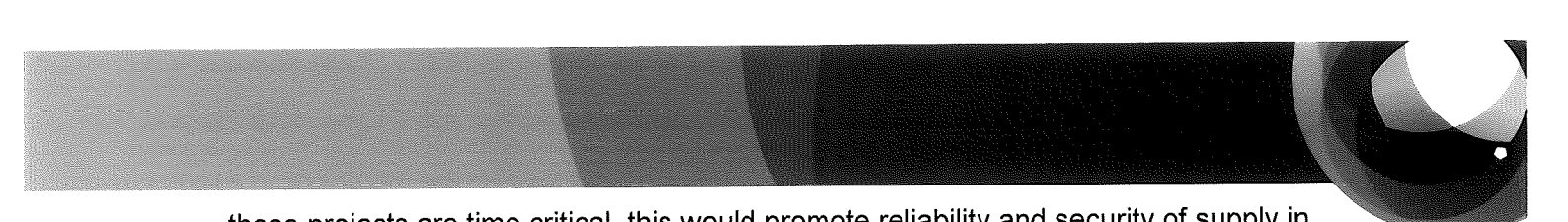
The rule change request would not affect charging outcomes for consumers. It merely brings forward the time when the AER can potentially approve contingent project revenues. As a result this rule change proposal is considered to be a request for a non-controversial rule under the National Electricity Law that should be expedited by the AEMC.

5. How the proposed changes would address the issues

The proposed changes would allow a TNSP or DNSP to submit a contingent project revenue application to the AER in the period 20 February 2019 to 30 June 2019, potentially allowing critical projects to be implemented in a more timely manner.

6. How the proposed will or is likely to contribute to the achievement of the National Energy Objective

The proposed rule change request will contribute to the national electricity objective by promoting efficient investment in, efficient operation and use of, electricity services for the long-term interests of consumers. The proposed rule is expected to allow the regulatory processes associated with contingent projects to be achieved faster, potentially resulting in quicker delivery of transmission or distribution projects. Where



these projects are time critical, this would promote reliability and security of supply in the NEM as it would assist the TNSP or DNSP in starting (and therefore completing) a project in a more timely manner.

7. Expected costs, benefits and impacts of the proposed rule

As network charging outcomes for consumers would not be altered, there are not expected to be any costs imposed on consumers or other stakeholders.

The rule change would have the benefit of allowing applications for contingent projects to be submitted earlier.