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25 January 2024

Anna Collyer
Chair
Australian Energy Market Commission
GPO Box 2603
SYDNEY, NSW, 2001

Dear Ms Collyer

Re: Improving the workability of the feedback loop

The Australian Energy Regulator (AER) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft determination on "Improving the workability of the feedback loop".

The AER supports the intent of the draft determination as a means to implement the recommendations from the Transmission Planning and Investment Review (TPIR) stage 2 report aimed at supporting the timely and efficient delivery of major transmission projects.

The AER supports the intent of the rule change to allow AEMO's feedback loop to be conducted in parallel with the AER's assessment of a CPA, should the TNSP choose to. This should improve the timely delivery of projects whilst retaining important consumer protections to helping to ensure investments remain in consumers' long-term interests. The AER also supports the revised provisions regarding the granting of extensions by AER and AEMO under the National Electricity Rules (NER).

Conducting AEMO's Feedback Loop in parallel with the AER's CPA

The AER highlights the importance of AEMO's feedback loop being passed before the AER makes a CPA determination in order to protect the long-term interests of consumers. This helps ensure only transmission projects that remain in line with the ISP Optimal Development Path are progressed.

The AER notes the need for staff within the AER and AEMO to interact whilst the AEMO feedback loop and CPA assessments are proceeding in parallel to ensure efficiency and well-informed project outputs in the long-term interests of consumers.

The AER notes that the draft determination and draft rule do not include a requirement for the TNSP to notify the AER of the outcome of an assessment under AEMO's feedback loop. In addition, the AEMC's draft determination and rule do not explicitly state what happens to the AER's CPA assessment process if an actionable ISP project does not pass AEMO's feedback loop.

Whilst communication from the TNSP may already be received by the AER in practice, the AER suggests inserting a requirement in the Rules for the TNSP to notify the AER as soon as possible on the outcome of a feedback loop assessment. In the event that an actionable ISP project does not pass AEMO's feedback loop, the AER assumes that the TNSP's application to the AER would become void and that the AER's CPA assessment process would stop.

However, it would be beneficial to also make this explicit in the Rules and/or the AEMC's final determination for the avoidance of any doubt. Explicit requirements to communicate the outcome of AEMO's feedback loop and cease the CPA assessment process if an actionable ISP project does not pass will ensure the efficient use of the AER and stakeholder resources in conducting and responding to CPA assessments and provide certainty to stakeholders.

Timeframes for assessments

The AER supports the changes to the timeframes regarding the extension of assessments in the AEMC's more preferable draft rule. The draft determination introduces a clause that automatically grants the AER an extension to its CPA process if AEMO submits an extension to its feedback loop process. The draft determination also requires AEMO to request an extension to its feedback loop process no later than 10 business days before the end of the 40-day period, consistent with the AER's existing timeframe for submitting an extension.

The changes take into account the AER's feedback to the AEMC regarding previous misalignment of the timeframes for AEMO's feedback loop and the AER's CPA processes in respect of the ability to extend either assessment. The AER is satisfied the issues it raised have been resolved and that the overall policy intent of the rule change is being achieved to accommodate parallel assessments.

Transitional arrangements and amending the AER's CBA Guideline

The AER notes we will be reviewing and updating the CBA Guidelines to address several regulatory changes that have either been recently completed or are underway, including the inclusion of emissions reduction in the national energy law and rule changes resulting from TPIR recommendations. The AER can also incorporate changes coming from this rule change proposal in its upcoming consultation on the Guidelines.

The AER supports the transitional provisions to provide the AER up to 12 months to update and publish its CBA guidelines, allowing prior consultation, in anticipation of the amending rule, to satisfy the consultation requirements to update the guideline.

We appreciate the opportunity to provide feedback on the draft determination and are available to discuss our comments further if needed.

Yours sincerely

A handwritten signature in black ink, appearing to be 'MF' or 'Mark Feather', written in a cursive style.

Mark Feather
General Manager, Policy

Sent by email on: 25.01.2024