

Your Ref: ERC0209
Our Ref: 57227-D17/80775

27 June 2017

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Dear Mr Pierce

Re: Transitional arrangements - replacement expenditure planning arrangements rule

This letter is to follow up on recent discussions between AER and AEMC staff on transitional arrangements for the rule to extend the scope of the regulatory investment tests (RITs) to replacement expenditure.

My purpose in writing this letter is to outline in some more detail our view on how the transitional arrangements for this rule should work. In so doing, this letter clarifies the issues raised in our recent submission on the draft rule.

We have approached the issue of the transitional arrangements with the objective of ensuring timely implementation of the rule, while exempting projects that are well advanced from the rule requirements.

To achieve this, we consider that projects that meet the definition of a 'committed project' as defined in the RITs (as relevant) at the time the rule is made should be exempt from the requirement to conduct a RIT, but all other projects should be subject to a RIT assessment. As noted in our submission, this would exclude projects that are well advanced from the requirement to conduct a RIT, but would also prevent a 'rush' of projects being proposed in order to avoid the scrutiny of the RIT. We also consider that timely implementation of the rule will require amendments to our regulatory investment test for transmission application guidelines and regulatory investment test for distribution application guidelines (RIT guidelines) to be made promptly.

These transitional arrangements would appear to require the following steps:

1. The final rule would need to specify that projects that meet the definition of a 'committed project' at the time the rule is made should be exempt from the requirement to conduct a RIT, but all other projects should be subject to a RIT assessment.
2. The final rule would need to specify that businesses are to publish a list of projects that were committed at the time the rule is made on their website. Businesses could be given a period of time to publish this list (one month after the date of the final rule would appear reasonable).
3. The final rule would need to specify that the AER is not required to follow the transmission and distribution consultation procedures in amending the RIT guidelines.
4. The AER will need to make required amendments to the RIT application guidelines. As noted in our submission, minimal changes need to be made to the RIT guidelines to make these guidelines consistent with the rules.
5. The final rule could specify a date by which the AER is required to amend the guidelines. We do not, however, consider that this is necessary because we are committed to amending the RIT guidelines soon after the rule is finalised.
6. The final rule would need to specify that the rule would take effect once amendments to the RIT guidelines have been made by the AER.

We consider that this process would enable a timely implementation of the rule, while excluding projects that are well advanced from the requirement to conduct a RIT assessment.

We are also strongly of the view that the transitional arrangements do not need to prescribe a 'bespoke' consultation process in the rules that the AER must follow in amending the RIT guidelines. We consider that such a process is unnecessary given the minor changes required to the RIT guidelines required as a result of the rule. A bespoke consultation process is also potentially burdensome for stakeholders and would likely slow down implementation of the rule.

Please contact me if you wish to discuss the issues raised in this letter.

Yours sincerely



Paula W. Conboy
Chair