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Chairman
Australian Energy Market Commission
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Dear Mr Pierce

National Electricity Amendment (DNSP Recovery of Transmission-related Charges) Rule 2010 – Draft Rule Determination

Ergon Energy Corporation Limited (Ergon Energy) appreciates the opportunity to comment on the Australian Energy Market Commission's (AEMC) *Draft Rule Determination – National Electricity Amendment (DNSP Recovery of Transmission-related Charges) Rule 2010* (the Draft Determination). Ergon Energy reiterates its support for United Energy Distribution's (UED) rule change proposal.

Ergon Energy does not support the AEMC's draft Rule in its current form, and is concerned that the proposed AEMC definition of *designated pricing proposal charges* is too narrow and does not capture non-regulated transmission services charges and other transmission related charges that distributors can incur in providing Standard Control Services.

Ergon Energy repeats the notion made in the first round consultation that the recovery of wider 'transmission related' charges is consistent with the pricing principles as set out in the *National Electricity Law* (NEL), which provides that:

- (a) a regulated DNSP should be provided with a reasonable opportunity to recover at least the efficient costs the operator incurs in providing direct control network services; and
- (b) complying with a regulatory obligation or requirement or making a regulatory payment¹.

Ergon Energy appreciates that the AEMC is endeavouring to more specifically define allowable transmission related charges that can be recovered under the National Electricity Rules. However, Ergon Energy considers that any difficulties faced by the AEMC in defining specific transmission related charges should not prevent a DNSP being able to recover costs which it is otherwise entitled to recover through a mechanism already established and approved by the Australian Energy Regulator (AER) through the distribution determination process.

As stated in Ergon Energy's response to the AEMC's first round consultation, Ergon Energy currently incurs unregulated transmission charges in relation to four unregulated connection points between Ergon Energy's distribution network and Powerlink's transmission network. Additionally in the Mount Isa zone, Ergon Energy is charged for the use of the unregulated 220kV network which supplies the Cloncurry Township. Both of these services are required in the provision of Ergon Energy's Standard Control Services and are currently recovered as part of Ergon Energy's TUOS charges passed through to customers. Ergon Energy believes that all transmission related charges (including unregulated, non-regulated and negotiated transmission services) should be able to be recovered

¹ section 7A(2)

through this process and therefore supports the amendment of the definition of *designated pricing proposal charges* to include these charges.

Ergon Energy notes that the AEMC considers that the charges Ergon Energy incurs for use of the unregulated 220kV network are captured by the proposed Rule. Ergon Energy does not agree that the proposed definition captures the charges from this network. Therefore, Ergon Energy requests that these charges be explicitly allowed for either in the definition of *designated pricing proposal charges*, or in Chapter 11 in a manner similar to that used for the Bairnsdale network support agreement for SP AusNet.

Ergon Energy considers that the definition of *designated pricing proposal services* should be expanded to include all charges that a DNSP may incur for use of another network (regardless of whether the network is a distribution or transmission system) in providing standard control services. This expansion would lessen the ambiguity and provide sufficient certainty for DNSPs to recover charges incurred.

Ergon Energy does not support the AEMC's proposition that the proposed Rule should take effect in the next regulatory year, and we do not agree that this will provide regulatory certainty for Ergon Energy. If the Rule were to take effect in its current form, then Ergon Energy would be prevented from passing through some transmission related charges which it is currently able to pass through under the AER's distribution determination. As these costs are not included in Ergon Energy's Annual Revenue Requirement and they may not meet the materiality threshold for a "regulatory change event" cost pass through, Ergon Energy would be required to wear these costs for the remainder of the regulatory control period. Ergon Energy does not consider that the AEMC has provided any valid reason as to why the transitional arrangements cannot provide scope for Ergon Energy to apply this new Rule at the commencement of the next regulatory control period. However, it should be noted that Ergon Energy's first position is that the proposed Rule should be amended to allow Ergon Energy to recover all of its transmission related charges.

Ergon Energy has also identified an issue with the operation of proposed clause 11.[XX].4(d). During the development of the Pricing Proposal for 2010-11 (the first year of the regulatory control period), the AER advised Ergon Energy that the words "previous regulatory year" were taken to mean the previous full regulatory year (that is t-2). This was consistent with the historical treatment of over/unders adjustments by regulators in Queensland. As a result, Ergon Energy's Pricing Proposal was prepared on this basis and the over/under recovery for 2008-09 was used in the calculation of prices for 2010-11. On this basis, the Pricing Proposal for 2011-12 will include an adjustment for any over/under recovery in 2009-10. However, under the proposed Rule, Ergon Energy would be required to adjust the 2011-12 prices for any estimated over/under recovery in 2010-11. This means that there is no opportunity for Ergon Energy to adjust its prices for any over or under recovery in 2009-10. Ergon Energy therefore requests that, if the Rule is to commence in the next regulatory year, it should be amended to ensure Ergon Energy is appropriately able to adjust its prices for any over or under recovery in 2009-10. Similarly, if other changes are made to the proposed Rule, this issue be taken into account.

Ergon Energy would be pleased to discuss this submission with the AEMC.

Yours sincerely



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