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Dear Dr.  Tamblyn

**Draft Rule Amendment:
Economic Regulation of Transmission Services Undertaken by Distributors**

EnergyAustralia is pleased to note the release by the AEMC of this draft Rule Amendment, in response to the Rule change proposal submitted by EnergyAustralia to the AEMC on 21 March 2007 and subsequent consultation. EnergyAustralia strongly supports the Rule Amendment, which would effectively preserve the arrangements now enshrined in the transitional Rules for DNSP and ACT distributors. However, there are two issues on which I would like to comment, as follows:

Modification of EnergyAustralia proposal

The AEMC's draft Rule modifies EnergyAustralia's original proposal, to the effect that:

1. DNSPs are not required to apply to the AER for approval to have their "dual function assets" (DFAs) treated as distribution assets for regulatory purposes; and
2. DNSPs must inform the AER of the value of its DFAs as a share of their RAB to enable the AER to determine whether transmission pricing arrangements should apply. If so, the AER is required to make this known to the DNSP in its Framework and Approach paper.

With respect to the first of these changes, EnergyAustralia has no issue. This would streamline the economic regulatory process by avoiding the need for DNSPs to: identify DFA assets; then apply to the AER; for approval to have those DFAs regulated as distribution assets.

EnergyAustralia also supports the intent of the second modification, as we had proposed that the application of transmission pricing to DFAs would be dependent upon an application by the DNSP to the AER.

It had been proposed that the AER would approve the application if certain criteria relating to the role of the assets and impacts on the NEM were satisfied. In its original application, EnergyAustralia proposed that the factors that the AER should take into consideration in assessing whether transmission assets should be subject to a separate pricing approach to distribution include:

1. The value of the assets classified as part of the transmission network;
2. Regulatory impediments to implementing such a method;
3. Customer impacts.

The first and last points of EnergyAustralia's proposal have effectively been addressed through the AEMC's proposed Rule Amendment. However the second point remains relevant and in EnergyAustralia's view has not been adequately covered by reference in 6.25 (c)(3) to "any other



matter that the AER considers relevant. The particular concern relates to the operation of side constraints, which will be in place at both the network and retail level and would potentially inhibit the application of pricing changes arising due to changes in the cost allocation arrangements.

It is apparent from the commentary in Section 5.1.2 of the draft Rule Determination that the AEMC does not appreciate the significance of the price shocks that would attend a change from transmission to distribution pricing. The prices of large customers are ordinarily cost reflective according to the allocation processes employed, which differ for transmission and distribution. Nor, it seems, does the AEMC appreciate the spirited reaction of customers that attends significant price increases.

For this reason, EnergyAustralia submits that the proposed Rule change should be modified to include EnergyAustralia's reference to regulatory impediments.

Position on negotiated transmission and negotiated distribution services

In my letter of 11 March 2008, I recommended that the AEMC also consider rationalising the provisions regarding negotiated transmission and distribution services as part of the current Rule change. The intent of this suggestion was to reduce uncertainty for customers and administrative costs, where different provisions are now required within the same network business depending upon the electrical configuration (not voltage) of the assets involved. I had set out in my letter in some detail, the compelling arguments in favour of this change.

I am disappointed that the AEMC has chosen not to respond to this proposal, which affects not just EnergyAustralia, but all DNSPs that have DSAs.

I would be grateful if the AER were to consider this matter and incorporate the minor amendments that would be required to implement it.

EnergyAustralia officers would be happy to expand or further explain this submission and to participate further in the development of drafting if this would assist the Commission.

Yours sincerely,



Harry Colebourn
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