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Dear Kris

Draft Better Resets Handbook - Towards Consumer Centric Network Proposals

Essential Energy welcomes the opportunity to comment on the Draft Better Resets Handbook – Towards Consumer Centric Network Proposals (the Handbook).

Essential Energy supports the broad thrust of the reforms in ensuring meaningful engagement with consumers is undertaken as part of developing network service providers' (NSPs') Regulatory Proposals. The resulting light-handed expenditure review approach, where genuine engagement has occurred and consumers are supportive of NSPs' proposals, is a great step forward in genuinely promoting the long-term interests of consumers. Reflecting this, Essential Energy has already commenced a comprehensive consumer and stakeholder engagement process for the 2024-29 Proposal

Engagement incentives are stronger and will bring some efficiency improvements

The Handbook is likely to slightly strengthen existing reputational and business driven incentives to obtain meaningful consumer input to Proposals. This is the result of the AER making its requirements for a good Proposal, and the consequences of not meeting those requirements, clearer.

The prospect of a targeted Proposal review may also provide incentives for NSPs, but this will depend on how the Handbook is implemented in practice. We note that this process will initially be limited to trials with a small number of networks. Also, the arrangements for the targeted review stream process are still emerging and may not be clarified until after the initial trials. Key arrangements that require greater clarity as the Handbook is operationalised include how:

- > business can access or will be selected for the targeted review stream process
- > the independent consumer report is to be derived
- > the expenditure review will differ to standard expenditure review processes.

We are concerned that the Handbook will not deliver significant efficiencies in the regulatory process, for NSPs. Whilst there will be efficiencies in the review process for the AER, the signal for a targeted review is received so late in the process that there will be little, if any, efficiency gains from the NSP perspective.

The pre-lodgement engagement process will require a significant resourcing commitment from both NSPs and the AER. This is a worthwhile investment that would be further enhanced if efficiencies were delivered elsewhere in the process for both sides. We consider that reducing the Reset Regulatory Information Notice (RIN) requirements is an area that would offer substantial efficiencies without undermining the AER's ability to assess Regulatory Proposals in any way. It will be important that this reform is pursued as quickly as possible as NSPs are already investing in substantial engagement processes without these offsetting reforms.

Less prescription will allow for flexibility and innovation

Essential Energy considers that the guidance on forecasting approaches contained in the Handbook could be reduced, to avoid duplication with the existing Expenditure Forecast Assessment Guidelines and potential rework should the Guidelines change in the future. Some aspects of the Handbook are also overly prescriptive given the transformation occurring in the industry and that may limit the flexibility of NSPs to adjust engagement methods and approaches in line with consumer expectations.

More detailed comments on these topics are included in the attachment to this letter. It is also worth noting that Essential Energy supports Energy Networks Australia's (ENA) submission to the AER on the Handbook. Should you have any questions or wish to discuss any matters further, please don't hesitate to contact Natalie Lindsay, Head of Regulatory Affairs on (02) 6589 8419 or natalie.lindsay@essentialenergy.com.au.

Yours sincerely

A handwritten signature in black ink that reads "Chantelle Bramley". The signature is written in a cursive, flowing style.

Chantelle Bramley
General Manager - Strategy, Regulation and Corporate Affairs

Attachment – detailed comments

1. Targeted review stream

In general we consider that there are a number of elements of the targeted review stream process that are unclear. Whilst we appreciate that the AER intends to learn from experience, we consider that a number of aspects should still be clarified in the final Handbook.

Access to the targeted review stream

The targeted review is intended to be a voluntary process, so in the first instance the AER should wait to see how many businesses seek to be part of the process. If there are more applicants than can be supported by the AER, then we would agree with the criteria put forward in the ENA submission for selecting businesses, including that

- > The NSP's Board has committed to the process.
- > The business is willing and able to resource the extensive pre-lodgement engagement and proposal development processes and resource the provision of an independent customer report.

Where access to the targeted review stream is not extended to all network businesses, we understand from discussions with the AER that businesses that were not part of the formal targeted review stream, but which nevertheless provide a Proposal that is capable of acceptance, could still qualify for targeted review. This should be made clearer in the Handbook.

Requirement for an independent consumer report

Discussions with the AER have clarified how the independent consumer report can be achieved in practice, but the explanation in the draft Handbook is not so clear. Some suggestions to improve the Handbook are:

- > Add an example of how networks may achieve the independent consumer report through the use of their existing regulatory reference group
- > Explain how such groups may derive such a report if they don't have the time, skills or experience to write it themselves
- > Explain how independence can be achieved given that the NSP will be funding the preparation of the report
- > Explain how judgements on the quality of engagement could be derived and the extent to which parties making such judgements should be directly involved in the consultation.
- > The introduction of the independent consumer report will mean that there are now two parties responsible for providing advice to the AER on the quality of the engagement processes and how well they have been reflected in the proposal – the independent consumers report and the AER's Consumer Challenge Panel. As a result, the respective roles and responsibilities of the two parties should be made clearer, along with whose view would have precedence should they conflict.

2. Engagement expectations

Scope of engagement

The AER has developed detailed guidance on the required scope of engagement within the Handbook however, it will be important that the network businesses retain some discretion about the scope of the engagement undertaken as part of the pre-lodgement development process, particularly those issues subject to wider and deeper engagement. There should also be scope for consumer input to determine the issues that will be subject to deepest engagement. This suggests that the Handbook should not seek to be too prescriptive on this scope or to seek to specify a list of issues that should always be subject to deep engagement.

It may be sufficient to have a more principles-based approach – for example by ensuring that deeper engagement is undertaken on:

- > Aspects of the proposal that the greatest impact on how consumers experience their network services e.g., reliability, communication during outage events
- > Areas of most significant cost/price impact where there is discretion to agree expenditure levels (e.g., excluding WACC) and where there are key options and trade-offs
- > Areas of consumer and stakeholder concern, for example, ability to export solar to the network.

A principles-based approach would allow the exact set of expenditure or outcome issues that would be addressed in engagement to change over time as they inevitably will. This would also allow the businesses and their professional engagement advisers to best design engagement programs to avoid engagement fatigue, to make best use of engagement time and resources, and to focus on the areas where consumers and stakeholders wish to have the greatest input and influence.

Demonstrating independent consumer support for the Proposal

We agree that multiple channels of engagement are crucial to good engagement (as per Section 4.3.3. of the Handbook). In terms of being able to demonstrate independent support for the Proposal (as outlined in Section 4.4.2 of the Handbook) in our experience it is necessary to consider feedback received via a number of channels not just formal submissions, as the number of formal submissions is typically quite limited. Many consumer representatives simply do not have the resources to develop detailed submissions.

3. Expenditure expectations

The following provides comments on the guidance in Sections 5 to 8 of the Handbook relating the expenditure expectations, including in relation to capital expenditure (capex), operating expenditure (opex), regulatory depreciation and Tariff Structure Statements.

We note that these sections of the Handbook provide a combination of expectations regarding the scope of engagement and how the AER would conduct its expenditure assessments and the areas of expenditure that could expect to be challenged. These areas of the Handbook substantially add to the regulatory guidance on expenditure review set out the Expenditure Forecast Assessment Guideline.

As well as having concerns about the degree of prescription that this imposes on the scope of engagement (discussed above), we also consider that there are aspects of the expenditure review guidance in the Handbook that could be removed or reworded to avoid prescription that may hamper flexibility or hinder innovation for both the AER and NSPs.

The ENA submission makes similar observations and we support the views expressed in their submission including that:

- > Deviation from historical expenditure and inputs (where justified) should not prevent a proposal from being capable of acceptance or ineligible for targeted review
- > The integration of consumer feedback, which is envisaged in the Handbook, may challenge the AER's standard expectations in some areas.

Our particular issues of concern follow.

Capex

The requirement for steady and stable capex expenditure patterns (for example as discussed in Sections 5.2.1.1, 5.2.1.2, 5.2.4 and 5.2.5) and hence for a steady and stable RAB should not be specified within the Handbook. Rather the handbook should just refer to the need to engage with consumers on variations and changes in capex levels over time, and the resulting impacts on depreciation and the RAB.

Capital-intensive businesses operating in a sector that is undergoing transformation, new service obligations and uncertain external events, means that steady and stable expenditure may not occur in all years. So long as genuine engagement is undertaken around investment trade-offs and how the resulting expenditure will impact prices, including the impacts from depreciation and on the RAB, this degree of prescription is not appropriate. Essential Energy demonstrated engagement on this very aspect in the 2019-24 Regulatory Proposal, when the business' RAB continued to grow despite significant reductions in capex.

Opex

On base opex (Section 6.2.2), we support the application of benchmarking but reiterate the need for the AER to resource the required development of its opex benchmarking including to resolve data quality and cost allocation comparability issues, further develop OEFs and to consider the model specification changes that may be required to reflect new service obligations including provision of export services. The AER has indicated its desire to pursue this much-needed development in key areas of its benchmarking methodology however, to date, very little work has occurred.

On the trend parameters (Section 6.2.3), the reference to adopting AEMO's forecasts of consumption and demand in relation to the output growth forecast appears would not be appropriate for electricity distribution networks.

4. Longer term changes

Balance between development of the Regulatory Proposal and remainder of the regulatory process

It would be helpful if the time between Proposal lodgement and the final determination was shorter, providing a better balance between the time devoted to pre-lodgement development of the Proposal and the remainder of the Determination process. This would aid the pre-lodgement process as forecasts and expenditure proposals could be formed closer to the subsequent regulatory period when there is more information available to the network businesses.

Forecasts prepared well in advance of the subsequent regulatory period to form the basis of engagement under the current process will inevitably be less reliable and are more likely to be subject to revision. Maintaining the same length of regulatory determination period from lodgement to final determination, combined with the lengthening pre-lodgement development period, is creating a creep towards an almost perpetual price review process.

Ideally, the pre-lodgement development process should provide scope to reduce the time period between proposal lodgement and the final determination. We appreciate this will require more significant reform, including changes to the NER.