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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 draft Rule determination (draft determination) and draft *National Electricity Amendment (Payments under Feed-in Schemes and Climate Change Funds) Rule 2010 (Draft Rules)* published on 8 April 2010.

Definition of 'jurisdictional scheme obligations'

The Draft Rule Determination notes that distribution network service providers (DNSPs) should be provided with a reasonable opportunity to recovery any payments mandated by legislation where no other recovery mechanism is applicable outside the Rules. Within this context, ENERGEX seeks confirmation that the scope of scheme obligations covered by the Draft Rule extends to those imposed under Commonwealth legislative instruments, most notably Commonwealth renewable energy legislation.

Revocation and substitution of a distribution determination

ENERGEX agrees with the AEMC's evaluation that the current framework for recovering a forecast of eligible scheme costs through the distribution determination is inefficient for DNSPs and the Australian Energy Regulator (AER). The pass through process for under/over recoveries is also relatively unclear as the efficiency assessment criteria under the Rules does not appear to align with the nature of scheme payments. ENERGEX supports the draft determination's conclusion that recovery of eligible scheme payments be accommodated in the annual pricing proposal and approval process.

The Draft Rule's approach to transitioning DNSPs requires a revocation and substitution of the distribution determination for the regulatory control period if a DNSP seeks to avoid the pass through process and remove any forecast of

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scheme payments from its smoothed revenue requirement and recover the amounts via the annual pricing adjustment process.

The revocation and substitution of an existing distribution determination can be an onerous measure for the distribution business and the AER and, depending on the depth of amendment requirements, disproportionate to the relatively cursory process of adjusting for forecast scheme payments. The disincentive created may be considered as inconsistent with the National Electricity Objective of the efficient provision of electricity services.

If the revocation and substitution requirement is to remain, a balanced approach that provides regulatory certainty for affected DNSPs might involve the AEMC and/or AER providing supplementary guidance as to:

- Whether it would be sufficient for the revocation and substitution process to only involve the subtraction of the annual payment forecasts from the annual smoothed revenue requirement in the interests of administrative simplicity; and/or
- How pass through application requirements under the Rules reconcile with the nature of the eligible scheme payments.

Please do not hesitate to contact Mick Ryan, Regulatory Affairs Manager - Operations on 07 3223 1788 should you wish to discuss these issues further.

Yours sincerely



Neil Andersen
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