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17 November 2005

Dr John Tamblyn
Chairman
Level 16
1 Margaret Street
Sydney NSW 2001

Dear Dr Tamblyn

This submission by the Australian Energy Regulator refers to the submission made by TransGrid on 16 September 2005 to the AEMC seeking a derogation in respect of projects classified by the ACCC as "contingent projects". The AER submits that such a derogation is not necessary and that the AEMC Review of the NER is the most appropriate process to deal with this matter.

AER's position

The AER considers that the derogation proposed by TransGrid does raise an important issue in terms of how contingent projects will be recognised by the regulatory regime, but that the AEMC Review is the correct forum in which to consider this.

The question of a full recognition of the contingent projects regime is recognised by the AER in its submission to the AEMC Review. The AER has sought an amendment to the NER to ensure that contingent projects are fully accommodated by the regime and that any existing risk associated with the contingent project scheme is minimised. The AER believes that this should address any risk identified by TransGrid.

The benefit of the Rule change proposed by the AER is that it would apply to all TNSPs which would mean that TNSPs would not be required to apply for individual derogations, thus reducing the complexity of regulatory arrangements.

TransGrid raised the possibility that spending on the QNI project may be exposed to risk without the proposed derogation. The time frames for the project released since TransGrid lodged its derogation request suggest that it is unlikely that TransGrid will have expended substantial sums on the project before the middle of 2006, when Rule changes arising from the AEMC review will be in place.

For these reasons, the AER submits that the proposed derogation is unnecessary and that the AEMC Review is the most appropriate forum for any issues related to contingent projects to be addressed.

The AER requests that if the AEMC believes that a derogation is necessary, the AER be given an opportunity to make a submission on the content of the derogation. As the derogation now stands, it appears to the AER to reflect a "cost of service" approach to regulation and as such does not seem to be aligned with the existing incentive regulation elements of the AER's approach.

Yours sincerely

A handwritten signature in black ink, appearing to read "Steve Edwell". The signature is written in a cursive, flowing style with a prominent initial "S".

Steve Edwell
Chairman