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Mr Andrew Pirie
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

Dear Mr Pirie

AER Submission – Establishing revenue determinations for intending TNSPs

The Australian Energy Regulator (AER) welcomes the opportunity to comment on the Australian Energy Market Commission's (AEMC's) consultation paper on the rule change proposal from Marinus Link Pty Ltd on establishing revenue determinations for intending TNSPs.

We appreciate the issues raised by Marinus Link Pty Ltd. Under the National Electricity Rules (the Rules) we can only make revenue determinations for prescribed transmission services. As a result, Transmission Network Service Providers (TNSPs) must provide prescribed services before a determination can be made. This creates two problems:

- Financing issues. As noted by Marinus Link Pty Ltd in its rule change proposal, a revenue determination may be necessary for obtaining project finance. The absence of a revenue determination, creates uncertainty about revenues and returns.
- Delayed processes. Rather than having a revenue determination in place when prescribed transmission services commence, the current rules can result in a delay of up to two years before transmission charges can be levied.

We note that financing issues are partly addressed through guidance provided by Rules setting out how we are to make revenue determinations, as well as our guidelines, rate of return instrument, published revenue models, and regulatory practice established over past determinations. Nonetheless, uncertainty remains.

Accordingly, we support the proposed rule change to enable the commencement of a revenue determination process for an intending TNSP. The rule change will address the financing and process shortcomings of current arrangements.

In considering the rule change we bring the following considerations to the attention of the AEMC.

1. Balancing increased certainty against the risk of speculative projects. Facilitating revenue determinations for TNSPs before assets are commissioned provides investment certainty but also increases the risk that determinations are made for services that are never provided.
2. Applying the regulatory framework consistently. The new arrangements should only apply to investments that generate net-benefits. This means that RIT-T assessments should apply to intending TNSPs in the same way as existing TNSPs.
3. Considering whether the rules provide flexibility to address different circumstances. For example:
 - In some cases a determination of the opening RAB value may be sufficient for capital to be raised to finance an investment in prescribed transmission services.
 - Where a full revenue determination is made, flexibility in the timing of the introduction of transmission charges is appropriate. Typically, charges shouldn't be levied until prescribed transmission services are provided to customers.
 - Construction costs may be considered as a determinant of the opening RAB value. However, there are risks of overspend / underspend compared to forecasts during the construction phase. There should be scope to address risk-sharing between TNSPs and customers.

The rule change should provide the AER with enough discretion to address these matters including discretion to determine whether or not to proceed with a revenue determination for an intending TNSP.

We look forward to continuing to work with the AEMC on these rule change proposals. If you have any queries relating to this submission please contact Sebastian Roberts at sebastian.roberts@aer.gov.au

Yours sincerely



Sebastian Roberts
Special Advisor
Australian Energy Regulator