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# TERMS OF REFERENCE

## TRANSMISSION PLANNING AND INVESTMENT REVIEW

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Australian Energy Market Commission

19 August 2021

# Transmission planning and investment review

## Terms of reference

Under section 45 of the National Electricity Law (NEL), the Australian Energy Market Commission (AEMC or Commission) has initiated a review into transmission planning and investment to ensure the efficient and timely delivery of major transmission projects (the Review).<sup>1</sup>

The purpose of the Review is to determine whether current regulatory frameworks maximise benefits to consumers through the timely and efficient delivery of major transmission projects (including Integrated System Plan (ISP) projects), and whether changes are required to improve and support the timeliness and efficiency of transmission project delivery. While any potential reform requiring law and/or rule changes will likely not be in place in time for near-term ISP projects,<sup>2</sup> the Review will directly consider the needs of the next generation of ISP projects as well as alignment with jurisdictional reforms.

## Background

The Australian energy market is undergoing a transformation as it shifts towards more distributed renewable generation underpinned by significant transmission infrastructure investment to bring power from new renewable generation and storage to consumers.

Against this backdrop, the first Integrated System Plan (ISP) was prepared by the Australian Energy Market Operator (AEMO) and endorsed by the COAG Energy Council in 2018. The 2020 ISP identifies a dynamic and actionable roadmap which includes actionable ISP projects that are necessary for the NEM to have both certainty and flexibility and to meet the cost, security, reliability and emissions expectations of energy consumers throughout the current transition. In addition, jurisdictions are identifying and planning Renewable Energy Zones (REZ) that will effectively act as renewable energy generation hubs, with transmission required to support and bring this energy to consumers. These projects will require record levels of transmission investment.

During the *Financeability of ISP projects* rule change, a number of significant issues were raised in respect of the ISP framework, in particular in relation to the timely and efficient delivery of major transmission projects (including current and future ISP projects) in the national electricity market (NEM).

In its final determinations published on 8 April 2021,<sup>3</sup> the Commission noted that currently, transmission network service providers have a monopoly right to build and own ISP projects but no corresponding obligation.<sup>4</sup> This can create an environment of uncertainty around the timely delivery of future ISP projects.

In light of these issues and other work being carried out by the Australian Energy Regulator (AER), AEMO and jurisdictions in respect of major transmission projects,<sup>5</sup> the Commission outlined its plans to commence a broader review, together with the other market bodies, to consider options to support the timely and efficient delivery of major transmission projects that are in the long-term interests of consumers, recognising that the nature of transmission investment is invariably changing. The Commission indicated that the scope of the review would include financing,

<sup>1</sup> Part 4 of the NEL sets out the functions and powers of the AEMC. Under Division 5 of Part 4, the AEMC has the power to conduct a review into the operation and effectiveness of the National Electricity Rules (NER).

<sup>2</sup> For example, both VNI West and Humelink are due to complete their regulatory processes in 2022.

<sup>3</sup> AEMC, *Participant Derogation – Financeability of ISP Projects (Transgrid) and Participant Derogation – Financeability of ISP Projects (ElectraNet)*, Final determination, 8 April 2021.

<sup>4</sup> With the exception of Victoria, where transmission is contestable subject to specified criteria including that it must have a capital cost over \$10M and must be deemed by AEMO to be separable.

<sup>5</sup> AER, *Regulation of large transmission projects review*, <https://www.aer.gov.au/networks-pipelines/guidelines-schemes-models-reviews/regulation-of-large-transmission-projects>; AEMO, *Integrated System Plan*, <https://aemo.com.au/en/energy-systems/major-publications/integrated-system-plan-isp>.

regulatory and governance issues in the context of the overall regulatory framework for network businesses.<sup>6</sup>

In addition, and as further background, the AEMC must complete a review of the ISP framework as set out in NER rules 5.16A, 5.22 and 5.23 by July 2025.

## Objective

The objective of the Review is to:

- explore options for improvements to the way transmission planners identify and assess investment options and network service providers undertake activities related to major project delivery, and
- recommend possible changes to the NER and other regulatory instruments (if required), to better enable the timely and efficient delivery of transmission services where these add value,

thereby supporting the long-term interests of consumers.

## Scope

The Review will consider whether existing obligations under the investment and network planning frameworks best support delivery of major transmission projects in a timely and efficient way and whether changes could be made which would result in better outcomes for consumers.

The Review will examine the current state of the network planning and investment regulatory frameworks that support the timely and efficient delivery of major transmission projects; having regard to the significant future investment required in ISP projects, stakeholder feedback and reforms which are underway by the Commission, other market bodies and jurisdictions.

In conducting the Review, consideration will be given to the following key areas:

- Transmission network planning and pre-delivery framework – The Review will consider the extent to which the component parts of the transmission network planning and pre-delivery frameworks effectively meet their defined purposes, including in relation to the extent that each stage of the planning and pre-delivery process align and whether there are opportunities to streamline and remove duplicative components to better promote the efficient and timely delivery of major transmission projects. Further, the Review will consider the robustness and timeliness of the planning assessment process as it relates to large, discrete transmission investments.
- Transmission investment framework - The Review will consider the extent to which the regulatory framework provides appropriate financial incentives on transmission businesses with respect to the efficient and timely delivery of major transmission projects, identify opportunities for improvement where appropriate, and recommend preferred options.

These key issues will be considered together in a holistic manner to reflect the integrated nature of the issues that are involved and the changes that may be developed.

The scope of the Review does not encompass the entire transmission regulatory framework. The scope of the Review may include, but is not limited to, the following:

- Implications of TNSPs having the monopoly right but no obligation to build critical major transmission infrastructure.
- Consideration of whether existing frameworks support and provide sufficiently strong incentives for TNSPs to deliver major transmission projects in a timely and efficient way, including examination of potential improvements and alternatives such as the introduction of contestability in transmission planning and delivery and operation.

<sup>6</sup> The Commission noted that it did not intend for the Review to consider future arrangements to support project specific ISP financeability under the existing framework.

- Consideration of the ability of TSNPs to access funds to support the efficient delivery of transmission investment and meet customer outcomes, including provision for early works.
- Consideration of the potential for different arrangements and models for the provision of major and strategic transmission projects.
- Opportunities to improve the RIT-T and the ISP processes.
- Related rule changes that could be run concurrently with the Review.

The scope excludes access reform, which is being dealt with separately by the Energy Security Board (ESB) and through the AEMC's Coordination of generation and transmission investment work. In addition, the Review will not directly consider the Rate of Return Instrument made by the AER under the NEL.

The scope of the Review will be finalised following the consultation process, which will call for stakeholder input on the identification and prioritisation of issues.

The Review will identify and assess key issues and risks in the current regulatory framework, as they relate to transmission planning and project delivery, and will provide recommendations on potential solutions, including required regulatory changes to facilitate the efficient and timely delivery of major transmission projects.

The review report will set out the appropriate pathway for implementation of any recommended changes, including where jurisdictional instruments may need to be reviewed and amended to ensure consistency with the recommended changes.

### **Approach and key principles**

In conducting the Review, the Commission will be guided by the National Electricity Objective. Consumer outcomes will be the key consideration when making recommendations in this Review.

The Commission will take account of any related work underway, including work coordinated by the other market bodies and jurisdictions.

The Commission intends to follow a staged approach:

- Stage 1 will focus on identifying and testing issues associated with the frameworks for planning, funding, financing and delivering major transmission projects. The consultation process for Stage 1 will request stakeholder input on identified and additional issues and also the prioritisation of issues (including guidance on the prioritisation framework) to be considered within the review.
- Stage 2 will focus on identifying and developing solutions to address the issues identified in Stage 1.

The staging of the Review is intended to be flexible so that the approach can be adjusted if necessary following stakeholder consultation. It may be that in the interests of time, the Review is unable to consider all issues raised during consultation. If this is the case, the Commission will set out its rationale and plan for managing any outstanding issues, which could be addressed at a later stage.

In developing its advice, the Commission will work closely with the AER, given its related work, and will consult with a range of stakeholders through a public consultation process following publication of the consultation paper and draft report. Public workshops and forums to gather feedback and discussion papers on particular issues raised by stakeholders may also be undertaken over the course of the Review, with reference groups created if required.

In addition, the Commission will consult with:

- State, Territory and Commonwealth officials;
- Market bodies, including the AER, AEMO and ESB;
- Market participants;
- Transmission and generation investors; and
- Consumer groups, including but not limited to Energy Consumers Australia (ECA).

In conducting the Review, the AEMC intends to establish Jurisdictional and Market Bodies Advisory Groups, which will include working groups for key workstreams. This will avoid unnecessary duplication of processes and differences in laws and regulations. A Terms of Reference for the Advisory Group will be developed to ensure effective governance.

### **Key outputs and deliverables**

The output of the Review will be a report that may include:

- recommended changes to the NER and NERR
- recommendations for any required changes to other regulatory instruments
- advice on any recommended actions for regulators or market operators, for example, revisions to guidelines or procedures
- information on gaps, or areas in which changes could be beneficial, in jurisdictional regulatory frameworks that are identified while undertaking the review
- advice on implementation, including the timing and sequencing of required changes.

At a minimum, the Commission will seek to:

- publish a consultation paper in early Q3 2021; and
- complete Stage 1 of the Review during Q4 2021.

The timing of remaining publications will be finalised following the completion of Stage 1 of the Review. Subject to the outcome of the issues paper and the prioritisation of issues to be addressed by the Review, the AEMC may publish additional papers for consultation as needed.