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Extension of Time for the AER to Conclude its Review of the WACC Parameters for Electricity Transmission and Distribution - Project Reference Code ERC0083

Proposed Rule Change

Dear Dr Tamblyn

The Energy Networks Association, GridAustralia and the Australian Pipeline Industry Association - the Joint Industry Associations (JIA) - welcomes the opportunity to make this submission in response to the AER's proposed Rule change, *Extension of Time for the AER to Conclude its Review of the WACC Parameters for Electricity Transmission and Distribution*. The AER's proposed extension is from 31 March 2009 to 01 May 2009.

The JIA does not object to the extension of time and welcomes the opportunity for the AER to fully analyse submissions on their Proposed Statements.

As stated in the JIA submission to the AER, members are extremely concerned that the proposed WACC determination would, if implemented in the Final Determination, lead to a substantial reduction in the revenues available to meet returns demanded by the market for providing the necessary capital to regulated infrastructure. Such an outcome would be contrary to the legislative requirements describing how the rate of return for electricity transmission and distribution businesses is to be determined as set out in the National Electricity Law and the Electricity Rules. Furthermore, any reduction in the rate of return, let alone a reduction as proposed by the AER is entirely inconsistent with prevailing market conditions.

The global financial crisis has triggered unprecedented capital constraints and sharp increases in the risk premia required by lenders and equity investors, at a time when very substantial additional capital needs to be attracted to the sector. In this environment, any downward revision of the WACC would not only be contrary to the principles enshrined in the National Electricity Law and Rules, it would have broad-ranging and long-lasting negative consequences for investment in Australian energy infrastructure.

However, the JIA is concerned that the delay in the timing of the decision as proposed by the AER will have a detrimental impact on three distribution businesses that are scheduled to lodge their revenue proposals at the end of May 2009. The JIA also understands that there are ongoing discussions between the affected businesses and the AER to come to some suitable arrangements that will mitigate the impact of the extension on those businesses. The JIA can only support the requested extension of time if the AER is able to ensure that the affected businesses are not adversely impacted by the delay by entering into suitable arrangements with those businesses. In addition, the JIA is strongly of the view that any change to the timing of the Review should apply to the current review only. It is not appropriate for an urgent Rule change request to permanently change the timing of future cost of capital reviews to be undertaken by the AER. Permanent changes to the timing of this and any other regulatory reset reviews is a decision that needs to be fully assessed by all interested parties and therefore should be subject to a full consultation process.

In summary, the JIA supports the use of the 'Non Controversial' rule change approach subject to a satisfactory resolution of the issues affecting the three distribution businesses that are required to lodge a regulatory proposal by 31 May 2009 and the 1 May 2009 completion date relates only to this WACC Review. That is for the proposed Rule change to be considered as non-controversial and expedited, it must be altered to only reflect a change to the current review date for this Review only.

Yours sincerely



Andrew Blyth
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Cheryl Cartwright
Chief Executive, Australian Pipeline Industry Association



Gordon Jardine
Chairman, Grid Australia