

21 January 2010

Mr John Pierce
Chairman
Australian Energy Market Commission
PO Box A2449
Sydney South
NSW 1235

Dear Mr Pierce

ETSA Utilities submission on AEMC draft Rule determination: National Electricity Amendment (DNSP recovery of transmission-related charges) Rule 2010: ERC0114

ETSA Utilities welcomes the opportunity to make a submission on the draft Rule determination published by the Australian Energy Market Commission (**AEMC**) on 2 December 2010 in relation to the recovery of transmission-related charges. Consistent with its previous submissions, ETSA Utilities maintains that a DNSP should be permitted to pass through to customers any upstream transmission charges and transmission-related costs.

ETSA Utilities has had the benefit of reviewing the submission that will be lodged by the Victorian distribution network service providers (**Victorian DNSPs**) in response to the AEMC's draft Rule determination.

ETSA Utilities supports the submissions made by the Victorian DNSPs, particularly in relation to the issues set out below.

ETSA Utilities sees considerable benefit in providing for categories of "other charges" that may be specified in a distribution determination and then be dealt with as part of the annual pricing proposal process. ETSA Utilities considers that such an approach provides a suitable degree of flexibility to deal with what should be relatively unique circumstances, while providing appropriate regulatory oversight of these charges.

ETSA Utilities also considers that the proposed Rule should provide for charges associated with transmission services generally to be dealt with through the annual pricing proposal process. At a minimum, ETSA Utilities believes that, with respect to transmission services, clause 6.18.7 should provide for prescribed and negotiated transmission services, as opposed to the proposed category of "designated pricing proposal services" in the AEMC's draft determination.

In relation to the method the AEMC has proposed to calculate any over or under recovery amounts, ETSA Utilities considers that the current arrangements whereby the AER decides as part of a distribution determination the adjustments to be made to subsequent pricing proposals to account for over or under recovery be retained. This is opposed to the approach in the AEMC's draft Rule, which attempts to incorporate in clause 6.18.7 a detailed method for the calculation of any over or under recovery amounts. In this regard ETSA Utilities notes the submissions of the Victorian DNSPs that there appears to be an error in the method set out by the AEMC in the draft Rule. To the extent the AEMC is likely to determine a prescriptive method to calculate any over or under recovery amounts as part of the Rule change, ETSA Utilities would request that the AEMC continue to consult in relation to the form of any such provisions.

Finally, it appears that the AEMC does not propose to adopt the transitional provision proposed by the Victorian DNSPs, which provided that nothing in the amending Rule would affect the validity of a distribution determination made prior to the commencement of the amending Rule or a pricing proposal approved by the AER prior to the commencement of the amending Rule. The AEMC does not provide an explanation as to why it has not adopted this element of the amendments submitted by the Victorian DNSPs. ETSA Utilities considers that such a provision would be appropriate and of assistance to DNSPs in providing regulatory certainty.

Should you have any questions please contact James Bennett on (08) 8404-5261.

Yours sincerely

Eric Lindner

General Manager Regulation and Risk