

22 December 2011

Mr Richard Khoe
Director
Australian Energy Market Commission
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Business
Council of
Australia



Dear Mr Khoe

ECONOMIC REGULATION OF NETWORK SERVICE PROVIDERS (ERC 0134)

The Business Council of Australia (BCA) welcomes the opportunity to provide brief comments on the rule change proposals related to the economic regulation of network service providers currently before the Australian Energy Market Commission (AEMC). The BCA is an association of the CEOs of around 100 of Australia's leading corporations with a combined workforce of over 1.2 million people.

Having an efficient and effective energy market will be the best way to facilitate the adoption of the optimal mix of supply and demand-side technologies at the lowest possible cost to ensure that our energy supply is reliable, affordable and supports our transition to a low-carbon economy.

Recent increases in electricity prices have placed greater emphasis on the factors underpinning those prices, particularly in terms of network costs, which have been the most significant drivers of these increases.

The BCA does not underestimate the complexity of energy network regulation or the various factors contributing to increased prices, including strong growth in peak demand, along with the need to maintain reliability and replace ageing assets. The AEMC is in the best position to understand these factors and assess the arguments made by the Australian Energy Regulator (AER), network service providers and users.

While it may not be the case that all parties will agree with the regulated outcomes on every occasion, it is important that all parties have confidence in the integrity and effectiveness of the rules governing these outcomes. In particular, there should be confidence that the objective of promoting efficient investment in and efficient operation and use of energy services for the long-term interests of energy users is able to be met. It is in this context that the BCA considers that it is appropriate to examine whether the rules in question are delivering on this objective.

The regulatory framework for electricity was designed with the active participation of market participants in mind and therefore the BCA considers the initiation of a rule change proposal by energy users is a positive development.

The concerns raised by the Energy Users Rule Change Committee warrant close examination by the AEMC in assessing how the current arrangements are working.

The committee has raised concerns about the extent to which regulated returns on debt to date are reflective of how the sector manages its debt and relevant industry benchmarks. In assessing these concerns, it could be useful for the AEMC to outline how Australia's regulatory arrangements compare with those in other jurisdictions and how other jurisdictions account for changes in industry practices and financial markets over time.

The BCA considers that proposals for greater regulatory discretion and flexibility must be balanced against the need for regulatory certainty for both users and network service providers. In determining the appropriate balance between rules-based parameters and regulatory discretion, it would be useful to reflect on the current scope for the AER to use its discretion and the extent to which this level of discretion has been effectively applied in practice.

The BCA believes that the committee's proposal demonstrates the considerable effort required for energy users to engage in just one element of the design of the regulatory framework. As the committee suggests in its proposal, it is the first from energy users after more than 160 rule change proposals. There is a clear need for the rules and institutions to facilitate effective engagement with energy users' views during the regulatory process.

While subjecting these rule change proposals to thorough analysis and consideration is important, it is equally important that governments do not simply focus on rising network costs without acknowledging the broader steps that they can take to encourage more efficient energy markets in the long-term interests of consumers.

For example there remains substantial opportunity for the privatisation of state government electricity assets. There are also foundational steps that governments can take to begin to facilitate greater demand-side participation, which would assist in taking pressure off energy networks in peak times. Such demand-side participation must be effectively integrated in the market to draw on the incentives of providers and consumers without being unnecessarily burdensome or complex.

The BCA looks forward to the release of the commission's initial thinking on the rule change proposals in its directions paper early next year.

Yours sincerely



Maria Tarrant
Acting Chief Executive