

30 January 2026

Ms Kami Kaur

General Manager

Australian Energy Regulator

GPO Box 3131

Canberra ACT 2601

Electronic Lodgement: costpassthroughs@aer.gov.au

Dear Ms Kaur,

AER Draft Network Alternative Support Payment Guideline

Energy Networks Australia (ENA) welcomes the opportunity to make this submission in response to the Australian Energy Regulator's (AER) Draft Network Alternative Support Payment Guideline (draft guideline).

ENA represents Australia's electricity transmission and distribution and gas distribution networks. Our members provide more than 16 million electricity and gas connections to almost every home and business across Australia. This submission is on behalf of transmission members.

ENA supports many aspects of the draft guideline, which aims to reduce barriers to the adoption of non-network options to meet network service needs and to improve cost recovery and revenue certainty for Transmission Network Service Providers (TNSPs) investing in non-network options.

In particular ENA supports,

- the overall structure of the draft guideline, which is closely aligned to the structure of the System Security Network Support Payment (SSNSP) Guideline. This alignment of structure will make it easier for TNSPs to consistently address the requirements of the different guidelines when preparing applications to the AER.
- the adoption of the same 40 business days timeframe for determinations as in the SSNSP Guideline. Again, this alignment between the two similar guidelines will support consistency and ease of use of the various guidelines.
- the adoption of a flexible consultation process, similar to that adopted by the AER in relation to both network support and general cost pass through applications under clauses 6A.7.2 and 6A.7.3 of the National Electricity Rules (NER) respectively. This includes the proposed arrangements for handling confidential and commercial-in-confidence material.
- the draft guideline's recognition that it may not be possible for TNSPs to conduct a competitive procurement process in all situations. This recognises that some services are very location and/or time specific, with only one or a limited number of potential suppliers of the required services.

ENA considers the guideline can be further improved by addressing the following additional matters:

- Provide guidance as to how the assessment process will work when the application is made as part of a Revenue Proposal, as allowed for under clause 6A.6.6A(a1)(1) of the NER. The application of any materiality threshold and the timeframe for determination are of particular importance.
- Explicitly allow for the recovery of administrative and other costs as part of an ex-ante determination, as already provided for in the guideline relating to ex-post assessments.

In addition, ENA agrees with the AER's view that guidelines which act in a similar manner or focus on related issues may be able to be rationalised or consolidated in the future.

Notwithstanding this broad support for the draft guideline ENA has several concerns regarding the proposed treatment of several matters in the draft guideline. These include:

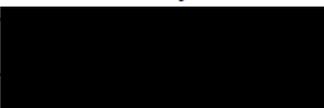
- the proposed materiality threshold of 1% of unsmoothed revenues in a regulatory year.
- the proposed expansion of the materiality threshold to require that non-network options submitted together as a portfolio must be substantially identical with respect to their proposed payments or payment methodologies.
- the proposal that the AER should have the discretion not to accept an application that includes a portfolio of contracts.
- the use of a 'reset the clock' trigger in relation to AER information requests to parties other than the relevant TNSP.
- the proposed requirements to unequivocally demonstrate the prudence and efficiency of expenditure.

ENA considers that these proposed requirements in the draft guideline act in ways that are contrary to the policy intent of the Australian Energy Market Commission when it made the *Improving the cost recovery arrangements for transmission non-network options Rule* (ICRA Rule).

ENA provides further detail on these key points in Attachment A.

ENA looks forward to working with the AER as it works to finalise the guideline. In the meantime, if you would like to discuss this submission, please contact [REDACTED] ([REDACTED]) in the first instance.

Yours sincerely



Dominic Adams
Chief Operating Officer

Attachment A

1. Eligibility and Thresholds – Section 3.3

The NER requires that an application must comply with any relevant requirements of the guideline, which includes the eligibility criteria and materiality threshold. The AER considers that applying eligibility criteria and materiality threshold will ensure the AER has all relevant information needed to undertake a timely assessment of the application and that applications relate to financially significant projects as intended by the ICRA Rule. With regard to ‘financially significant projects’ we note that the AEMC’s statement on this point was limited to applications to adjust a network support payment allowance mid regulatory control period ‘to account for significant new or changed NNO projects’¹.

The proposed eligibility criteria are:

- The application should be made after completion of all relevant regulatory processes and before any contracts are executed;
- All services must be ‘preferred options’ under a completed RIT-T, or a ‘secondary option’ approved by the AER following a ‘material change in circumstances’.
- The application must include the relevant information outlined in the guideline.

The proposed materiality thresholds are:

- The expected average annual payments for a non-network option (or portfolio) must exceed 1% of unsmoothed revenues in a regulatory year for the current regulatory control period;
- A portfolio of options must all meet the same need and be substantially identical in their proposed payments or payment methodologies. There should also be a material benefit in having the AER assess them as a group.

The proposed eligibility criteria and materiality thresholds are largely the same as the interim criteria and thresholds included by the AEMC in the ICRA Rule (NER clause 11.183.3(b)). The key difference is that the draft guideline proposes that non-network options submitted together as a portfolio must be substantially identical with respect to their proposed payments or payment methodologies. It also states that the AER will accept an application that includes a portfolio of contracts at its discretion and subject to resourcing. These additional requirements should be removed as they are contrary to the policy intent of the AEMC when making the ICRA Rule. When amending the transitional arrangements between the draft and final rule the AEMC noted the policy intent “that a lower cost combination of NNO projects should be considered on a comparable basis with an equivalent individual NNO project”².

A portfolio of non-network options that together meet a single identified need may comprise of several different underlying technologies – for example a BESS together with a synchronous generator that can operate as a synchronous condenser. If the underlying technologies are different the proposed payments or payment methodologies are also likely to be different. ENA considers there are no sound policy or regulatory reasons for requiring a portfolio of non-network options to have payment arrangements that are substantially identical in order for the AER to assess them.

ENA remains of the view that specifying a materiality threshold of 1% of unsmoothed revenues in a regulatory year is inappropriate. We note this is the same threshold as the AEMC specified in the

¹ AEMC, Improving the cost recovery arrangements for transmission non-network options, Rule determination, 13 March 2025, page 1.

² AEMC, Improving the cost recovery arrangements for transmission non-network options, Rule determination, 13 March 2025, page 2

interim criteria and thresholds when making the ICRA Rule. The interim criteria and thresholds were intended as only a temporary measure until the AER could formally develop this guideline and the AER has not justified the inclusion of this threshold. ENA considers the 1% threshold is likely to act as a barrier to the testing and adoption of new technologies where smaller scale targeted trials may form part of a broader solution and be beneficial to all parties.

In addition, ENA is concerned that the threshold of 1% of unsmoothed revenues may be viewed by non-network providers as a target to be met to ensure their proposals are taken up. This runs the risk of unnecessarily raising costs for electricity consumers.

The AER should consider the administrative burden on TNSPs in preparing and supporting an ex-ante network support allowance application will act as a counterweight against regularly seeking determinations for minor amounts. That is, the resource cost to TNSPs of preparing an ex-ante application for determination will effectively act as a materiality threshold, albeit one that is flexible and will adjust to individual TNSP circumstances.

We also note that the criteria and thresholds are not expressed as being all required to be met or whether it is sufficient that any one of them be met for an application to qualify. We assume the AER intention is that all requirements must be met, as that would be consistent with the interim criteria and threshold included by the AEMC in the ICRA Rule (NER clause 11.183.3(b)). The AER should clarify this in the final guideline.

2. Consultation process – Section 3.4

The AER may, but is not required, to consult on an application to approve a methodology for a network alternative support payment (made under NER clauses 6A.6.6A(a)) or to adjust a network support payment allowance (NER clause 6A.7.2A(a)). The draft guideline proposes to adopt a similar approach to consultation as used by the AER for general cost pass through applications under the NER. For general cost pass through applications NER clause 6A.7.3(i) provides that “the AER may consult with the relevant Transmission Network Service Provider and such other persons as the AER considers appropriate, on any matters arising out of the relevant pass through event as the AER considers appropriate.” ENA considers this to be an appropriate approach to consultation on an application. ENA also supports the proposed approach to the management of confidential information, including commercial-in-confidence information.

In relation to consultation more generally, ENA notes that any application made under clauses 6A.6.6A or 6A.7.2A typically occurs at the end of an already extensive RIT-T consultation process. In these circumstances it is appropriate that the AER retain discretion as to the breadth and form of consultation it undertakes, if any.

We expect the AER has cited clause 6A.7.3(i) as the model for consultation because general cost pass through applications have a materiality threshold of 1% of MAR, similar to the draft guideline materiality threshold of 1% of unsmoothed revenue. Notwithstanding the lack of a revenue materiality threshold in the equivalent network support pass through provision (clause 6A.7.2) it may be preferable that the AER cite clause 6A.7.2(i) as the applications that are the subject of the draft guideline similarly relate to network support payments.

3. Assessing prudence and efficiency – Section 3.5

The draft guideline describes the factors the AER must consider, as well as other matters the AER may consider, when making a determination. These factors relate to the operating expenditure objectives, criteria and factors set out in clauses 6A.6.6(a), (c)(1)-(3) and (e)(1)-(14) of the NER.

The proposed factors the AER **must** consider are:

- Prudence – whether there is a reasonable need to contract the proposed non-network option or develop a payment methodology for a non-network option; and
- Efficiency – whether the proposed network support payment allowance or methodology reasonable reflects efficient costs, or the least cost the TNSP could reasonably achieve in the circumstances.

The inclusion of consideration of the least cost a TNSP could reasonably achieve in the circumstances is important and strongly supported by ENA. It recognises the potential for a lack of effective competition in the provision of network alternative support services in some parts of the transmission network and/or at certain times. Some service needs are very location and/or time specific, with only one or a limited number of potential suppliers of the required services.

The draft guideline also proposes other factors the AER **may** have regard to. These other factors are generally of a nature that support the AER's assessment of the prudence and efficiency of the proposed expenditure or payment methodology and are supported by ENA.

4. Timeframe for decision – Section 3.6

The draft guideline proposes to adopt the same 40 business day timeframe for making a determination under both clauses 6A.6.6A and 6A.7.2A as specified in the NER for assessing cost pass through applications. ENA considers this is an appropriate timeframe but notes that TNSPs experiences with potential non-network providers is that they are likely to disengage from the process if decisions are not made promptly.

The draft guideline also includes a 'reset the clock' provision where the 40 business days only starts at the date the AER receives additional information sought in an information request. The draft guideline states that this could include information requests issued to parties other than the TNSP. ENA is concerned that third parties are not bound by AER timelines and as noted above TNSPs could see non-network offers withdrawn or otherwise lapse if assessment timeframes are extended.

ENA considers that any 'reset the clock' event should be limited to information the AER has sought from the TNSP whose application is being assessed. There should be no 'stop the clock' or 'reset the clock' arrangement involving information requests to a party other than the relevant TNSP.³

5. Information requirements – Section 4

Section 4 of the draft guideline separates the AER's information requirements into two parts:

1. Information to demonstrate the application meets the eligibility criteria for an ex-ante determination; and
2. Information to demonstrate the prudence and efficiency of the proposed expenditure or payment methodology.

5.1. Demonstration of eligibility and thresholds

The main information requirements set out in the draft guideline are statements from the TNSP with supporting evidence to demonstrate all relevant regulatory processes have been completed and the non-network option is a 'preferred option' under the RIT-T or a 'secondary option' approved by the AER under the material change in circumstances provisions. The draft guideline also requires the TNSP to provide all relevant details for the non-network option and related contract, such as the

³ ENA has similar concerns with the equivalent stop/reset the clock provision in the SSNSP Guideline, notwithstanding ENA's submission on the draft SSNSP Guideline did not address the risks to contract execution of the AER seeking information from third parties.

identity of the service provider, the service(s) to be provided, proposed payments and payment methodologies.

In relation to an application that includes a portfolio of projects, the draft guideline introduces a requirement for the TNSP to not only demonstrate that all projects in the portfolio meet the same need and are substantially identical with regards to proposed payments or payment methodologies, but that there is a material benefit in having the projects reviewed as a portfolio. As noted previously the requirement that all projects in the portfolio have substantially identical payment arrangements is at odds with the AEMC's stated policy intent to allow a lower cost combination of projects to be considered on a comparable basis to an equivalent individual non-network option.

ENA also considers the fact of a portfolio of solutions being identified as a preferred option under the RIT-T along with the expected cost of that portfolio meeting any cost threshold should be sufficient to demonstrate its eligibility for assessment and determination. The requirement to further demonstrate material benefit in having projects reviewed as a portfolio should be removed.

5.2. Demonstration of prudence and efficiency

The draft guideline states that prudence of contracting with non-network options can be demonstrated through the RIT-T documentation that the option is required to meet an identified network need and is a 'preferred option' under the RIT-T (or a 'secondary option' approved by the AER through the material change in circumstances process).

The draft guideline also requires that the TNSP must demonstrate the prudence of the structure of the components of the payment methodologies, and the conditions for triggering a payment or component of a payment in the draft contract. ENA notes that this requirement for positive demonstration of prudence is at odds with the examples provided in Table 2 of the draft guideline and the other wording in section 4.2. The examples provided are examples of where evidence may suggest payment provisions may be considered not prudent and do not provide guidance on how a TNSP can positively demonstrate the prudence of proposed payments.

The wording of section 4.2 should be amended to reflect that evidence provided by a TNSP will be to support the TNSP's view that the expenditure is prudent, rather than conclusive evidence to unequivocally demonstrate prudence.

To demonstrate efficiency the draft guideline requires evidence of a competitive tender or procurement process. Where a competitive process was not available the TNSP should explain why that was the case, what process was used to approach suppliers and what steps the TNSP took to achieve the least cost offer. The TNSP should also explain why the proposed payments or payment methodology is efficient and does not result in unreasonable costs or an unreasonable risk of unnecessary costs. ENA supports this guidance as being consistent with the assessment of efficiency set out in section 3.5.

6. Other Matters

6.1. Application of the guideline within a revenue determination process

Clause 6A.6.6A(a1) provides that a TNSP may make an application for an ex-ante determination regarding a payment methodology as part of a Revenue Proposal. The draft guideline focuses on applications that are made under clause 6A.7.2A but is silent with regards to an application made as part of a Revenue Proposal.

ENA considers the AER should include content on how the ex-ante determination process would operate within a revenue determination process. Specific items that should be addressed are:

- The timeframe in which the AER will aim to make a determination. If the determination of a payment methodology is tied to the revenue determination timeframes this is likely to be of limited utility to TNSPs. If the 40 business days timeframe does not apply then TNSPs are less likely to make an application for a determination as part of a Revenue Proposal.
- Whether the proposed eligibility criteria and materiality threshold will apply to an application made as part of a Revenue Proposal. As the inclusion of a network support allowance in a Revenue Proposal is not subject to any criteria or thresholds ENA submits they should similarly not apply to an application for determination of a payment methodology made as part of a Revenue Proposal.

6.2. Recovery of administrative and other costs

ENA has previously advocated for explicit recognition that administrative costs associated with establishing and maintaining network support agreements are able to be recovered as part of the pass through of network support costs. The AER has acknowledged that these are legitimate costs and has already addressed how it will consider these costs in the existing guideline for network support pass throughs⁴. ENA considers the final guideline should address how the AER will consider administrative and other costs as part of an ex-ante determination.

6.3. Drafting matters

- 1) Chapter 2 of the draft guideline refers to all of the elements of NER clause 6A.6.6A(a), including 6A.6.6A(a)(6) which relates to system security network support payments. Subclause (6) is not relevant to the application for or assessment of network alternative support payments and should not be referenced. It is noted that subclause (6) is not referenced in later Chapters of the draft guideline.
- 2) To clarify the drafting the AER should specify whether all or only some of the elements of the eligibility criteria and materiality threshold are required to be met. The draft guideline does not include either 'and' or 'or' between the various elements of the criteria and threshold statements.

⁴ AER, Procedural guideline for preparing a transmission network support pass through application, section 3.2