Transgrid

ABN 70 250 995 390
180 Thomas Street, Sydney
PO Box A1000 Sydney South
NSW 1235 Australia
T (02) 9284 3000
F (02) 9284 3456

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Anna Collyer
Chair
Australian Energy Market Commission
Lodged online: www.aemc.gov.au

Dear Anna

AEMC draft rule on Sharing concessional finance benefits with consumers

Transgrid welcomes the opportunity to respond to the Australian Energy Market Commission's (**AEMC**) draft rule determination on sharing concessional finance benefits with consumers. The draft rule determination is in response to a rule change request submitted by the Commonwealth Minister for Climate Change and Energy, the Hon Chris Bowen MP. The AEMC's draft rule seeks to address how the financial benefits that arise from concessional financing of transmission infrastructure are shared between consumers and Transmission Network Service Providers (**TNSPs**).

Government funding including the Rewiring the Nation policy, a $20 billion fund providing concessional finance, is playing a vital role in facilitating the billions of dollars of investment needed to support the transition of the power system to low-carbon and low-cost energy. The faster than anticipated closure of coal-fired power stations, requiring major investments in transmission, renewable energy, storage and firming capacity to replace them will require unprecedented levels of investment across the NEM. By providing concessional finance to TNSPs, the government funding policies will help meet the urgent need for transmission and will be crucial in enabling the multibillion-dollar transmission projects needed to achieve the governments net-zero target.

Transgrid is a member of Energy Networks Australia (**ENA**) and we support the ENA's submission. In the remainder of this submission, we highlight issues that are of specific concern to Transgrid. In addition, however, we draw the AEMC's attention to the detailed drafting issues raised in the ENA's submission.

Transgrid supports the intention of the AEMC's draft rule, and the methodology outlined in the draft rule determination. The draft rule allows the sharing of concessional finance benefits with consumers, including enabling the Australian Energy Regulatory (**AER**) to allow an agreed benefit, determined through negotiation by the TNSP and government funding body (**GFB**), to be passed onto consumers. In addition to providing direct benefits to consumers in terms of lower network charges, a key benefit to consumers of concessional finance is the acceleration of new transmission infrastructure, which will enable lower cost renewable energy to become available to consumers sooner.

We support the following elements of the AEMC's draft rule determination:

- The intent of the rule change which enables the benefits of concessional finance to be passed onto consumers in accordance with the intentions of the GFB that is providing the financing to the TNSP.

- That the rule applies to all transmission and distribution networks.
- Making it the responsibility of the NSP to notify the AER where there has been an agreement to share concessional finance benefits with consumers.
- That concessional finance benefits, including the mechanism in the revenue-setting framework that facilitates the timely sharing of these benefits, should be determined through negotiation by the TNSP and GFB.

We believe the abovementioned points play an important role in meeting the objective of the original rule change request by the Commonwealth Minister for Climate Change and Energy. However, we have some concerns that we would encourage the AEMC to consider further. These include:

1. Inconsistency between the draft rule determination document and the draft rule amendment defining the agreement to be provided by the NSP.
2. The AEMC's proposal that suggests the NSP *provide the AER with* ***any*** *other matter the AER considers necessary*[1].
3. Clarifying the linkages with the financeability rule.

1. Inconsistency between the draft rule determination document and the draft rule amendment defining the agreement to be provided by the NSP

The AEMC has proposed in its draft rule determination that the NSP will be required to provide the AER with an agreement, co-signed by the GFB and NSP, or a schedule to the agreement that details the sharing arrangements for the concessional finance benefits[2]. However, in the AEMC's proposed draft rule amendment, the AEMC appears to outline that it must be the concessional finance agreement itself, rather than a schedule to the agreement (outlining the required information) co-signed by the GFB and NSP[3].

Transgrid agrees with the AEMC's draft determination that the details of the concessional finance agreement should be provided to the AER, which may be provided in a schedule to the concessional finance agreement or may be provided in a separate document prepared by the NSP and GFB[4]. As such, the draft Rule appears to be inconsistent with the AEMC's draft determination in only specifying that the concessional finance agreement itself should be provided to the AER, rather than also allowing the required information to be provided in some other form. Transgrid strongly prefers more flexibility to be provided in the Rule determination, consistent with the language in the draft determination.

We acknowledge that the AEMC states that this draft rule prevents confidentiality obligations from hindering the timely sharing of concessional finance benefits with consumers. However, providing the full concessional finance agreement may be problematic as it may reference other arrangements which are commercial in confidence with other lenders that are not GFBs.

RECOMMENDATION – We encourage the AEMC to amend clause 6A.3.3(a)) to reflect its draft rule determination. That is, the document that is provided to the AER could be a separate document or a

[1] AEMC Draft National Electricity Amendment (Sharing concessional finance benefits with consumers) Rule 2024
[2] AEMC Draft Rule Determination Sharing concessional finance benefits with consumers 2024; page iii, footnote 7.
[3] AEMC Draft National Electricity Amendment (Sharing concessional finance benefits with consumers) Rule 2024 Clause 6A.3.3 (a) page 7.
[4] AEMC Draft Rule Determination Sharing concessional finance benefits with consumers 2024; page iii, point 18.

schedule to the agreement, that contains the required information outlined in clause 6A.3.3(b) of the draft rule amendment, rather than a copy of the concessional finance agreement itself.

2. Provide the AER with any other matter the AER considers necessary

The AEMC has proposed in its draft rule determination that in notifying the AER of a concessional finance agreement the NSP is required to provide the AER with "*any other matter the AER considers necessary*"[5]. We note that this requirement is not reflected in the AEMC's draft rule amendment.

As a general observation, we would be concerned with a provision that requires a TNSP to provide the AER with **any** information it requests. Instead, it is appropriate for an information request to be targeted to achieve a specific objective, so that it is a reasonable request that appropriately balances the costs and benefits of providing the information. In this particular case, however, it is not necessary for the AER to request any additional information.

We believe that our position is consistent with the AEMC's intentions as reflected in the draft Rule. In particular, we consider that the proposed information outlined in the AEMC's draft rule clause 6A.3.3(b) is sufficient for the AER to make the necessary adjustments to the NSP's RAB and/or the amount to be passed through to Transmission Network Users. Any other information related to the concessional finance agreement (or the business) is not needed for the purpose of this rule change and is not required to achieve the objective of the draft rule determination.

RECOMMENDATION – We encourage the AEMC to ensure that the final Rule determination reflects the draft Rule, which specifies the information requirements that must be provided to the AER.

3. Clarifying the linkages with the financeability rule

The AEMC has separately prepared a draft Rule in relation to accommodating financeability in the regulatory framework. As recognised by the AEMC, there are important interactions between the financeability rule change and the concessional finance rule change. One such important interaction is the timing of when the AER will undertake a financeability assessment and when a concessional finance agreement will be in place for a project. The financeability draft rule assumes that the concessional finance agreement will be in place prior to the AER conducting its financeability assessment. In practice, however, the concessional finance agreement is likely to occur after the revenue determination and the financeability has been concluded.

In relation to the latter point, Transgrid notes that draft rule for concessional finance requires the agreement to specify how the benefit should be treated by the AER in conducting the financeability test. While this requirement is helpful, both rules should recognise the likelihood that the concessional finance agreement will be determined after the financeability test is conducted. ENA's submission has suggested some drafting changes to address this issue.

RECOMMENDATION – Both the concessional finance and financeability rules should recognise the likelihood that the concessional finance agreement will be determined after the financeability test is conducted.

[5] AEMC Draft Rule Determination Sharing concessional finance benefits with consumers 2024; page iii, point 18.

Transgrid looks forward to working with the AEMC as it develops its final rule determination in the coming months. If you have any queries regarding this submission, please contact Zainab Dirani in the first instance by email zainab.dirani@transgrid.com.au

Yours faithfully

Maryanne Graham
Executive General Manager
Corporate and Stakeholder Affairs