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Further clarifications on amending the TPM

Transpower appreciates the opportunity to submit to the Authority's paper *Further clarification on amending the TPM* (Transmission Pricing Methodology), published 27 February 2024.

Transpower agrees with the Authority that further clarity on amending the TPM for matters that are more than "technical and non-controversial" under the current clause 12.94A is beneficial.

Proposal for amending the TPM

The TPM Guidelines detail the policy settings for the TPM and have a dedicated change process under the Code. The Authority can review an approved transmission pricing methodology if it considers there has been a material change in circumstances.¹

Clause 2 of the Guidelines permit Transpower to develop a TPM that may *differ in its details from the particular requirements in these Guidelines (but not their intent, including as set out in the Authority's intent section of these Guidelines), if Transpower considers, in its reasonable opinion, that doing so would better meet the Authority's statutory objective than complying with these Guidelines in their entirety.*² (emphasis added)

The Authority's proposed amendment will allow it to make changes to the TPM where the change is consistent with section 32 (1) of the Act³ even if the proposed change is inconsistent with the Guidelines.

In our view the proposed drafting will create uncertainty as to the scope of amendments the Authority can make to the TPM without triggering an amendment to the Guidelines. Over time cumulative policy decisions being made under consistency with section 32 (1) of the Act could collectively diverge from the policy intent outlined in the Guidelines.

¹ Part 12 EIPC clauses 12.86 – 12.89

² [26850TPM-2020-guidelines-10-June-2020.pdf](#)

³ [Electricity Industry Act 2010](#)

In turn the amendments could increase administrative risk to Transpower of needing to change our processes and systems (developed at significant cost)⁴ specifically created towards a TPM that is consistent with the Guidelines and/or their intent.

We consider that the Authority should also explain how a proposed amendment that is 'consistent with 32(1) of the Act', but inconsistent with the Guidelines, better achieves section 15 of the Act compared with how the Guideline's policy intent achieves that.

Proposal for data-sharing

Transpower agrees with the reason for data-sharing from the Authority to Transpower, "*to ensure that Transpower has the necessary data to make TPM calculations and to uphold the policy intent of the TPM.*" The paper does not cover the type of information the Authority envisages, but we consider the proposed clause should include information about large plant connections and disconnections on distribution networks. We propose additional drafting for that purpose below.

12.102C Information provision to Transpower.

The Authority may provide to Transpower any information it holds, including but not limited to large plant connections and disconnections in distribution networks, for the purpose of enabling Transpower to calculate transmission charges.

Our responses to the questions are in Appendix B.

Kind regards,

Joel Cook
Head of Regulation

⁴ E.g. For 2020-2021 \$5m opex [Transpower-IPP-reconsideration-to-allow-for-recovery-of-TPM-development-costs-Final-reasons-7-October-2021.pdf](#) For 2021 – 2022 \$4.5m opex, \$2m capex [Transpower-IPP-reconsideration-to-allow-for-recovery-of-TPM-development-costs-Reasons-paper-22-November-2022.pdf](#) For 2022- 2025 \$12.6 m opex, \$5.9m capex [Transpower-IPP-reconsideration-to-allow-for-recovery-of-TPM-expenditure-Final-decision-12-October-2023.pdf](#)

Table 1 Questions about the TPM amendment process

Questions	Comments
Q1. Do you agree with the above amendments to the Code? If not, why not?	<p>We agree with what the Authority that there may be amendments <i>"that may be beneficial to achieving the TPM's policy intent that may not comfortably fall within the existing matters set out in section 39(3) or 40 of the Act."</i>⁵</p> <p>However we do not agree with the drafting as proposed. The Authority's proposed amendment will allow it to make changes to the TPM where the change is consistent with section 32(1) of the Act⁶ even if it is inconsistent with the Guidelines.</p>
Q.2 Do you agree with the objectives of the proposed amendment? If not, why not?	<p>Yes, we agree there may be amendments <i>"that may be beneficial to achieving the TPM's policy intent that may not comfortably fall within the existing matters set out in section 39(3) or 40 of the Act."</i>⁷</p>
Q3. Do you agree the benefits of the proposed amendment outweigh its costs?	<p>No. We are uncertain whether the benefits outweigh the costs, with the amendment as drafted.</p> <p>The Authority identifies that the costs are <i>"perceptions of reduced certainty, as the resolution of identified problems with the TPM not achieving the policy intent or workability issues means the TPM will not necessarily remain in its current state."</i></p> <p>The amendment proposes the Authority can argue that an amendment, if it is not consistent with the Guidelines, can still be made if it is consistent with section 32(1) of the Act. It is this provision that will increase perception of reduced certainty as it no longer means that Guidelines can be viewed as representing the policy intent.</p> <p>We consider that the Authority should also explain how a proposed amendment that is 'consistent with 32(1) of the Act', but inconsistent with the Guidelines, better achieves section 15 of the Act compared with how the Guideline's policy intent achieves that.</p>

⁵ [Consultation paper](#) para. 3.1

⁶ [Electricity Industry Act 2010](#)

⁷ [Consultation paper](#) para. 3.1

<p>Q4. Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.</p>	<p>In our view the preferred option is for the Authority to be able to apply the Code Change process but that the Code Change should be consistent with the policy intent outlined in the Guidelines. This approach will further reduce the of the costs of uncertainty while still achieving the objective for TPM amendment <i>"that may be beneficial to achieving the TPM's policy intent that may not comfortably fall within the existing matters set out in section 39(3) or 40 of the Act."</i>⁸</p> <p>The alternative approach the EA contemplated, deleting all the change clauses for TPM [clause 12.89 – 12.94A) would unlikely be beneficial as it would make the TPM change process as any other Code Change process which greatly increases its change scope and consequential cost of that uncertainty.</p>
<p>Q5. Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?</p>	<p>Not with the proposed amendment as drafted; but yes if the drafting recognises - as the Authority has expressed - the role of the Guidelines (their form and their intent) in the change process.</p>

⁸ [Consultation paper](#) para. 3.1

Table 2 Questions about the data sharing proposal

Questions	Comments
Q6. Do you agree with the objectives of the proposed amendment? If not, why not?	Yes.
Q7. Do you agree the benefits of the proposed amendment outweigh its costs?	Yes.
Q.8 Do you agree the proposed amendment is preferable to the other options? If you disagree, please explain your preferred option in terms consistent with the Authority's statutory objective in section 15 of the Electricity Industry Act 2010.	Yes.
Q.9 Do you agree the Authority's proposed amendment complies with section 32(1) of the Act?	Yes.
Q10. Do you have any comments on the drafting of the proposed amendment?	<p>Yes. The paper does not cover the type of information the Authority envisages, but we consider the proposed clause should include information about large plant connections and disconnections on distribution networks.</p> <p>12.102C Information provision to Transpower.</p> <p>The Authority may provide to Transpower any information it holds, <u>including but not limited to large plant connections and disconnections in distribution networks</u>, for the purpose of enabling Transpower to calculate transmission charges.</p>