Trevor Armstrong
Executive General Manager
System Planning & Regulation

Level 9, 570 George Street
Sydney NSW 2000

Address all mail to:
GPO Box 4009
Sydney NSW 2001

Telephone +61 2 9269 2611
Facsimile +61 2 9269 7294

EnergyAustralia®

26 February 2010

Dr John Tamblyn
Chairman
Australian Energy Market Commission
PO Box A2449
SYDNEY SOUTH NSW 1235

By email to: AMEC's online lodgement

Dear Dr ~~Tamblyn~~ John

Review into the Use of Total Factor Productivity for the Determination of Prices and Revenues – Preliminary findings, 17 December 2009

EnergyAustralia welcomes the release of the Commission's preliminary findings on TFP and is pleased to provide our comments. Our detailed submission is attached.

We have reviewed the AEMC's very comprehensive and detailed report and we have a number concerns regarding the findings as to the suitability of TFP as an alternative form of regulation to that currently provided for under the Rules.

Rather than proceeding to implement a TFP approach in any substantive way, we consider that the focus should start on the information required to support TFP. The application of TFP requires a robust, relevant and long time data set which is currently absent. We consider the development of this dataset would take a number of years before TFP can be applied. Further, issues pertaining to TFP index specification are yet to be consulted and resolved. Therefore, we consider it is too early to commence the development of draft Rules.

If the Commission believes that, at a conceptual level, TFP would benefit the regulatory framework, we consider the logical progression is the resolution of data and index specification issues prior to developing the process and decision framework.

If any changes to the Rules are necessary, they should be focussed on resolving the outstanding issues in developing of an appropriate dataset. Any changes should allow all stakeholders to properly assess the impacts of additional reporting obligations as well as allowing the AER to properly assess the expenditure forecasts for the next regulatory proposal.

Finally, we support the consideration of other alternatives to improving the regulatory frameworks before a commitment to TFP is made. This is a prudent course of action given that there may be future developments in the energy markets that would impair the effectiveness of a TFP method.

If you have any questions or would like to discuss any aspect of this submission in greater detail, please do not hesitate to contact Ms Jane Smith on 9269 4171.

Yours sincerely

TREVOR ARMSTRONG
Executive General Manager
System Planning & Regulation

Submission on the AEMC's preliminary findings on TFP

February 2010

1 Overview

EnergyAustralia welcomes the opportunity to respond to release of the AEMC's (Commission) preliminary findings on TFP.

Our understanding of the Commission's overarching preliminary findings are as follows:[1]

- Applying a TFP methodology to determine regulated prices will contribute to the promotion of the National Electricity Objectives (NEO) in the distribution sectors.
- Further work is required to design an appropriate TFP method and to establish a regime for the reporting of data necessary for the application of a TFP method.

Based on the above findings and subject to further consultation, we understand the Commission intends to develop recommended draft Rules and submit them to the Ministerial Council on Energy (MCE). EnergyAustralia has a number of concerns with respect to the Commission's preliminary findings, specifically with the preliminary conclusion that the application of a TFP methodology would contribute to the achievement of the National Electricity Objective (NEO). Despite a detailed and comprehensive report, we see no clear and conclusive evidence or analysis to support such a conclusion. We consider that an assessment of the merits of TFP cannot and should not be based solely on its economic properties, devoid of issues surrounding its practical application.

The theoretical merits of a methodology used to determine regulated prices is important. However, to a regulated business, the practical application of the chosen methodology (and all the issues associated with it) is also critical and equally important. Hence, an assessment of any method should consider both its economic properties and how this method is applied in practice and whether the results from its practical application can satisfy the National Electricity Objective and Revenue and Pricing Principles.

In this context, we consider that the analysis presented by the Commission on the merits of TFP is inconclusive at best and does not justify a finding that a TFP methodology would promote the NEO and therefore draft Rules on its application should be recommended to the MCE. This is because:

- The Commission's assessment of the economic properties of a TFP method is based on a narrow set of assumptions. These assumptions may prove to be critical and could alter the Commission's assessment if relaxed.
- A significant number of issues relating to the specification of a TFP index and the definition and provision of the necessary data for TFP application remain unresolved. The lack of robust data has also made it difficult for the AEMC to reach conclusions on critical aspects of a TFP method. Of note is the Commission's preliminary finding that:

  > *It is likely that a TFP methodology could be appropriate for use in the electricity and gas distribution sectors.* ***However, in order to confirm this sufficiently robust and relevant data would be required to allow for testing and refining a TFP methodology****….the immediate focus of any further work should be on its (TFP) application to the electricity and gas distribution sectors.*[2]

  We consider that until the Commission is able to make a definitive assessment of various aspects of a TFP method and more importantly on the suitability of TFP to the gas and distribution sectors, no conclusive finding on whether TFP would promote the NEO can or should be made.

[1] AEMC 2009, *Review into the use of total factor productivity for the determination of prices and revenues*, Preliminary findings, 17 December 2009 (hereafter "Preliminary findings"), page xi.
[2] Preliminary findings, page 79 -80.

- We question the Commmssion's interpretation of the Revenue and Pricing Principle that a regulated network service provider would be provided with a reasonable opportunity to recover at least the efficient costs the operator incurs in providing direct control services and complying with regulatory obligations if that opportunity was provided to the industry as a whole.

In addition to having concerns regarding the Commission's preliminary findings on the merits of TFP, we are also concerned with the Commission's intention of developing draft Rules to facilitate the application of TFP.[3] We see no rationale for introducing Rules on TFP at the present time whilst so many practical issues remain unresolved. This is a significant hurdle that must be overcome and the magnitude of which should not be underestimated. Changing the Rules now presupposes that all practical issues will be resolved in a way that promotes the NEO. This decision is therefore more akin to an act of faith rather than an act of good regulatory design.

We concur with the Commission's view that there are risks in introducing TFP into the Rules[4]. In addition to these risks, we consider the prescription of TFP in the Rules now is likely to result in numerous subsequent revisions as practical issues are resolved. TFP, prescribed in the Rules now, will become and remain an 'empty promise'; having no real benefit as long as the necessary data for its application is not available.

We consider that next logical step is the resolution of the issues relating to TFP index specification and definition and provision of necessary data for TFP application.[5] This work would:

- enable the AEMC's assessment of the various critical aspects of the application of a TFP method. Such assessment is hampered at present due to the lack of robust and accurate data.

- enable all stakeholders to resolve TFP index specification issues. This would provide greater clarity to the AEMC in developing draft Rules for the application of TFP; should that be the final outcome once the theoretical and practical merits of TFP have been definitively concluded upon.

The Commission noted that the AER had commenced work on a nationally consistent regulatory reporting regime and the concerns businesses have expressed with regard to the scope and purpose of the proposed regulatory information order. To address this issue, the Commission suggested that the NER and NGR could provide greater clarification on establishing and maintaining of a regulatory reporting regime.[6]

We consider that a Rule change would be required to facilitate the Commission's suggestion and to impose an obligation on businesses to collect and report the data necessary for TFP. This Rule change would enable all the stakeholders to properly consider and assess the resources impacts of additional reporting requirements and would also assist the AER in assessing future expenditure forecasts.

Finally, we support the examination of options other than TFP for improving regulatory outcomes before a commitment to TFP is made. We consider this to be a prudent course of action in light of the significant changes in the industry that may negatively impact on TFP such as the introduction of climate change policies, smart meters and smart grid; of the long period that must elapsed before TFP can be applied and of the possibility that no business choose to adopt TFP. The consideration of other options perhaps can be carried out concurrently with the discussion and resolution of outstanding issues relating to TFP.

We do, however note that the first regulatory proposals under the existing Rules for distribution regulation were only submitted in June 2008 with respect to the NSW ACT Transitional Chapter 6 Rules and last year for the general Chapter 6 Rules . The Commission is seeking to move from a framework that most distribution businesses have not been exposed to yet. We do not see benefit in a framework under

[3] Preliminary findings, page xii.
[4] Preliminary findings, page xii.
[5] We had expressed this same view in our submission to the AEMC's Design Discussion Paper, October 2009, page 10.
[6] Preliminary findings, page 52.

constant change and review. We would also prefer not to change frameworks for change sake. Such an approach only adds to regulatory uncertainty and burden.

2 Promotion of efficiency under TFP

On the assumption that the necessary data set is available and that all issues relating to the specification of TFP index calculation are resolved, the Commission's analysis found that a TFP method would provide greater incentives for a regulated business to pursue cost efficiencies. This is because TFP produces two effects:

- TFP allows business to retain higher returns when it makes continuing productivity improvements, and
- TPF reduces the scope for businesses to exploit the problem of information asymmetry.

2.1 Higher returns under TFP

The first reason underpinning the Commission's conclusion that TFP has greater costs efficiency incentives, however, is based on the critical assumption that, under TFP there is scope for ongoing productivity improvements wheras under the existing framework there is less scope for ongoing productivity improvements.

We note that the Commission reached a different conclusion to its consultant on the basis of a different assumption. The Commission stated that:[7]

> *The Brattle Incentives Report concluded that incentives would be only marginally stronger under TFP. We reach a different conclusion on the basis that there is likely to be a significant number of opportunities for firms to achieve an ongoing downwards trend in cost, rather than one-off or repeated costs reductions that do not form a downwards trend (continual improvements in productivity).*

The Commission also concluded that:[8]

> *If the change in effort only resulted in a one-off productivity improvement then the incentive would be the same under either a TFP methodology or the building block approach.*

We see no reasons or basis for definitively concluding that TFP provides a stronger cost efficiency incentive. We consider that the incentive properties of TFP relative to building block is dependent upon the assumption adopted in respect of productivity improvements (i.e. whether it is one off or continuing) and hence no definitive conclusions can or should be made.

We are concerned with the assertions that continual improvements in productivity is measured by the extent of the downwards trend in costs. We are also concerned that the basis of comparison is made between two untested regulatory frameworks - the current building block framework under chapter 6 of the Rules under which the AER has only made one determination (and under which no DNSP has been subject to the incentive mechanisms) and a theoretical TFP framework in which practical issues are still being addressed.

Further, we do not consider it is reasonable to assess the incentives properties of TFP devoid of considerations of the detailed specification of TFP index and how a TFP method is applied in practice and the results it produces. The justification for the application for TFP cannot rest on its 'theoretical

[7] Preliminary findings, page 15, footnote 15.
[8] Preliminary findings, page 15.

attractiveness' alone but must consider the effects of its practical application. We note the view of the Expert Panel on Energy Access Pricing that[9]:

> *There is no basis for concluding that one approach has intrinsically stronger or weaker efficiency incentives than the other – this depends on the detailed parameters adopted under any particular application of either model.*

We acknowledge the problems that beset the Commission because of the absence of a robust dataset and of the unresolved issues regard TFP index specification; and hence the necessity to ignore these problems. These were the same problems faced by the Brattle Group in its report to the Commission on the relative strength of TFP. The Brattle Group stated that:[10]

> *We therefore do not address any incentive effects that might arise through the detailed specification of the TFP index.*

The observation of the Brattle Group indicates to us that issues of TFP index specification may impact on its incentive effects. The materiality of this impact (whether positive or negative) can only be assessed once the TFP index specification issues are resolved. This is a stream of work that must be undertaken before the Commission can definitively assess the incentives effects of TFP relative to the building block. Further, the design of safeguard mechanisms can have an impact on the incentives properties of TFP. The appropriate designs of these mechanisms are also outstanding. We therefore consider that the assessment of the incentive properties of TFP should be revisited when these issues have been resolved.

Finally we believe the relative merits of TFP against the existing framework are difficult given the current framework has only just been introduced. Any comparison can only be made against jurisdictional frameworks which operated under different and diverse decision making and incentive arrangements.

2.2 Information asymmetry

The second reason the Commission cited for finding that TFP provides stronger cost efficiency incentives is that TFP "reduces the scope for the service provider to boost returns by exploiting its information advantage over the regulator"[11.] With this reduction in scope to exploit informational rents, there would be more pressure on businesses to make productivity improvements.[12]

Whilst it is always the case that a business is in the best position to understand its efficient costs, whether this 'information advantage' is in fact exploited by the business to extract higher prices is a completely different matter. In terms of reducing the opportunity for exploitation, we consider there are two factors that operate to mitigate the risks.

First, the decision making framework under the new NER places significant importance on providing substantial evidence to justify input and forecast costs. The regulated business must put sufficient information before a regulator, knowing that if the regulatory is not satisfied as to the reasonableness of the forecasts proposed, it is free to substitute its own forecast. Second, we note the substantial information gathering powers afforded to the AER under the NEL and the substantial penalties attached to non-compliance. Further, the failure to comply with a request for relevant information may result in the Australian Competition Tribunal refusing leave to apply for merits review of a decision by the AER even if other grounds for review were made. These provisions in the NEL partially reduce the information asymmetry between the business and the regulator. We expressed this view in our submission to the

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[9] Expert Panel on Energy Access Pricing, Report to the Ministerial Council on Energy, April 2006, page 103.
[10] Brattle Group, *Incentives under total factor productivity based and building-block type price controls*, June 2009, page i.
[11] Preliminary findings, page 9.
[12] Preliminary findings, page 18.

Commission on 3 August 2009[13] and are disappointed that our view appears to have been overlooked by the Commission.

The price that it is allowed to charge for the forthcoming regulatory period is therefore dependant on the submission of a robust and well substantiated regulatory proposal; demonstrating how its proposed capital and operating expenditure forecasts meet the capital and operating expenditure objectives. We consider the provision of such information would partially reduces the problem of information asymmetry between the regulator and the business.

Viewed in the above context, there are sufficient requirements in the current Rules and the NEL that operate to reduce any opportunity for a business to extract informational rents and to ensure that the business to provide sufficient information to enable a robust assessment by the regulator of the efficiency and prudency of its proposed cost forecasts.

Additionally, we also note the Commission's observation that:

> *The extent of information advantage can depend on how uncertain future costs conditions are. A TFP methodology, like the building block approach, does not deal with such uncertainty well. If there was significant uncertainty then a TFP methodology may not be suitable*[14]*.*
>
> *If there is sufficient uncertainty about future conditions, then a TFP methodology may not be as successful in managing information asymmetry*[15].

For the above reasons, we do not consider it is justifiable to conclude that TFP has greater cost efficiency properties as it reduces the scope for exploitation of information asymmetry. The ability of TFP to mitigate the problem of information asymmetry is only valid under a certain condition (i.e. stable operating conditions). This in itself is not a sufficient justification to support the introduction of TFP. In fact we consider that information asymmetry is exacerbated in non homogeneous or unstable operating environments.

Further, we note that TFP is not the only means by which information asymmetry can be reduced[16] and that there are provisions in the NEL that mitigate information asymmetry between business and regulatory, without the need for TFP.

3 Reasonable opportunity to recover efficient cost

The NEL requires the Commission to consider the Revenue and Pricing Principles (RPP) in making a Rule for or in respect of a number of matters, one of which is TFP as a regulatory economic methodology.[17]

One of the principles of RPP is that:

> *A regulated network service provider should be provided with a reasonable opportunity to recover at least the efficient costs the* ***operator*** *(emphasis added) incurred in (a) providing direct control services and (b) complying with a regulatory obligation or requirement or making a regulatory payment.*

[13] EnergyAustralia, *Consultant Reports for Review into the Use of Total Factor Productivity for the Determination of Prices and Revenues*, 3 August 2009, page 2.
[14] Preliminary findings, page 10
[15] Preliminary findings, page 18.
[16] Other options for improving information are outlined in the Brattle Group report, *Options for Reforming the Building-Blocks Framework*, December 2009.
[17] NEL, clause 88B and Schedule 1 to the NEL, clause 26J.

The Commission's analysis of whether a TFP method can satisfy the RPP appears to involve a two step process. That is:

- whether TFP allows a regulated business a reasonable opportunity to recover the efficient costs that would be incurred by the industry; and
- whether TFP allows a regulated business a reasonable opportunity to recover business specific costs (i.e. costs that affect only one of the business in the industry).

In relation to the first question, the Commission's observation and preliminary finding are that:

> *It is important to distinguish between industry-wide changes in costs and business specific changes. As long as the historical TFP growth trend provides an accurate measure of future trends in productivity, and the service provider is capable of delivering average productivity growth, then it would have the opportunity to recover efficient costs*[18]*.*
>
> *A TFP methodology would provide an opportunity for service providers to recover efficient costs that would be incurred across the industry*[19]*.*

This preliminary finding is based on a number of untested assumptions:

1. that TFP index would be correctly calculated;
2. that past productivity growth rate would provide a reasonable forecast of future productivity; and
3. the service provider is capable of delivering average productivity growth.

However, this only gets a business to the point of opportunity to recover efficient costs incurred across the industry. This however would not meet the RRP because those principles require that an operator be given an opportunity to recover at least its efficient costs. No presumption can be made that the efficient costs required by an individual business in providing direct control services and complying with regulatory obligations is the same as that incurred across the industry.

These assumptions seem largely untested and unsubstantiated and on this basis we do not believe that there is analysis support the proposition that a TFP methodology could be applied in a way that would enable the revenue and pricing principles to be satisfied with respect to individual DNSPs.

RPP focuses on the efficient costs that the operator (i.e. a specific regulated business) incurs in providing direct control network services and complying with regulatory obligations and on whether the regulated business has been afforded a reasonable opportunity to recover at least these efficient costs. The RPP does not ask the question of whether a reasonable opportunity has been afforded to recover the "efficient costs that would be incurred across the industry".

We consider the Commission's main preliminary finding is that:

> *a TFP methodology would increase the risk of revenues being insufficient to permit an individual service provider to recover its efficient costs.*[20]*.*

To alleviate this risk, the Commission considered that safeguard mechanisms such as off ramps, capital module and business specific adjustments would be required to ensure that a service provider is allowed a reasonable opportunity to recover its efficient costs.[21]

With respect to the above findings, we note the following:

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[18] Preliminary findings, page 37.
[19] Preliminary findings, page 40.
[20] Preliminary findings, page 37
[21] Preliminary findings, page 44.

- The ability of a TFP method in itself to satisfy the RPP is highly questionable. Safeguard mechanisms are always required to ensure that a reasonable opportunity is given to a regulated service provider to recover its efficient costs. As we have expressed previously, the necessity of these safeguard mechanisms only increases the complexity in regulatory framework.
- As the Commission noted, there is necessarily a trade off between TFP's ability to provide stronger incentive to control costs and its ability to meet the RPP.[22] The extent of this trade off depends on the design of these safeguard mechanisms. This is an outstanding stream of work. Given this and the concerns we have expressed above on the incentive properties of TFP, we consider that it is essential to re-assess the incentive properties of TFP and its ability to satisfy the RPP when a design of safeguard mechanisms are known. It might be that the inclusion of safeguard mechanisms would weaken the incentive properties of TFP such that there is no marked difference to the building block approach (that is the incentives properties between the two approaches are comparable).

Another reasoning of the Commission in support of TFP is that a business would only choose to apply TFP if it was comfortable that it would be able to recover costs.[23] However, implicit in this decision is the need for detailed forecast of costs so that a business can determine if the price path allowed by TFP would result in sufficient revenue to recover its forecast expenditure. We therefore question whether the avoidance of business specific expenditure forecast, one of the often cited benefits of TFP, would ever be realised.

Further, we previously expressed that[24]:

> *Faced with a choice of TFP or building block, a prudent business (or regulator) is also likely to assess and compare the costs and benefits of each approach before committing to one for its upcoming regulatory review. This process would inevitably involve detailed forecasts of costs.*

4 Impact on regulatory framework

The Commission found that introducing TFP could lead to additional benefits but the extent of such benefits is difficult to estimate and may take a number of regulatory periods before materialising. These benefits include the potential for lower regulatory costs and potential for less reviews and appeals compared to the building block approach.[25]

EnergyAustralia does not concur with the Commission's preliminary findings that the introduction of TFP would potentially result in lower regulatory costs and less reviews and appeals compared to the building block approach.

4.1 Cost of regulation

Proponents of TFP have argued that lower regulatory costs would result from the removal of business specific forecast of costs. We have outlined in section 3 above and in our previous submission[26] why the assumption that forecast of costs would no longer be required if TFP is introduced is unrealistic.

Further, we reiterate our earlier submission that the introduction of TFP would no doubt result in two 'sets of books' for a business, one for TFP and one reflecting changed circumstances. This is because of the

[22] Preliminary findings, page 43.
[23] Preliminary findings, pages 44 & 61.
[24] EnerggyAustralia, *submission on the AEMC's TFP design discussion paper*, October 2009, page 12.
[25] Preliminary findings, page 65.
[26] EnerggyAustralia, *submission on the AEMC's TFP design discussion paper*, October 2009, page 12.

imperative to maintain consistency over time in definitions and collection methods of data to be used for TFP. This would be a costly exercise.

Nevertheless, the magnitude of the cost of introducing, implementing and maintaining a TFP methodology cannot be known at present because there are numerous issues to resolve and consultations to take place. Once agreement has been reached, all businesses must then commence collecting the required data for at least 8 years. Therefore, we consider that:

- at present the costs and benefits analysis of introducing TFP is at best inconclusive (that is, the introduction of TFP could either lower or increase regulatory costs); and
- the Commission's preliminary finding that "the cost of a TFP methodology based revenue determination is expected to be less than the costs incurred in the building block approach based determination"[27] is unwarranted and not justifiable in the absence of data on the costs of introducing and maintaining TFP.

4.2 Reviews and appeals

The other often cited benefit for introducing TFP is less review and appeals of the regulator's decision. The Commission, in its preliminary finding, correctly observed the difficulty in gauging the likelihood of reviews under a TFP method. The likelihood and frequency of appeal depends on a multitude of factors ranging from the decision making framework, the particular decision and discretion exercised by the regulator, the issues at hand and the significance and criticality of the particular decision on the business affected. We consider that an assessment of the likelihood and frequency of appeal under either the current building block approach or an established TFP method is difficult. Further, we doubt whether a meaningful and valid comparison of the likelihood and frequency of appeals under TFP and building block can ever be made. A valid comparison would presuppose an equal number of businesses applying TFP and building block over the same number of regulatory periods. With TFP being optional, it may be only a few businesses (or none) choosing to apply TFP and only for one regulatory period. In this case, it cannot be said that the absence of appeal under TFP is evidence that TFP results in less reviews and appeals.

This difficulty of making an assessment is more pronounced with respect to TFP as a TFP design still under development and many aspect of its operation, including the regulator's discretion and the design of safeguard mechanisms, remain to be resolved. It appears to us that the Commission have leaned towards TFP with respect to the issue of review and appeals. The Commission stated that:

> *There is potential for the occurrence of reviews and appeals to be less under an established TFP methodology than under the building block approach[28]….while an established TFP methodology may reasonably be expected to give rise to less reviews and appeals, the extent of this is unknown[29].*

We agree with the Commission's view that the extent of appeals and review is unknown but consider that the likelihood and frequency of appeals and reviews under a TFP method can either be more or less than a building block approach. No case can be made to support a view that the likelihood of appeals is potentially less under a TFP method than under the building block.

[27] Preliminary findings, page 66. This preliminary finding seems contradictory to the following subsequent statement by that Commission that "the preliminary finding that a TFP methodology will not clearly and significantly reduce the cost of regulation…" (page 67).
[28] Preliminary findings, page 70.
[29] Preliminary findings, page 71.

5 Way forward

The Commission stated that given the preliminary findings, it intends to develop draft Rules to be recommended to the MCE to facilitate the application of a TFP method, subject to considerations of submissions received on its preliminary findings (stage 2 of the review).

We consider that it is not necessary to proceed to stage 2 because we are not convinced that the Commission's preliminary findings represent a conclusive analysis that the application of a TFP method to determine regulated prices would promote the NEO. We consider that TFP does not meet some of the assessment criteria set by the Commission. These are:

- Cost incentives: the result from the analysis is inconclusive. The ability of TFP to provide greater cost incentives is dependent upon the assumption made regarding the scope for productivity improvements. We note the Commission's analysis that:

  > *This effect (i.e. stronger cost incentives produced by TFP) would* ***only*** *work for changes in the service provider's effort which would result in ongoing productivity growth*[30].

- Investment incentives: we consider the main preliminary finding of the Commission is that a TFP method would increase the risk that a business is not able to recover its efficient costs. This risk necessitates safeguard mechanisms, the designs of which have not yet been finalised.

- Cost of regulation: The evidence to support the benefits of TFP is inconclusive. We consider that the introduction of TFP can either increase or reduce regulatory costs and the likelihood of appeals.

- Good regulatory practice: We consider this criterion does not have relevance as it depends on the detailed drafting of the Rules – should the review proceed to that stage.

We therefore have concerns that TFP will not meet the NEO and RPP and hence draft Rules should not be developed and recommended to the MCE.

It is clear that the major hurdle in the current review of TFP is the availability of a long time series of robust and relevant data. This dataset is not only critical for the application of a TFP method but also is essential to test and confirm various aspect of a TFP method. Moreover, issues of index specification and safeguard mechanisms are still to be resolved. There is no justification to develop and draft Rules now (assuming that the Commission final stage 1 report found that TFP would promote the NEO). This would be a hasty step.

The AER has already commenced a process of developing a set of nationally consistent regulatory reporting template. If it is decided by the industry that TFP, as an alternative option, is beneficial to all stakeholders (i.e. all businesses, regulator and customers) and not just 'a nice to have' option, the immediate focus of the industry should be the collection of data required for TFP. To commence this process, we consider that a Rule change be proposed to allow all stakeholders the opportunity to assess resource impacts of the additional reporting requirements. It would also assist the AER in subsequent assessment of expenditure forecasts.

Finally, we consider it is a prudent step to consider other alternatives to improving the regulatory framework prior to a commitment to TFP is made; not only because of other exogenous factors that might impact on TFP but more importantly TFP may in the end not be suitable for any business. Significant resources would have been wasted by the industry to introduce and implement a methodology that is not adopted by any business.

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[30] Preliminary findings, page 15.