grid australia
BACKBONE OF THE NEM

4 October 2012

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Via website: www.aemc.gov.au

Dear John

Economic Regulation of Network Service Providers (AEMC Reference ERC0134)

Grid Australia welcomes the opportunity to provide this submission to the Australian Energy Market Commission (AEMC) on its Draft decision and Draft Rule on the Consolidated Rule Request – National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2011 (Proposed Rule Changes) comprising proposed Rule changes submitted by the Australian Energy Regulator (AER) and the Energy Users Rule Change Committee (EURCC).

Grid Australia's members are also members of the Energy Networks Association (ENA). The ENA has lodged a detailed submission in response to the AEMC's Draft decision and Draft Rule and Grid Australia generally endorses the positions taken in the ENA submission.

The purpose of this submission is to focus on the aspects of the Draft Rule that are of most significance to the transmission sector in view of its unique technical and market characteristics, including those areas where a different approach for transmission may be warranted.

While proposed changes to the Draft Rule have not been provided on transmission specific matters in this submission, Grid Australia is willing to assist the AEMC on specific drafting issues once it has had the opportunity to review all submissions.

To discuss any aspect of this submission please contact me on (08) 8404 7983.

Yours sincerely

Rainer Korte

Rainer Korte
Chairman
Grid Australia Regulatory Managers Group

Powerlink TransGrid ElectraNet TRANSEND SP AusNet

Consolidated Rule Request – National Electricity Amendment (Regulation of Network Service Providers) Rule 2011

Response to Draft Rule Determination

October 2012

Table of Contents

1. Introduction and Overview

Grid Australia welcomes the opportunity to provide this submission to the Australian Energy Market Commission (AEMC) on its Draft decision and Draft Rule on the Consolidated Rule Request – National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2011 (Proposed Rule Changes) comprising proposed Rule changes submitted by the Australian Energy Regulator (AER) and the Energy Users Rule Change Committee (EURCC).

Grid Australia's members are also members of the Energy Networks Association (ENA). The ENA has lodged a detailed submission in response to the AEMC's Draft decision and Draft Rule and Grid Australia generally endorses the positions taken in that submission. The purpose of this submission is to focus on the aspects of the Draft Rule that are of most significance to the transmission sector in view of its unique technical and market characteristics, including those areas where a different approach for transmission may be warranted. While proposed changes to the Draft Rule have not been provided on transmission specific matters in this submission, Grid Australia is willing to assist the AEMC on specific drafting issues once it has had the opportunity to review all the submissions.

1.1 Summary of responses to Directions Paper

While Grid Australia maintains the view that the current Rules have been successful in achieving their intended aims, it agrees with the AEMC that some enhancements would be beneficial. Grid Australia endorses many of the AEMC's findings with respect to the areas of the Rules where enhancements may be made and the broad objectives to be pursued. These include providing increased flexibility when setting the weighted average cost of capital (WACC), strengthening the incentives for efficient capital expenditure, and ensuring the regulatory process delivers an appropriate sharing of information in a timely manner.

While supporting the areas of change proposed by the AEMC, Grid Australia has a number of concerns with the proposed implementation of the changes, most significantly:

- Further work is needed on achieving an appropriate balance between prescription and flexibility. In particular, in some aspects the AER is provided with insufficient guidance on how it should apply its discretion, such as the application of a capital expenditure efficiency sharing scheme, while in other areas, such as the required statement on the efficiency of past expenditure, the level of prescription would impose unnecessary costs.

- The Draft Rules appear too focused on achieving short-term price reductions by *limiting* expenditure to the potential detriment to customer outcomes over the long term, such as the proposed capital expenditure efficiency objective, and seeking precision where it is not achievable, such as the objective for the WACC. Grid Australia does not consider that this approach is consistent with the National Electricity Objective (NEO) or the Revenue and Pricing Principles (R&PP) in the National Electricity Law (NEL).

1.1.1 Transmission specific matters

It is important that the AEMC in finalising the Rules, and the AER in implementing them, have regard to the key differences between transmission and distribution. Transmission involves large lumpy capital projects, different service objectives, and a greater influence on wholesale market outcomes. These differences between transmission and distribution will in turn necessitate differences in the arrangements to which they are subject. Grid Australia therefore has the following comments on those specific aspects of the AEMC's Draft Rule of most significance to transmission networks:

- Increased flexibility for the WACC setting framework is an appropriate and necessary enhancement for the framework. The current approach for transmission does not allow for all new and relevant evidence to be considered.

- The AER needs to be provided with sufficient guidance on the application of capital expenditure incentives schemes and ex-post prudence test (if the AEMC decides to retain this proposal). The nature of transmission networks, not least the different nature of service objectives, drivers of investment and size of the projects, means that the AER may need to apply capital expenditure incentives differently than for distribution. In addition, the capital expenditure incentives objective as presently drafted is too narrow given its focus on *limiting* expenditure that can be included in the RAB. This can create specific risks for transmission given the trigger for market benefits projects are less well defined, amplifying the scope for disagreement about whether the project should have been undertaken.

- The role and benefit of benchmarking for transmission should not be overstated. The different individual characteristics of the relatively fewer transmission businesses across the NEM and the lumpy nature of investment mean that comparisons between transmission networks is particularly challenging. There may be benefit in the Rules clarifying that the AER have regard to these limitations when developing its benchmarking report.

  In addition, references to 'in the circumstances of the NSP' are not in the Rules for the purpose of guiding benchmarking and therefore have no practical effect on the AER's approach to benchmarking. Instead, these words direct the AER to consider important matters when assessing forecast expenditure and should be retained in its current form, with a consideration of the circumstances of the

NSP being of particular importance for the transmission sector for the aforementioned reasons.

- Grid Australia supports the AEMC's intent on shared assets given as it is appropriate for the AER to acknowledge where assets that are used to provide prescribed transmission services might also be used to provide other services that are not regulated. It is important, however, for this principle not to be extended further than necessary and for the specific features of transmission to be recognised. For transmission, assets can and are constructed solely to provide negotiated and non-regulated transmission services. There is no rationale to treat these assets as shared and so include them in the Regulatory Asset Base (RAB) unless or until such time they are used to provide prescribed transmission services, for which a process already exists in the Rules.

- A Framework and Approach paper is not a necessary addition to the transmission framework given the limited number of decisions needed for transmission, the homogenous nature of the services TNSPs provide and the relatively greater maturity and national consistency in the transmission regulatory arrangements. The present framework already adequately addresses circumstances that might differ between individual TNSPs and should be maintained for any new schemes or mechanisms.

- Harmony between Chapter 6 and 6A is not sufficient justification for the removal of the well-functioning submission guidelines framework for transmission. Given this framework is effective, there are no benefits that can be gained relative to the certain costs associated with moving to the distribution framework.

- The timeframe for lodging a revised revenue proposal should be extended by at least two weeks after publication of the AER's Draft Determination.

- The AEMC has not demonstrated that there is a problem that warrants a change to the approach to the treatment of material errors for transmission. The change proposed would lower the threshold for a determination to be changed.

1.1.2 Other matters

While not covered in the body of the submission, Grid Australia wishes to emphasise its support of the ENA submission on the following specific issues:

- The proposed WACC framework could be improved by maintaining a form of 'persuasive evidence test' that requires parties to state their reasons and evidence for a departure from the past. Also, further increasing the level of guidance the AER is required to provide in the rate of return guidelines would better achieve the AEMC's stated objective of stakeholders having the ability to predict the likely WACC outcome.

- A benchmark approach to the cost of debt is supported, as is the option for alternatives to the use of spot rates when setting the cost of debt. However, further guidance in the Rules would serve to reduce the scope for either the AER or network service providers (NSPs) to take an opportunistic approach to either of these matters. In addition, the framework would be enhanced by having NSPs propose an approach for the cost of debt that is then assessed by the AER.

- While it is important for NSPs and the AER to have a dialogue regarding the expenditure forecasting method applied, the actual approach should remain the responsibility of the NSP. It would be beneficial, however, for the AER to specify its assessment approaches up-front.

2. Overarching comments

Grid Australia maintains the view that the current Rules are broadly appropriate and are achieving their intended outcomes. As recognised by the AEMC, there are however, a number of aspects of the current framework that would benefit from changes to the Rules, namely:

- The current WACC framework for transmission does not provide sufficient flexibility to allow the AER and TNSPs to adapt to changing conditions, and it does not include a process of merit review to correct for material errors made in the WACC parameters determination

- While there is no incentive for TNSPs to spend more than their revenue allowance unless necessary, the incentives for efficient capital expenditure decline over the regulatory period, and

- There is a need to ensure that the process for making revenue determinations allows for the appropriate sharing of information and a timely decision making procedure.

Grid Australia also supports the AEMC's finding that the evidenced based expenditure forecasting framework is broadly appropriate.

2.1 Appropriate degree of prescription in the Rules

A key focus when developing the current Chapter 6A Rules and the AER Rule change was to achieve the appropriate balance between prescription and flexibility in the Rules.

At the time the AEMC made the Chapter 6A Rules it was particularly concerned that insufficient specification or guidance can lead to uncertainty and inconsistency, which can impact adversely on long-term investment. It also noted that insufficient discretion can limit the ability of the regulator to respond flexibly to different market and commercial circumstances. This was a view that was also supported by reports by authorities such as the Expert Panel on Energy Access Pricing.[1]

Conversely, the AER was concerned in its proposed Rule change that the balance had been inappropriately set in favour of NSPs. The AEMC's finding on this matter, however, which appears to be more fully explained in the Directions Paper, indicates that in most areas the AER has the flexibility it seeks within the current Rules. In other areas it was also noted that the AER's solutions would entrench prescription that was in excess of what was necessary.

The need for an appropriate balance between prescription and flexibility has not diminished. In those areas where there is little interaction with other elements of the framework, do not require adjustment in light of changing market conditions, and are largely settled matters there remains a need to provide certainty and predictability through Rules, placing clear bounds on regulatory decision making. While in those areas that exhibit 'moving parts', or that might vary between businesses, or be influenced by changing market conditions, flexibility, combined with clear guidance for decision making, is preferred. It is important to recognise that where guided discretion is provided, this guidance plays a vital role in ensuring that the regulator is properly accountable for the decisions it makes. This includes ensuring that there is consistency between the maker of the Rules and the administer of the Rules on the interpretation of the NEO in certain instances.

2.1.1 Has the Draft Rule achieved the right balance?

While Grid Australia agrees that the AEMC's Draft Decision largely focuses on the right problems in the framework, it does not consider that the balance has been properly set in the current Draft Rule. While it is acknowledged that there is a lot of debate about rising electricity prices at present this should not dilute the need for well thought through and evidence based rule making. As such, further work is needed to ensure that policy decisions (once addressed in view of the matters raised in this submission) are properly reflected in the Draft Rule. This means having better regard to matters that should be prescribed, where the AER should have discretion, and the guidance needed where the AER is to apply its discretion.

The AEMC makes the following statement in the Draft decision:[2]

> *The interpretation and application of the rules by the regulator is crucial. This draft rule determination provides examples and illustrations of how the rules could be interpreted and applied to address problems that exist currently, but also how their application could adapt when the circumstances change.*

---

[1] Insert reference to expert panel report.

[2] Insert reference to AEMC document.

Grid Australia agrees with the AEMC's view that the interpretation and application of the Rules by the regulator is crucial. However, simply identifying expected outcomes and examples in a decision document does not go far enough in providing guidance to the regulator on how it should implement the Rules into the future, and as such, to provide sufficient accountability on the regulator and certainty to TNSPs.

2.1.2 Risks of not addressing the balance between prescription and flexibility

Grid Australia is particularly concerned about those areas of the Draft Rule where there is insufficient guidance on the AER's decision making. Given the history of economic regulation in the NEM via the National Electricity Code (NEC) as administered by the Australian Competition and Consumer Commission (ACCC) there is no need to guess what outcomes might be like in an environment where excessive discretion is provided to the regulator. The guidance for the ACCC under the previous NEC framework was poor. It contained multiple, competing objectives, and was restricted to the level of high level principle.

Given the previous framework, which was operated on a high level principle basis, the ACCC sought to provide more certainty through its non-binding Statement of Regulatory Principles of Transmission Revenues (SORP). As noted in previous submissions, the ACCC departed from its SORP on numerous occasions, crystallising fears about the lack of guidance in the NEC. Grid Australia's first submission to this Rule change process identified the numerous examples of investors raising concerns about the impacts of the ACCC departing from either precedent or its stated approach in the SORP. This was not only the view of investors, numerous reviews at the time commented that a lack of certainty and predictability in regulatory frameworks was hampering long-term investment in the sector.[3]

Grid Australia is concerned that the proposed changes to the Rules risk repeating history. That is, that insufficient guidance in the Rules will materially hamper regulatory certainty and in doing so increase the costs and risks of making long term network investments. There is, however, also a risk that inappropriate prescription leads to poor outcomes. These poor outcomes might include increased and unnecessary administrative costs with the regulator, NSPs and customers engaging in processes that are not needed and do not promote the NEO. In addition, such prescription might mean that different approaches cannot be applied where it would be appropriate to do so.

It is important to recognise that the implications of getting the appropriate balance between prescription and flexibility takes on even greater significance given the present uncertainty about the form of the merits review regime in the future. It is only through providing appropriate guidance in the Rules that necessary accountability for decision making can be placed on the AER.

[3] Identify relevant reviews as per previous submission

2.2 Assessment against the NEO and R&PP

As the AEMC is aware, Rule changes are required to promote the NEO. In addition, the AEMC is required to take into account the R&PP where a Rule change relates to the economic regulation of networks. As outlined below, Grid Australia is concerned that the present implementation of the AEMC's Draft decision is not consistent with the NEO and R&PP. In particular, the present construction of the Rules appears focused too strongly on short-term price outcomes and gives little consideration to the longer-term risks of under-investment and consequent adverse impacts on consumers.

The NEO is focused on promoting economic efficiency and, thereby, the long term interests of consumers. This means a framework that encourages, over time, the production of the most valued combination of goods and services using the least cost combination of inputs. The R&PP also require that the AEMC have regard to, amongst other things:

- The need for NSPs to be provided with a reasonable opportunity to recover *at least* the efficient costs incurred,
- Providing financial incentives to promote economic efficiency
- Having prices that allow a return commensurate with the regulatory and commercial risks involved in providing services, and
- The economic costs and risks for under-investment or over-utilisation of the network.

It is clearly important that efficiency is promoted and that the prices consumers face reflect efficient costs. Regulation, however, is not perfect and comes with the potential for material error and consequent risks and costs. Indeed, perfectly efficient outcomes are not a feature of any real market in the economy. This potential for error appropriately is required by the R&PP to be a central consideration in both the AEMC and AER's decision making, as well as the requirement in the NEO for efficiency to be *promoted* rather than to 'achieve' or 'ensure' it.

However, the current drafting of a number of aspects of the Draft Rule appear to suppose that a degree of precision is achievable that, in reality, is simply not possible. These areas of the Rules include:

- WACC objectives – the objective drafted for the WACC, and in particular the use of the term 'correspond' appears to target a level of precision that is not possible with this aspect of the building blocks framework and ignores that the WACC will only ever be an estimate of the efficient compensation for the risks incurred. Even if the AEMC did not intend for the Rules to require a change in the expected precision for estimating the WACC, the fact that a change has been made and new words have been inserted implies that a different interpretation should nevertheless be taken.

- The capital expenditure objective – the drafting of this objective appears focused on *limiting* expenditure that is rolled-into the regulatory asset base (RAB). Instead, the objective should be on promoting efficient capital expenditure being undertaken. This is particularly important in the context of transmission where the merits of market benefits projects are more uncertain at the time an investment is made.

- Guidance on schemes and incentive mechanism – the guidance for various schemes and incentive mechanisms does not appear to place sufficient, if any, weight on the costs and risks that might be imposed through a scheme or mechanism.

- Much of the guidance that has been included in relation to new schemes appears asymmetric in the sense that it focuses heavily on limiting expenditure without any regard to the costs and risks of doing so.

Grid Australia is concerned that a focus on *limiting* expenditure and on impossible precision in important aspects of building block components will put at risk the ability for NSPs to recover the costs of prudent investments. This would be inconsistent with the NEO and the R&PP and increase the prospects of inefficient under-investment. The AEMC is therefore urged to look past only the short-term and ensure that the Rules achieve sustainable and efficient outcomes over the longer-term.

The remainder of this submission addresses the specific areas of the Draft Rule.

3. WACC setting framework

Grid Australia strongly supports the AEMC's findings that the current framework for setting the WACC in transmission lacks the appropriate flexibility for the AER to consider all relevant evidence and does not appropriate include a process of merit review to correct for material errors by the regulator. On that basis Grid Australia supports the AEMC's Draft Rule to introduce a more flexible framework focused on achieving an overarching objective for the WACC. The new framework should allow the AER to draw on all relevant sources of evidence for estimating the WACC and in doing so, be a better reflection of the regulatory and commercial risks associated with providing transmission network services.

However, as discussed above, Grid Australia supports the positions in the ENA submission as to where modifications to the Draft Rule should be made to ensure consistency with the NEO and R&PP and to improve the quality of guidance more generally.

4. Capital expenditure incentives

Grid Australia has previously acknowledged that while there is no incentive for NSPs to spend more than their approved forecast revenue, the incentive to minimise expenditure declines throughout the regulatory period. On this basis, Grid Australia has advocated for a strengthening of the incentives for efficient capital expenditure. It has also advocated for an approach to capital expenditure incentives that allows the AER to apply its discretion, based on guidance in the Rules, on how a scheme might be designed and implemented for individual network businesses.

It is important to reiterate that it is necessary to allow flexibility for a different approach to capital expenditure incentives to exist between transmission and distribution. That is, an approach that takes into account the fact that transmission investment is lumpy, there is a different coverage of service standards and obligations, investment is predominately driven by demand over which TNSPs have limited influence, and transmission has a more significant role in national planning and investments associated with market benefits, including interconnectors and greater interaction with generators and the wholesale market.

4.1 Capital expenditure efficiency sharing scheme

Grid Australia supports the introduction of a capital expenditure efficiency sharing scheme but notes it is important that the AER strive for such a scheme to provide a continuous and symmetrical incentive. Grid Australia considers the revised principles for the scheme as proposed in the ENA submission better align to these objectives.

Given the differences between transmission and distribution it is important for the AEMC to put beyond doubt that the AER has the flexibility to implement different schemes between transmission and distribution. This does not mean that different principles are necessary in the Rules, but rather it is the application of those principles that might differ. For instance, while the AER might want to design a transmission scheme that has specific regard to the impact on costs of changes to demand, for distribution it might want to the scheme to have regard to cost changes that result from network connections.

In addition, it is also important for the AER to be properly guided – for example, to ensure that it has regard to risks created by such a scheme for transmission (in view of the lumpiness of projects and greater exposure to exogenous factors) and the different form and coverage of service obligations and the role of the Regulatory Investment Test for Transmission. The rule drafting that the ENA has proposed would be appropriate in this regard. In view of the matters above, adopting this enhanced guidance is a particular priority for transmission.

4.2 Ex-post reviews of capital expenditure

Given the AEMC's finding that there is no incentive for NSPs to spend more than forecast amounts, and the considerable cost and risks associated with ex-post prudence tests, it is imperative that the AER not be required to make a statement about the efficiency of past capital expenditure or be required to undertake an ex-post prudence test. The best solution to delivering actual expenditure outcomes that are consistent with the NEO is to ensure that an NSP's profit motives are aligned with this objective. This is a view supported by the AEMC in its commentary for the Transmission Frameworks Review.[4]

As the AEMC would be aware, an ex-post prudence test framework previously applied to transmission businesses in the NEM. This was administered by the Australia Competition and Consumer Commission (ACCC) under the National Electricity Code (NEC). Importantly, the ACCC determined that it would cease using an ex-post prudence test due to concerns it has about its impact on the effectiveness of ex-ante incentives and the uncertainty it created for TNSPs.[5]

The transmission framework already includes a requirement, as part of the submission guidelines, for TNSPs to provide reasons for any expenditure in excess of forecast amounts. Given this requirement, Grid Australia considers that the current approach provides sufficient transparency and accountability over previous expenditure without the costs associated with a detailed ex-post assessment and efficiency statement by the AER.

The concerns that were previously expressed by the ACCC about the application of an ex-post prudence test are only further reinforced by the lack of guidance provided to the AER in the Draft Rule. Therefore, should the AEMC persevere with the option of an ex-post prudence test it is essential that the Rules direct the AER to consider a broader range of matters, not least the risk and costs that such schemes or mechanisms might create.

4.3 Actual or forecast depreciation

Grid Australia supports the AER having flexibility on the application of either actual or forecast depreciation in transmission. Providing this flexibility allows the AER to have proper regard to the potential distortions of applying actual depreciation. It also allows the AER to consider the necessity of the incentive in the face of all the other possible capital expenditure incentives.

4 AEMC, *Transmission Frameworks Review, Second Interim Report,* 15 August 2012, Sydney, p.79.

5 ACCC, *Decision, Statement of principles for the regulation of electricity transmission revenues – background paper,* 8 December 2004, p.44.

5. Expenditure forecasting

Grid Australia supports the AEMC's finding that it is important for the AER's assessment of forecast expenditure to be robust and evidence based. These elements have been maintained by ensuring that the AER gives an NSP's proposal primacy and is required to accept it if it meets relevant objectives and criteria. Where the AER wishes to substitute a forecast with its own it is appropriate for the AER to support this decision with evidence justifying varying from the NSP's proposal.

Grid Australia is concerned, however, that the AEMC may have unrealistic expectations about the application of benchmarking for transmission businesses. Notably, in its review of the use of the Total Factor Productivity (TFP) method (which is ultimately a benchmarking dependent method), the AEMC decided that it would not be appropriate to apply the method to transmission. On this matter the AEMC stated:[6]

> *Therefore we agree that it appears unlikely that it would be appropriate to implement a TFP methodology either for the gas transmission sector or the electricity transmission sector. In Gas, there is a degree of common ownership and operation and also because lumpy capital expenditure may cause problems for the TFP index. Applying a full TFP-based methodology in the electricity transmission sector may not be effective because of the difficulty in measuring outputs related to system security and reliability, the lumpiness of capital expenditure and given the small number of service providers.*

For the reasons the AEMC expressed concern about the application of TFP to transmission, Grid Australia considers a cautious approach should also be taken to the application of benchmarking more generally. Indeed, there may be benefit in the Rules being clear that the AER should be required to have regard to the particular characteristics of transmission that make benchmarking more difficult.

The unique characteristics of transmission also mean that the term 'in the circumstances of the NSP' takes on additional importance. This term is not in the Rules as a limitation, or any form of guidance, on the application of benchmarking. The term has a different purpose and that is as a central component of the definition of 'prudence' when considering a proposed forecast. This is appropriate and removing or relocating this term would reduce or diminish this important criterion when assessing efficiency.

5.1 Shared assets

Grid Australia agrees with the AEMC that it is appropriate for the AER to be able to acknowledge where some assets that are used to provide prescribed transmission services might also be used to provide other services that are not regulated. This will facilitate an appropriate regard to the contribution to cost recovery made by those

[6] AEMC, *Review into the use of total factor productivity for the determination of prices and revenues, Final Report,* 30 June 2011, Sydney, pp. 32-33.

other services. Grid Australia also supports the AEMC's position of allocating assets between different activities rather than capital expenditure at the point it enters the RAB. This approach accommodates changes to the intensity of use of the asset in the alternative activity over time.

Grid Australia supports the ENA position that the approach to shared assets should be extended to allow an allocation of shared assets between classes of regulated services, for instance, between standard control services and alternative control services (in the case of distribution). It is important to emphasise, however, that for transmission assets can and are constructed solely to provide negotiated transmission services and non-regulated transmission services. There is no rationale for these assets to be treated as shared assets and so to be included in the RAB unless or until such time as they provide prescribed transmission services. Schedule 6A.2 already has a mechanism to accommodate assets that provide negotiated or non-regulated transmission services subsequently being included in the RAB should they provide prescribed transmission services.

6. Regulatory decision making process

Grid Australia reiterates its support for a regulatory decision making framework for the revenue determination process that allows for appropriate sharing of information, and a procedural framework that encourages timely decision making.

Grid Australia, however, has three concerns with the AEMC's approach to the regulatory decision making process:

- The addition of a Framework and Approach paper is unnecessary for transmission and does not recognise that there are only a limited number of decisions made in transmission compared to distribution and that the regime is already effective balancing the need for consistency with the individual circumstances of the business,
- The submission guidelines approach is effective and the AEMC has not provided evidence that it is not working and a different approach is necessary, and
- It is necessary that at least an additional two weeks is provided between the publication of the AER's Draft Determination and the submission of a TNSP's revised revenue proposal.

In addition to these process related matters, Grid Australia also considers that the AEMC has not provided sufficient justification to warrant its proposed change to the approach to material errors for transmission.

Each of these matters is now discussed in turn.

6.1 Framework and Approach paper

Grid Australia does not consider the introduction of a Framework and Approach paper is necessary for transmission. There is already an effective framework to manage the limited number of decisions that apply to individual transmission businesses. Where individual decisions are required for specific TNSPs this can be managed through a TNSP's revenue proposal and the AER's consideration of that proposal. Therefore, Grid Australia considers that the AEMC proposal introduces unnecessary administrative costs into the regulatory process without a corresponding benefit.

A framework and approach paper was introduced for the distribution framework to take into account the different approaches to regulation that might be taken for individual distribution businesses but also to assist in harmonising what were previously disparate jurisdictional regimes. Most significantly, distribution businesses can differ on the form of regulation applied to various services they provide and also on the form of price control for standard control services. Both of these matters are prescribed for transmission. This reflects the more homogenous nature of the transmission function compared to distribution and the fact that there is relatively greater maturity and national consistency in the transmission regulatory arrangements.

Grid Australia notes that the current transmission framework already accommodates different approaches being taken for individual businesses for matters the AEMC suggest should be addressed in the Framework and Approach paper. Specifically, there are already schemes for the service target performance incentive scheme and the efficiency benefits sharing scheme. In both instances the scheme is able to apply differently to individual TNSPs without the need for a Framework and Approach paper. For example, the AER's present consultation on the service target performance incentive scheme is intended to develop a cohesive approach to transmission service incentives, whilst still recognising the differing underlying technical characteristics and historical performance of the different transmission networks.

There is also no reason why the approach undertaken for existing schemes cannot apply to the capital expenditure sharing scheme and any small-scale incentive scheme. To the extent further tailoring is necessary for individual businesses this can be achieved by the businesses including relevant matters in their revenue proposals and the AER making a decision on those proposals.[7]

[7] Grid Australia also supports the ENA proposal that rather than the AER propose a standard forecasting methodology that businesses engage with the AER and provide early dialogue on the approach the NSP intends to apply. This need not be done through the Framework and Approach paper and can be done as a separate discrete process, noting that given the ACCC and AER's previous experience with regulating TNSPs that they are likely to already have considerable experience with the forecasting methods that TNSPs apply.

6.2 Submission guidelines

Grid Australia does not consider that the AEMC has provided sufficient justification for the removal of the application of the submission guidelines and its key role in developing Revenue Proposals and Revised Revenue Proposals.

The AEMC has determined to adjust Chapter 6A to remove the Rules requirement for the AER to prepare submission guidelines on the basis that the AER can require the same information to be provided through a regulatory information notice (RIN). The guiding principle for this decision appears to be to provide greater harmony between Chapters 6 and 6A.

Grid Australia does not consider that harmony with distribution for its own sake is sufficient reason for a change to be made to the Rules where existing processes already exist and are proving effective. When designing frameworks harmony is clearly desirable, however, once those frameworks are in place changes should only be made to the extent they promote the NEO. This is to recognise that change involves costs. Those costs are those associated with making any necessary administrative changes as well as those that might arise through differences in the interpretations of any new framework.

The present submission guideline framework has been developed following significant consultation with industry and has proven to work well as a cohesive framework for transmission information. Revenue proposals are already prepared using the submission guidelines and accompanying information templates. The AER has already applied the framework for one round of determinations and Grid Australia does not believe it has any concerns about the effectiveness of the current framework. However, the removal of the submission guidelines framework in place of the RIN framework is likely to unnecessarily increase the costs of regulation. Given the AEMC has not identified any deficiency with the current framework, Grid Australia does not consider that the costs of achieving harmony with Chapter 6 in this area justify the likely costs of making the change.

6.3 Timeframe for making a determination

Grid Australia wishes to reiterate that it supports the current process for making a determination being extended by at least two weeks between the publication of the AER's Draft Determination and the submission of a TNSP's revised revenue proposal.

6.4 Correcting for material errors

The AEMC has not provided evidence that there is a problem that requires the approach to material errors for transmission to be aligned with distribution, except with respect to only amending a determination to the extent necessary to remedy the error. Allowing the AER to ‘amend’ a determination would have the effect of lowering the threshold for a determination to be changed without the decision being subject to the same type of process or safeguards as involved in making the original determination; for example, merits review.