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Andrew Pirie  
Project Leader  
Australian Energy Market Commission  
Level 15, 60 Castlereagh Street  
SYDNEY NSW 2000

Submitted online: <https://www.aemc.gov.au/contact-us/lodge-submission>

Dear Andrew,

### **SUBMISSION ON RECOVERING THE COST OF AEMO'S PARTICIPANT FEES DIRECTIONS PAPER**

Powerlink Queensland (Powerlink) welcomes the opportunity to provide input on the Australian Energy Market Commission's (AEMC's) Directions Paper on the recovery of the cost of the Australian Energy Market Operator's (AEMO's) participant fees.

The primary purpose of this submission is to inform the AEMC of Powerlink's specific circumstances in relation to this matter for the current 2023-27 regulatory period and encourage the AEMC to adopt appropriate transitional provisions in its Final Determination to address this. We strongly support Energy Networks Australia's (ENA's) Rule change proposal as the preferred transitional option to enable us to recover our allocated AEMO participant fees during this regulatory period.

Powerlink supports both ENA's Rule change proposal (June 2021) for a direct pass through of AEMO's participant fees through Transmission Network Service Providers' (TNSPs) prescribed transmission service charges and ENA's submission on the AEMC's Directions Paper (July 2022). We consider AEMO remains better placed in the market to justify the efficiency of its costs and that these costs are not well suited to incentive based regulation. This reflects that:

- TNSPs have no ability to accurately forecast AEMO's costs in the performance of its obligations. Furthermore, AEMO does not provide a long term forecast of budgeted fees;
- TNSPs cannot materially influence their participant fee allocation. AEMO does not have a mechanism to accurately allocate costs between and within participant categories. Further, AEMO has fixed the allocation percentages that apply both to participant categories and between TNSPs in its final participant fee structure that applies until 30 June 2026. This reduces the incentive for and benefits of TNSPs' efforts to reduce AEMO's costs to the extent practicable; and
- for functions that AEMO performs to comply with its own obligations, TNSPs have no ability to adjust the level of service AEMO provides. In contrast, for example, a TNSP has the ability to change its insurance coverage it seeks to apply to its business.

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## **Powerlink Circumstances – 2023-27 Regulatory Period**

### *AEMO Participant Fees*

Powerlink's 2023–27 Revenue Proposal to the Australian Energy Regulator (AER) (January 2021) did not include a specific allowance for AEMO participant fees. At that time, AEMO had commenced its consultation on its participant fee structure to apply from 1 July 2021 to 30 June 2026.

In March 2021, AEMO published its final participant fee structure, which introduced an allocation of participant fees to TNSPs from 1 July 2023. ENA submitted a Rule change proposal in June 2021 to allow TNSPs to directly pass through allocated AEMO participant fees. Powerlink subsequently engaged with the AER to highlight concerns with the timing of the Rule change proposal and its interactions with Powerlink's 2023–27 Revenue Proposal and determination process.

Powerlink was cognisant of the impact on customers of the inclusion of an allowance for AEMO's participant fees as part of its Revenue Proposal in conjunction with the proposed direct recovery mechanism in the Rules. Therefore, we elected to not include a specific allowance within our Revised Revenue Proposal (November 2021). We discussed this approach with the AER in the context of our revenue determination process. At that time, the AER did not raise concerns with this approach or flag issues with ENA's Rule change proposal. As a result, the AER's Final Decision to apply for Powerlink's 2023–27 regulatory period did not include a specific allowance for AEMO participant fees.

We strongly support ENA's Rule change proposal as the preferred transitional option to enable Powerlink to recover its AEMO participant fees during this regulatory period. However, we considered a number of other transitional options, which are set out in more detail in the attachment.

### **AEMC Considerations**

The AEMC's Directions Paper considers the potential for TNSPs to recover AEMO's participant fees through an increase in the operating expenditure allowance as part of the revenue determination process or through a cost pass through application.

### *Regulatory Determinations*

As noted above, the AER has not provided an allowance for AEMO participant fees in its Final Determination on Powerlink's 2023-27 Revenue Proposal.

In terms of revenue determinations, we note the AER's submission on the AEMC's Consultation Paper commented that networks incur a number of costs, such as government levies and taxes, which have similar characteristics to AEMO participant fees and that are classified as operating expenditure. The AER gave the specific example of Powerlink's obligation to pay a portion of the Queensland Government's annual funding commitments to the AEMC under the Electricity Act 1994 (Qld).

For clarification, our 2023–27 Revenue Proposal included the AEMC levy (\$29.7 million) as a category-specific operating expenditure forecast. In its Draft Decision (September 2021) the AER considered the levy was a 'cost like any other' and changes would be captured in its trend applied under the operating expenditure base-step-trend approach, rather than a category-specific forecast. However, we note the AER took the opposite approach in its determination for AusNet Services' 2022–27 Revenue Proposal (January 2022), where it included AEMO participant fees as a category-specific forecast. The inconsistent treatment of the AEMC levy

and AEMO participant fees suggests that revenue determinations are an unpredictable and unreliable mechanism to recover these costs.

*Cost Pass Through*

In light of the AER's recent approach to cost pass throughs<sup>1</sup>, we anticipate the AER would consider that the change event for a cost pass through application would be AEMO's publication in March 2021 of the structure of participant fees for the 2021–26 period. Given TNSPs have to apply to the AER to pass through any such costs within 90 business days of a change event, the date by which our application would be due has lapsed. For this reason, and the other issues discussed in ENA's submission, we consider there are material issues with a potential application of the cost pass through mechanism for the recovery of AEMO's participant fees.

If you have any questions regarding this submission or would like to meet with Powerlink to discuss this matter further, please contact me on (07) 3860-2667 or by email at [jenny.harris@powerlink.com.au](mailto:jenny.harris@powerlink.com.au).

Yours sincerely,



Jennifer Harris  
**GENERAL MANAGER, NETWORK REGULATION**

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<sup>1</sup> AER, ElectraNet 2022/23 Inertia Shortfall Cost Pass Through, Decision, June 2022, pp. 6-7.

## **ATTACHMENT: TRANSITIONAL OPTIONS CONSIDERED FOR THE RECOVERY OF AEMO'S PARTICIPANT FEES**

### **Summary**

Powerlink strongly supports ENA's Rule change proposal as its preferred transitional option. The following transitional options have been considered from the perspective of the ability for us to recover allocated participant fees if the AEMC's Final Determination does not allow for the direct pass through of fees. The transitional options below consider interactions with the current regulatory framework to apply until the next regulatory period commencing 1 July 2027 and are listed in order of preference.

### **Transitional Option 1 – Direct pass through**

#### Description:

Allow Powerlink to recover allocated participant fees as a direct annual adjustment to prescribed charges as contemplated by the ENA Rule change proposal.

#### Summary:

This option would allow Powerlink to directly adjust its annual prescribed revenue collections to include annual participant fee amounts advised by AEMO. In effect, this would occur in a similar fashion to the recovery of AEMO National Transmission Planner fees and not require AER approval each year. If implemented this option provides a reasonable opportunity for these fees to be included within annual prescribed transmission prices for 2023/24 as it is administratively less burdensome than other options.

The transitional direct pass through recognises that AEMO has fixed the percentage of participant fee allocations both to and between TNSP's in its participant fee structure to apply until 30 June 2026. There would be limited opportunity and incentive for Powerlink to materially influence its ultimate fee allocation over this fixed fee structure period as the earliest that any changes reflected in AEMO participant fee allocations would be from 1 July 2026. It also aligns closely to the proposed transitional period ending 30 June 2027.

### **Transitional Option 2 – Annual cost pass through eligibility**

#### Description:

For the AEMC to make it clear that AEMO participant fees are both an eligible pass through event and one that satisfies the cost pass through principles in the Rules including for timing and the materiality threshold. This would allow Powerlink to apply to the AER annually to recover these costs.

#### Summary:

The cost pass through framework currently in the Rules does not provide a reliable mechanism for TNSPs to recover participant fees. Two key issues arise with the current framework that need to be addressed for it to present as a viable alternative.

Firstly, the AER may consider the 'change event' as occurred in March 2021 when AEMO published the Final Determination on participant fees. In this circumstance the 90 business day timeframe for TNSPs to submit a cost pass through application will have already lapsed. It is also unclear if the requirement for TNSPs to pay AEMO participant fees from 1 July 2023 would satisfy the definition of a regulatory change event as the requirement for market participants to pay allocated AEMO fees has been well established within the Rules.

Secondly, current pass through arrangements require that positive pass through amounts satisfy a materiality threshold of one percent of the Maximum Allowed Revenue. Based on

AEMO's forecast 2023/24 budget, Powerlink's annual allocation would be around \$5 million dollars and sit just below this threshold. These fees by nature are a repetitive annual charge and may be just below the threshold in a given year. The cumulative effect over a five-year regulatory period of these unexpected costs can have a significant effect on a TNSPs' ability to invest in and operate their networks. This would be particularly concerning to Powerlink, given we have already set ourselves a target of no real growth in operating expenditure between the last and current regulatory periods.

### **Transitional Option 3 – Reopen revenue determination (operating expenditure)**

#### Description:

Allow Powerlink to reopen its revenue determination for the 2023–27 regulatory period to apply to the AER to adjust its operating expenditure allowance to include a forecast of its allocation of AEMO participant fees.

#### Summary:

The Rules do not appear to allow for a revenue determination to be reopened for inclusion of additional operating expenditure items. If established, transitional arrangements would allow for Powerlink to reopen the 2023–27 revenue determination to allow for a submission to the AER for the inclusion of a forecast of AEMO participant fees in its operating expenditure allowance. This would apply to Powerlink's current revenue determination period ending 30 June 2027.

This option is more complex to implement, requires additional resources from both Powerlink and the AER and may not be resolved before the March 2023 prescribed transmission prices publication deadline, noting the concurrent revenue determinations for other TNSPs. To streamline the approach, AEMO participant fees could be considered and presented to the AER as a category-specific forecast for non-controllable costs.