

Mr John Tamblyn  
Chairman  
Australian Energy Market Commission  
Level 16  
1 Margaret Street  
Sydney NSW 2001

Dear Sir

### **AEMC Consultation: Draft National Electricity Amendment (TransGrid Participant Derogation - Treatment of Contingent Projects (Interim Arrangements)) Rule 2005**

Thank you for the opportunity to comment on the abovementioned consultation. As the proponent of this derogation, TransGrid also appreciates the prompt attention the AEMC is giving to this matter. As you may be aware from TransGrid's application, the processing of this matter promises to be of benefit to electricity consumers by removing potential delays in progressing so called 'contingent' investments such as the possible upgrade of QNI.

One matter of concern is that the TransGrid derogation application proposed an expiry date in conditional terms as follows:

*"This derogation expires on 30 June 2009 unless the AER has not by that date set the revenue cap for TransGrid for a Future Regulatory Period, in which case the derogation will expire on the date the AER sets that revenue cap."*

In contrast the AEMC has proposed a fixed expiry date of 30 June 2009.

While TransGrid appreciates the desire to avoid the use of conditional expiry dates for derogations, it would appear that, in this case, it is warranted for the following reasons.

Firstly, the derogation is required to give legal effect to provisions that are in TransGrid's current revenue cap framework. As such the derogation is relevant for the regulatory control periods covered by that framework, and is linked directly to the expiry of that framework in favour of the new framework as set out in the Rules for revenue cap regulation currently being developed by the AEMC. It is not appropriate to have an expiry date for a derogation that does not align with the expiry date of the relevant regulatory framework.

Secondly, there is a reasonable prospect of there being some adjustment to TransGrid's current regulatory control period and associated regulatory framework. This appears most likely to arise from the AEMC's current review of transmission revenue and price setting Rules. Among other matters, the recent AEMC Issues Paper that was published as part of this review canvassed the possibility of bringing the dates of all future transmission determinations into alignment. It also sought comment on issues associated with transitioning from the current regulatory arrangements to the new Rules. Any options for addressing these issues would appear to involve a range of possible dates for moving from the current regulatory framework to the new Rules.

In light of these considerations we ask that the expiry date for this derogation be established on a conditional basis. A possible alternative to the original TransGrid proposal could be as follows:

*"This derogation expires when the new revenue setting Rules currently being developed by the AEMC in accordance with the requirements of Section 35 of the National Electricity Law come into effect for TransGrid, or 30 June 2011, depending on which event occurs first."*

The advantages of this approach are that it clearly links the derogation to the regulatory arrangements applying to TransGrid prior to the application of the new Rules currently being developed, and has a fixed termination date in the unlikely event that TransGrid's transition to the new Rules is not completed by 30 June 2011.

I trust the AEMC would agree that this proposal is an improvement on both the original TransGrid proposal and the proposal to adopt a single unconditional expiry date.

Yours sincerely

  
for Philip Gall 18/11/05  
Manager/ Regulatory Affairs