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Australian Energy Market Commission  
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Submitted online to: <https://www.aemc.gov.au/rule-changes/participant-derogation-financeability-isp-projects-transgrid>

Dear Mr Oeser,

**Participant Derogation – Financeability of ISP Projects (TransGrid): ERC0320**  
**Participant Derogation – Financeability of ISP Projects (ElectraNet): ERC0322**

The Australian Energy Council (the “**Energy Council**”) welcomes the opportunity to make a submission in response to the Australian Energy Market Commission’s (“**AEMC’s**”) *Participant derogation – Financeability of ISP Projects Consultation Paper*.

The Energy Council is the industry body representing 21 electricity and downstream natural gas businesses operating in the competitive wholesale and retail energy markets. These businesses collectively generate the overwhelming majority of electricity in Australia, sell gas and electricity to over ten million homes and businesses, and are major investors in renewable energy generation.

### **Introduction**

The economic regulatory framework for transmission businesses is complex and significant due to the value and lifespan of the assets to which it applies. It therefore demands proper scrutiny when changes are proposed, and the Energy Council is pleased that the AEMC has not seen fit to entertain the proposed rule changes as urgent, since the Energy Council believes that the proponents should have identified this issue earlier in the project development process. The Energy Council therefore considers that standard timeframes should be applied, to ensure the AEMC’s deliberations are not unnecessarily rushed.

### **Discussion**

The Energy Council has a number of high-level concerns about the TransGrid and ElectraNet propositions, and these are set out below.

#### Differential treatment of transmission assets

While the rule proponents have set out their claims for the need for new Integrated System Plan-endorsed projects to have their revenue recovered earlier, it is not apparent why the change suggested is specific to actionable Integrated System Plan (“**ISP**”) projects and just the rule proponents themselves, rather than all transmission network service providers (“**TNSPs**”). Establishing a second regulatory asset base will increase the difficulty of the Australian Energy Regulator’s task, and will also complicate the ability of stakeholders to scrutinise TNSPs’ regulatory returns.

If the depreciation treatment proposed has the benefits outlined in the two rule change requests, it would seem appropriate that it should be applicable to *all* new assets for *all* TNSPs, regardless of whether they are actionable ISP projects specific to TransGrid and ElectraNet or not.

In addition, the use of derogations is problematic, as it detracts from the harmonisation sought by the introduction of the National Electricity Market, and makes the treatment of TNSPs between jurisdictions asymmetric.

#### Premature Recovery of Costs from Customers

The effect of the proposed rule changes will be to bring forward revenue to the proponents, and immediately increase costs to consumers. This occurs due to the change in the depreciation profile, but also as a result of the proposal to charge for projects before they have been commissioned.

The Energy Council has particular reservations about customers paying for assets for which they are not receiving any benefit, since it does not accord with common accounting treatments, and recommends the AEMC investigate this proposition in detail.

Although the proponents' analysis suggests that the exercise will be "NPV-neutral", this is to the project, and not to the customers paying more in earlier years, and who will have personal discount rates which differ from those of the proponents. In addition, the analysis of customer benefits by FTI Consulting shows that the majority of spot price reductions occur in the later years of the project,<sup>1</sup> therefore bringing forward the proponents' revenue will skew customer benefits by increasing costs (and hence reducing benefits) to customers in the earlier years of the projects, in exchange for more benefits in the later years of the project. As customers relationships will not be static for the multi-decade term of the projects, this will create mismatches between customers in terms of their interactions with passed-on transmission charges, and as benefits in later years are less certain due to the vagaries of the market, there is a risk that the expected wholesale cost reductions will not materialise.

#### Effect on credit ratings

The nub of the proponents' claim is that their credit ratings will be downgraded, which will affect their ability to raise debt for the proposed projects. The Energy Council has reservations about this claim, noting that there are many factors which contribute to companies' credit rating assessments, and the stability of Australian regulatory arrangements must certainly offer some comfort to prospective lenders that TNSPs will have sufficient latitude to repay their debts. Furthermore, as discussed in the consultation paper,<sup>2</sup> investors are willing to pay a premium on the regulated asset base valuation, which indicates equity's confidence that the businesses are sustainable. While it is acknowledged that the magnitude of projects proposed in the ISP will increase the size of the regulated asset base appreciably, there is little evidence that the businesses will not be able to secure the necessary financing, and continue trading.

#### Claimed Benefits of Rule Change

The Energy Council considers the appropriate benefits of the rule change for the AEMC to consider would be the long-term interest of customers. This should be assessed as whether the proposed approach enables network companies to access lower cost debt, which would, in time, be partially reflected in the benchmark Weighted Average Cost of Capital (WACC). However the proponent has instead presented the benefit of transmission for security and reliability, which is extraneous to the rule.

The Energy Council is particularly concerned with the implicit suggestion that failing to make the rule change will compromise the National Electricity Market's security and reliability, as expressed in the TransGrid Rule Change Request, "If we do not invest in PEC in a timely manner, the security and reliability of the national electricity system will be prejudiced."<sup>3</sup> The Energy Council considers it highly inappropriate for a party to exercise its monopoly franchise on the construction of transmission

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<sup>1</sup> FTI Consulting, Assessing the Benefits of Interconnectors – A Report for TransGrid, 9<sup>th</sup> September 2020, p.12

<sup>2</sup> pp.33-34

<sup>3</sup> TransGrid, *Rule Change Proposal – Making ISP Projects Financeable*, 30<sup>th</sup> September 2020, p.31

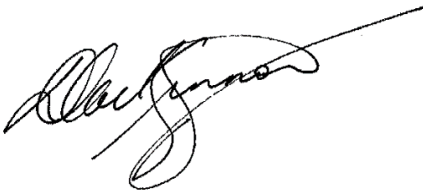
to pressure the rule making process. The Energy Council urges the AEMC to set aside this suggestion from its consideration.

### **Conclusion**

In conclusion, the Energy Council supports the AEMC considering the issue with reference to the Australian Energy Regulator's benchmark efficient entity, and urges it to take the time necessary to consider the issues raised in detail, particularly the creation of a second regulated asset base with different depreciation treatment.

Any questions about this submission should be addressed to the writer, by e-mail to [Duncan.MacKinnon@energycouncil.com.au](mailto:Duncan.MacKinnon@energycouncil.com.au).

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Duncan MacKinnon', with a long horizontal flourish extending to the right.

**Duncan MacKinnon**  
Wholesale Policy Manager  
Australian Energy Council