

20 March 2006

John Tamblyn
Chairperson
Australian Energy Market Commission
PO Box H166,
Australia Square NSW 1215

Dear John,

AEMC Review of Electricity Transmission Revenue and Pricing Rules

ElectraNet welcomes the opportunity to respond to the AEMC's February 2006 Rule Proposal and accompanying Rule Proposal Report.

ElectraNet is also party to a comprehensive submission made by the Electricity Transmission Network Owners Forum, which comprises ElectraNet Pty Limited, Powerlink Queensland, SP AusNet, Transend Networks Pty Ltd and TransGrid.

Therefore, the scope of this submission is limited to addressing an important transitional issue for ElectraNet.

ElectraNet requests the AEMC insert a transitional provision in the National Electricity Rules (NER) preserving the power of the AER to adjust ElectraNet's regulatory asset base (RAB) at ElectraNet's next revenue reset (for the regulatory control period commencing 1 July 2008).

By way of background, there have been numerous discussions on this topic between the ElectraNet owners and the then-regulator, ACCC, starting just before the privatisation sale of the assets through to the present owners. The essence of the issue is that the owner's at the time of the acquisition of ElectraNet held a reasonable expectation that the ACCC would undertake a revaluation of ElectraNet's easements as part of the revaluation of the RAB at the second revenue reset.

On the basis of the material presented to the ACCC by the owners over the course of these discussions, the ACCC (Commissioner Ed Willett) wrote to ElectraNet in August 2004 (copy attached) giving an undertaking that it (as regulator) would consider revaluation of ElectraNet's asset base at the next revenue reset (for the regulatory control period commencing 1 July 2008), "if ElectraNet was able to establish that such a step accords with the reasonable expectations of ElectraNet's investors". ElectraNet understands the ACCC's rationale in giving such an undertaking was that, in circumstances where ElectraNet's owners had the reasonable expectation of

such a revaluation, there would be an economic case for revaluation, having regard to considerations of regulatory certainty and the resultant implications for incentives for efficient investment.

ElectraNet is aware that the ACCC letter does not constitute a regulatory commitment to change the asset value, but it is a clear commitment to reconsider it in the light of material to be provided by ElectraNet owners at the next revenue reset.

ElectraNet strongly believes that such a regulatory undertaking must be preserved, and not extinguished by new Rules. This is a matter of investor certainty and the reliance investors can place on a regulator's undertaking.

The AEMC is not required to form an opinion on the merits of adjusting ElectraNet's RAB and a decision to include the requested transitional provision does not constitute an opinion on behalf of the AEMC as to the merits of ElectraNet's submissions on the value of the adjustment to be applied to the RAB at the next revenue reset.

The crux of the decision for the AEMC is whether a clear undertaking given by the regulator, informed by a series of discussions and correspondence, should be vicariously extinguished or not by the commencement of the new provisions of Chapter 6 of the NER.

It is ElectraNet's contention that the undertaking should not be extinguished, but should be preserved by a transitional provision and that this is consistent with the AEMC's obligation to ensure the new Chapter 6 provisions provide effective incentives for the making of efficient investments (NEL, s35(3)(b)).

A possible wording of the transitional provision is:

"In accordance with a regulatory undertaking given to ElectraNet on 3 August 2004, the AER may revalue ElectraNet's regulatory asset base at ElectraNet's next transmission determination (for the regulatory control period commencing 1 July 2008) in accordance with the provisions of the NER as in force at the time of the undertaking."

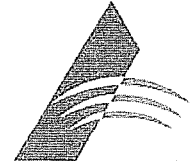
In summary, ElectraNet requests the AEMC insert a transitional provision in the NER to preserve the power for the regulator to act in accordance with the undertaking given by the ACCC (as regulator) to consider an adjustment to ElectraNet's RAB at ElectraNet's next revenue reset (for the regulatory control period commencing 1 July 2008). Such a transitional provision would satisfy the requirements set out in the NEL for the new Chapter 6 provisions.

Please contact Rainer Korte on (08) 8404 7983 if you have any queries with respect to this submission.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'IAN STIRLING', with a long horizontal flourish extending to the left.

IAN STIRLING
CHIEF EXECUTIVE OFFICER



Australian
Competition &
Consumer
Commission

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03 August 2004

Mr Ian Stirling
ElectraNet
PO Box 7096
Hutt Street Post Office
ADELAIDE SA 5000

Dear Mr Stirling

Thank you for your letter of 12 July regarding the case for adjusting ElectraNet's regulatory asset base.

I note that ElectraNet will be making a submission to the ACCC seeking an adjustment to its regulatory asset base before the ACCC rolls forward ElectraNet's asset base at the next revenue reset 1 July 2008.

The ACCC's preference to roll forward a TNSP's asset base reflects its views as to the best approach, under the Code, to asset valuation into the future. However, the decision on ElectraNet's asset base will be made at the re-set of its revenue cap in accordance with the requirements of the Code.

As previously noted by ACCC staff, the ACCC would consider revaluation of ElectraNet's asset base if ElectraNet was able to establish that such a step accords with the reasonable expectations of ElectraNet's investors.

Yours sincerely

Ed Willett
Commissioner

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