

Undertaking to the Australian Energy Regulator for the period commencing 1 July 2022 and ending on 30 June 2023.

Given under section 59A of the National Electricity (Victoria) Law by Australian Energy Market Operator Limited (ABN 94 072 010 327)

1. Person giving this undertaking

- 1.1. The Undertaking is given to the Australian Energy Regulator (AER) by Australian Energy Market Operator Limited (ABN 94 072 010 327) of Level 22, 530 Collins Street, Melbourne, Victoria 3000 (AEMO) under section 59A of the National Electricity (Victoria) Law (NEL).

2. Background and capacity

- 2.1. AEMO gives this Undertaking in its capacity as a provider of shared transmission services in respect of which it is taken to be a Transmission Network Service Provider (TNSP) for the purposes of AEMO's declared network functions as applied to AEMO for the Victorian declared shared network pursuant to section 32 of the National Electricity (Victoria) Act 2005
- 2.2. The revenue and pricing of TNSPs is regulated by Chapter 6A of the National Electricity Rules (NER).
- 2.3. Pursuant to clause 6A.1.6 of the NER, Chapter 6A applies to AEMO in respect of the provision of shared transmission services by means of, or in connection with, a declared shared network subject to the exclusions, qualifications and modifications set out in Schedule 6A.4.
- 2.4. The AER is responsible for the economic regulation of services provided by AEMO by means of the Victorian declared shared network, to the extent provided for under Chapter 6A of the NER, including responsibility for making determinations on AEMO's proposed pricing methodology.
- 2.5. In accordance with clause S6A.4.2(f) of the NER, AEMO must, as and when required by the AER, submit to the AER a proposed pricing methodology relating to shared transmission services that are prescribed transmission use of system TUOS services or prescribed common transmission services (prescribed shared transmission services).
- 2.6. The AER made a transmission determination approving the revised pricing methodology AEMO proposed for its 2014–19 regulatory control period.

3. AEMO's 2014-2019 undertaking

- 3.1. On 12 June 2019, AEMO submitted an Undertaking to the AER under section 59A of the NEL to continue to set prices for shared transmission services as per the pricing methodology already approved for the period 1 July 2014 to 30 June 2019, to allow

AEMO more time to consider the impact on transmission network services and prices of the many recent changes to the way in which electricity is produced, supplied and consumed in the Victorian declared shared network and across the National Electricity Market.

- 3.2. The AER approved AEMO's proposed Undertaking to apply to 30 June 2021.
- 3.3. In June 2020, AEMO proposed to extend this Undertaking by an additional year due to the disruption caused by COVID-19, and the AER accepted AEMO's proposal to extend the Undertaking and consistent with the Undertaking the approved pricing methodology for the 2014-19 regulatory control period will apply until 30 June 2022.

4. AEMO's 2022-27 proposed pricing methodology

- 4.1. AEMO undertook a consultation on its proposed pricing methodology for 2022-2027 and published a Final Decision Paper in March 2021¹.
- 4.2. On 19 April 2021, AEMO submitted its proposed pricing methodology to the AER for the 2022-27 regulatory control period (**the proposed pricing methodology**).

The AER's draft decision

- 4.3. On 12 October 2021, the AER released its draft decision (**the draft decision**) on AEMO's transmission revenue determination for the 2022-27 period.²
- 4.4. The draft decision did not approve AEMO's proposed pricing methodology for the 2022-27 regulatory control period.
- 4.5. The draft decision provides that AEMO should remove from its pricing methodology the section setting out its policy to exempt energy storage from transmission prices and requires AEMO to make other changes as set out in the draft decision.

AEMO's revised proposed pricing methodology

- 4.6. On 14 December 2021, AEMO submitted to the AER the proposed pricing methodology with revisions to reflect the changes referred to in the draft decision (**AEMO's revised proposed pricing methodology**).

¹ AEMO TUOS Pricing Methodology Decision Paper https://www.aemo.com.au/-/media/files/stakeholder_consultation/consultations/nem-consultations/2021/tuos-pricing-methodology/pricing-methodology-finaldecision-paper.pdf?la=en

² AER Draft Decision AEMO Transmission Determination 2022 to 2027 <https://www.aer.gov.au/system/files/AER%20Draft%20Decision%20-%20AEMO%20transmission%20determination%202022-27%20-%20October%202021.pdf>

Reasons for the Undertaking

- 4.7. AEMO understands that the AER is not required to make its final decision in relation to the revised proposed pricing methodology until 29 April 2022.
- 4.8. Clause 6A.24.3 of the NER therefore applies and requires AEMO to use its most recently approved pricing methodology as the basis for setting prices.
- 4.9. AEMO has offered this Undertaking so that it may use its revised proposed pricing methodology instead of its most recently approved pricing methodology for the term of the Undertaking.
- 4.10. AEMO will use its best endeavours to publish the prices calculated using the revised proposed pricing methodology for each of the categories of *prescribed transmission services* to apply for the following financial year by 15 March annually.
- 4.11. In order for AEMO to publish by 15 March 2022, prices calculated using the revised proposed pricing methodology for each of the categories of *prescribed transmission services* to apply for 1 July 2022 to 30 June 2023, AEMO gives this Undertaking to calculate prices for shared transmission services in accordance with the terms of the revised proposed pricing methodology for the 2022–27 regulatory control period, for the period commencing 1 July 2022 and ending on 30 June 2023.
- 4.12. The AER is satisfied that this Undertaking, and AEMO’s compliance with it, alleviates any concerns that the AER may have as a result of AEMO not having a pricing methodology approved by the AER for the period 30 June 2022 to 30 June 2023 by providing certainty that AEMO will comply with the proposed pricing methodology as revised by AEMO in accordance with the draft decision, and any other applicable requirements in the Rules, when AEMO is setting the prices that may be charged for the provision of prescribed transmission services for the period commencing 1 July 2022 and ending on 30 June 2023.

5. Commencement

- 5.1. This Undertaking comes into effect when:
 - 5.1.1. this Undertaking is executed by AEMO; and
 - 5.1.2. the AER accepts this Undertaking so executed.
- (Commencement Date)
- 5.2. Upon the Commencement Date, AEMO undertakes to assume the obligations set out in clauses 7.1-7.5 below.

6. Expiry

- 6.1. Subject to clauses 6.2 and 6.3, this Undertaking expires on 30 June 2023.
(Expiry Date).
- 6.2. AEMO may seek to withdraw or vary this Undertaking at any time, but this Undertaking will be taken to be withdrawn or varied on the date on which the AER consents to such withdrawal or variation in accordance with section 59A of the NEL.
- 6.3. The AER may revoke its acceptance of this Undertaking if the AER becomes aware that any information provided to it was incorrect, inaccurate or misleading.
- 6.4. The AER may, at any time, expressly waive in writing any of the obligations contained in this Undertaking or amend the date by which such obligation is to be satisfied.

7. Undertaking obligations

- 7.1. AEMO undertakes for the purposes of section 59A of the NEL that from 1 July 2022 until 30 June 2023 the costs which AEMO incurs in providing shared transmission services to users of the Victorian Declared Transmission System (DTS) including the costs of planning of future requirements and the procuring of augmentations in the DTS (known as the Maximum Allowed Revenue (MAR)) will be recovered by AEMO through charges to transmission customers based on prices calculated in accordance with the document titled “PRICING METHODOLOGY FOR PRESCRIBED SHARED TRANSMISSION SERVICES 1 JULY 2022 TO 30 JUNE 2027” submitted by AEMO in its revised proposal and dated 14 December 2021.³
- 7.2. In the event of an inconsistency between the NEL and the revised pricing methodology in paragraph 7.1, the NEL prevail to the extent of that inconsistency.
- 7.3. AEMO and the AER will publish this Undertaking on their respective websites within five business days of the Commencement Date.
- 7.4. AEMO will notify the AER in writing within seven days of any failure to charge transmission customers in accordance with this Undertaking.

³ <https://www.aer.gov.au/system/files/Revised%20Pricing%20Methodology%202022%20-2027.pdf>

8. No derogation

This Undertaking does not prevent the AER from taking enforcement action at any time whether during or after the Term in respect of any breach by AEMO of any term of this Undertaking.

9. Costs

AEMO must pay all of its own costs in relation to this Undertaking

10. Notices

10.1. Any notice or communication to the AER pursuant to this Undertaking must be sent to:

Name: CEO
Address GPO Box 520 Melbourne VIC 3001

10.2. Any notice or communication to AEMO pursuant to this Undertaking must be sent to:

Name: CEO
Address Level 22, 530 Collins Street
Melbourne VIC 3000

10.3. Notices are taken to be received three Business Days after posting (or seven Business Days after posting if sent to or from a place outside Australia).

10.4. AEMO must notify the AER of a change to its contact details within three Business Days.

10.5. Any notice or communication will be sent to the most recently advised contact details and subject to clause 10.3 will be taken to be received.

11. Definition and interpretation

11.1. Definitions

The meanings of the terms used in this Undertaking are set out below.

| Term | Meaning |
|-------------------|---|
| AEMO | has the meaning given to that term in clause 1 |
| AER | has the meaning given to that term in clause 1 |
| Business Day | has the meaning given to that term in the NEL |
| Commencement Date | has the meaning given to that term in clause 5 |
| Expiry Date | has the meaning given to that term in clause 6 |
| NEL | means the National Electricity Law set out in the Schedule to the <i>National Electricity (South Australia) Act 1996</i> of South Australia, as in force for the time being which, pursuant to section 6 of the <i>National Electricity Act (Victoria) Act 2005</i> : <ul style="list-style-type: none"> (a) applies as a law of Victoria; and (b) as so applying may be referred to as the National Electricity (Victoria) Law |
| NER | means the National Electricity Rules |
| Term | means the period commencing on the Commencement Date and ending on the Expiry Date |
| Undertaking | means this document (including any schedules or annexures to this document) as varied from time to time under section 59A of the NEL. |

10.2. Interpretation

In the interpretation of this Undertaking, the following provisions apply unless the context otherwise requires:

- a) A reference to this Undertaking includes all of the provisions of this document including its schedules
- b) Headings are inserted for convenience only and do not affect the interpretation of this Undertaking
- c) If the day on which any act, matter or thing is to be done under this Undertaking is not a Business Day, the act matter or thing must be done on the next Business Day
- d) A reference in this Undertaking to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision:
- e) A reference to this Undertaking to any company includes a company over which that company is in a position to exercise control within the meaning of section 50AA of the Corporations Act:
- f) A reference in this Undertaking to any agreement or document is to that agreement or document as amended, novated, supplemented or replaced;

- g) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Undertaking;
- h) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency;
- i) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning;
- j) A word which denotes the singular also denotes the plural, a word which denotes the plural also denotes the singular, and a reference to any gender also denotes the other genders;
- k) A reference to the words 'such as', 'including', 'particularly' and similar expressions is to be construed without limitation;
- l) A construction that would promote the purpose or object underlying this Undertaking (whether expressly stated or not) will be preferred to a construction that would not promote that purpose or object;
- m) A reference to:
 - 1) A thing (including, but not limited to, a chose in action or other right) includes a part of that thing;
 - 2) A party includes its successors and permitted assigns; and
 - 3) A monetary amount is in Australian dollars.

Executed as an undertaking

Australian Energy Market Operator

Executed by Australian Energy Market Operator pursuant to section 59A of the National Electricity Law

sign here



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On behalf of Australian Energy Market Operator

Daniel Westerman

Print name

24/03/22

date

Chief Executive Officer and Managing Director

Australian Energy Regulator

Executed by the Australian Energy Regulator pursuant to section 59A of the National Electricity Law

sign here



On behalf of the Australian Energy Regulator

Clare Savage

Print name

29/03/22

date

Chair