

17 January 2020

Dr Kerry Schott AO  
Independent Chair  
Energy Security Board

Via email: [info@esb.org.au](mailto:info@esb.org.au)

Dear Kerry,

**Re: Converting the Integrated System Plan into Action – Consultation on Draft ISP Rules**

We appreciate this opportunity to provide a submission on the Energy Security Board (ESB)'s consultation paper and Draft ISP Rules (Draft Rules) released in November 2019 to make the Integrated System Plan (ISP) published by the Australian Energy Market Operator (AEMO) actionable.

We are party to Energy Network Australia's submission, which contains the network sector's detailed response to this consultation. The purpose of this submission is to provide additional commentary relevant to the application of the Draft Rules to Project EnergyConnect as an existing actionable ISP project identified in AEMO's Draft 2020 ISP, as the proponent of this project.

**Project EnergyConnect**

Project EnergyConnect involves the construction of a new high voltage interconnector connecting the electricity networks of SA at Robertstown and NSW at Wagga Wagga together with an additional transmission line linking to north-west Victoria (at Red Cliffs) by mid-2023.

Project EnergyConnect aims to reduce the cost of providing secure and reliable electricity to customers while facilitating the transition of the National Electricity Market (NEM) to low emission energy sources. This is a landmark project as the first new interconnector between any Australian states in 15 years.

The interconnector has been identified as an important element of the 'roadmap' for the NEM in AEMO's 2018 ISP and as one of its immediate priorities that would deliver positive net market benefits as soon as it is built. The interconnector's importance was confirmed in AEMO's Draft 2020 ISP, which includes Project EnergyConnect in its optimal development path as a Group 1 priority project.

The project was subject to the extensive SA Energy Transformation (SAET) Regulatory Investment Test for Transmission (RIT-T) assessment undertaken by ElectraNet between 2016 and 2019.<sup>1</sup>

### Proposed amendments to transitional arrangements

The balance of this submission addresses four specific aspects of the transitional arrangements that are important to address in the Draft Rules in relation to Project EnergyConnect, consistent with the objectives of the ISP implementation framework, together with specific drafting changes that deal with these matters in **Attachment 1**. These drafting changes are consistent with those contained within the broader set of amendments provided by Energy Networks Australia.

#### 1. Inclusion as an 'existing actionable ISP project'

Consistent with other Group 1 ISP projects, Project EnergyConnect should be recognised as an existing actionable ISP project under the transitional arrangements for the new ISP framework.

Considering the advanced status of Project EnergyConnect, the Australian Energy Regulator (AER)'s announcement that it will publish its determination in early 2020<sup>2</sup> and the ESB's expectation that the rules giving effect to the new ISP framework (ISP Rules) will be not be made and commenced before mid-2020, it is understandable that Project EnergyConnect was not included as an existing actionable ISP project.

However, there is at least one circumstance in which the commencement of the new ISP framework may be relevant to Project EnergyConnect—where there is a material change in circumstances that requires reapplication of the RIT-T.

The AER has not yet been made a determination to confirm that the identification of Project EnergyConnect as the preferred option is consistent with RIT-T requirements.<sup>3</sup> Consequently, the project has not yet achieved 'committed' status.

While the AER is expected to make a RIT-T determination shortly there remains the possibility that a material change in circumstances may need to be considered requiring reapplication of the RIT-T.

The actionable ISP Rules should cater for this possibility by recognising Project EnergyConnect as an existing actionable ISP project under the transitional arrangements.

This transitional matter is dealt with in the proposed amendments to the definitions contained in clause 11.xx.1 as set out in Attachment 1.

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<sup>1</sup> Consultation documents and accompanying material associated with the SAET RIT-T is available from ElectraNet's website at <https://www.electranet.com.au/projects/south-australian-energy-transformation/>.

<sup>2</sup> See <https://www.aer.gov.au/communication/sa-energy-transformation-update-aer-to-release-decision-on-sa-nsw-interconnector-rit-t-in-2020>.

<sup>3</sup> In accordance with clause 5.16.6 of the Rules.

## 2. Transitional arrangements: Reapplication of a RIT-T in progress

Under the existing framework<sup>4</sup>, if there has been a material change in circumstances after publication of a Project Assessment Conclusions Report (PACR) in relation to a RIT-T project such that, in the reasonable opinion of the RIT-T proponent, the preferred option in the PACR is no longer the preferred option, the proponent must 'reapply' the RIT-T unless otherwise determined by the AER.<sup>5</sup>

The transitional arrangements set out in the Draft Rules do not contemplate the possibility of a material change in circumstances requiring reapplication of the RIT-T for an existing actionable ISP project.

Were such a material change to occur before the commencement of the ISP Rules and the RIT-T proponent had not yet completed the reapplication of the RIT-T by republishing a PACR or an addendum to the PACR, it is unclear whether the existing RIT-T framework or the new framework for actionable ISP projects would apply.

For instance, as at the commencement date of the ISP Rules, if a RIT-T proponent has already taken significant steps toward republishing a PACR in response to a material change in circumstances, it would neither be practical nor efficient to require it to restart its reapplication of the RIT-T under the new framework. Further, this would be inconsistent with one of the key objectives of the ESB's reforms to provide a streamlined process for the approval of actionable ISP projects.

Conversely, where significant steps had not yet been taken, allowing a RIT-T proponent to republish a PACR under the new framework may allow greater alignment with inputs and assumptions for the 2020 ISP and allow access to the streamlined RIT-T framework.

For these reasons, we propose that a new clause be added to the transitional arrangements which clarifies the extent to which the new framework applies and provides RIT-T proponents the flexibility to apply either the existing RIT-T framework or the new RIT-T framework for actionable ISP projects in these specific circumstances.

Consistent with the intent of the new framework, these transitional arrangements would allow a RIT-T proponent to:

- (a) elect to apply Rule 5.16 as amended (equivalent to the existing RIT-T framework) when republishing a PACR; or
- (b) apply Rule 5.16A (the new RIT-T framework) when republishing a PACR,

so that the project may proceed in both cases under the regulatory approval process provided under the new ISP framework including:

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<sup>4</sup> Clause 5.16.4(z3) of the Rules.

<sup>5</sup> The Rules do not specify and the AER's RIT-T Application Guidelines do not provide guidance on the manner in which the RIT-T must be reapplied. Logically, a RIT-T proponent would republish the PACR to account for the material change or, alternatively, publish an addendum to the PACR depending on the extent of the changes required. This would be equivalent to the requirement for a RIT-T proponent to amend relevant matters set out in its PACR in response to an AER determination that upheld a successful RIT-T dispute in accordance with clause 5.16.5(d)(3)(ii) of the Rules.

- (c) the 'AEMO feedback loop'<sup>6</sup>, whereby the RIT-T proponent seeks advice from AEMO as to whether the preferred option identified in the republished PACR aligns with the ISP, and
- (d) the 'automatic contingent project trigger'<sup>7</sup>, which allows actionable ISP projects to be defined as contingent projects if they meet defined criteria, without needing a determination by the AER in accordance with clause 5.16.6. of the Rules.

These amendments are consistent with arrangements under the ESB's draft transitional provisions that allow clause 5.16A.5 to apply where a PACR has been published and a determination under clause 5.16.6 has not been requested.<sup>8</sup>

This transitional matter is dealt with in the proposed amendments to clause 11.xx.3(f) set out in Attachment 1.

### 3. Transitional arrangements: Reapplication of the RIT-T completed

In order to allow access to the AEMO feedback loop under the new framework in circumstances where the RIT-T has already been reapplied in response to a material change in circumstances and a PACR has been republished before commencement of the ISP Rules, an additional amendment to the transitional arrangements is required.

Under the current regulatory arrangements, there is no specific guidance regarding the regulatory approval process when a PACR is republished in response to a material change in circumstances, and whether, for example, the AER is required to reissue or reconfirm any determination that may have been made under clause 5.16.6 of the Rules.

This proposed amendment to the transitional arrangements would operate to allow any such process to be concluded before the commencement of the ISP Rules. Should any such process not be concluded before commencement of the ISP Rules, then clause 5.16.6 would no longer apply and the RIT-T proponent would be able to progress the project using the AEMO feedback loop.

This transitional matter is dealt with in the proposed amendments to clause 11.xx.3(b) set out in Attachment 1.

### 4. Reapplication of the RIT-T after commencement of the ISP Rules

For completeness, we understand that, were a material change in circumstances to occur after the commencement of the ISP Rules, the reapplication of the RIT-T by republishing a PACR would be fully dealt with under the new framework, without any need for further transitional provisions. However, should the ESB receive different advice on its drafting, we recommend that any relevant amendments be made to remove any uncertainty over this point, consistent with the clear intent of the new framework.

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<sup>6</sup> As provided by clause 5.16A.5(b) of Energy Network Australia's amendments to the Draft Rules.

<sup>7</sup> As provided by clause 5.16A.5(d) of Energy Network Australia's amendments to the Draft Rules.

<sup>8</sup> As provided by clause 11.xx.3(b) of the ESB's Draft Rules.

We look forward to further engagement with the ESB on this consultation and would be happy to discuss any aspects of this submission further.

Please direct any queries in relation to this submission to Simon Appleby in the first instance on (08) 8404 7324.

Yours sincerely



Rainer Korte  
**Executive Manager Asset Management**

## ATTACHMENT 1 – PROPOSED AMENDMENTS TO TRANSITIONAL PROVISIONS

This attachment contains the proposed amendments to the transitional arrangements for the ISP Rules referred to in this submission, with changes the drafting published by the ESB marked in green. These amendments should be read in conjunction with the broader set of amendments provided by Energy Networks Australia, which includes amendments to clause references as appropriate.

### 11.xx.1 Definitions

...

**existing actionable ISP project** means each of the following projects:

...

(f) South Australia – New South Wales (Project EnergyConnect) as described in the ElectraNet project assessment conclusions report dated 13 February 2019

existing contingent project trigger means a *trigger event for a contingent project in a revenue determination made before the commencement date.*

...

### 11.xx.3 Existing actionable ISP projects

(b) If, at the commencement date, an existing RIT-T proponent for an existing actionable ISP project:

- (1) *has published* the project assessment conclusions report in accordance with clause 5.16.4(t) (including where the existing RIT-T proponent has reapplied the RIT T in accordance with clause 5.16.4(z3)); and
- (2) has not yet requested the *AER* to make a determination under former clause 5.16.6,

then:

- (3) rule 5.16 applies (as amended by the Amending Rule) (but not former clause 5.16.6) to that existing actionable ISP project; and
- (4) the existing RIT-T proponent may (but is not required to) obtain written confirmation or advice from AEMO under clause 5.16A.5(b) in respect of the existing actionable ISP project.

~~new clause 5.16A.5 applies to that existing actionable ISP project and, to avoid doubt, former clause 5.16.6 does not apply.~~

...

(f) If an existing RIT-T proponent for an existing actionable ISP project is required to reapply the RIT-T in accordance with clause 5.16.4(z3), then the existing RIT-T proponent may elect that rule 5.16 applies (as amended by the Amending Rule) (but not former clause 5.16.6) to the re-application of the RIT-T to that existing actionable ISP project. If the existing RIT-T proponent does not make an election under this paragraph (f), then new rule 5.16A applies to the re-application of the RIT-T to that existing actionable ISP project.