

15 February 2008

Dr. John Tamblyn  
Chairman  
The Australian Energy Market Commission

By email: [submissions@aemc.com.au](mailto:submissions@aemc.com.au)

Dear Dr Tamblyn,

### **Regulatory Test Thresholds and Information Disclosure on Network Replacements**

The Energy Retailers Association of Australia (ERAA)<sup>1</sup> is pleased to have the opportunity to comment on the rule change proposal put forward by the Electricity Transmission Network Owners Forum (ETNOF) on Regulatory Test Thresholds and Information Disclosure on Network Replacements.

As a general position, the ERAA supports a high degree of transparency from Network businesses. This is necessary given that:

- Their regulatory monopoly status relies on public and regulatory scrutiny to constrain their expenditure, rather than competitive discipline as in other markets; and
- Network investments, both large and small, can have significant impacts on the competitive market and need to be flagged well before they occur.

Recent reform initiatives, such as the AER transmission incentive scheme, and the demand management review currently being conducted by the AEMC, have each identified problems with a lack of transparency over network business operations. In addition the ERIG review identified problems in the TNSP information provision regime, which are part of the reason for the MCE direction for the creation of a National Transmission Planner. These examples are indicative of an environment with too little, rather than too much disclosure.

These considerations form the basis of our response to the key proposals put forward by ETNOF as set out below.

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<sup>1</sup> The ERAA is an independent association representing twelve retailers of electricity and gas throughout the National Electricity Market (NEM) and the jurisdictional gas markets. ERAA members collectively provide electricity to 11 million customers in the NEM and are the first point of contact for end use customers for both gas and electricity.

**Proposal 1: Increase the current Regulatory Test thresholds applying to new small transmission network assets from 1 million dollars to 5 million dollars and new large transmission network assets from 10 million dollars to 35 million dollars.**

ETNOF propose that this change would decrease compliance costs for Network businesses, and that the majority of the consultations undertaken based on the current thresholds have not elicited any response – and therefore are not adding value.

ERAA does not support this change as we believe that it is appropriate for the regulatory regime to have a bias toward transparency, even at the cost of a little additional administration expense.

*Compliance costs*

We note that existing TNSP revenues have been set on the expectation that the current level of consultation continuing. ETNOF has not proposed any reduction in cost to customers as a result of reducing the administrative overheads of conducting the current level of consultation (although this may have some minor flow through in future rate resets). From an ERAA perspective, the ETNOF proposal would effectively reduce the level of service being provided by TNSP's (transparency of operation being a key part of their service), without any corresponding cost reduction to their customers. This outcome would not align to the market objective.

With regard to the level of costs, it would seem to us that the costs of providing the current level of consultation are likely to be minimal compared to the potential costs to customers if an investment of \$5 Million were made, which could have been more cheaply provided by an alternate approach had consultation proceeded. From the perspective of the market objective, the ERAA believes the risks of an inappropriate investment proceeding at the proposed threshold levels exceed the costs to customers of maintaining the existing thresholds.

*A lack of response does not indicate that consultation is not adding value*

ETNOF has presented some statistics which indicate that there have been few submissions made to Regulatory test consultations. Based on these statistics they have concluded that the consultations are not providing any value.

On the contrary, the ERAA view is that a lack of response does not indicate the release of information is of no benefit. Rather these consultations provide useful information on network developments, which would otherwise not be available. Such information can be used by competitive market participants to better inform their investment decisions in a particular area. This outcome would not warrant a submission, but may add benefits to the wider market.

A lack of submissions could also be indicative of most projects being non-controversial. We believe that it is better for the market to determine what is controversial, through a consultation process, rather than for an TNSP to make such a decision – without necessary being aware of all market developments available in a given location.

Again we believe that the market objective will be best served by erring on the side of over-reporting than under-reporting, and do not support the increase in thresholds proposed.

**Proposal 2: Index the Regulatory Test’s monetary thresholds to movements in the Producer Price Index.**

Although we reject the proposal to substantial increase the thresholds as outlined above, we accept that there may be some merit in the proposal to index the thresholds. Such an indexation could maintain the threshold value in real terms, and not result in their inflation or erosion over time. The key question is whether or not changing the rules for this minor matter would add sufficient benefits to justify the cost of the change.

While we are not overly concerned with the principle of indexation, we do not support the proposed Rules as drafted. The proposed drafting has the following flaws:

- It only allows upward indexation of the thresholds. This would result in the thresholds increasing in real terms over time, by not allowing appropriate deflation of the thresholds in the event that construction input costs were to materially fall in any period.
- By always rounding up to the nearest million, the proposed wording would result in the thresholds increasing by at least 1 million dollars in any year that positive inflation occurred. It would seem probable that this would result in the \$1Million threshold increasing to \$6Million in 5 years time - an outcome that would result in a material real threshold increase even in a period of very low cost inflation.

Should the Commission determine that the benefits of indexing the thresholds outweigh the administrative costs of doing so, then we urge it to ensure that wording of the indexation clauses implements a more even handed indexing methodology. Any such methodology should implement the principle of maintaining the thresholds at the current levels in real terms over time – allowing for both inflationary and deflationary cost environments. The current wording should not be accepted.

We have not examined the appropriateness of the Producer Price Index proposed by ETNOF, but suggest the AEMC should review the history and make-up of this index and determine that there is a solid basis for using it compared to the Consumer Price Index that is used in other Regulatory Transmission company cost escalations (eg. Revenue caps).

**Proposal 3: Require transmission network service providers (TNSPs) to disclose certain information on all proposed replacement network assets in excess of 5 million dollars in their Annual Planning Reports.**

We have not reviewed the current disclosure requirements with regard to replacement network assets in Annual Planning Reports, however this proposal appears to align with our principle of erring on the side of more rather than less disclosure for Regulated Network businesses. In an environment where commentators suggest significant replacement expenditure should be expected, we support increased disclosure of TNSP plans in this regard.

*Exceptions*

Ergon Energy Queensland does not endorse this submission. Ergon Energy believes there is merit in adopting the key elements of the ETNOF Rule Change Proposal, particularly the revision and indexation of monetary thresholds for the application of the Regulatory Test. The merits of the proposal are addressed in Ergon Energy's separate submission.

Energy Australia supports the principle of transparency for regulated businesses, however believes that an adjustment to the thresholds from current levels is appropriate.

Should you require any further information in relation to this matter please feel free to contact me on (02) 9437 6180.

Yours sincerely

*[Transmitted Electronically]*

Cameron O'Reilly  
Executive Director  
**Energy Retailers Association of Australia**