

Your Ref: ERC0207/GRC0038  
Our Ref: 58744-D16/118883  
Contact Officer: Matthew Simpson  
Contact Phone: 03 9290 1969

15 September 2016

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

Dear Mr Pierce

**Re: Submission on National Electricity Amendment (Rate of Return Guidelines Review) Rule 2016 and National Gas Amendment (Rate of Return Guidelines Review) Rule 2016**

The AER welcomes the opportunity to respond to the AEMC's consultation paper concerning the Rate of Return Guideline Review rule change request. As the proponent of the rule change request, this submission is limited to the AEMC's proposed transitional provisions to accompany our proposed amendments.

The consultation paper asks whether the timing issue is significant for affected stakeholders and proposes a transitional provision to alleviate potential impacts on affected stakeholders. We consider the current regulatory framework is sufficiently flexible to address any issues created by a revised timing of the Rate of Return Guideline review. We also consider that transitional provisions may introduce complexity and rigidity into the framework.

The allowed rate of return objective will remain the primary focus of both our regulatory determinations and of service providers' proposals as well as the Rate of Return Guideline. This is regardless of any review of the Rate of Return Guideline or the current rule change request. Service providers will be considering the achievement of the rate of return objective when developing their proposals irrespective of the version of the Guideline in existence at the time. We will also consider the achievement of the same objective when making our determination.

Further, we note the timing of our review of the Rate of Return Guideline is flexible.<sup>1</sup> There remains uncertainty about the timing of the legal processes affecting our Guideline review.<sup>2</sup>

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<sup>1</sup> Under both the current rules and our proposed rules (up to a maximum date).

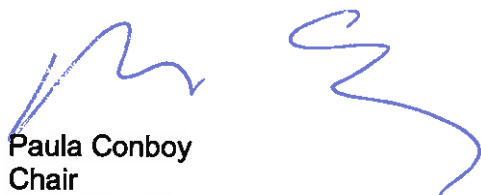
We will also follow an extensive consultation and engagement process in reviewing the guideline which will capture the relevant material available at that time.

In light of the above, the benefits of the proposed transitional provisions may be outweighed by the potential uncertainty and complexity involved in their application. For example, the consultation paper notes that the transitional provisions will apply to certain affected service providers.<sup>3</sup> It is possible that we may complete our review of the Rate of Return Guideline before our draft decisions for these affected service providers. Consequently, these draft decisions may reflect the results of the Guideline review. In this case, under the AEMC's proposed transitional provisions the revised proposals for the affected service providers would need to respond to both the 2013 Guideline and the 2018 Guideline review (as reflected in our draft decision). Such a situation may be unnecessarily complex and negatively impact the process of consultation on our draft decision and service providers' revised proposals.

Prescriptive transitional arrangements may not have sufficient flexibility to cope with the range of potential outcomes and could impinge upon the primacy of the allowed rate of return objective. If the AEMC considers transitional provisions necessary, then it may wish to consider limiting their application.

Please contact Warwick Anderson, General Manager of Network Finance & Reporting, on (02) 6243 1240 or Matthew Simpson, on (03) 9290 1969 if you would like to discuss any aspect of this submission.

Yours sincerely



Paula Conboy  
Chair  
Australian Energy Regulator

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<sup>2</sup> These are set out on page 2 of our rule change request.

<sup>3</sup> ActewAGL, Ausgrid, Endeavour Energy, Essential Energy, NT Power & Water, and TasNetworks.