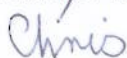


Mr Chris Pattas  
General Manager, Network Operations and Development  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

**SYDNEY**  
201 Elizabeth Street  
PO Box A1000 Sydney South  
NSW 1235 Australia  
**T** (02) 9284 3000  
**F** (02) 9284 3456  
[www.transgrid.com.au](http://www.transgrid.com.au)

Dear Mr Pattas,



### **Draft Regulatory Information Notice and Information Sharing with AEMO**

TransGrid has received a draft Regulatory Information Notice (RIN) from the AER dated 6 December 2013. TransGrid understands that the purpose of the RIN is to obtain information for both the transmission determination for the upcoming regulatory control period and the AER's new annual benchmarking reports.

TransGrid appreciates the consultation the AER has undertaken to date on the RIN with regard to the category analysis aspects, and the willingness of AER staff to discuss pragmatic approaches to the information definitions.

TransGrid notes that some of the information requirements in the RIN align with those covered by the previous *Submission Guidelines* that applied to transmission network service providers (TNSPs) for revenue resets. However, many of the requirements in the RIN are new and require significant additional effort over and above the previous requirements. TransGrid's has concerns with the value of this information for the regulatory process, as outlined below.

TransGrid offers the following comments on the draft RIN.

#### **Extent of Information Requested**

TransGrid is concerned that the extent and detail of information required by the draft RIN is unreasonably onerous and in excess of what the AER should reasonably require to perform its functions and powers. For example:

- The requirement to provide *all* supporting documents and analysis would be extensive, with thousands of documents involved and a requirement under the new confidentiality guideline to prepare confidentiality information for each document. TransGrid estimates that the preparation of confidentiality information for the full number of documents would take over 1 person year. TransGrid proposes a more proportionate approach in which the AER could select a representative sample of documents and would be able to iteratively access further information in the areas required.
- Some of the information requested does not exist, such as information that TransGrid would not normally hold or maintain in the course of operating a commercial business. Further, some



information is held by third parties and not accessible to TransGrid, such as models owned by third parties that comprise their intellectual property and have not been provided to TransGrid.

- Some of the requirements in the RIN are very broad and would be better targeted to material categories of expenditure or bounded, for example, to a particular time period.

Specific comments on these and more detailed matters have been provided in Attachment 1.

TransGrid notes that the rationale for requesting the extent of information in the draft RIN is unclear, and the brief statement of reasons in Appendix D does not adequately explain the request. TransGrid requests the AER to provide an explanation of its intended use of each item of information, to provide a transparent understanding of how the information will support effective and efficient regulation.

### **Information Sharing with AEMO**

TransGrid understands that the AER intends to engage AEMO to review parts of TransGrid's revenue proposal. TransGrid also understands that the AER intends to provide information gathered by it on the unit costs of network service providers to AEMO for the purposes of AEMO developing and maintaining a "price book" for the purpose of estimating costs for particular projects. As part of these arrangements TransGrid understands the AER intends to share information provided by TransGrid with AEMO.

TransGrid has concerns with the nature of the proposed information sharing between the AER and AEMO. In particular, as AEMO and TransGrid are primary TNSPs in adjacent jurisdictions there are two issues that may arise from the sharing of this information.

1. Disclosure of commercially sensitive information which could prejudice TransGrid's legitimate commercial interests

TransGrid provides both prescribed transmission services which are regulated by the AER, and non-regulated services to several organisations including AEMO which are not regulated. In the course of providing non-regulated services TransGrid may, and does from time to time, tender for the provision of services to AEMO.

The provision of detailed TransGrid information by the AER to AEMO for the purpose of reviewing the revenue proposal or otherwise maintaining a "price book" would provide AEMO with significant commercial information that AEMO would not otherwise have access to. In the event that TransGrid tenders for the provision of a service to AEMO, and in the absence of appropriate ring-fencing of the relevant information, AEMO would be likely to have access to significantly greater commercial information for TransGrid than other tenderers who are not regulated by the AER.

Access to the information that TransGrid understands the AER intends to provide to AEMO could be used by AEMO to unfairly prejudice TransGrid's commercial interests. For example, AEMO could use the information to seek to derive the margins implicit in the works being tendered for which could influence AEMO's evaluation of TransGrid's tender responses. To the extent AEMO sought supply of products / services directly from suppliers who also supply products / services to TransGrid, the information could potentially also harm the commercial interests of suppliers.

TransGrid proposes that if the AER intends to share TransGrid's commercially sensitive information with AEMO for regulatory purposes, that the AER provide that information on condition that AEMO puts in place adequate safeguards to ring fence AEMO's use of that information from its other functions and powers. Most particularly the use of that information for regulatory purposes



should be ring-fenced from AEMO's procurement functions. It would be appropriate for AEMO to provide a full description of how the ring fencing would work.

It should also be obvious that a further condition of any disclosure of confidential TransGrid information to AEMO must be that AEMO not disclose that information to any third party. Pursuant to section 44AAF of the *Competition and Consumer Act 2010* (Cth) it is open (and appropriate) for the AER to place both ring-fencing and disclosure conditions on AEMO's use of the information that the AER proposes to disclose to AEMO, as well as conditions that protect TransGrid's intellectual property in that information (discussed below).

## 2. Disclosure of intellectual property

The information the AER is requesting in the draft RIN includes information that contains TransGrid's intellectual property. It includes, for example, TransGrid's estimating process and costs that have been developed over time. This intellectual property can be used commercially by TransGrid, as it could for any engineering firm with a similar skill and capability base. Its disclosure to a third party such as AEMO would effectively provide AEMO with this intellectual property at no cost to AEMO and potential commercial damage with no compensation to TransGrid.

Further to the proposed ring fencing above, TransGrid proposes that if the AER intends to share TransGrid's intellectual property with AEMO, a tripartite agreement be established between TransGrid, the AER and AEMO that places constraints on the extent and use of the information provided to AEMO. TransGrid's position is that AEMO may only use information provided by the AER for regulatory purposes as engaged by the AER, and not for any other purpose, most particularly in connection with AEMO's procurement functions. Further, TransGrid proposes that AEMO be required to completely destroy the information including all files, e-mails, backups and archives following the completion of any engagement by the AER for a particular regulatory purpose.

TransGrid would like to discuss with the AER at a suitable opportunity the detailed comments that require clarification, and will seek to schedule a discussion in the near future.

In the interim, should you have any questions on these matters please feel free to contact Andrew Kingsmill, Regulatory Expenditure Manager, on (02) 9284-3149.

Yours faithfully,



**Anthony Meehan**

**Executive General Manager/Revenue Strategy & Business Diversification**

17/1/2014

## Attachment 1 – Detailed Comments

TransGrid offers the following detailed comments on the RIN.

Reference	Comment
Covering Letter – Page 2	Requires “information other than Forecast Information to be prepared and provided annually on an ongoing basis until 2024”. TransGrid understands this to refer to the particular regulatory templates in the Excel workbook stated in Schedule 1 Section 34, and the explanatory paragraphs in Schedule 1 corresponding to those templates only. TransGrid seeks the AER’s confirmation that this understanding is correct.
RIN Schedule 1 – Para 1.3	Suggest the AER clarify the types of supporting information or documentation it requires.
RIN Schedule 1 – Para 1.5 (a)	TransGrid seeks confirmation that this paragraph refers to the requirements of template 6.1 in the Excel workbook. In this case TransGrid proposes that the wording in this paragraph be changed to align with the instructions in template 6.1 to clarify the scope of the requirement.
RIN Schedule 1 – Para 1.5 (c)	The requirement to provide all economic analysis would be extensive, with thousands of documents involved and the requirement under the new confidentiality guideline to prepare confidentiality information for each document. TransGrid estimates that the provision of confidentiality information for the full number of documents would take over 1 person year. Further, AER staff have previously indicated in discussion that they are unlikely to read every document. TransGrid suggests a more proportionate approach, in which TransGrid provides a list of all economic analysis from which the AER selects a sample for provision and review. Should the AER require further information following its review of the sample, further information could be requested in the areas of interest as required.
RIN Schedule 1 – Para 1.5 (f)	This paragraph should read “transmission services” rather than “distribution services”. TransGrid seeks confirmation that this paragraph refers to a list of material contracts and not the full contracts themselves.
RIN Schedule 1 – Para 1.6 (d)	The requirement of this paragraph is unclear.
RIN Schedule 1 – Para 1.9	TransGrid seeks confirmation that this paragraph refers to differences over the entire regulatory control period rather than for each individual year of the regulatory control period.
RIN Schedule 1 – Para 2.1	The exact information required by this paragraph is unclear.
RIN Schedule 1 – Para 4.1 (b) (iii)	TransGrid does not consider it appropriate for “views” to be a mandatory requirement in a RIN.
RIN Schedule 1 – Paras 5.2 (a) & 5.3	The state demand forecast for New South Wales is provided by AEMO, and connection point forecasts are provided by distribution network service providers (DNSPs). TransGrid does not have access to the models used by any of these external parties and will be unable to provide them.



Reference	Comment
RIN Schedule 1 – Paras 5.2 (c)	TransGrid's understanding is that AEMO does not publish weather normalised data. TransGrid is uncertain at this time as to whether it will be able to meet the requirements of this paragraph.
RIN Schedule 1 – Para 7.1 (e) (iii)	TransGrid does not receive a post-renewal insurance report under its present insurance arrangements, and therefore will be unable to provide it.
RIN Schedule 1 – Para 7.4	The insurer's method used to forecast premiums is not disclosed to TransGrid, and TransGrid will therefore be unable to provide it to the AER.
RIN Schedule 1 – Paras 7.5 & 7.7 (b)	The time period for the historical information needs to be defined.
RIN Schedule 1 – Para 11.2 (b)	Models used to forecast price changes, such as labour, materials and property escalation, are owned by third parties and not provided to TransGrid. TransGrid will therefore be unable to provide them to the AER. This is similar to the AER's inability to publish the models of escalation it has procured previously.
RIN Schedule 1 – Para 15	The exact requirements of this paragraph and rationale are unclear. However, at face value this appears to require a significant level of detailed manual effort. TransGrid requests the AER to clarify the exact requirements of this paragraph and rationale.
RIN Schedule 1 – Para 16.1 (c)	This paragraph is a request for an approach the AER proposes to take, which clearly cannot be provided by TransGrid.
RIN Schedule 1 – Para 18.2 (a)	TransGrid understands that the market impact component targets will be set annually as part of the compliance review of the service target performance incentive scheme. TransGrid therefore proposes that the market impact component information not be required in the revenue reset RIN.
RIN Schedule 1 – Para 18.3	Under the transitional arrangements TransGrid will submit its NCIPAP with its transitional revenue proposal by 30 January 2014 for review and approval by the AER before the RIN submission is due. TransGrid therefore proposes that the network capability component information not be required in the revenue reset RIN as it will no longer be required. Further, in terms of the actual information requirements, the scope and rationale for some information are unclear and appear unnecessary as broad requests (for example, para 18.3 (b) (v) & (vi)). This information could be provided in any specific instances required during review of the NCIPAP.
RIN Schedule 1 – Para 9.1 RIN Schedule 1 – Para 12.1 (a) RIN Schedule 1 – Para 12.3 (a) RIN Schedule 1 – Para 23.1 RIN Schedule 1 – Para 24.6 RIN Schedule 1 – Para 29 RIN Appendix F – Para 1.1 (d) RIN Appendix F – Para 14.2	References to distribution services should be references to transmission services.



Reference	Comment
RIN Schedule 1 – Para 31.1	References to Essential Energy should instead refer to TransGrid.
RIN Schedule 1 – Para 29	The requirements of this paragraph are unclear. In particular, transmission lines have a range of ratings under different conditions which are not easily displayed on a map. The rationale for this requirement is also unclear.
RIN Schedule 1 – Para 33.4	The requirement for consent to disclosure of “all other” information in advance does not cater for confidential information that may be provided in the course of clarification correspondence between TransGrid and the AER that was not identified in advance. TransGrid proposes that this paragraph be modified to refer only to information provided at the time of the RIN, and that confidentiality claims for information provided subsequently be made at the time of the provision of that information.
RIN Appendix F – Para 4	TransGrid requests further explanation of the rationale for requesting labour cost information. Labour cost information provides an incomplete picture of the cost of providing a service as it will vary significantly between NSPs depending on the extent of outsourcing used. TransGrid therefore questions its usefulness for regulatory decision making.
Template – 2.2 Repex & 2.7 Maintenance	The categories of Steel Towers and Tower Structures appear synonymous, and do not cater for poles such as wood or concrete poles.
Template – 2.2 Repex	From the instructions it is unclear how life extension works should be reported, that is, where assets are not replaced but refurbished resulting in an extension in life that is different to the life of a new asset. This includes reporting the number of assets and costs. TransGrid proposes the flexibility to include a separate category for life extension works on a case by case basis, where life extension costs or volumes are material, if required.
Template – 2.2 Repex	TransGrid seeks clarification on the definition threshold of an “asset failure”, for example, whether it includes both functional and condition failure, failures requiring replacement or substantial replacement of the asset, or failures caused by external factors (such as failure of wood poles due to a bushfire).
Template – 2.2 Repex	TransGrid will be unable to provide forecast asset failure data, as at this time future failures have not yet occurred.
Template – 2.5 Non-network	TransGrid proposes the following cost driver metrics: Opex Metric = Total Annual km/Annual Opex Total Capex Capital = Number of Vehicles Purchased/Total Capital Cost Capex Disposals = Number of Vehicles Disposed/Total Disposal Value
Template – 2.6 Vegetation Management	This sheet is likely to require a significant amount of manual effort to complete.

Reference	Comment
Template – 2.6 Vegetation Management	TransGrid considers that the average number of trees per span is not useful information, and proposes that it be removed. There are significant measurement difficulties, TransGrid has not historically measured this data, and in many instances it is immaterial (for example where slashing and mulching machinery is used). It also carries some ambiguity on what constitutes a “tree”, for example, trees in gullies, shrubs, saplings that are likely to grow into full trees, ferns, etc.
Template – 2.6 Vegetation Management	With regard to the definition of vegetation corridors: <ul style="list-style-type: none"> <li>• The definition relates only to slashed areas, so determining the length of vegetation corridors would require detailed span by span review. This would require a significant amount of manual effort.</li> <li>• TransGrid seeks clarification on the definition of the width of vegetation corridor. For example, does it refer to half the easement, or the amount to the width of the vegetation corridor being only the slashed section?</li> </ul>
Template – 2.6 Vegetation Management	TransGrid does not measure vegetation management on access tracks, as this is undertaken where required as part of broader works to make tracks passable.
Template – 2.11 Expenditure Other Persons	The table number references in the instructions are incorrect. TransGrid seeks clarification as to whether, for each table on this sheet, the AER requires expenditure to be: <ul style="list-style-type: none"> <li>• Per supplier, with the value being the total of all contracts with that supplier</li> <li>• Per contract, with the value being the value of each contract, in which case the same supplier may be listed multiple times if it has multiple contracts</li> </ul>
Template – 2.12 Insurance	TransGrid seeks clarification on the definitions of “change to exposure” and “change to premium rates”. Worked examples may assist here.
Template – 3.1 Revenue	TransGrid will be unable to provide forecasts of revenue groupings or outcomes of incentive schemes. Revenue groupings are calculated annually taking into account revenues for all transmission network service providers in New South Wales, settlement residues and other adjustments which are not known at this time. Outcomes of incentive schemes are not known in advance.



Reference	Comment
Template – 3.4 Operational Data	<p>Maximum demand in MVA at an aggregate level is not an appropriate measure for transmission networks, as it takes into account reactive power (MVar). Reactive power, in addition to that consumed by loads, is used in transmission networks to control power flows and voltage levels, and is generated and absorbed throughout the network in doing so. Therefore, an aggregate measure of maximum demand in MVA is not considered to provide meaningful information (as distinct from maximum demand in MW, which is the more appropriate for transmission networks). TransGrid considers that the AER should remove data TOPSD0201 to TOPSD0206 and TOPSD0301 to TOPSD0309 for this reason.</p>
Template – 3.6 Operating Environment	<p>The average number of trees per vegetation span is likely to be an estimate and is unlikely to be useful for benchmarking. The average number of defects per span is unlikely to provide a good indication of workload, as defects may be raised on one or several spans for any number of trees. TransGrid is presently considering whether there are alternative measures that provide a suitable indication of vegetation density.</p>
RIN – Appendix B: Statutory Declaration	<p>Clause 1 of the statutory declaration refers to a RIN dated 28 November 2013, and should be amended to the date of issue of this RIN.</p>
RIN – Appendix B: Statutory Declaration	<p>The statutory declaration does not provide for the situation where data does not exist and cannot be meaningfully estimated. TransGrid supports the proposed change to the statutory declaration wording in the Grid Australia submission on the draft category analysis RIN.</p>