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Mr John Pierce
Chair
Australian Energy Market Commission
PO Box A2449
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Dear Mr Pierce

The Queensland Government welcomes the opportunity to provide comment on the Australian Energy Market Commission's (AEMC) Draft Determination (the Determination) on Rule change requests from the Australian Energy Regulator (AER) and the Energy Users Rule Change Committee (EURCC) relating to the economic regulation of energy network businesses (your reference ERC0134, ERC0135 and GRC0011).

The Queensland Government shares the concerns of many other stakeholders regarding the part increasing network costs are playing in rising electricity prices. We are committed to ensuring that electricity in Queensland is delivered in a cost-effective manner for consumers, and that Queensland has a viable, sustainable and competitive electricity industry.

We are particularly conscious that the regulatory arrangements play a key role in helping to achieve these objectives. Overall the Queensland Government considers the changes foreshadowed in the Determination are a step in the right direction.

The Queensland Government generally looks favourably on the aim to improve the strength and capacity of the AER to scrutinise the prudence and efficiency of network service providers' (NSP) expenditure, along with the proposal to introduce more incentives for efficient levels of capital expenditure. The Government is also generally supportive of the proposal to introduce more flexible arrangements for setting the rate of return earned by NSPs, including proposed changes to estimating the cost of debt which would include the current approach or a trailing average. A more flexible approach should allow for adaptation to changing market conditions.

The Queensland Government also supports the proposed process changes including the proposal to commence the determination process earlier. We note however that the AEMC considers this could lead to determinations being based on substantially out-dated demand forecasts. If this is the case, the Government encourages the AEMC to consider whether there should be scope for NSPs to update their demand forecasts at an appropriate time in the process.

The Queensland Government is not yet convinced that the proposed new arrangements reflect an appropriate balance between regulator discretion and flexibility, and the need to provide sufficient certainty for NSPs and potential investors (to reduce regulatory risk and avoid potential for under-investment and risks to reliability). We encourage the AEMC to continue to pursue this outcome.

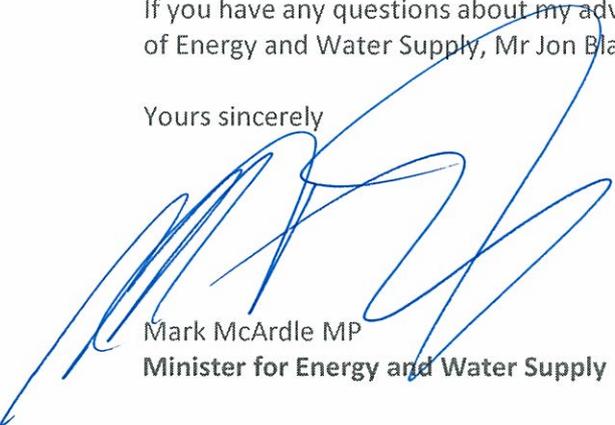
The Queensland Government considers there is a need for the AEMC, in finalising the Rule change, to:

- Focus on the need to provide adequate certainty and instil industry confidence, such as through -
 - Stronger accountability requirements on the AER, to complement the greater level of discretion being afforded. It is the Queensland Government's view that the AER's exercise of discretion needs to be bound by the objectives in the relevant areas;
 - Ensuring there is sufficient onus on the AER to make evidence-based decisions;
 - Ensuring the AER is obliged to take account of the specific (exogenous) circumstances that individual NSPs face;
 - Ensuring there are appropriate limits around the AER's exercise of discretion, particularly where it is to develop guidelines or schemes. Without appropriate parameters in the Rules, the AER will effectively be undertaking a level of rule-making not intended for it;
 - Ensuring proposed guidelines and methodologies and associated development processes will provide the required level of transparency and certainty. The Queensland Government notes the need for the rate of return arrangements to provide sufficient certainty and predictability for NSPs, investors and financiers, given the long term nature of investments;
 - Considering design features that will minimise potential negative impacts. In this regard, while the Queensland Government believes having the AER review the efficiency of past expenditure is important, we are concerned regular ex-post reviews have potential to be an onerous burden and to negatively impact investment certainty (as noted in the 2006 decision process for the Rules for economic regulation of transmission). While the Government supports the AER having scope to conduct such reviews, we suggest consideration be given to measures to minimise the impacts, such as a trigger or threshold.
- Take into account the issue of the regulator's capacity and performance. The Queensland Government has some concerns that the solutions proposed by the AEMC rely heavily on further empowering the AER, when the AER's capacity and performance has itself been questioned in this and other review processes. In this context, I encourage the AEMC to consider potential barriers to successful implementation of the changes and measures to address them.
- Recognise the strong links to the current Review of the Limited Merits Review regime and ensure continued liaison with the Standing Council on Energy and Resources on consideration and implementation of the Expert Panel's recommendations, to the extent they affect the Rule change proposals.

Finally, the Queensland Government welcomes the AEMC's continued rejection of the EURCC proposal for differential treatment of the cost of debt for privately-owned and government-owned corporation NSPs and reiterates the Queensland Government's strong opposition to the EURCC proposal.

If you have any questions about my advice to you, please contact the Director-General of the Department of Energy and Water Supply, Mr Jon Black, on 07 3006 2399.

Yours sincerely



Mark McArdle MP
Minister for Energy and Water Supply