



Economic Regulation of Transmission Services Undertaken by Distributors - Rule Change Proposal – Section 108A Report

Purpose

The Commission is required under section 108A of the National Electricity Law (NEL) to publicly report on Rules not made within 12 months of public notification of requestions.

Background

On 21 March 2007 EnergyAustralia (EA) submitted to the Commission a Rule change proposal regarding the economic regulation of transmission services provided by a distributor. The Commission published a notice under section 95 of the NEL on 5 April 2007 commencing first round consultation on the Rule change proposal.

The proposal seeks the option for a Distribution Network Service Provider (DNSP) to apply to the Australian Energy Regulator (AER) to have assets that are owned, operated, or controlled by that DNSP, but are defined to constitute part of a transmission network, subject to the same revenue regulation arrangements as apply to its distribution network. In addition, the proposal seeks to confer on the AER a discretion to determine whether the charges for the services provided by such assets should be determined in accordance with the distribution pricing regime or the transmission pricing regime.

Reasons for the Rule change determination not being made within 12 months

The Commission has twice extended the period for making a draft Rule Determination under section 107 of the NEL.

On 28 June 2007 the Commission extended the time for the making of a draft determination. The basis for this extension was that the proposal from EA appears to have anticipated the AER being the single economic regulator for both transmission and distribution services under the National Electricity Rules. The proposal also appears to have anticipated the revised distribution Rules to be applied by the AER being part of the National Electricity Rules. However, prior to 1 January 2008 the revised distribution Rules had not been completed for the economic regulation of distribution services by the AER. On that basis, the Commission extended the period for publication of the draft Rule determination to 31 January 2008.

On 31 January 2008 the Commission again extended the time for the making of a draft determination. On 1 January 2008 new Rules and arrangements came into force regarding the economic regulation of distribution services¹ and new requirements were included in the NEL regarding the assessment of proposals relating to the economic regulation of networks in addition to the National Electricity Objective.² The new circumstances made it necessary to extend the time to publish a draft Rule determination to address the additional complexity created as a result of new distribution Rules and the additional assessment requirements.

¹ On 16 December 2007 the *National Electricity (Economic Regulation of Distribution Services) Amendment Rules 2007* (Distribution Rules) were made. The Distribution Rules commenced operation on 1 January 2008.

² The amended NEL requires, under sections 88A and 88B, that in addition to the National Electricity Objective (NEO), the Commission must take into account the form of regulation factors (section 2F) and the revenue and pricing principles (section 7A) in certain circumstances.

In addition, additional informal, consultation was sought on the basis of the material new circumstances created by the revised arrangements for the economic regulation of transmission services and the new assessment criteria for proposals relating to the economic regulation of networks. Submissions closed on this consultation period on 7 March 2008.

Expected timing for the final Rule determination

Based on the requirements in the NEL, the Commission considers it will make the final Rule determination for the *National Electricity Amendment (Economic Regulation of Transmission Services Undertaken by Distributors) Rule 2008* by 4 July 2008.