



20 June 2008

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

John
Dear Dr Tamblyn,

The Australian Pipeline Industry Association (APIA) has genuine concerns about the request by the Energy Users Association of Australia (EUAA) for a rule change regarding the values of equity beta and gamma as prescribed in Chapter 6A and Appendix 1 of the National Electricity Rules (the Rules).

Chapters 6 and 6A of the Rules require the Australian Energy Regulator (AER) to conduct reviews of the cost of capital for electricity distribution and transmission businesses and this review process necessarily requires consideration of various market derived parameters used in the calculation of cost of capital, including equity beta and gamma.

APIA has a strong interest in the process, conduct and outcome of the AER's review of the cost of capital for electricity businesses, in that it may have the potential to set precedents for the future AER reviews of the cost of capital of gas infrastructure. APIA has a further interest in the procedures for rules changes under the National Electricity Law, given the National Gas Law and the National Electricity Law are designed to be similar as a matter of policy.

APIA believes it is highly inappropriate for the EUAA to attempt to influence the outcome of the AER's review with this request for a rule change, prior to the commencement of the formal review process. Obviously, APIA has no objection to the EUAA engaging in the review process itself.

Under the requirements of the National Electricity Law, the AEMC must consider whether the request for the Rule appears to "not be misconceived or lacking in substance" (NEL Part 94(1) a(ii)). APIA contends that the nature of the rule change proposed by the EUAA could reasonably be considered to be misconceived.

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The rule change proposed by the EUAA clearly could have a negative impact on the procedural independence and fairness of the AER review and has the appearance of pre-empting the AER's decision by constricting the AER's ability to analyse various parameters used in deriving the cost of capital.

The proposed rule change would also introduce uncertainty into the AER's current review process with significant elements of the review open to be overturned by the AEMC's rule determination.

APIA suggests that the proposed rule change should be determined as misconceived and the issues raised by the EUAA in its proposal could be more appropriately considered by the AER as part of its current review.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'C. Cartwright', with a stylized flourish at the end.

CHERYL CARTWRIGHT
Chief Executive