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17 Nov 2021

NSW Department of Planning, Industry and Environment

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

Dear Sir/Madam,

RE: Network Infrastructure Projects (EII Act 2020 Part 5) Policy Paper

Enel Green Power (EGP) welcomes the opportunity to respond to the NSW Department of Planning, Industry and Environment (DPIE)'s Network Infrastructure Projects policy paper.

Founded in 2008, and part of Enel Group, EGP builds and operates large scale renewable generation capacity in energy markets around the world. EGP operates in 32 countries across 5 continents with a managed capacity of over 49 GW of renewables and over 1,200 plants. EGP is the largest privately owned renewable energy company in the world, generating renewable electricity from hydro, solar, wind and geothermal resources across the globe.

EGP congratulates the NSW government for developing an innovative framework for delivering new transmission assets for Renewable Energy Zones (REZ). We consider the proposed framework has a number of real strengths compared with the national transmission arrangements, which include:

- competition in transmission investment, which should lower costs and lead to more innovative solutions to identified network needs.
- a strong governance framework, as the investment decision is separated from the act of investment. EnergyCo and the Consumer Trustee, are independent, not-for profit entities, which should lead to a fair and balanced consideration of investment alternatives.
- The transmission approval process, in principle, should be much faster than the Regulatory Investment Test for Transmission (RIT-T), for three main reasons.
    - First, the Transmission Efficiency Test (TET) need only focus on costs rather than broader net market benefits typically required for transmission investments. This is because the benefits of new transmission have already been considered as part of the establishment of the REZ, which seek to connect areas of high renewable potential, but limited grid capacity, to the shared network. The benefits of new transmission infrastructure are further proved by the upfront generator commitments to help fund it in return for access rights. The key question is there not whether a new transmission capacity delivers benefits, but rather who can build and operate it at lowest cost.

- Second, the framework reduces the need for regulatory scrutiny of costs, as the competitive auction process forces competitive bidders to reveal their true costs.
- Third, as REZ transmission projects are underpinned by generator commitments to help fund the transmission through access fees, the prospect of stranding risk substantially reduces for customers. There is a much reduced likelihood they end up paying for something that it not used by generators to deliver them electricity. Again, this lessens the need for regulatory interrogation of costs, which should help expedite the investment approval process.

The remainder of this submission seeks clarification on a few aspects of the framework and makes some suggestions for potential improvements.

Regulatory principles and the objective of the TET

We are supportive of the TET and the principles contained within section 37 of the EII Act, which underpin it. We also strongly support the need for a guideline to provide clarity on how the TET will be applied.

Specifically, the framework should explicitly recognise that competitive rivalry within the tender process will reveal the efficient cost of a transmission project. While we support a role for the AER in determining the prudency of cost, this role should be limited in scope.

The focus of the TET should be on assessing the consistency between the costs estimated in the tender process and the realised costs. It should be applied to the net realised cost over and above estimated costs, rather than the cost estimates themselves. This will ensure there is sufficient discipline on the competitive transmission provider to avoid cost over runs during the actual construction of the project, while at the same time avoiding potentially deterring the investment in the first place.

In our view, if a competitive transmission provider perceives a threat that the TET will be used by the AER to reduce the recoverable costs submitted in the tender process, this could deter competitive transmission providers from making the investment and undermine the liquidity of the tender process.

Revenue cap regulation and incentive mechanisms

We support the application of revenue cap regulation and incentive mechanisms to REZ shared network infrastructure, consistent with that which applies to other transmission assets under national arrangements. This provides certainty to competitive transmission providers that their costs plus a reasonable return will be recovered over the life of the assets. It also ensures that once the assets are constructed, competitive transmission providers have incentives to operate and maintain them efficiently.

That said, we consider there maybe scope for some additional innovation in the incentives applied under this framework, which could include the following:

- *incentives for timely connections* - REZ transmission will be in part funded by generators through access fees. In return for such payments, generators arguably should receive better transmission service than would otherwise apply without such payments. While some level of protection against congestion risk forms part of the ‘quid pro quo’ for helping to fund transmission, measures to address connection delay risks (due to construction taking longer than anticipated) could also be implemented to improve investment certainty for connection applicants. For example some form of financial penalty or bonus scheme could be implemented, targeted at the timely connection of generators.

- *cost containment provisions* - rather than relying purely on the TET and revenue cap regulation, stronger incentives for cost control could be embedded in the tender process itself. For example, bidders could be made to provide commitments in relation to containing costs as part of their bid (or assessment criteria could be applied that give increased weighting to such commitments in the tender evaluation process). Such commitments could include a cap on capital and/or maintenance costs (a bit like the payment caps generators are required to bid as part of Victorian Renewable Energy Target Stage One and Two tender processes). Another option is for competitive transmission providers to include some form of cost sharing mechanism in their tender bid, where only an agreed proportion of realised costs in excess of estimated costs can be passed through to customers.

Cost containment commitments could be made a mandatory requirement for competitive transmission providers, or alternatively, they could be made optional. For example, such mechanisms could form part of the assessment criteria used to select a project, with those projects proposing cost containment and/or incentive mechanisms receiving a greater weighting in the assessment process. This could encourage innovative solutions to be revealed as part of the tender process.

The above mechanisms shift transmission related risks from the generators and customers to the competitive transmission provider, who is in the best position to manage such risks. This should help control transmission costs and drive lower and more predictable network charges for customers and generators over time. They would also reduce the work the AER and the TET must do in ensuring prudency, thus leading to a faster transmission approval process.

Please feel free to contact Con Van Kemenade, Head of Regulatory Affairs, on [redacted] to discuss anything we have raised in this submission.

Yours faithfully,

Werther Esposito

Country Manager

Enel Green Power Australia