



Ref: C2074948

16 September 2016

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

Dear Mr Pierce

RESPONSE TO AEMC CONSULTATION PAPER – DEFERRAL OF RATE OF RETURN GUIDELINE REVIEW ('the consultation paper')

Essential Energy welcomes the opportunity to comment on the Australian Energy Regulator's (AER's) proposed rule change to defer the date for the review of its rate of return guidelines ('the guideline').

Essential Energy supports the basis of the AER's proposed rule change. Given the current merits and judicial reviews in progress, awaiting the outcomes of these reviews before proceeding with a review of the guideline is sensible. The guideline review is extremely time and resource intensive for all stakeholders, so a deferral will eliminate duplicated effort and costs that may result from attempting to predict outcomes of the merits and judicial processes.

Due to the proposed completion of the guideline review by December 2018 at the same time that Essential Energy's next revised regulatory proposal is due, we believe that transitional provisions suggested by the AEMC in the consultation paper, namely that the current 2013 guideline will apply to Essential Energy's next determination, are necessary in order to remove any ambiguity. We note that given the non-binding nature of the guideline, there would be sufficient flexibility, even under such transitional provisions, to accommodate departures from the 2013 guideline, where appropriate, in light of market developments or outcomes of the merits and judicial reviews.

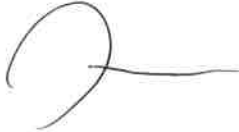
As a related point of clarification, on page four of Attachment A of the AER's rule change, it is stated that the proposal will result in the 2013 guideline applying to regulatory determinations concluded by 17 December 2018, the proposed extension date. However, consistent with Essential Energy's proposed transitional provision and the AEMC's similar suggested position above, this regulatory determination conclusion date should state that the 2013 guideline would apply where a regulatory determination is concluded with the making of a final determination by 30 June 2019, including any subsequent merits or judicial review processes. An alternative transitional provision could specify that the 2013 guideline will apply to specific listed final determinations by state and energy source, including any subsequent merits or judicial review processes.

There may also be some merit in exploring the third potential transitional arrangement in the consultation paper of specifying the guideline that applies is the one in place three to six months before an initial regulatory proposal is lodged. Essential Energy believes there may

be advantages in making this a permanent provision in the National Electricity Rules (NER) in the event that an extension of time to make the guideline eventuates in the future.

Should you wish to discuss any of the above points, please feel free to call Natalie Lindsay on 02 6589 8419. We look forward to hearing your response on these matters.

Yours sincerely

A handwritten signature in black ink, consisting of a large, stylized 'J' followed by a horizontal line extending to the right.

John Cleland
Chief Executive Officer