

23 January 2025

James King
Project leader
Australian Energy Market Commission
Level 15, 60 Castlereagh Street
Sydney NSW 2000

AEMC Ref: ERC0391

Dear Mr King,

Improving the cost recovery arrangements for transmission non-network options

The Justice and Equity Centre (JEC) welcomes the opportunity to respond to the Australian Energy Market Commission's (AEMC) draft rule determination on the Improving the cost recovery arrangements for transmission non-network options rule change proposal (the draft rule determination).

We retain our previously stated position and support the perspective of the Australian Energy Regulator (AER). We have seen no evidence of a material barrier to transmission network service provider (TNSP) investment in network alternative non-network options (NNO). We do not consider any further changes to the cost recovery arrangements necessary or result in an increase in the selection of network alternative NNOs.

A TNSP's ability to act on a preference for network options rather than NNOs is a function of the effectiveness of the regulatory investment test for transmission (RIT-T), not the cost recovery arrangements for NNOs. Any disincentive for TNSPs to select NNOs over network options relates to a preference for capex. That is, NNO costs are recouped under op ex and return no interest on outlay to the TNSP, while network options are recouped under cap ex and do return interest. This rule change does not impact this dynamic.

The AER's ex post review powers must be symmetrical

We remain concerned that the proposed framework creates no incentive for TNSPs to seek the minimum costs for NNOs. In fact, as proposed, there is potentially a positive incentive for TNSPs to inflate the forecast costs of NNOs. If the AER's ex post review powers only extend to considering costs not already approved in the ex ante assessment, this implies there is no power to assess the prudence or efficiency of the amount already approved. This is exacerbated by the fact that ex ante assessments by the AER already struggle to meaningfully police TNSP forecast cost assessments.

In order to ensure that consumer money spent on NNOs is prudent and efficient, the AER must retain a symmetrical capacity for ex post review. That is, the AER must have the capacity to recoup any monies left over in the event of the ex ante assessment overestimating the final cost of the NNO as well as capacity to approve extra spending in excess of the amount approved in the ex ante assessment.

We welcome the opportunity to meet with the AEMC and other stakeholders to discuss these issues in more depth. Please contact Michael Lynch at mlynch@piac.asn.au regarding any further follow up.

Yours sincerely,

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