

7 February 2023

David Fredericks
Secretary, Department of Climate Change, Energy, the Environment and Water
The Commonwealth of Australia

Via email: netp@industry.gov.au

Dear Mr Fredericks

Proposed legislative changes to incorporate an emissions reduction objective into the national energy objectives – Submission to the Consultation Paper

AusNet welcomes the opportunity to provide this submission to the Australian Government Department of Climate Change, Energy, the Environment and Water's consultation paper on the proposed legislative changes to incorporate an emissions reduction consideration into the national energy objectives—the national electricity objectives (**NEO**) and the national gas objectives (**NGO**). We note that the proposal extends to amending the national energy retail objective but, as this law does not apply in Victoria, our submission does not directly address it.

AusNet is the largest diversified energy network business in Victoria—we own and operate three core regulated networks: electricity distribution, gas distribution and the state-wide electricity transmission network, delivering energy to more than 6 million Victorian households and businesses. We also own and operate a significant portfolio of contracted energy infrastructure.

We strongly support the Australian Government's proposal to make legislative changes to incorporate emissions reduction as a new component in the NEO and the NGO. This is a significant and necessary step towards incentivising and enabling investment in energy infrastructure that will deliver on Australia's emissions reduction targets. Ensuring emissions reduction targets can be balanced with price, quality, safety, reliability and security of supply will be crucial for an orderly and affordable transition to Net Zero. We therefore support maintaining the existing economic efficiency framework in enacting the proposed changes.

We are broadly supportive of the proposed drafting of the updated NEO and NGO. In this letter we provide recommendations for an effective and prompt application of the amended objectives by market bodies.

The amended NEO and NGO should include all relevant government policies

We support the proposed amendments to the NEO and the NGO to include any government public commitments that are either directly related to emissions reduction or are 'likely to contribute' to emissions reduction (e.g., renewable energy targets). As per the consultation paper, this can include a public commitment under a law, an international agreement, or as a matter of policy.

Including policies that may not be legislated or made as international commitments ensures alignment between government priorities and decision making by market bodies. Government policies are designed to incentivise and guide investment—misalignment between policy announcements and the intended application of the amended NEO and NGO would likely result in inconsistent decision making by market bodies and uncertainty for investors.

While some public policy announcements may lack detail or a legislative basis initially, this should not limit their consideration in market bodies' decisions governed by the amended NEO and NGO. Investment in network infrastructure takes years to plan and includes extensive consultations with the Australian Energy Regulator (**AER**), governments, stakeholders, communities, and customers. Throughout this engagement there is typically opportunity to assess government policies and incorporate them into investment plans.

For example, a typical regulatory determination process involves 1 to 2 years of deep and broad customer engagement. The network's approach to a particular policy announcement could be tested with both customers and governments in detail through this process. The AER will also consult with stakeholders on its

approach to decision-making. This should provide stakeholders with sufficient assurance that their views on how the AER applies the amended NEO and NGO are considered. Similar consultation processes are in place for various network planning instruments such as the Australian Energy Market Operator's (AEMO) Integrated System Plan (ISP) and network-led Regulatory Investment Tests (RIT).

Alternatively, if emissions reduction targets and policies were only to be considered once legislated, this would limit the opportunity for early engagement on the original policy commitment and could result in an increase in time-limited resource-intensive cost pass through applications triggered by foreseeable regulatory changes partway through a regulatory period, as well as potentially impacting an orderly and timely transition to Net Zero.

Developing guidance on the value of emissions reduction should be a priority

The key necessary step in the application of the amended NEO and NGO by market bodies will be the development of a quantified value for emissions reduction (i.e., a price of carbon). This is a crucial input into future investment tests, business cases and revenue determinations for networks, which will enable investment in technologies and infrastructure necessary to deliver on Australia's emissions targets.

Developing a value of emissions reductions should be made a priority for the market bodies and Senior Officials. To provide certainty for future investment plans, we support the development of a guideline by the AER on valuing emissions reduction or carbon as soon as possible, through the standard consultation processes.

Development of other guidance on how the market bodies will interpret the amended NEO and NGO should be restricted, to limit delays in implementation and manage the cost and resource burden of guidance development. Guidance material should only be developed where there is significant lack of clarity expressed by the market bodies or other stakeholders (this can be tested over time), or where there is a direct impact on investment decision (e.g., the price of carbon).

Urgent changes to the National Electricity Rules are required for investment certainty

While updates to the NEO and the NGO would be directly captured in the National Electricity Rules (Rules) through references of the NEO and the NGO, there are a number of rules that would need to be amended as soon as possible, to ensure the prescription in the decision making process by the market bodies is aligned with the intention of the proposed legislative amendments.

This includes:

- An addition of emissions reduction objective in the capital and operating expenditure objectives for distribution and transmission networks.¹ Without this addition, there will be an immediate disconnect between each of the NEO and NGO and the prescriptive factors that drive investment in network infrastructure, creating significant uncertainty for the AER and the networks.
- Changes to the environmental or energy policy factors AEMO must have regard to in determining the Power system needs for the ISP.² Clause 5.22.3(b) of the National Electricity Rules (NER) does not currently include public commitments as a matter of policy to be considered by AEMO, which will immediately limit the application of the amended objectives in the ISP. The rule should be aligned to the NEO/NGO wording as much as possible.
- Similarly, Clause 5.15A.2 of the NER, which specifies the principles for RIT-T projects that are not actionable ISP projects, should be updated to explicitly list emissions reductions as a class of market benefits. This would be consistent with the intent of the proposed legislative amendment, which is to unlock the benefit of emissions reduction from future investment.

We propose the Senior Officials prepare and submit an expedited rule change proposal to the Australian Energy Market Commission (AEMC) to initiate this rule change as a matter of urgency, to prevent unnecessary delays in investment to reduce emissions.

Consideration should be given to all energy consumers, including consumers of transport fuels (petrol, etc.)

We support the proposed amendment to the NEO and the NGO to refer to 'energy consumers', to bring closer alignment between decisions made for consumers of gas and electricity. We however welcome clarification

¹ National Electricity Rules 6A.6.7(a) and 6.5.7(a), and National Gas Rule 79(2)(c)

² National Electricity Rule 5.22.3(b)

that the NEO and NGO are considering the broad consumer interest with respect to emissions reduction alone (which is our understanding).

In line with that intent, further consideration should be given to how emissions from other energy consumers, including consumers of transport fuels, should be incorporated into the objectives. While consumers of transport fuels are not governed by the same legislative instruments as consumers of gas and electricity, there will be significant emissions reduction from the transfer of usage of transport fuels to electricity or renewable gas. These benefits should be included in investment tests and decision making by market bodies. This may be achieved through the expansion to the definition of 'energy' in the amended objectives or through explicit clarification in the guidance material that these broader sectoral benefits of emissions reduction are able to be quantified.

Transitional arrangements should be flexible to allow for prompt implementation

The amended NEO and NGO should be incorporated into decision making by market bodies as soon as possible, to avoid delaying investment in emissions reduction. This will require flexibility by market bodies and market participant to incorporate the new objectives in projects that may be underway.

We support a non-prescriptive approach to the application of amended objectives that gives some discretion to market bodies, however we propose:

- There should be a clear expectation that market bodies will apply the amended objectives to decision making processes that are underway at the time the legislation receives the Royal Assent, and any new processes that commence after that date. If a market body exercises its discretion to not apply the amended objectives for processes underway, it should be required to explain and justify its decision. With the significant energy transition currently underway in Australia, if the new objectives apply to only new processes or reviews following the change in the legislation, there may be a large number of current reforms that would not be aligned with the intent of the amended legislation.
- The regulatory reset process should have state-specific transitional arrangements to align with the regulatory determination cycle. For all Victorian networks, any regulatory resets that formally commence post 1 July 2023 should be subject to the amended objectives.
- There should be flexibility in the consideration of the amended NEO and NGO as part of the RIT processes for distribution and transmission projects that are currently underway. However, the discretion on whether the amended objectives are incorporated into the market benefits case, and the justification if they are not, should be with the RIT proponent. This would be consistent with the current framework of RITs where it is the responsibility of networks to initiate, run and justify the RIT (also recognised in the transitional arrangements established by the Energy Security Board's 2020 actionable ISP), noting there is an opportunity for third parties to challenge the RIT outcome under the current framework. Where a RIT proponent chooses not to incorporate the amended objectives, the proponent should be required to explain why this is the case, consistent with our proposed requirement for market bodies to explain and justify their transitional decisions (see dot point 1).

Projects, reviews, or investment decisions that were completed prior to the finalisation of the Bill should not be re-opened as a result of the amendments to the NEO and the NGO.

Please do not hesitate to contact Sonja Lekovic on sonja.lekovic@ausnetservices.com.au about the submission.

Yours sincerely



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