

16 February 2009

Dr John Tamblyn  
Chair  
Australian Energy Market Commission  
PO Box A2449  
Sydney South NSW 1235

  
Dear Dr Tamblyn,

**Request for Changes to the National Electricity Rules**

Please find attached a Rule change proposal relating to the AER's current review of the Weighted Average Cost of Capital (WACC) parameters to apply to electricity distribution and transmission network service providers. Specifically, the AER requests that the date for release of its final decision on the WACC parameters be extended to 1 May 2009.

This Rule change proposal has been prepared in accordance with Clause 8(1) of the NEL Regulations, and includes the text of the AER's proposed Rule amendment. The AER proposes that the attached Rule change proposal be treated as non-controversial in nature and expedited under section 96 of the NEL.

Should you have any questions or queries regarding the attached proposal, please contact Mr Blair Burkitt on (03) 9290 1442.

Yours sincerely,



  
Michelle Groves  
Chief Executive Officer

# **ATTACHMENT A**

## ***NATIONAL ELECTRICITY LAW***

### **REQUEST FOR A NON-CONTROVERSIAL RULE CHANGE**

RELATING TO

### **EXTENSION OF TIME FOR THE AER TO CONCLUDE ITS REVIEW OF THE WACC PARAMETERS FOR ELECTRICITY TRANSMISSION AND DISTRIBUTION**

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#### **A. NAME AND ADDRESS OF PERSON MAKING THE REQUEST**

Australian Energy Regulator  
Level 38  
360 Elizabeth Street  
MELBOURNE VIC 3000

#### **B. INTRODUCTION**

In accordance with Chapters 6 and 6A of the National Electricity Rules (NER) the AER is currently conducting its review of the Weighted Average Cost of Capital (WACC) parameters to apply to electricity transmission and distribution network service providers ('WACC review'). Under the NER, for both electricity transmission and distribution, the AER is required to conclude its WACC review with the release of a final decision by 31 March 2009.

Given the large volume of submissions to the AER's Explanatory Statement and the complexity of the issues raised therein, particularly in light of current economic conditions, the AER hereby requests that the date for release of the final decision be extended until 1 May 2009. This will ensure that the AER can properly consider all issues in forming its final decision in accordance with its obligations under the NER and the NEL, including seeking further comments on specified matters if required.

Accordingly, this Rule change proposal seeks an amendment to clauses 6A.6.2(g), 6A.6.4(c) and 6.5.4(b) of the NER.

#### **C. REQUEST FOR EXPEDITED PROCESS**

The AER proposes that this Rule change proposal be consulted and determined under an expedited process in accordance with section 96 of the NEL. Allowing a one-month extension for the release of the AER's final decision will not affect the first businesses to which the outcomes of the review will apply. Accordingly the AER considers that the proposed Rule change is unlikely to have a significant effect on the national electricity market and proposes that it be treated as non-controversial in nature.

## C. STATEMENT OF ISSUES

### *i Current Rules*

With respect to the AER's review of the WACC parameters to apply to electricity distribution businesses, clause 6.5.4(b) of the NER requires that:

The first review is to be concluded by 31 March 2009 and further reviews are to follow at intervals not exceeding, in any case, 5 years.

Likewise for electricity transmission clauses 6A.6.2(g) and 6A.6.4(c) of the NER states that:

The *AER* must conclude the first review by 31 March 2009 and conclude subsequent reviews at intervals of five years thereafter.

### *ii The problem*

Given the large volume of submissions to the AER's Explanatory Statement and the complexity of the issues raised therein, the AER requires additional time to complete its final decision. This is compounded by the impact of current economic conditions and the possible need to seek further comments from interested parties on particular matters.

### *iii Proposed solution*

The AER requests that the date for release of the final decision be extended by one month, to 1 May 2009. This will ensure that the AER can properly consider all issues in forming its final decision in accordance with its obligations under the NER and the NEL.

### *iv How the proposed solution will contribute to the achievement of the National Electricity Objective*

The National Electricity Objective (NEO) as stated in section 7 of the NEL is:

...to promote the efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to price, quality, reliability and security of supply of electricity and the reliability, safety and security of the national electricity system.

Given that, in the AER's view, the proposed Rule change is non-controversial in nature, it is not expected to have a significant effect on the national electricity market. Despite this the AER considers that the proposed Rule change will contribute to the NEO by promoting efficient investment in electricity networks across the NEM. In particular, the addition of an extra month to the AER's process to complete its final decision will allow:

- all the key issues raised in submissions to be given full and proper consideration, in particular those related to the current conditions in financial markets, and

- ensure that the outcome of the AER's final decision is not hampered by time constraints.

The AER considers that an additional month will contribute positively to the robustness of this important final decision, thereby promoting efficient investment in electricity networks across the NEM.

v *Benefits and costs and potential impact on those likely to be affected by Rule change*

The most significant benefit of this Rule change proposal is that it will ensure that all issues raised in submissions may be properly considered by the AER in forming its final decision. In the AER's view this will contribute the robustness of the outcome and ensure that it properly takes into account recent developments in global financial markets.

The Rule change proposal is not expected to impose any costs on electricity network businesses or electricity consumers. Clauses 6A.6.2(h) and 6.5.4(f) of the NER provides that the outcome of the review only applies to resets where the revenue proposal is submitted after the release of the AER's final decision. The first businesses to submit a proposal subject to the outcomes of the AER's review must lodge their proposals on 31 May 2009. Therefore granting the AER an extension until 1 May 2009 to complete its review will not affect the first businesses to become subject to the outcomes of the review.

The AER expects that a one-month extension will not materially affect the ability of the Queensland and South Australian electricity businesses to prepare building block proposals to be lodged by 31 May 2009.

## APPENDIX A.1 – PROPOSED AMENDMENTS

### RULE CHANGE REQUEST – EXTENSION OF TIME FOR THE AER TO CONCLUDE ITS REVIEW OF THE WACC PARAMETERS FOR ELECTRICITY TRANSMISSION AND DISTRIBUTION

#### TEXT OF PROPOSED AMENDMENTS

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*Rule change — extension of time for the AER to conclude its review of the WACC parameters for electricity transmission and distribution*

Clause 6A.6.2(g) be amended to read:

- (g) The *AER* must conclude the first review by ~~31 March 2009~~ **May 2009** and every five years thereafter.

Clause 6A.6.4(c) be amended to read:

- (c) The *AER* must conclude the first review by ~~31 March 2009~~ **May 2009** and every five years thereafter.

Clause 6.5.4(b) be amended to read:

- (c) The first review is to be concluded by ~~31 March 2009~~ **May 2009** and further reviews are to follow at intervals not exceeding, in any case, 5 years.