

**Network of Illawarra Consumers of Energy  
Submission on the Recovering the Cost of  
TNSP Market Participant Fees Consultation  
Paper  
May 2022**

## Introduction

### NICE

The Network of Illawarra Consumers of Energy (NICE) is a recently formed informal network advocating for the energy transition to a net-zero carbon future to be managed with the interests of consumers at heart.<sup>1</sup> This necessary transition needs to occur at the least cost to consumers while maintaining reliability and security of energy services, appropriate consumer protections for essential services and a just transition for affected workforces.

We believe there is a role for regionally based advocacy within the context of nationally consistent energy policy. The choice and options for energy supply do differ by geographic region regarding different climatic conditions affecting demand and supply options and different risk factors impacting resilience planning. David Havyatt is the sole author of this submission.<sup>2</sup>

This submission opposes the Australian Energy Market Commission (AEMC) making the rule change requested by Energy Networks Australia (ENA) covering the pass through of market participant fees levied by the Australian Energy Market Operator (AEMO) on Transmission Network Service Providers (TNSPs).

### Background

On 28 April 2022, the AEMC published a Consultation Paper on the proposed *National Electricity Amendment (Recovering the Cost of AEMO's Participant Fees) Rule*. Energy Networks Australia has proposed the rule in response to revisions by AEMO in its fees and fee structures. However, the title of the consultation paper and rule change is misleading. The rule change does not cover the recovery of the cost of AEMO's participant fees; it only covers those costs allocated to TNSPs.

The rule change request arose because an AEMO review of its fees and fee structures in March 2021 determined that participant fees should be charged to TNSPs. As a result, ENA made the rule change request in June 2021. The rule change proposes that TNSPs can recover the fees through direct cost recovery rather than as part of a revenue determination process. The rationale for this approach is that participant fees are "outside TNSPs' control."

This submission argues that the rationale for the rule change provides the evidence that the decision by AEMO to charge participant fees to TNSPs is ill-founded, and the AEMC should resolve it by making a more preferable Rule about AEMO's charging Participant Fees.

### Consequences of the Proposed Rule

The proposed Rule allows TNSPs to charge for their participant fees through direct cost recovery as they are outside the control of the TNSPs. This begs the question of who the recipient of these costs is once included as direct costs. We understand that, although the TNSP

---

<sup>1</sup> The network has not yet started actively recruiting participants.

<sup>2</sup> Mr Havyatt was employed as Senior Economist at Energy Consumers Australia from October 2015 to August 2020. For the avoidance of doubt, nothing in this submission is the position of Energy Consumers Australia.

bills DNSPs for DNSP connection points, the DNSP issues a bill to their customers (retailers) that separately includes the charge for distribution services and transmission services.

While the Consultation Paper argued that irrespective of whether TNSPs recovered the charges as direct costs rather than through the revenue determination process are paid by the consumer, this is relatively trite as all expenditure in the system is paid for by consumers. The question is how that process incentivises innovation to reduce consumers' prices. If the charges levied on TNSPs merely get transferred directly through to retailers, then the question emerges of precisely what the point is of creating the participant fees for transmission networks. The retailer will see the same costs; just be billed for them through two more steps.

The consequence of the proposed Rule is to crystallise the question of whether the TNSP will devote effort to reducing their participation fees. If the AEMC makes the proposed Rule, the effect of AEMO's decision is simply to increase the cost of recovering AEMO's costs.

### The logic of cost recovery

The Australian Energy Market Operator owes its existence to a legislative decision to create a wholesale electricity market covering all Australia except for Western Australia and the Northern Territory. In creating regulatory or market-making agencies, any government faces two options; to finance the entity through government appropriations or to finance the entity through levies on entities whose ability to trade depends on the agency's existence. The latter choice is more economically efficient if the conduct of the trading entities can influence both the overall cost level and their liability for their share of that cost.

AEMO's reasoning for introducing the TNSP charge is only partially consistent with these principles. AEMO's final report and determination<sup>3</sup> stated that "an increasing amount of AEMO's activities involve TNSPs and DNSPs in the management of power system security and power system reliability and operations. Correspondingly, the cost allocation survey indicated the level of involvement with both TNSPs (17.5%) and DNSPs (3.0%) has increased since the previous fee determination."

The principle of charging a party that causes cost is sound when it creates an incentive for the party being charged to change their behaviour to reduce the causes of those costs. However, if the TNSPs get to charge for the cost of their AEMO participant fees as direct cost recovery, there is no incentive for the TNSP to care about how much cost they cause. If the basis for preferring direct cost recovery is that the TNSP can do nothing to affect the future cost level, then there is no reason to charge the TNSP.

### More preferable Rule

Given that charging TNSPs participation fees is argued to create no incentive for TNSPs to act to reduce AEMO's costs by varying their activities and that charging TNSPs results in an

---

<sup>3</sup> [https://aemo.com.au/-/media/files/stakeholder\\_consultation/consultations/nem-consultations/2020/electricity-market-participant-fee-structure-review/final-report/aemo-electricity-fee-structure-final-report-and-determination-260321.pdf?la=en](https://aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2020/electricity-market-participant-fee-structure-review/final-report/aemo-electricity-fee-structure-final-report-and-determination-260321.pdf?la=en)

additional cost in ultimately recovering the costs from consumers, a more preferable Rule is to amend NER 2.11 to prohibit AEMO charging Market Network Service Providers any Participant Fees. The AEMC could achieve this by amending NER 2.11.1A to add that "[for the purposes of Rule 2.11 only] *Market Network Service Providers* are deemed not to be *Market Participants*." Alternatively, the AEMC could add to NER 2.11.1 (3) the phrase "but in no circumstances are *Participant fees* to be charged to *Market Network Service Providers*."

It is possible that all categories of Market Participants are in the same position as networks and cannot take action to reduce their liability for Participant Fees. If this is the case, then Participant Fees will be most efficiently recovered if they are charged only on a 'per unit of energy basis' on only one category of participant, either Market Generators or Market Customers.

### Additional considerations for future reviews

The whole exercise of AEMO deciding, at its volition, to start charging TNSPs has highlighted a severe deficiency of the regulatory framework. The underlying principles of the framework are the facilitation of competition where possible (retail and generation) and best practice economic regulation of structurally separated monopolies (transmission and distribution). In that framework, AEMO is a monopoly. Yet, it is granted the power to set its revenue allowance and determine how it will recover that and from which participants.

The fact that AEMO is a not-for-profit partially owned by Governments is insufficient to restrain the economic inefficiencies of monopoly. The NEL merely specifies that AEMO may charge fees in accordance with the Rules. The Rules can be, and we argue should be, amended to subject AEMO's revenue allowance and fee structures to regulation by the AER.

A related rule change should be considered in transmission charging reform: transmission costs should be recovered from generators, not retailers. In this structure, the transmission charges would be time varying and relate to how close to congested transmission lines are at any point in time. In this way, the market clearing price for dispatch would incorporate the cost of getting the electricity to the interconnection point with the DNSP.

### Conclusion

The proposed Rule highlights the deficiencies of the AEMO cost recovery Rules. The AEMC should move to address the source of the problem rather than simply implement a convenient Rule change to perpetuate the deficiency. The AEMC can achieve this by making a more preferable Rule to prohibit AEMO from charging participant fees on Market Network Service Providers.

We recognise that the AEMC may decide our proposed Rule is too different from the proposed Rule to be considered a more preferable Rule. Accordingly, we will also submit a Rule Change Request to amend NER 2.11.1A as suggested above.

## Network of Illawarra Consumers of Energy

### Rule Change Request – AEMO Participant Fees

#### *Statement of Issue*

In March 2021, the Australian Energy Market Operator (AEMO) published *A final report and determination on electricity fee structures to apply to Participant fees from 1 July 2021*. The determination resulted in proposals to charge Transmission Network Service Providers Market Participation Fees under the National Electricity Rules (NER 2.11).

On 28 April 2022, the Australian Energy Market Commission (AEMC) published a Consultation Paper on the proposed *National Electricity Amendment (Recovering the Cost of AEMO's Participant Fees) Rule*. The paper outlined a proposed Rule to allow Transmission Network Service Providers (TNSPs) to charge their customers their participant fees through direct cost recovery. The basis for the proposed Rule was that TNSPs could not influence their participant fees.

As outlined in our submission on the proposed Rule, the inability of TNSPs to influence their costs makes charging such fees to TNSPs inefficient.

#### *Description of Proposed Rule*

The Proposed Rule seeks to simply stop AEMO from being able to charge Market Network Service Providers Participant Fees. The proposal amends NER 2.11.1A by adding "and *Market Network Service Providers* are deemed not to be *Market Participants*." NER 2.11.1A restricts its application to NER 2.11.

#### *How the Proposed Rule Change Will Address the Issue*

AEMO will simply not be able to charge TNSPs, so the need for direct cost recovery by TNSPs is unnecessary.

#### *Contribution of Proposed Rule Change to The National Electricity Objective (NEO)*

As the basis for ENA's proposed Rule is that TNSPs cannot affect the costs they receive from AEMO, charging Participant Fees on TNSPs only has the effect of increasing costs to consumers through unnecessary billing of charges.

#### *Stakeholder Engagement*

We have undertaken no stakeholder engagement on the proposed Rule. We are only submitting the Rule if it is necessary for the AEMC to decline to make the ENA's proposed Rule and not otherwise be able to make our proposed change as a more preferable Rule.

#### *Conclusion*

We believe our proposed Rule is preferable to the *National Electricity Amendment (Recovering the Cost of AEMO's Participant Fees) Rule* proposed by ENA.

David Havyatt, Convenor  
28 May 2022

**Network of  
Illawarra  
Consumers of  
Energy**