

**RESPONSE #4760 SUBMITTED ON 05/21/2021 05:17:30 PM**

## Tranche two regulations issues paper consultation submission form

**Your details**

Submission type	Organisation
If Other, please describe	No answer given
Author name	Chantelle Bramley
Organisation	Essential Energy
Author title	No answer given
Phone	No answer given
Email	
Stakeholder group	Network infrastructure provider
If Other, please describe	No answer given

**Questions****Chapter 4 – Energy Security Target**

Question 1: Should the Energy Security Target Monitor define the method to determine the derating factor or should the method be defined in the regulations? If not by the derating factor, how else should the regulations address the probabilistic nature of semi-scheduled generators in the context of the deterministic Energy Security Target?

No answer given

Question 2: Should the regulations prescribe any other matters for inclusion in the Energy Security Target Monitor's report? If so, what are they?

No answer given

**Chapter 5 – Electricity Infrastructure Investment Safeguard**

Question 3: To what extent are the requirements for carrying out competitive tenders of Long Term Energy Service agreements appropriate? Are there any other requirements that should be considered?

*No answer given*

Question 4: Do you agree with the matters the Consumer Trustee must take into account when preparing the Infrastructure Investment Objectives Report? Are there any other matters that should be taken into account?

*No answer given*

Question 5: In what circumstances should the Consumer Trustee prefer long duration storage over firming infrastructure to meet the reliability standard?

*No answer given*

## Chapter 6 – Classification of Renewable Energy Zone (REZ) network infrastructure

Question 6: Are there any other considerations that should be taken into account in classifying REZ network infrastructure in regulations, including the need for, and scope of, sub-classifications?

*No answer given*

Question 7: What types of network infrastructure could be subject to economic regulation under Part 5 of the EII Act?

*No answer given*

## Supporting information

If you have additional information you would like to provide to support your views, please provide it here

*No answer given*

If you have additional documents to provide to support your views, please upload them here

**Essential Energy submission to tranche two issues paper\_21 May 2021.pdf**

## Confidentiality and submission publication preferences

Would you like all or part of your submission to be confidential?

**No**

Would you like your submission to be anonymous and these personal details redacted?

**No**

Attached Files

 Essential Energy submission to tranche two issues paper\_21 May 2021.pdf

[https://nswdpietfaforms.net/uploads/get/b6520f0ab39d06ea24399e5ddce0885d-EssentialEnergysubmissiontotranchetwoissuespaper\\_21May2021.pdf](https://nswdpietfaforms.net/uploads/get/b6520f0ab39d06ea24399e5ddce0885d-EssentialEnergysubmissiontotranchetwoissuespaper_21May2021.pdf)  
([https://nswdpietfaforms.net/uploads/get/b6520f0ab39d06ea24399e5ddce0885d-EssentialEnergysubmissiontotranchetwoissuespaper\\_21May2021.pdf](https://nswdpietfaforms.net/uploads/get/b6520f0ab39d06ea24399e5ddce0885d-EssentialEnergysubmissiontotranchetwoissuespaper_21May2021.pdf))

Ref: 20210211AS:CB

21 May 2021

James Hay  
Chief Executive, Energy Corporation of NSW  
Deputy Secretary Energy, Climate Change, and Sustainability  
Department of Planning, Industry and Environment

Submitted electronically via [electricity.roadmap@dpie.nsw.gov.au](mailto:electricity.roadmap@dpie.nsw.gov.au)

## **Essential Energy submission – NSW Electricity Infrastructure Roadmap Tranche Two Regulations Issues Paper**

Essential Energy welcomes the opportunity to provide a submission in response to the Department of Planning, Industry and Environment's (DPIE's) *Tranche two regulations to support the Electricity Infrastructure Roadmap Issues Paper* (the Issues Paper).

Essential Energy supports DPIE's proposed direction with respect to the content of the Consumer Trustee's Infrastructure Investment Objectives Report (IIO Report), and the requirements regarding competitive tenders for Long Term Service Energy Agreements (LTESAs). However, we believe that there are additional elements that are required to ensure the IIO Report and LTESA tender process promote stakeholder confidence in the Roadmap and minimise electricity costs for customers.

In particular, Essential Energy:

- > encourages DPIE to develop the governance arrangements for the Consumer Trustee, in particular the processes by which it will develop the IIO Report, and how that will reflect input and feedback from stakeholders – transparent and effective consultation will be critical to facilitating enduring consumer and stakeholder confidence in the Roadmap; and
- > recommends that the Consumer Trustee be required to not discriminate between generators connected at the transmission and distribution levels within the REZ when undertaking LTESA competitive tenders, consistent with minimising whole-of-system costs under the Roadmap.

Further, Essential Energy would welcome clarification from DPIE that transmission and distribution infrastructure that is augmented due to the development of a REZ is eligible to be subject to economic regulation under Part 5 of the EII Act. We consider this to be appropriate to ensure the cost of such augmentations are allocated across consumers on the same basis as the costs of new REZ infrastructure. It is also the only means of cost recovery for augmentations triggered by the CWO REZ, which was not contemplated at the time of the AER's regulatory determination for the current regulatory period.

There are number of potential models that would facilitate cost recovery under the EII Act for assets that are also subject to regulation under the National Electricity Rules. We look forward to working through the specifics of this issue with DPIE at the appropriate time.

These issues are canvassed in greater detail below, by reference to the questions in the Issues Paper. If you have any questions in relation to this submission, please contact me directly via phone [REDACTED], or Mr Anders Sangkuhl, Regulatory Strategy Manager at [REDACTED] or via phone [REDACTED].

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Chantelle Bramley'.

Chantelle Bramley

**General Manager, Strategy, Regulation and Corporate Affairs**

## Essential Energy submission to the DPIE tranche two issues paper

We set out below our detailed responses to the tranche two regulations issues paper. We have developed our responses by reference to the questions in the Issues Paper. However, we have ordered our responses to reflect our view on the materiality of the issues canvassed.

**Question 4: Do you agree with the matters the Consumer Trustee must take into account when preparing the Infrastructure Investment Objectives Report? Are there any other matters that should be taken into account?**

### **The centrality of the Consumer Trustee brings into focus the need for strong governance arrangements**

Essential Energy broadly agrees with the matters that DPIE proposes the Consumer Trustee takes into account when preparing the Infrastructure Investment Objectives (IIO) Report, and the overarching objective and principles that are proposed to underpin the development of the IIO Report.

It is imperative that the Consumer Trustee's focus in developing the IIO Report is aligned with the objective of the EII Act 'to improve the affordability, reliability, security and sustainability of electricity supply'. We therefore strongly support the proposed explicit inclusion in the regulations of a requirement for the Consumer Trustee to take into account how the timing and scale of investments, and flexibility associated with those investments, will support the objectives of minimising electricity costs for consumers, meeting the reliability standard and energy security target, and the need for essential system services (such as system strength).

The implied scope of the IIO Report to be developed by the Consumer Trustee is such that it effectively functions like a New South Wales (NSW) Integrated System Plan (ISP). Put another way, the Consumer Trustee plays a central role in identifying both the generation and network infrastructure required to meet the objectives of the Roadmap, with the network investment identified subsequently being refined by the Infrastructure Planner. As a consequence, the costs borne by consumers will be highly dependent on the investments identified by the Consumer Trustee in the IIO Report.

The centrality of the Consumer Trustee to the Roadmap brings into focus the need for principles and strong governance arrangements to guide the exercise of its functions and ensure that the IIO Report, in particular, is subject to transparent and rigorous assessment. We are concerned that the proposed coverage of the regulations does not include an explicit requirement for the IIO Report to include the inputs, assumptions, scenarios and methodology used to derive the development pathway. Transparency regarding the key inputs and assumptions is imperative to the credibility of the IIO Report.

More broadly, Essential Energy considers that the governance arrangements that will determine how the Consumer Trustee exercises its functions (including its consultation with stakeholders), are a critical element in the overall delivery of the Roadmap and should be clearly set out and conformed with in preparing the initial IIO Report. In the context of the Consumer Trustee, these governance arrangements relate to the processes by which the Consumer Trustee intends to meet the infrastructure investment objectives, the transparency and stakeholder input associated with its key reporting and recommendation functions, and how it will be held to account in carrying out its activities. In practice, we anticipate that the governance framework for the Consumer Trustee will need to address:

#### **> How does it make decisions?**

- Is the Chair the ultimate decision maker or will broader Board consensus be required?
- Will the Consumer Trustee publish a draft and then final IIO Report?
- Will the Consumer Trustee be required to publish and explicitly address the comments of stakeholders in the IIO Report?
- Will the IIO Report be required to be updated in the event of a material change to the inputs and assumptions that feed into its decision-making, ahead of the presumptive two-yearly cycle?

- How will recommendations from the Infrastructure Planner about REZ network infrastructure or other community related projects be considered? Will this extend to a formal assessment process?
- What is the scope for the Consumer Trustee to 'refine' the recommendations of the Infrastructure Planner? Will there be specific criteria that limit the Consumer Trustee's ability to refine/reject the Infrastructure Planner's recommendation?
- What is the interaction between the Infrastructure Planner's recommendations and the IIO Report (eg, will the recommendations be subject to a feedback loop (similar to the ISP) or a cost benefit assessment similar to the regulatory investment test)?
- What process will the Consumer Trustee follow in determining the maximum capital cost for an authorised investment?
- > How do those decisions interact with the activities of other bodies?
  - Will the IIO Report set out prescriptive parameters regarding the detailed planning to be undertaken by the Infrastructure Planner with respect to an infrastructure project?
  - How will any conflicts between the Infrastructure Planner's recommendations and the IIO Report be addressed?
- > Who has a voice in making these decisions?
  - Will there be a requirement for the Consumer Trustee to publish its engagement approach?
  - Will the Consumer Trustee consult with stakeholders on the inputs and assumptions that feed into its decision-making?
  - Will the Consumer Trustee consult with stakeholders prior to issuing its IIO Report?
  - Will the Consumer Trustee consult with stakeholders prior to authorising network infrastructure projects?
- > Who is accountable for the decisions made?
  - Will an independent third party be responsible for reviewing the credibility of the inputs and assumptions adopted, and subsequent recommendations by, the Consumer Trustee?
  - Will an independent third party be responsible for reviewing the transparency of the inputs and assumptions adopted by the Consumer Trustee?
  - Will there be a mechanism for stakeholders to dispute decisions made by the Consumer Trustee?
  - Will the Consumer Trustee be required to report on the realised outcomes (eg, impact on wholesale electricity price) achieved through its recommended development pathway?

Essential Energy considers that it is important that the governance framework for the Consumer Trustee is in place prior to the development and publication of the first IIO Report. Preparation of the IIO Report in line with transparent and effective consultation will facilitate enduring consumer and stakeholder confidence in the Roadmap. This is particularly important in light of the lead time required to develop generation and transmission infrastructure, meaning there will be limited opportunity for the CWO REZ in particular to alter the proposed network investment in response to the second IIO Report. Put simply, the first IIO Report will be the foundation of the CWO REZ, with limited scope for subsequent refinements.

We note that guidelines on the exercise of the Consumer Trustee's functions are to be prepared by the Regulator,<sup>1</sup> but there is currently no set timetable. This is particularly pertinent in light of the requirement for the Consumer Trustee to develop the first IIO Report 'as soon as practicable after 1 July 2021'. In our opinion, 'as soon as practicable' in relation to the IIO Report must include adequate time for the governance arrangements (particularly in relation to consultation and transparency) to be developed prior to the first report.

Recent experience with AEMO's ISP highlights how developing governance arrangements subsequent or in parallel to publishing the first report can significantly undermine stakeholder confidence in planning outcomes. In the case of the ISP, the 2020 ISP was published at the same time as the AER's guidelines relating the consultation and analysis required for the ISP, with the consequence that it did not fully comply with those guidelines. There is significant concern amongst stakeholders around the disconnect between the costs canvassed in the initial ISP and the ultimate

<sup>1</sup> Section 64(4)(a) of the EII Act.

costs evaluated in the subsequent regulatory processes (eg, the RIT-T), because of their scale and enduring effect on customers. This concern has led to the submission of a rule change by the Energy Users Association of Australia that would require TNSPs to reapply the RIT-T when there is a material change in cost.<sup>2</sup>

Essential Energy recognises the challenging timeframes within which the CWO REZ in particular is being developed and delivered. However, we also consider that there are recent examples of 'best practice' governance for energy system planning, which have been extensively consulted on with stakeholders, and which could be adopted as a precedent without compromising the overall timeframe for delivery of the CWO REZ. In particular, the Australian Energy Regulator's (AER's) Forecasting Best Practice Guidelines (FBPG), which apply to the Australian Energy Market Operator's (AEMO's) development of the ISP, provides a useful reference point for the governance arrangements that could apply to the Consumer Trustee in developing the IIO Report. Drawing on these existing guidelines would facilitate developing the governance arrangements expeditiously, to enable the first IIO Report to be published as soon as practicable.

**Question 3: To what extent are the requirements for carrying out competitive tenders of Long Term Energy Service agreements appropriate? Are there any other requirements that should be considered?**

**Cost minimisation requires LTESAs for distribution connections within the REZ to be explicitly recognised**

Essential Energy agrees with the proposed requirements in the regulations to guide the competitive tenders of LTESAs. However, in our opinion, the requirements on the Consumer Trustee when undertaking competitive tenders should also include explicit reference to the distribution network, ie, that distribution level generation projects will be automatically eligible for LTESAs, where they are within the scope of the REZ (rather than generators connecting to the distribution network within the REZ area being required to satisfy the 'outstanding merit' criteria).

This approach is consistent with DPIE's position in the CWO REZ access scheme issues paper, which states that consideration will be given to ways to maximise the efficient connection of generation, storage and load across the REZ Shared Network and distribution network in the REZ, to reduce whole-of-system costs. This provision would require that the Consumer Trustee does not discriminate between generators connected at the transmission and distribution levels when undertaking LTESA competitive tenders. Such a requirement reflects that the Consumer Trustee must meet the infrastructure investment objectives in the most efficient way.

We have undertaken analysis of our network in the publicly available geographic area of the CWO REZ<sup>3</sup> and extracted the distribution assets within those boundaries as classed by sub-transmission assets, zone substation assets, high voltage feeder or distribution substation assets. This process has allowed Essential Energy to assess the present level of utilisation of these assets given current network configuration and load requirements, and to identify areas that have the capacity to host additional renewable generation. There appears to be approximately 150MW of available capacity on Essential Energy's network around Gilgandra, Coonabarabran, Dunedoo and Gulgong. Further capacity may be available with a limited degree of network augmentation or other network investment.

**Question 7: What types of network infrastructure could be subject to economic regulation under Part 5 of the EII Act?**

**There are a number of cost recovery options for network augmentations triggered by a REZ**

Essential Energy would welcome clarification from DPIE on the types of network infrastructure that could be subject to economic regulation under Part 5 of the EII Act.

---

<sup>2</sup> EUAA, *Material change in network infrastructure project costs rule change*, 20 January 2021.

<sup>3</sup> Essential Energy has based this analysis on publicly available REZ boundaries. We would welcome the opportunity to provide more detailed analysis to the Department based on actual GIS data when available through the regional energy strategy development.



Specifically, Essential Energy considers that the following network investments would be eligible:

- > REZ shared network infrastructure (ie, new transmission investment within the REZ)
- > Transmission infrastructure that is augmented due to a REZ
- > Distribution infrastructure that is augmented due to a REZ.

Essential Energy considers that the Regulations must provide for cost recovery of distribution expenditure that is triggered by a REZ development. This may include network upgrades to ensure adequate system strength and mitigate any distribution network impacts from the REZ development. In our opinion, it is appropriate that these costs are recovered through the Infrastructure Fund (ie, via the SFV). This is imperative for any distribution augmentations stemming from the CWO REZ, since there is no avenue for Essential Energy to recover REZ-related costs under the NER, as they were not contemplated at the time of the AER's determination for the current regulatory period. We consider cost recovery through the Infrastructure Fund to also be appropriate for future augmentation triggered by REZ developments, since it would enable the costs associated with those REZs to be allocated across all NSW customers on the basis of the policy decision on REZ cost allocation (consistent with the benefits of the REZ flowing to all NSW customers), rather than being borne solely by Essential Energy's customers.

An alternative cost recovery mechanism is the contingent project process under the NER. However, as noted above, this mechanism is only possible for REZ-related augmentations subsequent to the CWO REZ. Further, contingent project status is only available for projects with capital expenditure that, in Essential Energy's case, exceeds around \$47<sup>4</sup> million. In the absence of cost recovery under Part 5 of the EII Act, this could lead to the efficient costs of investments below this threshold (which would remain substantive) not being able to be recovered.

The Issues Paper highlights that DPIE is seeking stakeholder feedback with regard to 'how [cost recovery under Part 5 of the EII Act] might work in practice where an existing asset is being augmented as a result of a direction or authorisation under part 5 of the EII, and the asset is delivering a regulated service under chapter 6 or 6A of the NER'.

We consider that there are a number of potential models of cost recovery for network augmentations triggered by a REZ, including (i) ongoing capital contributions from the Scheme Financial Vehicle (SFV), (ii) creating a special tariff class for the network to charge the SFV; or (iii) a payment from the SFV combined with intentional revenue under-recovery by the network under the NER framework (as has previously been approved by the AER in circumstances relating to government policies/directions).<sup>5</sup> The specifics of particular models ultimately depend on whether cost recovery will occur solely through the NSW framework, or be split with existing processes in the NER.

Essential Energy looks forward to working through the specifics of these cost recovery mechanisms with DPIE at the appropriate time.

---

<sup>4</sup> Under the NER, contingent project status is only available for projects with capital expenditure that exceeds the greater of \$30 million or five per cent of the value of the annual revenue requirement for the first year of the relevant regulatory control period. Using the current regulatory control period as a proxy, the materiality threshold for Essential Energy would be \$47 million (ie, five per cent of the first year revenue requirement).

<sup>5</sup> Relevant examples include the NSW DNSPs 2019-24 determinations and the NT Power & Water Company 2019-24 distribution determination.