



Ref.: CP/JD

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Dear Mr Tamblyn

**ERC0097 – Draft Rule Determination *National Electricity Amendment (Payments under Feed-in Schemes and Climate Change Funds) Rule 2010***

Ergon Energy Corporation Limited (Ergon Energy) appreciates the opportunity provided by the Australian Energy Market Commission (AEMC) to provide comments on the *Draft Rule Determination National Electricity Amendment (Payments under Feed-in Schemes and Climate Change Funds) Rule 2010* (the draft Rule Determination). This submission is provided by Ergon Energy in its capacity as a distribution network service provider (DNSP) in Queensland and is available for publication.

Ergon Energy supports the AEMC's findings in the draft Rule Determination allowing DNSPs to recover jurisdictional scheme amounts under the pricing proposal process. However Ergon Energy provides the following comments to the AEMC:

- Ergon Energy understands the election provisions to mean that a DNSP will be required to notify the Australian Energy Regulatory (AER) of its intention to submit a Pricing Proposal that complies with modified clauses 6.18.2(b)(6A) and 6.18.7C(a) at least 20 business days before the date that a Pricing Proposal is due<sup>1</sup>. However, this election is only valid if:
  1. the DNSP has requested the AER to make a determination on how the DNSP is to report on its recovery of each jurisdictional scheme amounts and on the unders-and-overs adjustments<sup>2</sup> and the AER has made or is taken to have made a decision; and
  2. where forecasts associated with the jurisdictional scheme have been included in the forecast operating expenditure in the DNSP's Distribution Determination, the AER has agreed to a revocation and substitution of the Distribution Determination

This means that a DNSP cannot elect to submit a Pricing Proposal under the proposed arrangements until the AER has agreed to a revocation or substitution of the Distribution Determination and has made a decision on how the DNSP is to report on the recovery of the jurisdictional scheme amounts. However, under clause 6.18.7C(j), the AER may not revoke a Distribution Determination until the DNSP has given the AER written notice under 6.18.7C(a). That is, the DNSP cannot validly elect to submit a Pricing Proposal

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<sup>1</sup> clause 6.18.7C(a)

<sup>2</sup> clause 6.18.7C(g)-(i)

under the proposed arrangements until the AER has agreed to a revocation, but the AER can't agree to a revocation until the DNSP has elected to submit a Pricing Proposal under the new arrangements.

Ergon Energy considers that the proposed drafting of the election process to recover jurisdictional scheme amounts under the Pricing Proposal is therefore unclear and circular. Ergon Energy recommends that consideration be given to achieving a simpler and more streamlined process whereby:

- The DNSP advises the AER of its intention to apply the transitional arrangements and proposes the process for reporting of its recovery of jurisdictional scheme amounts. Ergon Energy notes that this will need to occur significantly in advance of the deadline for submission of the Pricing Proposal (as opposed to the 20 business days proposed in the draft Rule Determination) to allow time for the AER to remake the Distribution Determination before the DNSP can prepare its Pricing Proposal;
  - The AER agrees to revoke the Distribution Determination and in doing so approves the DNSP's process for reporting of its recovery of jurisdictional scheme amounts; and
  - The DNSP submits a Pricing Proposal that reflects the "new" Distribution Determination.
- Under the proposed rule change "if the AER revokes a Distribution Determination, the AER must make a new Distribution Determination in substitution for the revoked new Distribution Determination" (clause 6.18.7C(k)). Ergon Energy is concerned that there is no positive obligation on the AER to issue a new Distribution Determination within a certain period of time. The difficulty that Ergon Energy envisages is that DNSPs will require the new Distribution Determination prior to submitting the Pricing Proposal as per clause 6.18.7C(a) of the Rules. Ergon Energy recommends that clause 6.18.7C(k) is amended to include a reasonable time period for remaking the Distribution Determination.
  - Ergon Energy is satisfied that the proposed drafting of clause 6.18.7A(a) allows each DNSP to maintain its current approach to developing network tariffs that incorporate the recover of Feed-in Tariffs or climate change funds. Further, it is flexible enough to ensure that DNSPs are not required to separately identify the amount associated with this cost recovery in its network tariffs. Ergon Energy believes that it is important that this flexibility is maintained in the AEMC's Final Determination.

If you require additional information or wish to discuss any aspect of this submission, please do not hesitate to contact me on (07) 4121 9545.

Yours sincerely



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