OFFICE OF THE CHIEF EXECUTIVE

Ref: A1735217

24 September 2013

Mr Tom Leuner
General Manager
Wholesale Markets Branch
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Cc: Louis Tirpcou
Group Manager, Planning
Australian Energy Market Operator
GPO Box 2008
MELBOURNE VIC 3001

Dear Tom

AER Draft Decision – Early Application of Version 4 of the STPIS

Powerlink makes this submission in response to the Australian Energy Regulator's (AER's) Draft Decision on the early application of version 4 of the Service Target Performance Incentive Scheme (STPIS) for transmission network service providers (TNSPs), which was released in mid-August 2013.

The AER's Draft Decision provides that Powerlink:

- will be allowed to opt-in to the network capability component from the next regulatory year (2014-15);
- will apply the market impact component from calendar year 2014; and
- will not apply the service component during its current regulatory period.

Powerlink's response to each of these matters will be discussed in turn below.

33 Harold Street ,Virginia
PO Box 1193, Virginia, Queensland 4014, Australia
Telephone: (07) 3860 2111 Facsimile: (07) 3860 2100
Website: www.powerlink.com.au

Network Capability Component

The network capability component of the scheme is designed to incentivise TNSPs to implement low cost operational and/or minor capital expenditure projects that will improve the capacity of the network. Powerlink agrees that TNSPs should investigate opportunities to implement works that are targeted at improving the capacity of its existing network. Indeed, such activities have and continue to be part of normal business practice for Powerlink.

For clarification, the AER's Transmission Determination for Powerlink's current regulatory period (2012/13 to 2016/17) includes expenditure allowances for a number of capital and operational projects which meet the AER's criteria of low cost operational/minor capital works to increase network capability. These projects are estimated to be at least $11 million in total over the 5-year regulatory period. Each of these projects, as well as other relevant projects, will be assessed on a case by case basis and implemented if the need is justified during the period. As has been the case in the past, the expenditure for these projects will be managed within Powerlink's existing expenditure allowances from the AER during this regulatory period. Therefore, in the context of its current regulatory arrangements, Powerlink does not consider it necessary to be further incentivised to investigate and deliver projects of this nature.

Powerlink is also mindful that there has been considerable interest in minimising electricity price impacts on consumers. If Powerlink were to opt-in to the network capability component of version 4 of the scheme early, the practical impact of this would be to impose unnecessary additional costs on Queensland consumers for some 2.5 years.

Having considered its current business practices, current regulatory arrangements and the potential impact this would have on electricity consumers, Powerlink will not be seeking early opt-in to the network capability component of version 4 of the STPIS.

Market Impact Component

The STPIS arrangements applicable to Powerlink's current regulatory period were established under version 3 of the scheme. A fundamental component on V3 of the scheme was a requirement that any amendments to the scheme could not apply to a TNSP for a regulatory period unless it is promulgated no less than 15-months before commencement of that regulatory period. The purpose of having this provision in the AER's STPIS Guideline (V3) was to ensure that TNSPs were given sufficient time to assess the AER's final decision on the STPIS arrangements relevant to the upcoming regulatory period and, importantly, to prepare its Revenue Proposal on a consistent basis to the incentive scheme.

The AER made its decision on the STPIS arrangements applicable to Powerlink's current regulatory period in March 2011. In doing so and consistent with the scheme applicable at the time, the AER created a reasonable expectation and confidence that it would adhere to these arrangements for the duration of the regulatory period.

In November 2012, the AEMC released its Final Determination on the Economic Regulation of NSPs, to which the AER refers. The AER finalised version 4 of the STPIS in December 2012. These decisions were made some 7-8 months after the AER made Powerlink's final Transmission Determination and, importantly, some 20-21 months after the AER promulgated its decision on the STPIS arrangements to apply to Powerlink's current regulatory period in March 2011.

The AER is now of the view that version 4 of the market impact component should apply to Powerlink from calendar year 2014. Powerlink submits that the AER's draft position raises a regulatory practice issue. Specifically, it is not good regulatory practice for the AER to use its discretion to *require* that the service incentives applicable to an existing regulatory determination be changed within a regulatory period. In order for a business to respond to an incentive, it is important that the scope of the incentive be known up-front and that the business be provided with confidence that the incentive will be maintained. This is to ensure that the incentive properties inherent in the scheme are not undermined, in particular, by the very organisation that established the scheme (the AER).

Based on the AER's draft position on version 4 of the scheme, there is a clear inconsistency in the AER's approach to incentives. This arises as the AER has determined expenditure allowances for Powerlink's current regulatory period based on one set of incentives (i.e. performance targets and method of measurement) but, after the fact, proposes that Powerlink's actual performance be measured against a different target and be set on a different basis. Powerlink recommends that the AER reconsider its draft position and not apply V4 of the market impact component to Powerlink until its next regulatory period (from 2017/18).

Powerlink notes that the principle of consistency with positions held at the time of a regulatory decision was also relevant to the AER's decision on Powerlink's nominated cost pass through events[1]. Powerlink sees no reason why consistency should not similarly apply in relation to the STPIS.

Finally, Powerlink notes that in its Rule Determination on the recent Rule changes to the economic regulation of network service providers, the AEMC was explicit in its decision that, among other businesses, Powerlink be excluded from the transitional arrangements and to require them to be subject to the new rules from commencement of their next regulatory periods[2]. Such a position would appear to be in line with the AEMC's view that it is important for investors, service providers and consumers to have confidence in the regulatory framework and that it provide regulatory certainty.

---

[1] AER (2013), Decision, Powerlink nominated cost pass through events, p4.

[2] AEMC (2012), Rule Determination, National Electricity Amendment (Economic Regulation of Network Service Providers) Rule 2012, pp230, 231, 233.

Service Component

Powerlink agrees with the AER that the service component of the STPIS should remain unchanged for Powerlink.

Summary

For the reasons outlined above, Powerlink will not be seeking early opt-in to the network capability component and recommends that the AER reconsider its draft position and not change the market impact component of the scheme applicable to Powerlink's current regulatory period.

If you have any queries in relation to this matter, please contact Jennifer Harris.

Yours sincerely

Merryn York

Merryn York
CHIEF EXECUTIVE

Enquiries: Jennifer Harris
A/Manager, Regulation Strategies & Development
Ph. (07) 3860-2667
Email: jharris@powerlink.com.au