

17 January 2014

Mr Chris Pattas
General Manager
Network Operations & Development
GPO Box 3131
CANBERRA ACT 2601

Attention: Lawrence Irlam

Dear Chris

AER Draft Category Analysis Regulatory Information Notice (RIN)

Grid Australia makes this submission in response to the AER's consultation on its draft Category Analysis Regulatory Information Notices (RINs), associated templates and Explanatory Statement. The purpose of the submission is to highlight Grid Australia's overarching concerns with the AER's draft RIN requirements. Issues or concerns relevant to specific TNSPs are dealt with in separate submissions lodged by the respective businesses.

Grid Australia members are also members of the Energy Networks Association (ENA). The ENA has also provided a submission to the AER on its draft Category Analysis RINs, and Grid Australia endorses the views in that submission. The focus of this submission, therefore, is to raise issues that are particularly relevant to transmission networks.

Grid Australia acknowledges the efforts the AER has made over the last year to consult with stakeholders, including TNSPs, as part of its Better Regulation Program. This consultation and engagement has resulted in the successful development and finalisation of a number of Guidelines, which set out the AER's approach to various matters that are relevant to the regulatory determination process.

In relation to the Category Analysis RIN, Grid Australia and individual TNSPs have actively participated in the AER's workshops and meetings. Throughout this process, Grid Australia has sought to better inform the AER on technical and practical matters with the ultimate aim of ensuring that the information requirements are soundly based, reasonable and 'fit for purpose'.

As a result of this constructive dialogue, the AER's drafts Category Analysis RINs include a number of significant improvements in the AER's proposed approach. For example, Grid Australia welcomes the AER's decision not to apply the augex model to transmission networks. In this instance, Grid Australia considers the AER's approach to be 'fit for purpose', as it appropriately recognises important differences between transmission and distribution networks.

However, the draft Category Analysis RINs continue to raise some concerns for Grid Australia. These concerns centre on the following questions, which relate to the concept of ‘fit for purpose’ information requirements:

- Is the information request targeted and proportionate to the regulatory task?
- Is the implementation approach and timetable workable?

Each of these matters is addressed in turn.

A targeted and proportionate information request

Grid Australia accepts that additional relevant information should be provided to the AER to assess TNSPs’ expenditure forecasts and undertake benchmarking. Information is also valuable in terms of facilitating stakeholder engagement, and understanding the reasons for cost and performance differences between TNSPs.

However, information is not costless to collect, forecast or analyse. As with any commercial enterprise, a TNSP will only record or forecast information that is considered relevant to its planning, investment or operational decision-making. From a regulatory perspective, Grid Australia accepts that it is helpful for information to be presented in a consistent manner across TNSPs. Requiring consistency will impose costs on the TNSPs and therefore customers. A targeted and proportionate information request will therefore consider the associated costs and benefits of obtaining the information.

Grid Australia has previously raised concerns regarding the value of benchmarking TNSP performance, especially at a detailed, highly granular level. It is widely understood that inter-company benchmarking for TNSPs is significantly more challenging than for DNSPs. As a consequence, information that is collected in order to populate relatively simplistic expenditure models or benchmarks is unlikely to yield significant benefits from a regulatory perspective. In addition, the costs of compiling and providing the information sought are significant. The costs to compile and audit the proposed extensive data set, and annual updates and audits thereafter, will increase the compliance costs of providing transmission services.

Grid Australia is concerned that the scope of information requested by the AER remains too broad and detailed. It appears to Grid Australia that the AER has not applied a systematic process to ensure that its information request is proportionate, both to the issues at hand and the costs of provision. Grid Australia notes that sections 28F(1) and (2) of the National Electricity Law (NEL) require the AER to ensure that the issuing of a RIN:

- is reasonably necessary for the performance or exercise of its functions under the NEL or National Electricity Rules;
- must have regard to the “matter to be addressed”; and
- must “have regard to the likely costs” in complying with the RIN.

Grid Australia does not consider that these matters have been given adequate consideration in developing the draft Category Analysis RIN.

As an illustration, the detailed information requested in relation to motor vehicle expenses is not proportionate to the materiality of the expenditure or “the matter to be addressed”. In particular, Grid Australia is not aware of any concern that motor vehicle expenses are inefficient, nor has the forecasting of motor vehicle expenses been a material issue in any previous regulatory determination.

Grid Australia is also concerned that the level of disaggregation sought in relation to labour costs is not ‘fit for purpose’. TNSPs adopt different approaches to outsourcing operational activities, which will have a material impact on internal labour costs. Consequently, the detailed focus on internal labour costs in the draft Category Analysis RIN is unlikely to yield meaningful inter-company comparisons. Grid Australia is therefore concerned that expending significant resources in providing this detailed analysis will not provide any tangible benefits in terms of better regulatory outcomes.

Therefore, Grid Australia considers that a systematic application of the criteria in the National Electricity Law would greatly assist in ensuring that the RIN was both proportionate and targeted to the regulatory issues at hand.

A further issue in relation to ‘fit for purpose’ information gathering is the need to obtain data from the Australian Energy Market Operator (AEMO) in relation to its TNSP functions in Victoria, which include transmission planning for the shared network, demand forecasting and transmission pricing. If AEMO is excluded from the AER’s information requests for the transmission sector, further limitations will arise in the validity of the AER’s category analysis.

While it is unclear from the information released to date, AEMO should be required to provide the same level of information for its Victorian operations as other TNSPs. This will ensure that full information on the provision of transmission services in Victoria is available for the AER’s reviews. In the interests of transparency, it would be useful if the AER could clarify this matter.

A workable implementation approach and timetable

Grid Australia has three concerns regarding the AER’s current implementation approach:

- the scope of the AER’s information request;
- the AER’s proposed timetable; and
- the audit and statutory declaration sign off.

Each of these matters is addressed in turn.

Scope of information

A more workable implementation approach and timetable would be achieved if the scope of the AER’s initial information request were reduced and better targeted. In particular, a reduction in scope would have the following benefits in terms of implementation – it would:

- improve the quality of information provided and minimise the need for subsequent revisions;

- enable the AER to focus on the most material information in its revenue determinations;
- reduce the cost and resource burden on TNSPs, including extensive manual processes and data estimation; and
- allow the AER to refine the RIN requirements over time, ensuring that only useful information is requested.

The case for reducing the scope of the AER's initial information request is particularly strong for the transmission sector. In contrast to DNSPs, since the late 1990s TNSPs have been subject to incentive regulation administered by the ACCC and AER, and have provided regulatory information on a consistent basis for a number of years. As a consequence, the AER already has a significant amount of comparative transmission data, including its own annual performance reports. Further, the existing information will be augmented by the AER's economic benchmarking RIN, which was finalised in November 2013.

Grid Australia notes that individual TNSPs will make their own submissions on the particular challenges arising from the draft Category Analysis RIN and the extent to which the data request should be reduced. These challenges differ across companies depending on their systems, organisational structures and historical reporting arrangements.

Proposed timetable

The AER's proposed timetable requires TNSPs to submit Category Analysis RIN data by 31 May 2014. Grid Australia understands that this timetable is driven by the AER's planned publication in July 2014 of its Issues Paper for the NSW/ACT and Transend revenue determinations. The AER has indicated that the Issues Paper will include its first formal consideration of the information submitted in the Category Analysis RINs.

Grid Australia considers that any category analysis included in the Issues Paper could only be regarded as provisional. In making this observation, Grid Australia draws on its experience with the AER's annual publication of transmission performance reports, which suggest that significant time is required to ensure that data is correctly presented and inter-company comparisons are valid. This validation exercise is likely to be more important and time-consuming in relation to newly provided RIN data.

Grid Australia is also concerned that the proposed timetable provides very limited time for TNSPs to satisfy the RIN requirements and obtain audit sign-off. Grid Australia considers that a more workable timeframe could be developed without undermining the AER's inclusion of provisional category analysis in the Issues Paper. Grid Australia proposes a more pragmatic approach that TNSPs would provide provisional data by 31 May 2014, and audited data by 31 July 2014. This proposal assumes that the scope of the Category Analysis RIN will be reduced to provide a more targeted and workable information request, as discussed above.

Adopting Grid Australia's proposal would assist in reducing the resource burden on TNSPs, while still enabling the AER to conduct category analysis. Grid Australia considers that the provisional nature of the RIN data would not undermine the category analysis, for the reasons already noted.

Audit and statutory declaration sign offs

In relation to audit requirements, Grid Australia notes that the RIN requires the TNSP's CEO to provide a statutory declaration, which certifies that historical data is "true and accurate" (for actual information) or the TNSP's best estimates (for estimated information). Grid Australia has two concerns with this requirement:

- The relevant audit standard is whether the information is "free from material misstatement and, in all material respects, presented fairly."
- The "true and accurate" assurance requirement in the statutory declaration is inconsistent with, and more stringent than, the assurance required from the auditors under the RIN. This means that the person providing the statutory declaration cannot rely on the audit opinion assurance to provide a "true and accurate" assurance.

Grid Australia therefore considers that the statutory declaration for historic data should be consistent with the audit standard "free from material misstatement and, in all material respects, presented fairly."

Grid Australia has also found that the Category Analysis RIN information and Explanatory Statement could be improved by making the documents much more tailored to the sectors in question. Specifically, Grid Australia requests that the AER seek to produce for the final RINs, separate documents for transmission and distribution, including definitions and instructions. The AER could also use illustrative examples that are better suited to the audience.

Conclusions

Grid Australia will continue to work constructively with the AER to develop a RIN that supports informative category analysis for the transmission sector. However, concerns remain in relation to the draft category analysis RIN in two broad areas:

- ensuring that the information request is proportionate and targeted; and
- ensuring that implementation approach and timetable is workable.

To develop a 'fit for purpose' Category Analysis RIN, Grid Australia considers that the AER should fully apply the criteria in the NEL, which require that the issuing of the RIN:

- is reasonably necessary for the performance or exercise of the AER's functions under the NEL or National Electricity Rules;
- must have regard to the "matter to be addressed"; and
- must "have regard to the likely costs" in complying with the RIN.

These criteria should be applied as a filtering mechanism to ensure that all information sought in the Category Analysis RIN is proportionate and targeted to the regulatory issues at hand. In applying the NEL criteria, the AER should have regard to the transmission sector's particular circumstances.

In addition, Grid Australia considers that in its capacity as a TNSP, AEMO should be required to provide the same level of information for its Victorian operations as other TNSPs. In the absence of this information, the AER's category analysis will be adversely affected by missing data and would likely produce inappropriate comparisons. In the interests of transparency, it would be useful if the AER could clarify this matter.

In relation to ensuring a more workable implementation approach and timetable, Grid Australia considers that the AER should:

- reduce the scope of the initial information request;
- extend the timetable for completing the RIN modestly so that provisional data is provided by 31 May 2014, and audited data by 31 July 2014; and
- amend the statutory declaration so that it is consistent with the audit standard of "free from material misstatement and, in all material respects, presented fairly."

If you have any queries in relation to this submission, please contact Andrew Kingsmill on (02) 9284 3149 in the first instance.

Yours sincerely



for

Rainer Korte
Chairman

Grid Australia Regulatory Managers Group