



19 August 2005

Dr John Tamblyn
Chair
Australian Energy Market Commission
PO Box H166
AUSTRALIA SQUARE NSW 1215

Dear Dr Tamblyn

Scoping Paper - Review of Electricity Transmission Revenue and Pricing Rules

The Energy Networks Association (ENA) welcomes the opportunity to comment on the recent Australian Energy Market Commission Scoping Paper for the *Review of Electricity Transmission Revenue and Pricing Rules* (Scoping Paper).

The development of potential amendments to Chapter 6 of the *National Electricity Rules* is an important issue for ENA members, who own and operate distribution network infrastructure valued at around \$30 billion regulated under existing electricity access regimes. The future content of any amended Chapter 6 is likely to have a significant impact on electricity network businesses, particularly on the approximately \$5 billion of investment required each year to maintain and enhance the capacity of networks to meet growing demand in a reliable and efficient manner.

Scope of the review

Energy network businesses have been seeking greater clarity from Australian governments on the intended scope of the Chapter 6 review, particularly given we are aware of discussions on alternative review or institutional processes for the development of future 'model' energy access rules for electricity and gas distribution and transmission. In addition, we understand governments continue to actively consider specific policy guidance to the AEMC on the scope of the current review.

Until any specific guidance is forthcoming, the ENA supports the Commission's approach of adopting a wide and deliberately open stance to the scope of the review, while recognising that the review has not been asked to consider distribution regulation.

Future guidance to the AEMC offered by governments, or clarity regarding the process for development of future model energy access rules, however, may permit the AEMC to adopt a narrower scope for its current review. To the extent that the review has the potential to play a significant role in the generic development of energy access regimes, however, energy network businesses intend to actively participate in the review.

Consistent with the scope of the review, energy network businesses would consider it appropriate for the Commission to be guided by key developments impacting on the future development of energy access regulation, including the Productivity Commission's recent reviews of the gas and national access regimes, and the recent report of the Prime Minister's export infrastructure taskforce. The Commission should also place appropriate weight on policy directions provided by Australian government responses to these reviews.

Form of regulation and alternative regulatory approaches

Section 35 (3) of the *National Electricity Law* imposes certain requirements on the rules which may be made by the AEMC in relation to the economic regulation of transmission systems.

The ENA's initial view is that these provisions would *not* represent a barrier to the AEMC developing rules which facilitated the adoption of alternative approaches to the current CPI-X building block approach. In this regard, the ENA considers that the AEMC should examine under its review the scope for new Rules to specify alternative lighter-handed regulatory approaches where appropriate, including price monitoring.

To inform itself of a suitable way to progress such alternative approaches, the ENA urges the AEMC to consider amendments to the National Gas Code proposed by the Productivity Commission in June 2004 which were designed to facilitate similar objectives.

Timetable for review of regulation of electricity transmission prices

The Scoping Paper raises the proposal of undertaking a two-stage consultation process focused initially on 'revenue determination' principles, with later work occurring on the structure and establishment of individual transmission prices.

The ENA supports this staged approach, with the understanding that it would be critical for the second stage to be adequately informed by the conclusions of the AEMC on revenue determination issues, given the linkages which exist. If any regulatory or legislative amendments are required to give this proposed two-stage process effect, energy network businesses would support these being made expeditiously.

Energy network businesses consider that recent public policy debate on infrastructure regulation has highlighted that the issues of ensuring both adequate investment in, and appropriate returns on, infrastructure assets mostly relate to the principles and approaches used in establishing benchmark allowable revenues. This makes early careful consideration of these issues of highest priority.

Regulatory discretion and procedural requirements

There is a wide consensus amongst energy market participants that the existing principles of Chapter 6 of the Electricity Rules fail to provide clear or robust guidance for investors, access seekers and regulatory bodies regarding the economic regulation of electricity transmission and distribution systems.

A principal task of the review should be to examine comprehensive reform to provisions of Chapter 6 which have unclear meanings or which impose indeterminate obligations on any party.

The ENA broadly supports the approach of the Scoping Paper on matters which may be relevant to the formulation of rules in relation to AER procedures. It is critical that these procedural rules reflect current policy best-practice, and the decade of experience with alternative procedural models. This matter is of particular concern to energy network businesses given that the AER is currently scheduled to assume responsibility for the economic regulation of distribution networks from 2006. There does not appear to be strong justification for procedural rules to differ significantly between electricity transmission and distribution regulation, provided these rules adequately reflect current policy best practice.

Recent public policy developments and the outcomes of a number of inquiries on infrastructure investment and regulation issues strongly support the best practice 'propose-respond' regulatory model, based on the model which has operated in the gas access regime since 1998. For example, the Western Australian government last year introduced a propose-respond model through its *Electricity Network Access Code*. Energy network businesses consider the propose-respond model has a number of significant advantages over the 'first-generation', regulator-driven apply-assess model referenced in the Scoping Paper.

The ENA looks forward to continuing to participate in the AEMC's public consultation processes associated with the current review. Please feel free to contact me on (02) 6272 1555 if you have any queries relating to this letter, or wish to discuss any aspect of ENA's comments further.

Yours sincerely

[Signed copy follows]

Bill Nagle
Chief Executive
Energy Networks Association