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Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

Reference: ERC0134/ERC0135/GRC0011

Dear Mr Pierce

A handwritten signature in blue ink that reads 'John' followed by a comma.

Thank you for the opportunity to make a submission on behalf of the South Australian Government to the AEMC's Draft Determination on the Economic Regulation of Network Service Providers.

The Government is generally supportive of the AEMC's draft Rule provisions. I am advised that the proposed provisions should provide a regulatory framework that encourages efficient expenditure over time to enable the provision of a safe and reliable energy supply that meets customer expectations at the lowest sustainable prices. Under this regulatory regime, the Australian Energy Regulator (AER) should have sufficient discretion to provide revenue determinations that are consistent with the National Electricity Objective (and National Gas Objective for rate of return), through the arrangements for benchmarking, incentives, consumer involvement and ex-post review.

The AEMC should, however, consider more prescriptive arrangements for ex-post review of actual capital expenditure for major projects. We note that the proposed Rules allow for the AER to make adjustments to the next regulatory period's opening Regulated Asset Base for overspending, through ex-post review, but only when the actual capital expenditure exceeds that allowed for the regulatory period.

Under these Rules, a Network Service Provider could include inefficient capital expenditure within the total allowed expenditure and not necessarily be subject to ex-post scrutiny by the AER on the inefficient portion. However, if the AER had the explicit ability to examine the efficiency of capital spending of major projects ex-post, Network Service Providers would have greater incentive to incorporate only efficient expenditure into their Regulatory Asset Bases.

The intention of our proposed tightening of the expenditure provisions is not to open the entire capital expenditure to line-by-line examination ex-post, but to ensure that the AER has the ability to scrutinise major projects which significantly impact the Regulated Asset Base to ensure they meet the National Electricity Objective.

Regarding the requirement that the AER must accept the Network Service Providers' forecasts for operating and capital expenditure when these reasonably reflect the respective expenditure criteria (subclause (c) at Clauses 6.5.6, 6.5.7 and 6A.6.6), the Government questions whether the phrase "must accept" is too restrictive on the AER and whether it should be replaced by a requirement that the AER have regard to those forecasts.

The Government notes the need for transitional provisions so that the new Rules can be implemented as soon as practicable. Given that a one year transitional period is proposed to apply to most Network Service Providers before their next full five year regulatory determination, it is considered that the transitional determination of capital and operating expenditure and rate of return under existing Rules is the most appropriate option.

Finally, I would like to thank the AEMC for the work it has undertaken on this issue and consider that its proposed Rule changes should result in a Regulatory Framework that strikes the appropriate balance between allowing Network Service Providers sufficient expenditure to meet their regulatory obligations and ensures that prices are controlled in the long term interests of consumers under the National Electricity Objective.

Yours sincerely

A handwritten signature in blue ink, appearing to read "Tom Koutsantonis".

Hon Tom Koutsantonis MP
Minister for Mineral Resources and Energy

60 October 2012