

15 September 2016



Mr John Pierce
Australian Energy Market Commission
PO Box A2449
201 Elizabeth Street
SYDNEY NSW 1235

Electronic lodgement – ERC0207

Dear Mr Pierce

Consultation Paper National Electricity Amendment (Rate of Return Guideline Review) Rule 2016 and National Gas Amendment (Rate of Return Review) Rule 2016

Energex appreciates the opportunity to respond to the Australian Energy Market Commission's (AEMC) Consultation Paper relating to the Australian Energy Regulator's (AER) rule change request to extend the timeframe to review the rate of return guideline (the Guideline) by 2 years, to 17 December 2018.

In light of the significant rate of return issues currently in contention before the Australian Competition Tribunal and Federal Court of Australia, Energex supports the AER's rule change proposal to extend the review deadline of the current Guideline until the issues have been fully resolved. These appeal processes could significantly influence the estimation of the allowed rate of return in future regulatory determinations.

In addition, Energex supports in principle the AEMC's proposal to include transitional provisions as this provides regulatory certainty for stakeholders. However, Energex has some concerns with the AEMC's preferred transitional arrangements. Energex notes that, in addition to the six affected service providers identified by the AEMC (TasNetworks, Power and Water, Ausgrid, Endeavour, Essential, and ActewAGL), the review deadline of 17 December 2018 is also potentially problematic for Queensland distributors, given that Energex is expected to submit its initial regulatory proposal by 31 January 2019.

Energex acknowledges that the rule change request provides a maximum timeframe between reviews of the Guideline and that the AER has indicated that it will endeavour to complete the Guideline earlier than December 2018. Undoubtedly, Energex's preference is for the reviewed Guideline to apply in its next regulatory determination process, however, the proposed transitional arrangements present a potential scenario where Energex has approximately

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a month to consider and apply the Guideline in its regulatory proposal, which would be unreasonable.

In this regard, Energex supports the alternative transitional arrangements previously considered by the AEMC, that would require network service providers to apply a version of the Guideline published a set number of months (preferably not less than 3 months) before the submission of the regulatory proposal. These transitional arrangements not only provide network businesses with certainty regarding the applicable Guideline but also sufficient time to consider the Guideline.

Should you require any further information regarding this matter, please do not hesitate to contact Guy Mutasa on (07) 3664 4459

Yours sincerely



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