

Our Ref: 55424-D14/164034
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John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

Early application of service target performance incentive scheme (STPIS) components to transmission businesses – ERC0173

Thank you for the opportunity to comment on the draft determination on the early application of STPIS components to transmission businesses (TNSPs). The AER generally supports the approach taken in the draft determination. We have included comments, as set out below, on some aspects of the draft rule which we consider require clarification.

Application of the rule to TNSPs

As set out in our submission to the AEMC's consultation paper, the AER supports early access to the network capability component (NCC) of the STPIS under certain conditions. These conditions primarily relate to the ability to apply the NCC without re-opening a revenue determination and that there are no issues around interrelationships between the NCC and other aspects of the relevant TNSP's revenue determination (such as expenditure relating to NCC projects being included in approved operational or capital expenditure allowances).

Currently the draft rule applies to a TNSP "which will be subject to the [NCC] at its next regulatory control period for the current regulatory control period". We note that ElectraNet and Powerlink are the only eligible TNSPs not yet subject to the NCC.¹ For the reasons set out in our earlier submission, we consider that the rule should be limited to apply to ElectraNet. Alternatively, if the intention is to apply the rule more broadly, we consider that the wording of paragraph (a) should be clarified to refer to TNSPs that would be eligible to

¹ The interconnectors, Directlink and Murraylink, are excluded from the application of the NCC under clause 2.2 of the scheme.

have the NCC apply to them at the next regulatory period. In the draft, we are unclear as to the exact purpose of the phrase “for the current regulatory control period”.

We note that there also may be some confusion created by the drafting of rule 11.77.3(a) if version 4.1 is superseded – please see comments below.

Proposal requirements

The draft rule sets out the requirements a TNSP must meet in its proposal for early application of the NCC. In particular, paragraph (b)(3) requires the submission of a network capability incentive parameter action plan (NCIPAP) setting out the matters in clause 5.2(b) of the scheme. The AER considers two additional items, as required under the scheme, ought to be included in the draft rule.

Clause 5.2(j) of the scheme requires the TNSP to include in its NCIPAP details of any disagreement with AEMO regarding priority projects and the grounds for the disagreement. We consider the TNSP is not obligated to provide this information under the draft rule. A reference to clause 5.2(j) could be inserted into paragraph (b)(3) or, alternatively, the paragraph be revised to require the submission of a NCIPAP meeting the requirements of clause 5.2.

The scheme requires that the cost of proposed priority projects must not be included in the forecast operational expenditure or the forecast capital expenditure as proposed by the TNSP in its revenue proposal. This is to ensure that TNSPs do not receive two sources of funding for the same project. As set out in our earlier submission, ElectraNet withdrew a number of NCC-type projects from its forecast operational expenditure. This may not be the case with all TNSPs. It would assist the AER in assessing whether the projects are not otherwise funded through approved operational or capital expenditure if TNSPs were required to provide confirmation of this.

Review of the proposal

We understand the draft rule to provide that the AER is obligated to publish the proposal, undertake consultation and make a final decision to accept or reject the proposal.

However, under the draft rule, the AER is not provided with the ability to notify the relevant TNSP that the proposal does not comply with the requirements of the rule. Further, there is no scope for the AER to raise particular concerns regarding the totality of projects proposed. To use a possible, although perhaps unlikely example, if the relevant TNSP submitted a NCIPAP with only one \$10,000 project there is no ability for the AER to request the TNSP submit a revised proposal increasing the number of projects. In such circumstances, we consider it important that the AER be able to request that a TNSP review its proposal for the purpose of including additional projects because otherwise the administrative costs of this decision-making process (which takes place outside of a revenue determination) may be out of proportion to any benefits from the proposal.

We consider that it would be preferable to provide the AER with the ability to review the application and to notify the TNSP of any issues identified. The TNSP should then have the ability to submit a revised proposal. We note that in the National Electricity Amendment (Early Implementation of Market Impact Parameters) Rule 2010, there were clauses that provided the AER with these kinds of powers (clauses 11.32.3(f)-(h)).

Decision on application of the NCC

Under the draft rule, it is unclear on what grounds the AER has the ability to make a final decision which rejects the application of the NCC.

The draft rule specifies that the AER has to make its final decision in accordance with paragraphs (h)-(l). Paragraph (h) specifies the factors that the AER must consider when approving a priority project and the ranking of such projects. The wording of paragraphs (i) and (k) contemplate the AER making a decision whether the NCC will apply, but these clauses do not specify the factors the AER must or can consider when deciding whether to reject or accept an application.

We consider that the rule should refer to the factors the AER is to have regard to when making its decision, including the national electricity objective, the requirements of the rule and the objectives of the STPIS.

Reference to the scheme

Under the STPIS, the AER has the ability to amend or replace the scheme from time to time. On 17 September 2014, the AER amended version 4 of the STPIS to address issues around the application of the market impact component to Directlink in light of exceptional outages of its equipment in 2012. The NCC remained unchanged in the new version of the scheme, version 4.1.

The draft rule refers to the 'relevant STPIS', which is defined as meaning version 4 of the STPIS dated December 2012. Version 4 has now been amended and in effect superseded by version 4.1 of the scheme.

The AER considers that once the STPIS has been amended, the previous version ceases to apply other than where it already has been applied to a TNSP as part of its revenue determination. Accordingly, the AER could not now apply version 4 as part of a forthcoming decision (under either this amending rule or as part of a revenue determination). For this reason, we consider the reference to the 'relevant STPIS' should be updated to refer to version 4.1.

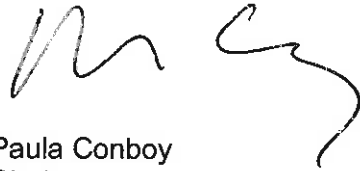
We note that we intend to review the scheme in 2015 ahead of AusNet Services and Powerlink's next regulatory control periods. We will review the NCC as part of that process. Should the AER's review result in an amended version of the scheme (eg. version 5), it will no longer be open to the AER to apply version 4.1 under this amending rule or as part of a revenue determination. Consequently, we consider the draft rule would not enable early application at the point in time when version 4.1 is superseded. We consider that this is unlikely to be a cause for concern as it is likely that any TNSPs seeking early application would have done so by the time of our STPIS review.

Actions performed prior to the commencement date

The AER requests that the AEMC clarify the intent and operation of subsection (m) of the draft rule. Paragraph (m) refers to the following steps: the TNSP consulting with AEMO on the priority projects, the AER publishing a TNSP's proposal for early application, the AER engaging in consultation and the AER determining whether to approve a priority project and the ranking of such projects. Paragraph (m) does not refer to the TNSP submitting a proposal for early application. We are unclear as to the implications of subsection (m) both for TNSPs in submitting a proposal and the processes to be undertaken by the AER under the draft rule.

We trust this submission assists the Commission. If you would like to discuss any aspect of this submission please contact Craig Oakeshott, Director, Wholesale Markets, on (08) 8213 3469.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Paula Conboy', with a long, sweeping tail extending to the right.

Paula Conboy
Chair
Australian Energy Regulator