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Dear Dr Tamblyn

Submission on AEMC Draft Determination on Transmission Pricing Rule Change Proposal

TransGrid welcomes the opportunity to respond to the AEMC's draft Rule determination on EnergyAustralia's proposed Rule change relating to the Transmission Network Prices Publication Date.

As TransGrid understands the issue raised by EnergyAustralia, there is a mismatch between when transmission network service providers (TNSPs) can finalise transmission charges and when distribution network service providers (DNSPs) are required to submit their annual pricing proposals to the AER. However, a number of the submissions to the AEMC in response to this proposal have noted that mandating the earlier publication of the transmission charges across the NEM may create other issues.

In recognition of the issues raised by EnergyAustralia TransGrid has entered into an agreement with EnergyAustralia to work together to achieve publication of transmission prices by an earlier date than is required under the Rules. TransGrid has also consulted with other NSW distributors on this arrangement and, to date, has not been informed of any concerns with this arrangement. One of TransGrid's direct end use customers has sought the earliest possible introduction of TransGrid's revised Transmission Pricing Methodology but has generally supported the earlier publication of transmission prices each year, as agreed with EnergyAustralia, in accordance with the revised Methodology in future years.

To achieve an early publication of transmission prices in the first year of a regulatory control period TransGrid may need to use the AER's draft revenue cap decision in respect of MAR as a basis for finalising published prices. This is because the Rules provide for the final transmission revenue cap decision, and hence, TransGrid's final MAR, to be published before 30 April 2009. In the normal course of events the final MAR would not be available for transmission price setting purposes until late April 2009. However, EnergyAustralia is seeking publication of transmission prices well in advance of this date for the reasons set out above.

TransGrid notes that Clause 6A.24.3 of the Rules expressly addresses transitional timing issues associated with the first year of the first year of each five year regulatory control period. This Clause clearly recognises that the Transmission Pricing Methodology to be approved by the AER each five years may not be available in time for application in the first year of the subsequent regulatory control period. It further provides a mechanism for setting prices based on the most recently available approved transmission pricing methodology in the event that this situation arises.

It appears to TransGrid that Clause 6A.24.3 may be sufficient to allow TNSPs to use the draft MAR under similar circumstances i.e. the final MAR, a key input to transmission price setting, is not available in time to be used in price setting. However, for the avoidance of doubt, TransGrid proposes that a similar additional provision be included in the Rules to expressly permit TNSPs to use the draft

MAR for transmission price setting if the final MAR is not available in time. To this end possible drafting is attached for consideration by the AEMC.

In essence this drafting appears to be simply confirming an arrangement intended by the Rules in any case to enable transmission prices to be set in the year that the AER is making a transmission pricing decision.

TransGrid considers that this proposal could be most efficiently addressed via the AEMC's final decision on the Energy Australia Rule change request. This is largely because this proposal goes some way towards resolving the issues raised by Energy Australia while avoiding the issues raised by other parties associated with mandating or imposing additional requirements on TNSPs across the NEM.

Should you have any questions on this submission please feel free to contact me either by email c/-phil.gall@transgrid.com.au or by mobile phone on 0417 042 108.

Yours sincerely



Philip Gall
Manager/Regulated Transmission Access

Attachments:

1. More detailed explanation of the need for the Rule change – the National Electricity Objective
2. Operation of the proposed Rule change
3. Proposed New Rules Clause 6A.24.4

Attachment 1 - Statement of Issues and Proposed Solution

Clause 6A.24.3 of the Rules identifies the pricing methodology that may be used by a TNSP to set prices for the first pricing year, in circumstances where the AER has not made a final decision approving or amending that pricing methodology and the provider is reasonably required to commence the process of setting prices for the first pricing year. Clause 6A.24.3 applies where:

1. a TNSP has submitted or resubmitted a proposed pricing methodology to the AER under clause 6A.10.1, 6A.11.2 or 6A.12.3;
2. the AER has not made a final decision by a date that is three months prior to the commencement of the first pricing year; and
3. the provider is reasonably required to commence the process of setting prices for the first pricing year.

In such circumstances, the TNSP must set prices for the first pricing year in accordance with:

1. in the case where the AER has made a draft decision in which it proposes to approve a proposed pricing methodology – the proposed pricing methodology;
2. if subparagraph (1) does not apply – the pricing methodology most recently approved for that TNSP prior to the proposed pricing methodology referred to in subparagraph (a)(1); or
3. if there is no previously approved pricing methodology for that TNSP – the previous method used by the TNSP to establish prices, however determined, must be used in place of an approved pricing methodology.

However, the Rules do not expressly identify the amount of MAR to which this pricing methodology should be applied when setting prices in the absence of a final decision. There is therefore an omission in the Rules that should be addressed in order to properly allow clause 6A.24.3 to operate.

The proposed additional Clause will allow TNSPs to calculate and publish transmission prices on the basis of draft MAR amounts, before the AER releases its final decision. This early publication will help address the issues of timely price setting raised by EnergyAustralia in its Rule Change proposal dated 25 June 2008.

Transmission prices form a component of each DNSP's prices. Under clause 6.18.2(a) of the Rules (and clause 6.18.2(a) of the transitional distribution Rules), a DNSP must:

1. submit to the AER, as soon as practicable, and in any case within 15 business days, after publication of the distribution determination, a pricing proposal (the "initial pricing proposal") for the first regulatory year of the regulatory control period; and
2. submit to the AER, at least 2 months before the commencement of the second and each subsequent regulatory year of the regulatory control period, a further pricing proposal (an "annual pricing proposal") for the relevant regulatory year.

Clause 6.11.2(2) of the Rules (and clause 6.11.2(2) of the transitional distribution Rules) require the AER to publish a distribution determination for a regulatory control period as soon as practicable, but not later than two months before the commencement of that regulatory control period. Therefore, the AER's final decision for the regulatory control period 1 July 2009 to 30 June 2014 must be released by 1 May 2009 (at the latest). DNSPs must submit their pricing proposals within 15 business days, by 22 May. However, under clause 6A.24.2 of the Rules, TNSPs are not required to release their transmission prices until 15 May.

As transmission prices are received only marginally before the date on which distribution pricing proposals are due, DNSPs may, at times, be unable to effectively incorporate transmission prices into their pricing proposal. In many cases, DNSPs are forced to rely on estimates, calculated from transmission prices in previous years. If these estimated prices are materially different from the TNSPs' published prices, the DNSPs may either:

- accept that a material over or under recovery of transmission prices will occur the following financial year; or
- request that the regulator allow it to resubmit its prices. This leaves only a short time for DNSPs to recalculate and submit compliant prices and for the regulator to assess and approve them.

The proposed additional Clause will allow TNSPs to set prices for the first pricing year where the TNSP is reasonably required to commence the process of setting prices for the first year of a regulatory control period and the AER has not made a final decision on that TNSPs Revenue Proposal. This will provide DNSPs with additional time to analyse and incorporate transmission prices into their pricing proposal for the first pricing period.

Contributing to the National Electricity Objective

Section 7 of the National Electricity Law defines the national electricity objective as being:

“to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to:

- (a) price, quality, safety, reliability and security of supply of electricity; and
- (b) the reliability, safety and security of the national electricity system.”

TransGrid’s proposed additional Clause will contribute to the national electricity objective by:

- minimising the administrative costs incurred by DNSPs in preparing and publishing, and the AER in approving, pricing proposals and thereby promoting the efficient operation of electricity services; and
- increasing DNSPs’ ability to pass more timely and efficient transmission price signals onto consumers.

Attachment 2 - Description of the Effect of the Proposed New Clause

The proposed new Clause seeks to clarify the MAR that may be used to calculate transmission prices for the first financial year of a regulatory control period, in circumstances where the TNSP is reasonably required to commence the process of setting prices for the first year of a regulatory control period and the AER has not made a final decision on that TNSP's Revenue Proposal.

The proposed Clause will only apply where:

1. a TNSP has submitted or resubmitted a Revenue Proposal under clause 6A.10.1, 6A.11.2 or 6A.12.3 of the Rules;
2. the AER has not made a final decision approving or amending that Revenue Proposal under Rule 6A.13 by a date that is three months prior to the commencement of the first financial year that the Revenue Proposal would, if approved, apply (**the first pricing year**); and
3. the TNSP is reasonably required to commence the process of setting prices for the first pricing year.

In such circumstances, the proposed Clause will enable a TNSP to set transmission prices for the first pricing year in accordance with the MAR specified in the AER's draft decision. In particular:

- where the AER has made a draft decision approving the proposed MAR for the pricing year – prices will be set in accordance with the proposed MAR amount;
- where the AER has made a draft decision refusing to approve the proposed MAR for the first pricing year – prices will be set in accordance with the MAR that the AER has substituted for that amount in the draft decision.

The proposed Clause expressly provides that clause 6A.23.3(c)(2)(iii) applies to any under-recovery or over-recovery of amounts that arise as a result of the application of the proposed Rule. Therefore, if the application of the proposed Clause results in over- or under-recovery in the first pricing period, the difference will be recoverable by adjustment of the Annual Service Revenue Requirement.

Attachment 3 – Proposed New Clause

6A.24.4 Basis for setting prices pending approval of maximum allowed revenue

- (a) This clause 6A.24.4 applies where:
 - (1) a *Transmission Network Service Provider* has submitted or resubmitted a *Revenue Proposal* under clause 6A.10.1, 6A.11.2 or 6A.12.3;
 - (2) the *AER* has not made a final decision approving or amending that *Revenue Proposal* under Rule 6A.13 by a date that is three months prior to the commencement of the first *financial year* that a *Revenue Proposal* referred to in subparagraph (1) would, if approved, apply (the **first pricing period**); and
 - (3) the provider is reasonably required to commence the process of setting prices for the first pricing year.
- (b) Despite any other applicable requirements in the *Rules*, a *Transmission Network Service Provider* may set prices for the first pricing year in accordance with:
 - (1) in the case where the *AER* has made a draft decision in which it proposes to approve the proposed *maximum allowed revenue* for the first pricing year – that proposed *maximum allowed revenue* amount;
 - (2) in the case where the *AER* has made a draft decision in which it has refused to approve the proposed *maximum allowed revenue* for the pricing year, the *maximum allowed revenue* for the first pricing year that the *AER* has substituted for that amount in the draft decision.
- (c) For the avoidance of doubt, any *over-recovery amount* or *under-recovery amount* arising from the application of this clause 6A.24.4 is to be treated in accordance with clause 6A.23.3(c)(2)(iii).