



28 February 2006

John Tamblyn, Chairman
Australian Energy Market Commission
Level 16, 1 Margaret Street
Sydney NSW 2000

By email: submissions@aemc.gov.au

Dear Dr Tamblyn

Reform of the Regulatory Test Principles

The Energy Retailers Association of Australia (ERAA) appreciates this opportunity to make a submission to the above consultation. The ERAA considers that encouraging an appropriate level of transmission investment in the NEM is critical to ensuring competitive wholesale and retail markets in electricity. A clear, stable transmission regulatory investment framework which effectively assesses all the costs and benefits of transmission investments, and their practicable alternatives, provides an essential foundation for ensuring efficient generation and transmission investment occurs in the NEM over time.

We are therefore supportive of efforts by the Ministerial Council on Energy (MCE) to provide strong policy input into clarifying and better articulating the role and application of the regulatory test.

In our view, the policy principles proposed by the MCE are largely consistent with the needs of market participants. In particular, we agree that the test should focus on net market benefits, be competitively neutral among network and non-network alternatives and should only allow the efficient costs of meeting reliability requirements to be recovered from consumers. Having this enshrined in legislation will also greatly enhance the predictability and stability of the regulatory investment framework.

As such, it is disappointing that the MCE does not intend to codify the proposed regulatory test guidelines; with the effect that some of the critical content underpinning the test is subject to change at the AER's discretion. The ERAA considers that the AER should not be in a position to amend key aspects of regulation that it administers and enforces: the responsibility for such changes better lie with the rule developer, the AEMC. In this way any change to key aspects of the regulatory test can undergo a formal consultation process where all parties can make an equal contribution. The MCE would be the final decision maker, which is consistent with its policy development role.

In our view, ensuring that as much of the content of the regulatory test and the process of its application is contained within the rules would enhance certainty for market participants while improving governance. We note this would be consistent with the recent determination by the AEMC to elevate much of the Statement of Regulatory Principles (SRP) to the Electricity Rules.

The ERAA looks forward to making a contribution towards the next stage of consultation on the appropriate form and content of the regulatory test guidelines, which will provide some significant issues of concern to Retailers.

If you have any queries on the content of this submission, please contact me or Alastair Phillips at ERAA (02) 9369 4296.

Yours sincerely,

Sent via email.

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