

12 February 2010



Dr John Tamblyn
Chair
Australian Energy Market Commission
PO Box A2449
Sydney South NSW 1235

Dear Dr Tamblyn

Payments under Feed-in Schemes and Climate Change Funds Rule Proposal (Project Ref. ERC 0097)

ENERGEX welcomes the opportunity to provide comment on the *Payments under Feed-in Schemes and Climate Change Funds* National Electricity Rules (Rules) change request lodged by ETSA Utilities on 7 October 2009.

ENERGEX supports the intent of Rule change request and agrees with the rationale provided by ETSA Utilities.

It is unfeasible for a Distribution Network Service Provider (DNSP) to seek efficiencies with respect to payments under feed-in tariff (FIT) and Climate Change Funds (CCF) because they represent an uncontrollable cost incurred by the DNSP. In regards to FIT payments, the DNSP is unable to influence generator take up rates, the capacity and output of generators, and the legislated FIT rate. In regards to CCF payments, the DNSP is unable to influence the legislated contribution.

ENERGEX therefore agrees that an ex-post assessment of actual payments is required. As Chapter 6 of the Rules does not provide a specific exception for when a DNSP's allowed revenue is able to be adjusted for such payments, the AER's preferred approach is to allow for the over/under recovery of these payments to be managed via a specific nominated pass through event. ENERGEX's revised regulatory proposal for the 2010-15 regulatory period provides for this treatment in regards to FIT payments.

ENERGEX considers an annual pricing adjustment mechanism to be a more efficient approach to managing over/under-recoveries than an annual pass through application. The pass-through process under the Rules is considered to be more administratively burdensome on the DNSP and the AER than the determination of an adjustment factor for annual pricing.

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ENERGEX also considers that the dynamic nature of an annual adjustment mechanism can enhance the cost-reflectivity of annual distribution prices. Under the current treatment, the annual forecast and pass-through component reflect forecasts made up to five (or more) years previous to the year which they relate. An annual pricing adjustment mechanism would allow the components to reflect estimates made no more than two years previous to the year which they relate.

Importantly, the Rule change if made is unlikely to come into force until after the final determinations for Queensland and South Australian DNSPs. The final determinations are therefore likely to include a FIT payment allowance in the operating expenditure forecasts and provide for a specific nominated pass through event for over/under recoveries. ENERGEX notes that the proposed Rules appear to be framed in an attempt to resolve such timing issues.

However, ENERGEX seeks clarity regarding the operation of proposed clause 6.12.1(19B). ENERGEX notes that:

- The Queensland Solar Bonus Scheme was in force prior to the lodgement of ENERGEX's regulatory proposal and an operating expenditure allowance is likely to be included in the final determination and so proposed clause 6.12.1(19B) may not apply to ENERGEX for the 2010-15 regulatory period;
- A new Rule that can operate to vary a distribution determination that is in force may be contrary to the regulatory framework provided for in Chapter 6 of the Rules; and
- Clause 6.12.1 of the Rules appears limited to setting out the constituent decisions required of a distribution determination.

In light of these issues, a different approach to the Rule change might be preferred.

For example, clause 6.12.1(19A) might be redrafted to require a constituent decision on the reporting of the recovery of payment amounts and annual adjustments for a FIT scheme and CCF that may be in place or implemented in the relevant jurisdiction at any time prior to the next regulatory control period.

Furthermore, the necessity of proposed clause 6.12.1(19B) might be reconsidered. ENERGEX considers that clause 6.18.2(b)(6B) should be framed so as to allow the DNSP, in annual pricing proposals relating to distribution determinations made prior to the Rule coming into force, to propose a methodology to adjust tariffs resulting from over or under recovery of FIT scheme and CCF payments in the previous regulatory year. This Rule would have to be functional despite the operation of clause 6.18.2(7) of the Rules.

Please do not hesitate to contact Mick Ryan, Regulatory Affairs Manager - Operations on 07 3407 4386 should you wish to discuss these issues further.

Yours sincerely



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