



INFORMATION

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Establishing revenue determinations for Intending TNSPs - Draft determination

Stakeholder submissions invited on draft determination and draft rule

The Australian Energy Market Commission (AEMC) has made a more preferable draft rule that clarifies both the ability of the Australian Energy Regulator (AER) to establish a revenue determination for an Intending Transmission Network Service Provider (TNSP), and the process for doing so, in response to a rule change request submitted by Marinus Link Pty Ltd (MLPL).

Stakeholders are invited to make a submission on our draft determination and draft rule by 15 September 2022.

The draft rule supports timely and efficient investment in electricity transmission infrastructure

There is broad consensus that an unprecedented level of transmission investment is required as the National Electricity Market (NEM) transitions to net-zero. It is therefore important that the regulatory framework is sufficiently flexible to support the timely and efficient delivery of major transmission projects, while ensuring these investments support the long-term interests of consumers.

Our draft rule clarifies that a revenue determination can be established for Intending TNSPs. This provides regulatory certainty, reducing the risk of delays to investment decisions on major transmission projects. The draft rule benefits consumers by supporting timely and efficient investment in electricity transmission infrastructure to enable the transition of the NEM.

Our more preferable draft rule addresses regulatory gaps to clarify that the AER can make revenue determinations for Intending TNSPs

Under the draft rule, an Intending TNSP is defined as a registered participant who intends to provide prescribed transmission services. This includes both a person registered as an Intending Participant intending to construct a new regulated transmission project, and any existing Market Network Service Provider (MNSP) that intends to re-classify its network services as prescribed transmission services to become a TNSP.

The Commission considers that under the current Rules, the AER has the ability to make revenue determinations for Intending TNSPs. While the AER has this ability, there are regulatory gaps in making revenue determinations for Intending TNSPs that need to be clarified. Our more preferable draft rule addresses these regulatory gaps by:

- enabling an Intending TNSP to request that the AER commence a revenue determination process by submitting a revenue proposal to the AER
- requiring the AER to determine whether or not to commence a revenue determination process, and setting out the criteria that the AER may apply in making this assessment, and that the AER must make this decision as soon as practicable
- requiring the AER to notify the Intending TNSP of its decision on whether or not to commence the revenue determination process
- providing that if the AER decides to commence a revenue determination process for an Intending TNSP, then after making this decision the AER must publish an issues paper within 40 business days
- providing the AER with discretion to make and publish a Framework and approach (F & A) paper for an Intending TNSP if it is necessary or desirable to do so, and if so, flexibility regarding the matters that the AER considers appropriate to set out in the F & A paper; and

- clarifying arrangements for incorporating contingent projects into the first revenue determination for an Intending TNSP.

We propose that the draft rule be implemented on 3 November 2022, one week after the publication of our final determination for this rule change.

We have made a more preferable rule that addresses the issue raised in MLPL's rule change proposal

Our draft rule aligns with the general intent of MLPL's proposal as it clarifies that a revenue determination can be established for an Intending TNSP. Our draft rule is a more preferable rule as it:

- does not broadly apply all of Chapter 6A to Intending TNSPs as proposed by MLPL because the issue being addressed in this rule change request is to establish a revenue determination for an Intending TNSP while Chapter 6A contains provisions dealing with the broader economic framework,
- makes other amendments to Chapter 6A to address gaps in the current framework to clarify how a revenue determination can be established for an Intending TNSP.

MLPL's rule change request

On 3 March 2022, MLPL submitted a rule change request that sought to address the following issues that it claimed were a barrier to enabling MLPL's final investment decision for Project Marinus.

- While a TNSP that has completed a RIT-T process for an actionable Integrated System Plan (ISP) project can submit a contingent project application (CPA), the CPA does not apply for Intending TNSPs who do not have a revenue determination.
- To obtain a revenue determination under the current National Electricity Rules (NER), a participant must be registered as a TNSP (not be an Intending TNSP) and already provide prescribed transmission services. MLPL considered that the AER does not have the power to make a revenue determination for an Intending TNSP that is not yet providing prescribed transmission services.

To address these issues, MLPL proposed to amend Chapter 6A of the NER to allow the AER to establish a revenue determination for an Intending TNSP. Stakeholders generally supported MLPL's rule change request, but raised some issues with it.

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