

1 September 2022

Ms Danielle Beinart  
Director  
Australian Energy Market Commission

Submitted Electronically

Dear Danielle,

### **Material Change in Network Infrastructure Project Costs – Draft Determination**

PIAC is grateful for the opportunity to respond to the Material change in network infrastructure project costs draft determination (the Draft).

PIAC supports the positions detailed in the joint submission by the rule change proponents in response to the Draft, and agrees that while aspects of the Draft address the issues set out in the Rule Change proposal, further changes are required.

Our experience of engagement with Transmission Network Service Providers (TNSPs) indicates there is a pressing need for greater rigor in managing the costs and risks of investment. This must include a more robust obligation on TNSPs to consider and respond to material changes in circumstances transparently and effectively. Considering the substantial existing pipeline of transmission related investment, the consumer interest would be best served by implementation as soon as practicable.

The Draft includes many positive measures to address key issues highlighted by the proponents. However, the transition arrangements outlined in the Draft undermine the effectiveness of these measures and the intended benefit for consumers, as outlined by the proponents in their submission.

Aspects of the Draft that PIAC supports and considers address issues raised in the initial rule change proposal include:

- Placing a positive obligation on all Regulatory Investment Test (RIT) proponents to assess whether a material change in circumstances has occurred, including the identified need for the project, after completion of the RIT.
- Applying reopening triggers to projects above \$100m for proponents to identify circumstances where the preferred option would no longer be the most beneficial.

- Requiring RIT proponents to inform the Australian Energy Regulator (AER) when they consider a material change in circumstances has occurred or a reopening trigger has been triggered, and propose a course of action.
- Making the proposed course of action subject to AER assessment, modification, or rejection.
- Requiring proponents of contingent projects to state in their contingent project application expenditure whether or not there has been a change in the identified need or a reopening trigger has been triggered and provide supporting evidence.
- Clarified rules strengthening AER guidelines for cost estimation.

However, PIAC concurs with the rule change proponents that further improvements are necessary to ensure the interests of consumers are more effectively promoted, and the benefits of the rule are realised sooner.

Accordingly, PIAC supports recommendations from the rule change proponents that:

- Reopening triggers be set at the PACR or early works stage to expand the application of the rule to projects applying for AER approval prior to 2030.
- There be a positive obligation to report to the AER that there are no material changes in circumstances, supported by detailed analysis and a statutory declaration similar to that given to the AER as part of revenue determinations.
- Governance of the selection and operation of reopening triggers is improved, including engagement to reset Project Assessment Draft Report triggers at Project Assessment Conclusions report and beyond.
- Stakeholders are able to dispute a proponent's conclusion that there is no material change, within 30 days of PACR publication or contingent project application submission.
- Changes in the RIT and Cost Benefit Assessment guidelines are carried through into the Guidance Note Regulation of actionable Integrated System Plan projects to ensure these improvements apply at the Contingent Projects Application stage as well
- The AER review be completed within nine months of publication of the final determination.

PIAC is keen to engage with the AER and other stakeholders when it undertakes work to develop its guidelines as a result of this process. We would welcome any further opportunity to meet with the AEMC and stakeholders to discuss these issues.

Yours sincerely

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