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20 February 2012

Mr Warwick Anderson
General Manager
Network Regulation
Australian Energy Regulator
GPO Box 3131
CANBERRA ACT 2601

Attention: Mark McLeish

Dear Mr Anderson

**AER'S DRAFT DISTRIBUTION DETERMINATION – ELECTRICAL SAFETY
INSPECTION SERVICE CHARGE REVENUE ADJUSTMENT MECHANISM**

Workplace Standards Tasmania is responsible for providing electrical safety inspection services in Tasmania under the Electricity Industry Safety and Administration Act 1997 and the Occupational Licensing Act 2005. Aurora is currently contracted by Workplace Standards Tasmania to undertake electrical safety inspection services on their behalf. Aurora's contract to provide these inspection services expires on 30 June 2012. Workplace Standards Tasmania has advised Aurora that it will seek tenders for provision of electrical safety inspection services from 1 July 2012.

In June 2007, the Tasmanian Government amended the Electricity Supply Industry Act to impose a levy on Aurora to fund electrical safety inspection services with an effective date of 1 January 2008. Under sections 121B to 121G of the Electricity Supply Industry Act 1995, the Minister must determine an amount known as the "electrical safety inspection service charge" (ESISC). The ESISC is based upon a budget currently prepared by Workplace Standards Tasmania as the entity responsible for providing electrical safety inspection services, as per section 121D of the Electricity Supply Industry Act 1995.

In particular, section 121B(1) of the Electricity Supply Industry Act 1995 provides that an "annual charge is payable to the Crown by an electricity entity for the operation and administration of the electrical safety inspection service", and section 121B(5) requires a notified electricity entity to pay that amount.

Aurora is an electricity entity under the Electricity Supply Industry Act 1995, and has been required to pay the ESISC since its introduction. Further, the Minister has the ability to require Aurora to pay the ESISC irrespective of whether Aurora is contracted to provide electrical safety inspection services for Workplace Standards Tasmania.

Recognising that the ESISC is an obligation imposed upon Aurora, the Tasmanian Energy Regulator treated the ESISC as a pass-through in the determination of maximum allowable revenues,¹ and provided an adjustment mechanism to account for any differences between the forecast value of the ESISC and the actual value of the ESISC.²

In its Regulatory Proposal for the forthcoming Regulatory Control Period, Aurora proposed the continuation of a revenue adjustment mechanism to allow for variation between forecast ESISC and actual ESISC.

In its Draft Determination the AER determined that the ESISC revenue adjustment mechanism should not be included in the control mechanism for Standard Control Services if Aurora did not win the contract starting 1 June 2012.³

In excluding the ESISC adjustment mechanism from the control mechanism for Standard Control Services, the AER notes that:

In making its decision on the ESISC revenue adjustment mechanism, the AER considered that the desirability for consistency across jurisdictions and the impact of the mechanism on Aurora's incentives would outweigh maintaining consistency with Aurora's previous regulatory arrangements if it did not win the contract.⁴

Aurora observes that excluding an aspect of a control mechanism because of the unique jurisdictional nature of the driver for the aspect of the control mechanism is unusual, especially given that the intention of the mechanism is to reduce the error inherent in forecasting. The proposed adjustment mechanism is intended to reduce the amount passed through to Aurora's customers to the actual amount payable under the ESISC, rather than necessitating a potentially over-inflated forecast to protect Aurora from unknown changes. This approach is consistent with the approach recommended by the AER in their recent Rule Change Proposal to the AEMC in relation to contingent projects and pass-through events.

Aurora interprets the comment about "incentives" in the quote above to mean "incentives to incur costs efficiently", based upon table 2.5 in the Draft Determination.⁵ Aurora notes that both the incurring of the costs and the efficiency of the costs are outside of the control of Aurora.

¹ *Investigation of Prices for Electricity Distribution Services, and Retail Tariffs on Mainland Tasmania, Final Report and Proposed Maximum Prices*, published by the Office of the Tasmanian Energy Regulator, September 2007, page XXI

² *Investigation into Electricity Supply Industry Pricing Policies, Declared Electrical Services Pricing Determination*, issued by the Office of the Tasmanian Energy Regulator, 31 October 2007

³ *Draft Distribution Determination, Aurora Energy Pty Ltd 2012-13 to 2016-17*, published by the AER in November 2011, page 60

⁴ *ibid.*

⁵ *ibid.*

Under sections 121B to 121G of the Electricity Supply Industry Act 1995 the Minister may require Aurora to pay the ESISC, irrespective of the party providing the electrical safety inspection service. The AER recognises Aurora's obligation to pay the ESISC to Workplace Standards Tasmania regardless of the provider of the service, stating:

Whether or not Aurora wins the tender to provide these services, the Minister has the ability to require Aurora to pay the electrical service inspection charge.⁶

although it then immediately contradicts this interpretation:

The provision of an electrical safety inspection service falls within the definition of a cost incurred in providing standard control services but Aurora will only incur these costs if it wins the contract to provide these services post 1 July 2012. If Aurora does not win the contract, Aurora will not incur costs in providing standard control services. In this instance, the ESISC should not be part of the control mechanism for standard control services.⁷

Aurora contends that the efficiency of the expenditure on electrical safety inspection services is beyond the control of Aurora because the expenditure is incurred by Workplace Standards Tasmania in the provision of services by Workplace Standards Tasmania.

In the Draft Determination, the AER notes that,

If Aurora wins the contract, the treatment of these costs as a revenue adjustment mechanism is appropriate. This is because it will not impact on Aurora's incentive as it does not have any control over the amount of the ESISC as it is determined by the Minister under the EIS&A Act.

An allowance will be made in the forecast opex and the proposed revenue adjustment mechanism will balance the difference between the actual and forecast charge.

If Aurora does not win the contract, then these costs should not be part of Aurora's control mechanism for standard control services.⁸

The AER appears to have assumed that these electrical safety inspection services are for inspections of Aurora's distribution network. This is incorrect. Electrical safety inspection services funded by ESISC are inspections of privately-owned infrastructure by Workplace Standards Tasmania.

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⁶ *ibid.*

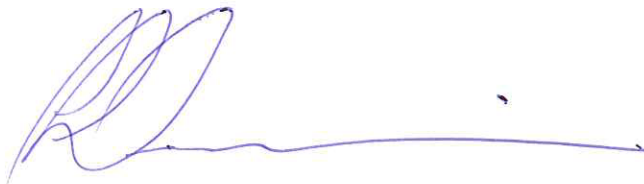
⁷ *ibid.*

⁸ *ibid.*

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If you have any questions, please contact Leigh Mayne on the above number or via email at leigh.mayne@auroraenergy.com.au.

Yours sincerely



Dr Peter Davis
Chief Executive Officer
Aurora Energy

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