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24 February 2006

John Tamblyn  
Chairman  
Australian Energy Market Commission  
PO Box H166  
Australia Square NSW 1215

Dear John

### **National Electricity Amendment (Reform of the Regulatory Test Principles) Rule 2005**

This letter sets out the comments of Alinta Gas Networks and Multinet Gas (“the companies”) on the Rule change proposal relating to the Regulatory Test promulgated by the Australian Energy Regulator (AER) under the National Electricity Rules. The companies welcome the opportunity to make this submission.

As you know, the National Electricity Rules (NER) and the National Gas Code presently set out two different sets of regulatory provisions relating to new infrastructure investment. The Ministerial Council on Energy (MCE) is presently working on the development of a national framework for electricity and gas distribution and retail regulation. One of the key outcomes being sought by the MCE’s work in this area is: “consistency, to the greatest extent appropriate, between the regulatory arrangements applying in the electricity and gas sectors.”

The companies understand that the Rule Change Application is aimed at addressing issues that arise only in the electricity transmission sector, and as such the rule change would not have direct implications for new investment proposals in the gas sector or for electricity distributors. Having said that, the companies are disappointed that the MCE’s Rule Change Application relating to the Regulatory Test precedes the conclusion of the MCE’s work to establish a national framework for energy distribution and retail regulation. It is noted, in particular, that new investment is one of the areas in which greater consistency between the regulatory arrangements applying in the electricity and gas sectors is likely to be beneficial and achievable.

Our experience as gas distribution facility owners over the past decade or so suggests that the National Gas Code provides an effective regulatory framework for new facilities investment. The companies therefore urge the AEMC to consider the applicability to electricity of the National Gas Code’s framework for New Facilities Investment (set out in sections 8.15 to 8.19 of the Code).

If the AEMC ultimately determines that the retention of a separate Regulatory Test under the Rules is required, then the companies consider that the relevant Rule change should be progressed in a way that does not pre-empt or constrain the outcomes of the MCE's present work in establishing a national framework for energy distribution and retail regulation. This could be achieved by amending the proposed Rule 5.6.5A to clarify that the Regulatory Test is to apply to electricity transmission only.

Please contact Geoff Towns, Economic Regulation Manager on (03) 8544 9434 if you wish to discuss any of the matters raised in this submission.

Yours sincerely

**Julie Buckland**  
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