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Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box H166
Australia Square NSW 1215

Email: submissions@aemc.gov.au

Dear Dr Tamblyn

**National Electricity Amendment Rule
Reform of the Regulatory Test Principles.**

Thank you for the opportunity to comment on the proposal to make a Rule relating to new principles that the Australian Energy Regulator (**AER**) must adopt in promulgating the regulatory test used to evaluate proposed new regulated transmission investment against all other reasonable network and non-network alternatives. CitiPower and Powercor Australia are Victorian electricity distributors who are registered with NEMMCO as Network Service Providers under clause 2.5 of the National Electricity Rules (NER)

CitiPower and Powercor agree with the principle of ensuring that the AER is not both the rule maker and the rule enforcer with respect to the regulatory test and, as a minimum, the rules should give very clear policy guidance to the AER in respect of the regulatory test to ensure a level of certainty for network service providers.

1. Application of the Regulatory Test

The discussion around the Regulatory Test, including the Attachment A to the letter from the MCE requesting that the AEMC reform the Regulatory Test Principles, considers the issue entirely in the context of Transmission Network investment. However, the proposed Rule, 5.6.5A Regulatory Test, is drafted in such a way that it has application to Distribution network Investment also. This should be readily corrected by amending reference to "*Network Service Providers*" and "*new network investment*" to "*Transmission Network Service Providers*" and "*new transmission network investment*" respectively.

2. Threshold value for application of the Regulatory Test

CitiPower and Powecor believe the threshold of \$1 million for regulated transmission investment to be subject to the regulatory test is too low placing an unnecessary burden on regulated entities required to apply the test. A project cost of \$10 million, aligned with a defined *New Large Transmission Network Asset* would seem to be a more appropriate threshold.

3. Interaction of the Regulatory Test with Performance Incentives

CitiPower and Powecor are concerned that the regulatory test may be unnecessary where financial service incentive mechanisms are in place, or worse still conflict with such financial service incentive mechanisms. For example, if there is a financial incentive mechanism for network reliability and a project to improve reliability was identified as viable under such an incentive but the regulatory test did not provide a positive outcome, which would prevail?

4. The Regulatory Test May Cause Bias to Underspend on Necessary Investment

The Rules should ensure that the parameters of the regulatory test are set in a conservative way to ensure that a particular investment is reasonably justified without undermining the incentive to make necessary capital investments in important infrastructure. Rather than allowing the Regulatory test to adopt a neutral economic stance, the rules should require the test to ensure necessary network investment, is facilitated within the reasonable bounds of probability for the proposal under analysis.

Should you require further information in relation to this submission, please do not hesitate to contact me on (03) 9683 4282

Yours sincerely

Rolf Herrmann
MANAGER REGULATION