

7 March 2013

Mr John Pierce
Chairman
Australian Energy Market Commission
Level 5, 201 Elizabeth Street
Sydney NSW 2000

Dear Mr Pierce

The NSW DNSP's Response to the *Consultation Paper – National Electricity Amendment (Network Service Provider Expenditure Objectives) Rule 2013*.

The NSW Distribution Network Service Providers, Ausgrid, Endeavour Energy and Essential Energy (the NSW DNSPs) welcome the opportunity to provide this joint submission in response to the *Consultation Paper – National Electricity Amendment (Network Service Provider Expenditure Objectives) Rule 2013*.

We note that the Standing Council on Energy and Resources (SCER) submitted this rule change request in relation to the operating expenditure (opex) and capital expenditure (capex) objectives in chapters 6 and 6A of the National Electricity Rules (the Rules). Specifically, the rule change seeks to clarify the expenditure objectives in the Rules such that Network Service Providers (NSPs) are only able to include sufficient expenditure for reliability in their regulatory proposals to maintain the current jurisdictional reliability standards. This is intended to avoid the potential for NSPs to propose expenditure to maintain the level of reliability they achieved in the previous regulatory control period (if the reliability targets are lowered or where NSPs are performing above the jurisdictional standards).

Separately, the SCER has also requested that the AEMC examine whether there is a similar need for clarification around expenditure relating to quality and security of supply and the safety of the network.

The NSW DNSPs agree with the intent of this rule change proposal and note that the Energy Networks Association (ENA) has publicly stated (in the context of the Economic Regulation of Network Service Providers rule change) that:

“It would be appropriate to amend the capital expenditure objectives to clarify that capital expenditure forecasts should seek to target mandated service and reliability standards. Where these standards have been amended, the current reference to the goal of “maintaining” existing levels of performance has the potential to cause a lack of clarity for both the service provider and AER alike.”¹

The NSW DNSPs are concerned, however, that the draft Rule is unnecessarily complex and goes beyond addressing the original issue identified by the AER. In the Economic Regulation of Network Service Providers Rule change proposal, the AER articulated the original issue as:

“While the AER has not proposed any rule changes with respect to the expenditure objectives, there is a potential issue with the reference to expenditure required to ‘maintain’ quality, reliability and security of supply.

¹ ENA Response to AEMC Directions Paper – Economic Regulation of Network Service Providers, p 24.

In June 2011, the MCE agreed to direct the AEMC to review the electricity distribution reliability standards. If the AEMC review leads to lower reliability standards in some jurisdictions then it would seem apparent that a policy expectation is that future capex forecasts would be set lower than they otherwise would be to reflect these lower reliability standards. In this event, there may be a conflict between objectives that require consideration of expenditure to both 'maintain' reliability standards and to 'comply' with the revised (lower) reliability standard."²

It is clear that the essential concern articulated by the AER is that it should not be required to accept expenditure forecasts which maintain levels of reliability that no longer reflect current standards.

The NSW DNSPs submit that this concern should be addressed by appropriately clarifying the expenditure objectives rather than restricting the ability of NSPs to put forward expenditure that does not align precisely with current standards, but which may otherwise be efficient and in the long term interests of consumers. The AEMC has recognised in its consultation paper³ that the proposed rule change may not provide sufficient flexibility for the AER to assess and determine the overall efficient level of expenditure consistent with contributing to the achievement of the National Electricity Objective (NEO). We agree with this assessment and submit that the proposed rule change inappropriately focuses on the expenditure allowance which may be proposed by the NSP rather than the actual objectives.

A preferable rule (which does not require additional clauses or the removal of expenditure objectives) is as follows:

6.5.6 Forecast operating expenditure

- (a) *A building block proposal must include the total forecast operating expenditure for the relevant regulatory control period which the Distribution Network Service Provider considers is required in order to achieve each of the following (the operating expenditure objectives):*
- (1) meet or manage the expected demand for *standard control services* over that period;
 - (2) comply with all applicable *regulatory obligations or requirements* associated with the provision of *standard control services*;
 - (3) ~~maintain~~ **meet any applicable standards for** the quality, reliability and security of supply of *standard control services*; and
 - (4) ~~maintain~~ **meet any applicable standards for** the reliability, safety and security of the *distribution system* through the supply of *standard control services*.

We believe that the above Rule (noting that an amendment would also be required to clause 6.5.7(a)) addresses the original intent of the issue raised by the AER, provides clarity to all parties, and is administratively efficient. In addition, it is consistent with our submission on the national reliability framework draft report.

² AER Rule Change Proposal – Economic regulation of transmission and distribution network service providers – AER's proposed changes to the National Electricity Rules, September 2011, p 33.

³ AEMC Consultation Paper National Electricity Amendment (Network Service Provider Expenditure Objectives) Rule 2013, 7 February 2013.

This submission indicated that minimum safety net standards for security of supply and worst served customers are likely to still be required where they are deemed necessary for the long term best interests of consumers⁴.

We consider that the alternative approach we have put forward largely obviates the need to address many of the specific issues raised in the AEMC's consultation paper. Our proposed approach addresses the issues of safety and security raised by the SCER, and avoids the need to remove objectives (3) and (4).

For completeness, however, we would like to signal that we would have serious concerns with any proposal to remove objectives (3) and (4). These objectives, which were carefully considered at the time Chapter 6A was first developed and were subsequently incorporated in Chapter 6, embody the principle of efficient investment for the long term interests of consumers which is inherent in the NEO. These expenditure objectives correlate directly to the limbs of the NEO which is concerned with efficient investment in, and efficient provision of, electricity services with respect to quality, safety, reliability and security of supply. In this regard, the objectives are an essential element of ensuring that the Rules, and decisions made under them, are likely to contribute to the achievement of the NEO.

As regards the meaning of objectives (3) and (4), we note the AEMC's comment in the consultation paper⁵ that objective (4) relates to services that are provided or procured by the NSP in order to operate its network as a whole. This seems to imply that objective (4) is concerned with standard control services as inputs into network operation, whereas we think the objective more broadly recognises that maintaining a reliable, safe and secure transmission or distribution system is part of the standard control services provided to customers, as distinct from the quality, reliability and security of the services experienced by the customer referred to in objective (3). We consider that our proposed amendment to both objectives is consistent with this meaning.

If you would like to discuss this matter further, please contact Mr Mike Martinson, Group Manager Regulation at Networks NSW on (02) 9853-4375 or via email at michael.martinson@endeavourenergy.com.au.

Yours sincerely,



Vince Graham
Chief Executive Officer

⁴ The NSW DNSP's Response to the Review of distribution reliability outcomes and standards, draft report – national workstream, p 9.

⁵ AEMC Consultation Paper National Electricity Amendment (Network Service Provider Expenditure Objectives) Rule 2013, 7 February 2013.

