3 November 2022

ECA/EUAA JOINT SUBMISSION:
AEMC – TRANSMISSION PLANNING AND INVESTMENT STAGE 3 - EPR0087

This submission is a combined submission by Energy Consumers Australia and the Energy Users Association of Australia.

Energy Consumers Australia is the national voice of residential and small business energy consumers. Our research consistently demonstrates that residential and small business energy consumers first priority is an affordable energy system. Accordingly, effective ways to leverage concessional finance to improve the affordability of the electricity sector and decrease the exponential increase in transmission expenditure planned within the National Electricity Market is a priority for our organisation.

The Energy Users' Association of Australia (EUAA) is the peak body representing Australian commercial and industrial energy users. Our membership covers a broad cross section of the Australian economy including significant retail, manufacturing, building materials and food processing industries. Combined our members employ over 1 million Australians, pay billions in energy bills every year and in many cases are exposed to the fluctuations and challenges of international trade.

This submission focuses exclusively on Chapter 4 of the Stage 3 Draft Report on the regulatory treatment of concessional finance in the National Electricity Rules. Concessional finance has the potential to have the most immediate impact on customer bills though lowering costs for the regulated network investment required for the energy transition. It can apply to all regulated network projects, not just those that have not yet completed their project assessment draft report (PADR).

The Federal Government's recent statements in the October 2022 Budget on the significant energy cost increases all consumers will face in the next 12 months have galvanised stakeholder discussion around what levers Governments are able to bring to ease these cost pressures. On 28th October, Ministers demonstrated they are willing to consider all options to reduce energy prices for all consumers, small and large. The Federal Government's recent announcements of Rewiring the

Nation (RTN) concessional funding to [Tasmania](#) and [Victoria](#) have a very clear focus on "…put(ting) downward pressure on energy prices".

Energy Consumers Australia and the EUAA have collaborated to develop this submission to give a united consumer view on the importance of concessional finance in regulated electricity networks to focus on maximising direct consumer benefits through lower prices.

To help inform our response to the issues raised in the Stage 3 Draft and provide expert evidence and analysis on ways in which concessional finance can directly reduce the prices energy consumers pay for transmission, Energy Consumers Australia commissioned Boardroom Energy to prepare the attached report. It:

- Presents the case for the benefits of concessional funding to be allocated to consumers
- Highlights that major recent concessional funding has benefited stakeholders other than consumers
- Identifies and provides indicative estimates of the potential consumer benefits of different forms of concessional finance
- Demonstrates that grants or equity injections can provide material benefits to consumers, while concessional loans will only have a marginal impact on consumer prices; and
- Responds to the questions asked by the Australian Energy Market Commission.

Based on recent Federal Government Rewiring the Nation announcements, the clear objective of this funding is to '…put downward pressure on prices' by funding the network build required to facilitate the necessary renewable generation for the transition.

There are multiple options available to ensure Rewiring the Nation achieves its objective to directly reduce the cost to consumers of new transmission infrastructure - from grants to equity to concessional loans, which broadly entail a trade-off between how much consumers can benefit from lower prices and the overall impact on government finances.

In turn there are multiple options for the regulatory treatment of concessional finance depending on its form. Given that multiple approaches may be required, we agree with the Commission's suggestion to provide the Australian Energy Regulator with sufficient discretion to ensure the regulatory treatment is fit for purpose in each case.

Below, our organisations have jointly responded to the specific questions raised on concessional finance in the Stage 3 Draft. We appreciate your timely consideration of our submission along with the Boardroom Energy Report. If you have further questions, please contact Brian Spak brian.spak@energyconsumersaustralia.com.au and Mark Grenning mark.grenning@euaa.com.au.

L Gallagher

Lynne Gallagher
CEO, ECA

A Richards

Andrew Richards
CEO, EUAA

RESPONSES TO QUESTIONS ASKED

Question 7: Notifying the AER

Who should notify the AER about the existence of a concessional finance arrangement?

We do not support the Transmission Network Service Provider (TNSP) being the party to inform the AER of the purpose of the financing. Ideally, the allocation of concessional finance should be sufficiently transparent as to render this question redundant. This could perhaps be achieved through a change in the rules to require inserting a condition precedent in all agreements for a full copy to be provided to the AER. The AER should then be able to ask either or both parties to the agreement any further questions required to fully inform its decision making.

We find it difficult to understand the Commission's argument that a financier would not be aware of the NER requirements. We would expect that knowing this would be a standard part of the due diligence undertaken by the financier. If it is the Commonwealth Government providing the finance either directly, or indirectly, e.g., through the CEFC, then it is reasonable to assume they will know the NER requirements because they will be looking for a specific outcome for consumers.

Question 8: Information requirements

What types of information about the concessional finance arrangement should be provided to the AER and by whom?

As we propose in our answer to Question 7, the AER should have access to the entire agreement to fully inform its decision making. Concessional finance represents public money and the AER is using any agreement to assess the maximum allowable revenue a network can recover from customers.

Given that energy networks are regulated monopolies providing an essential service, transparency is always important. In a case when public funding is used to underwrite private assets serving an essential public service, absolute transparency is critical. The starting point should be that full details of the terms of the finance should be made publicly available. The network receiving the concessional funding should have the ability to apply to the AER to redact commercially confidential parts of the agreement.

Question 9: Financier's intent

How should the AER determine the financier's intent?

Where the financier is a Government (or an agency like the CEFC) we expect the financier's intent to be very clear, particularly given the political context around the funding. The objective of concessional finance should be to directly reduce the cost impact to consumers of the assets being financed. In this light, the default assumption should be that 100 per cent of the benefit is to be passed on to consumers.

Accordingly, if a provider of concessional finance specifically intends the owners of the asset being financed to receive some of the benefit of the concession, then they should specify so, for example in the finance documentation. The most straightforward way to do this would be to express shared benefits in percentage terms. The way in which the AER could use this information in the revenue determination process is set out in the response to Question 10 below.

<u>Question 10: Regulatory treatment of concessional finance</u>

How should the AER determine the amount of the concessional finance to be treated as a benefit to consumers and/or TNSPs? How should this amount be treated in the revenue determination process?

As well as the specific questions above, the AEMC has commented: "The Commission welcomes stakeholder views on how the value of the benefit to the TNSP and/or consumer should be determined and treated by the AER in the revenue determination process and whether the NER should specify the mechanism or provide discretion to the AER to determine the mechanism?"

The appropriate regulatory treatment of concessional finance depends on factors such as the type of concession and the provider's intent. In some cases, changes to the relevant laws or rules may be required. This should not be a barrier to obtaining the treatment that is in consumers' interests. The options set out by the AEMC include:

- a reduction in the capital expenditure amount,
- a reduced rate of return in the economic analysis of different solutions, or
- through other means.

Each of these options is considered in further detail below.

A reduction in the capital expenditure

There is a well-established mechanism for recognising capital contributions in the network regulatory framework. Part J of Chapter 6A of the NER specifies how user contributions to new capital expenditure are to be treated for regulatory purposes. Briefly, the standard approach is to recognise that these amounts do not require financing by the network business and to deduct them from the value of the asset added to the regulated asset base (RAB). However, this part of the NER does not specify how capital contributions from *non-users* such as governments are to be treated for regulatory purposes. A similar issue has arisen in respect of the national gas rules and a rule change has been proposed that clarifies that the AER may treat contributions by non-users and concessional finance as a capital contribution.

This approach would work well in the case of a grant or concessional equity. In the latter case if the equity provider still sought a return, albeit a sub-commercial one, then the amount deducted from the RAB could be a proportion of the equity injection. The AER would need to be guided in determining the proportion by a statement from the funder on how it wished the benefits to be shared.

In any case, providing there was some deduction from the RAB, consumers would benefit through lower prices. Even if the equity amount was deducted in full, TNSPs would still benefit from the concessional finance through having a lower amount to finance.

It is difficult to see how this option would work in the case of a concessional loan. The Boardroom Energy report discusses the difficulties in more detail. It is not an approach that seems simple or straightforward.

A reduced rate of return

Adjusting the allowed rate of return as it applies to that asset may be a more appropriate way to reflect the value of a concessional loan.

The AER could set up a separate RAB for the value of a concessional loan and allow the actual debt cost. This should be capped at allowed cost of debt, given that this approach creates no incentive for the TNSP to negotiate down the interest rate. If the financing entity explicitly intends for a TNSP to retain some of the benefit, it could specify a percentage and the AER could allow that as a margin on the cost of debt, calculated by reference to the difference between the concessional rate and the allowed return on debt. Calculating an exact percentage may be difficult depending on how the Rate of Return Instrument (RORI) specifies the allowed rate of return is set. However, getting an exact percentage is less critical in this case, as the network business is getting at least its actual debt costs at a minimum.

This option would require a change in the National Electricity Law to allow the AER to depart from application of the binding RORI.