Shell ENERGY

27 October 2021

Kate Norris
Department of Planning, Industry and Environment
GPO Box 39
Sydney NSW 2001

Lodged via email: Electricity.Roadmap@dpie.nsw.gov.au

Dear Ms Norris

RE: Regulations for Part 7 of the Electricity Infrastructure Investment Act 2020

Shell Energy Australia Pty Ltd (Shell Energy) welcomes the opportunity to respond to the New South Wales (NSW) Government's policy paper (the Paper) on regulations to support Part 7 of the *Electricity Infrastructure Investment Act 2020* (the EII Act), which deals with the Electricity Infrastructure Fund.

About Shell Energy in Australia

Shell Energy is Australia's largest dedicated supplier of business electricity. We deliver business energy solutions and innovation across a portfolio of electricity, gas, environmental products and energy productivity for commercial and industrial customers. The second largest electricity provider to commercial and industrial businesses in Australia[1], we offer integrated solutions and market-leading[2] customer satisfaction, built on industry expertise and personalised relationships. We also operate 662 megawatts of gas-fired peaking power stations in Western Australia and Queensland, supporting the transition to renewables, and are currently developing the 120 megawatt Gangarri solar energy development in Queensland. Shell Energy Australia Pty Ltd and its subsidiaries trade as Shell Energy.

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Overview

Shell Energy commends the NSW Government for its ongoing engagement on the Electricity Infrastructure Roadmap (the Roadmap), including the regulations subordinate to the EII Act. We consider that this consultative approach will result in better design choices, and ultimately better outcomes for NSW electricity consumers.

As an overarching comment, we observe that the concepts and questions in the Paper are relatively high-level. This is distinct from the August paper on Long-Term Energy Service Agreement (LTESA) design, which offered tangible design options for stakeholders to critique[3]. While we appreciate the opportunity to be part of early-stage consultation on the Part 7 regulations, it is difficult to provide detailed feedback without first seeing draft regulations.

Therefore, consistent with our feedback to the 'tranche two' consultation, we recommend circulating a complete set of draft regulations for public comment after the tranche three consultation process concludes. This approach

[1] By load, based on Shell Energy analysis of publicly available data
[2] Utility Market Intelligence (UMI) survey of large commercial and industrial electricity customers of major electricity retailers, including ERM Power (now known as Shell Energy) by independent research company NTF Group in 2011-2020.
[3] DPIE, *Long–Term Energy Service Agreement Design*, August 2021. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-08/long-term-energy-services-agreement-design-consultation-paper-210316.pdf

is consistent with what the Department of Planning, Industry and Environment (DPIE) has previously indicated[4]. We emphasise it here because it appears not to have been mentioned in the tranche three material released so far.

Notwithstanding, we offer the following feedback.

- The primary purpose of an electricity bill is to explain charges to customers and facilitate their recovery. A bill should not be used as a marketing tool to promote the performance of the Roadmap, as this would detract from the bill's main function. Therefore, we recommend that the NSW Government does not mandate information on the Roadmap to be included in or alongside bills.
- We believe that the most efficient and consumer-friendly way to implement exemptions would be to create or modify tariff classes for the small number of impacted businesses. It is not clear to us why DPIE has chosen not to progress this option. We recommend DPIE reconsiders its position.
- We recommend that green hydrogen producers receive more comprehensive exemptions than DPIE appears to be proposing in the Paper. Our position is consistent with the exemptions outlined in the NSW Hydrogen Strategy.
- The Paper outlines the annual process for Roadmap costs to be recovered from consumers, starting with the Regulator's contribution determination. This will impact the Australian Energy Regulator's (AER's) annual decisions on network tariff pricing and the Default Market Offer (DMO). We recommend that DPIE engages with the Australian Department of Industry, Energy and Resources (DISER) to ensure that Roadmap timeframes don't adversely impact broader regulatory reform in this space.

The remainder of this submission provides more detail, including in response to selected questions from Paper.

Communicating costs and benefits to consumers

Q9. Do you agree a mixture of annual reports, website(s) and bill information is the best way to inform consumers about the benefits and costs of the Roadmap? Is there a simple way to provide bill information?

The Paper presents three options to communicate Roadmap costs and benefits to consumers:

- Option 1: Annual report from the Regulator, and standard NSW Government communications
- Option 2: Option 1 + a website with information about costs and benefits
- Option 3: Option 2 + additional information on/accompanying bills.

The Paper indicates that Option 2 is most appropriate[5]. However, in a public webinar on 14 October, DPIE staff suggested that a variation Option 3 was preferred, with the additional bill information (e.g. a stamp/graphic, line items reflecting costs/benefits, a website link and/or a billing insert) still to be decided.

Shell Energy supports Option 2. Annual reporting, government communications and a dedicated website provide ample opportunities for consumers to learn about the Roadmap, including its costs and benefits. To further improve transparency, we believe Distribution Network Service Providers (DNSPs) should clearly communicate Roadmap costs as part of their tariff structures. We understand this is DPIE's intent.

We disagree with Option 3. The primary function of a bill is to explain charges to customers and facilitate their recovery. Bills should not be used as a marketing tool to promote the performance of the Roadmap, as this

[4] DPIE, *Tranche two regulations to support the Electricity Infrastructure Roadmap: Issues Paper*, April 2021, Figure 3, pp 6, Accessed from: www.energy.nsw.gov.au/sites/default/files/2021-04/tranche-two-regulations-electricity-roadmap-issues-paper-210163.pdf

[5] DPIE, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy Paper*, September 2021, pp 27. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-09/electricity-infrastructure-fund-policy-paper-part-7-eii-act-210458_0.pdf

would detract from the bill's main function. In our view, it is not clear that there would be a net-benefit to consumers from the type of bill information DPIE is considering. For example, calculating actual costs and benefits for each customer would add complexity and cost (which would be passed to consumers); while average costs and benefits are meaningless to customers with non-average consumption or electricity contracts.

Additionally, we recommend DPIE considers the needs of different market segments – particularly business customers. For many businesses, electricity is considered solely as an input cost, and the bill is treated as a tax invoice. As a result, the bill is typically seen only by an accountant or accounts payable staff, who are interested in the total amount owing, with the GST separated out. Bill information on costs and benefits attributable to the Roadmap is likely to be of no value to these staff. This supports our view that Option 2 is most appropriate, as it allows for customers with different needs to access the information most meaningful to them.

Notwithstanding our preference for Option 2, if retailers are required to convey Roadmap costs and benefits to consumers, we recommend this is done via a one-off communication that provides a short explanation and a website link. In our view, this would be more effective than a bill message because it would be sent to the key contact for the account (rather than the person paying the bills). If the NSW Government chooses to mandate some form of recurring bill information, we recommend that it should be minimal. We consider that a website link would be the least negative bill addition, as it would enable interested consumers to learn more about the Roadmap, with limited distraction from the bill's purpose.

Exemptions

Q10: Do you agree with exempting entities up-front or would you prefer a rebate approach? Why?

The method to administer exemptions should aim to facilitate them in the least burdensome manner.

In our view, as long as there remains a relatively small number of exempt sites[6], the most practical option is to assign exempt customers to a different network tariff that does not include Roadmap costs. However, the Paper states that "this option is not being progressed due to a preference for avoiding the need to create a new tariff class"[7]. It is not clear to us why DPIE has this preference. We recommend DPIE reconsiders its position and communicates its rationale to stakeholders.

If DPIE chooses not to implement exemptions via network tariffs, then we could support an alternative upfront exemption, but only if it did not incur excessive costs. The Paper flags that DPIE's current preference is for DNSPs to "amend their information technology systems" so they wouldn't apply Roadmap costs to exempt customers. However, without more detail, it is not clear whether the cost of this option would be disproportionate (e.g. after incorporating flow-on impacts to retailer systems) relative to the number of exempt customers.

The remaining option is a rebate approach. If DPIE progresses this option, then we recommend additional consultation on how this would occur – particularly with the entities proposed to implement the rebates. We agree that this should aim to enable "most efficient, least cost and simplest administration process"[8] possible.

[6] The Paper outlines that exemptions are targeted only at a small number of energy intensive, trade exposed (EITE) businesses (currently 27 sites, comprising 16.5% of NSW electricity consumption), and also green hydrogen producers.

[7] DPIE, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy Paper*, September 2021, pp 31. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-09/electricity-infrastructure-fund-policy-paper-part-7-eii-act-210458_0.pdf

[8] Ibid, pp 31

Q12: Do you agree green hydrogen production should be treated in the same way as other emissions intensive and trade exposed industries, or should it be treated differently?

DPIE suggests that EITE entities should be exempt from 90% of generation LTESA costs, but still exposed to 100% of Roadmap costs relating to network projects, firming LTESAs and long-duration storage LTESAs. The wording of question 12 seems to imply that DPIE believes green hydrogen producers should receive the same exemption.

We recommend that green hydrogen producers receive more comprehensive exemptions to Roadmap costs. Our rationale is that electrolysers are a type of flexible load. Therefore, we expect they will ramp down during reliability events, which means they will not materially benefit from firming infrastructure underpinned by the Roadmap. It follows that green hydrogen producers should be exempt from cost recovery for this infrastructure. Given that the green hydrogen industry is in its infancy, it is particularly important that electrolysers are not saddled with inefficient costs.

We make these comments in the context of the recently released NSW Hydrogen Strategy, which outlines a broader framework that exempts green hydrogen producers from:[9]

- ~90% of network use of system charges (on the condition that the electrolysers are located in uncongested parts of the network, and will turn off if required during a peak event)
- "charges for the NSW Energy Savings Scheme, Peak Demand Reduction Scheme, Electricity Infrastructure Roadmap and GreenPower program".

Our understanding is that the NSW Hydrogen Strategy supersedes the Paper and provides for full exemptions to Roadmap costs for green hydrogen producers. It would be useful if the DPIE confirmed this understanding. We also note that the Roadmap cost exemptions in the Hydrogen Strategy will be in place for 12 years (for electrolyser capacity installed by 2030), with the potential for extension depending on a 2027 review. Without pre-empting the results of the review, we believe our earlier arguments for green hydrogen exemptions extend for longer than 12 years. As flagged in the Paper, Roadmap exemptions 'in perpetuity' would increase hydrogen investor confidence.

Finally, we note DPIE's view that "the EII Act does not currently allow for the recovery of Roadmap costs from direct transmission-connected customers", and that "this issue may need to be considered by policy makers in the future"[10]. Our argument for hydrogen exemptions holds regardless of whether the hydrogen production facilities are connected to the transmission or distribution network.

Energy Storage Systems

The Paper outlines two distinct stages to apportioning Roadmap costs:[11]

1. The SFV apportions total scheme costs to each of the three NSW DNSPs.
2. Each distribution business apportions their share of total costs across their customers.

Broadly speaking, Shell Energy agrees with DPIE's position that the regulations should address the first stage, with the AER to oversee the second stage as part of the existing regulated network pricing process. However, we note that network pricing may not be cost-reflective for ESS. Therefore, we recommend that the regulations stipulate that distribution connected ESS are exempt from Roadmap cost recovery. Our rationale is that ESS do

[9] DPIE, *NSW Hydrogen Strategy: Making NSW a global hydrogen superpower*, October 2021, pp 11. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-10/GOVP1334_DPIE_NSW_Hydrogen_strategy_FA3%5B2%5D_0.pdf

[10] DPIE, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy Paper*, September 2021, pp 29. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-09/electricity-infrastructure-fund-policy-paper-part-7-eii-act-210458_0.pdf

[11] Ibid, pp 9

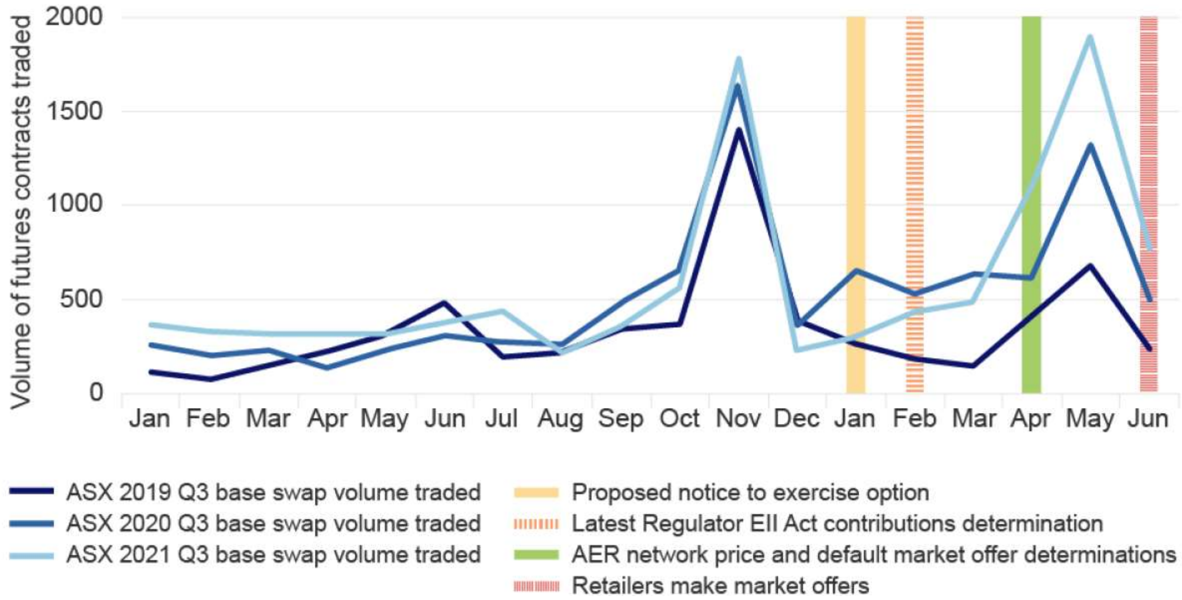
not directly benefit from lower wholesale prices (and therefore Roadmap infrastructure) in the same way as traditional loads.

Annual decision-making process for Roadmap cost recovery

Prior to the start of each financial year, the AER makes decisions relating to the DMO and network tariff pricing. Following these decisions, retailers must undertake a plethora of activities to update pricing, ensure accurate billing, and comply with regulatory price change notification periods.

Shell Energy is concerned that DPIE may not fully appreciate the overlapping timeframes for the AER's annual decisions, and the potential negative impacts on retailers from the proposed Roadmap cost recovery timelines. In this section, we walk through the Paper's Figure 8 (replicated in Figure 1 below for convenience) and highlight areas that require further consideration.

Figure 1: DPIE's "timeline of key actions for contribution determinations"[12]



DMO and network pricing decisions

Per Section 6.18.2(a) of the National Electricity Rules (NER), Distribution Network Service Providers (DNSPs) must submit their annual pricing proposal "at least three months before the commencement of the… regulatory year" (i.e. by 1 April) unless it is a 'regulatory reset' year.

The Paper's Figure 8 indicates that the AER's final network price and DMO determinations are made in April. In reality, the AER:

- must make its DMO determination no later than 1 May
- has 30 business days to publish an approved pricing proposal.

This means that, in many cases, network tariff pricing proposals aren't approved until after the DMO determination[13]. In years where the AER makes its 5-yearly revenue determination, network tariff pricing may not

[12] DPIE, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy Paper*, September 2021, pp 19. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-09/electricity-infrastructure-fund-policy-paper-part-7-eii-act-210458_0.pdf

[13] For example, the 2021-22 network pricing proposals for Ausgrid, Endeavour Energy and Essential Energy weren't finalised until 7 May 2021.

be finalised until just days before the new financial year[14]. This is problematic because the DMO may not account for actual network costs, and retailers have insufficient time to undertake pricing, billing and regulatory compliance activities.

The Australian Department of Industry, Science, Energy and Resources (DISER) is currently consulting on this problem as part of a broader DMO review[15]. As outlined in our submission to DISER, the most obvious way to address the challenge it is to change timeframes relating to the DMO and/or network tariff pricing[16]. One option is to require DNSPs to submit their annual pricing proposals earlier than 1 April (the current requirement). If this occurs, then the DNSP may struggle to incorporate the Regulator's contribution determination if it isn't made until 28 February.

We recommend that DPIE consults with DISER on this issue to ensure Roadmap timeframes don't have an unintended negative impact on related regulatory reform.

Notice to exercise LTESA options

DPIE's timeline assumes a six-month notice period for exercising LTESA options. If this was the case, then "the contribution determination [would occur] after the LTES Agreement notice date for the following financial year"[17].

We observe that DPIE is still consulting on LTESA design components, including the most appropriate notice period length[18]. As highlighted in our submission to this process, we believe a six-week (rather than a 6-month) notice period would be beneficial to LTESA recipients and the Scheme Financial Vehicle (SFV). This may result in lower-priced LTESA bids and better hedging opportunities for the SFV, which would be a good outcome for consumers[19]. However, it would mean that the Regulator may not have the certainty DPIE currently anticipates when it makes its contribution determination by no later than 28 February.

Conclusion

Shell Energy thanks the NSW Government for the opportunity to provide early-stage feedback on the Part 7 regulations. This submission offers a range of suggestions relating to communication of costs and benefits, exemptions and the annual decision-making process for cost-recovery. However, given the Paper's relatively high-level questions, we recommend a subsequent round of consultation with more detail provided by DPIE (e.g. a full set of draft regulations).

We look forward to engaging further as the NSW Government continues its Roadmap consultation.

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[14] For example, the 2020-21 network pricing proposal for Energex was not finalised until 25 June 2020.

[15] DISER, *Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019: Post-Implementation Review consultation paper*, September 2021, pp 21. Accessed from: https://consult.industry.gov.au/default-market-offer-and-reference-price

[16] Shell Energy, *RE: Competition and Consumer (Industry Code – Electricity Retail) Regulations 2019: Post-Implementation Review*, 11 October 2021, pp 4. Not published at time of writing.

[17] DPIE, *Electricity Infrastructure Fund (Part 7 of the Electricity Infrastructure Investment Act 2020): Policy Paper*, September 2021, pp 18. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-09/electricity-infrastructure-fund-policy-paper-part-7-eii-act-210458_0.pdf

[18] DPIE, *Long-Term Energy Service Agreement Design: Consultation paper*, August 2021, pp 25. Accessed from: https://www.energy.nsw.gov.au/sites/default/files/2021-08/long-term-energy-services-agreement-design-consultation-paper-210316.pdf

[19] Shell Energy, *RE: Long-Term Energy Service Agreement design*, 10 September 2021, pp 2. Not published at time of writing.

If you would like to discuss this submission further, please contact Matthew Ladewig, Policy Adviser at [redacted] or on [redacted]

Yours sincerely

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