

7 March 2013

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

Dear John

Grid Australia Submission on Consultation Paper – ‘Network Service Provider Expenditure Objectives’ Rules Change Request (ERC0152)

Grid Australia welcomes the opportunity to contribute to the Australian Energy Market Commission’s (AEMC’s) deliberations on this rule change request. Grid Australia acknowledges the potential for reliability standards to change in such a way that the maintenance of historical levels of reliability may not be the relevant objective. Grid Australia supports the proposal to clarify the expenditure objectives. However we do not support the drafting of the proposed rule change and propose alternative drafting to the expenditure objectives.

Grid Australia’s proposal seeks to retain all four expenditure objectives and include a reference to applicable standards as an appropriate response to address the SCER’s concerns with the existing Rules. It is necessary to ensure that the Rules are clearly drafted to accommodate the range of outcomes that can occur through the revised standards setting processes now envisaged.

Summary of Rule Change Request

To enable this submission to be reasonably self-contained we include the following summary of the rule change request:

The National Electricity Rules require network service providers (NSPs) regulatory/ revenue proposals submitted to the Australian Energy Regulator (AER) to include forecast expenditure to meet specified objectives. The identical objectives are included for capital expenditure and operating expenditure, and for transmission and distribution network regulation. The relevant Rules provision for electricity transmission operating expenditure (Clause 6A.6.6 (a)) states:

A Revenue Proposal must include the total forecast operating expenditure for the relevant *regulatory control period* which the *Transmission Network Service Provider* considers is required in order to achieve each of the following (the *operating expenditure objectives*):

- (1) meet or manage the expected demand for *prescribed transmission services* over that period;
- (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *prescribed transmission services*;

- (3) maintain the quality, reliability and security of supply of prescribed transmission services; and
- (4) maintain the reliability, safety and security of the *transmission system* through the supply of *prescribed transmission services*.

The intention of the rule change request is to ensure that the forecast expenditure included to maintain reliability of supply does not exceed that required to comply with a regulatory requirement or obligation. The rule change request proposes that the following subsequent clause be inserted as Clause 6A.6.6 (a1):

If a Transmission Network Service Provider is required to comply with a regulatory obligation or requirement that relates to reliability associated with the provision of prescribed transmission services, then for the purposes of paragraph (a), the amount that the Transmission Network Service Provider includes in its Revenue Proposal to achieve each of the objectives in subparagraphs (a)(3) and (a)(4) as those objectives relate to reliability of the supply of those prescribed transmission services or those parts of the transmission system that are subject to that regulatory obligation or requirement, must be no more than an amount it considers is required to comply with that regulatory obligation or requirement.

The remainder of this submission sets out Grid Australia's views on the proposed Rule Change in addressing the questions raised in the AEMC's Consultation Paper. The submission concludes that the rule change proposal is not proportionate to the identified concern, and that an alternative rule change would better achieve the stated objective.

1. Analysis of rule change proposal

Question 1 Is the assessment framework presented in the consultation paper appropriate for assessing this rule change request?

The Consultation Paper suggests three issues that could be taken into account in assessing the rule change request. Two of these are based on the assumption that there would be an actual discrepancy between standards and the Rules. Grid Australia submits however that this is not the case, rather that the expenditure objective to "maintain" would not be interpreted by NSPs in the sense of historical performance, but in the sense of maintaining standards. If standards are altered then the expenditure objective would be with respect to maintaining service to the new standard.

The remaining issue identified in the Consultation Paper concerns the clarity of the Rules. The paper suggests that providing clarity "*would lead to regulatory certainty, to the NSP in proposing expenditure and to the AER in assessing the expenditure against an appropriate level of reliability requirements*". Grid Australia considers that this is a valid and important consideration and accordingly the most valued assessment criterion for this rule change request.

Question 2 Is there uncertainty and conflict in the NER associated with the level of reliability to be used to determine the expenditure allowance? Is there any reason a standard other than the jurisdictional reliability standard should apply?

Grid Australia does not consider there is any conflict in the NER, but agrees that clarification of the objectives would improve certainty, as discussed in response to Question 1.

As noted in the Consultation Paper, input reliability standards are not specified in Victoria, where in the distribution sector greater reliance is placed on financial incentives to deliver improved

reliability performance that is economically efficient. Potentially other jurisdictions could also take this approach. The Rules should be able to accommodate the different approaches that may be adopted.

There is unlikely to be any dispute as to what specified standard (if any) applies. Jurisdictional standards are regulatory obligations and are clearly applicable. Any other standards, such as may be inferred through historical performance, benchmarks etc, would be displaced in priority by clearly legislated regulatory obligations.

Question 4 Is it clear that consumers may be paying more for an outcome with respect to safety, security and quality? Is there any evidence of this?

The rule change request asks the AEMC to consider whether clarification is also warranted in respect of these other service aspects identified in the expenditure objectives, i.e. safety, security and quality.

Grid Australia contends that this is not the case.

In particular this is because none of these aspects of the network service are subject to the potential fluctuation in applicable standard that may be envisaged for reliability standards subject to re-assessment against economic criteria. Hence the need to clarify the meaning of the term “maintain” for these aspects is clearly not established. In the absence of such a need, this could lead to an undesirably constrained interpretation of the expenditure objective. As evidenced in the Consultation Paper, many applicable standards are not direct jurisdictional standards as would be the case for reliability and accommodating these within the expenditure objective is likely to be confusing, and would likely duplicate other provisions within the Rules relating to obligations on NSPs in these areas.

To the extent that there is variation, Grid Australia considers that the AER and NSPs would interpret the term “maintain” consistent with applicable standards, as discussed in our response to Question 1.

Nevertheless, in the following section we propose an alternative amendment to the Rules, which would equally apply to power quality and security of supply aspects of network service.

Question 8 Does the proposed rule achieve the proposed intent or is there alternative drafting that would better reflect this?

Grid Australia considers that the proposed rule does not achieve the purpose of clarifying the expenditure objectives. Whilst effectively placing a constraint on the expenditure forecast, it conflicts with the retained expenditure objective 3, and is therefore not a robust solution. The internal conflict created would not lead to improved certainty (a key assessment criterion).

The Consultation Paper suggests that an alternative solution could be to remove expenditure objectives 3 and 4. Grid Australia does not support this approach, as these expenditure objectives more explicitly express critical elements of network service that may not be well contained within the meaning of expenditure objectives 1 and 2. Grid Australia considers that this solution would not lead to improved certainty (a key assessment criterion).

Grid Australia’s reading of the expenditure objectives is that only expenditure objective 3 gives rise to the concern regarding consistency with jurisdictional reliability standards. This is because the purpose of expenditure objective 3 is to include the connection point service level provided or

to be provided, whereas the purpose of expenditure objective 4 is to include system considerations.

We therefore propose a solution more proportionate to the issue identified, via an amendment to expenditure objective 3. We consider that this proposal would enhance certainty in the Rules. The objective would be amended to read:

- (3) maintain the quality, reliability and security of supply of prescribed transmission services **to applicable standards**; and

The proposal does not refer specifically to jurisdictional standards because as discussed previously, where these exist they would necessarily take precedence. Equally, where there are no specific jurisdictional standards (as in Victoria) the suggested phrasing would enable the AER and NSP to apply the meaning of the expenditure objective in the same way as they do now, i.e. with reference to targets derived from outturn performance and recalibration of the service target performance incentive scheme. The AER is the appropriate body to assess the service level applicable in the circumstances of the network service provider.

2. Conclusion

Grid Australia recommends this alternative solution to the AEMC for careful consideration as a preferable Rule change that better achieves the intent of the rule change request, clarity in the Rules, and broad application than either of the alternatives presented in the consultation paper.

Please do not hesitate to contact Kelvin Gebert, Manager Regulatory Frameworks, SP AusNet on (03) 9695 6603 or kelvin.gebert@sp-ausnet.com.au if you wish to discuss any of the matters raised in this submission.

Yours sincerely



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