31 May 2018

Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

Business SA
Chamber of Commerce and Industry South Australia
ABN 000 14 725 309 328
Level 1, 136 Greenhill Road
Unley South Australia 5061
T: +61 8 8300 0000

Working for your business.
Working for South Australia

Dear Sir/Madam

I write in response to your request for submissions to the AER's Review of Regulatory Tax Approach Issues Paper.

Executive Summary

- Business SA supports further work being done to enable consumers to better understand the tax payments associated with both public and private companies operating regulated utility networks.
- Maintaining a transparent and fair framework to incentivise owners of regulated utility networks should be in the interests of both consumers and the owners themselves.
- If the AER comes to the conclusion that the majority of privately owned utility networks are using similar tax minimisation strategies within their broader group structures, then it should be considered that 'any' efficient entity would utilise comparable tax structures and regulated tax allowances should be set accordingly.
- There are many legitimate reasons for businesses minimising tax, particularly within a broader ownership structure, and the AER's analysis should be sufficiently granular so as to delineate those circumstances from others which are more broadly in use and that can be linked specifically to the ownership of regulated utility networks.

Should you require any further information or have questions, please contact
Andrew McKenna, Senior Policy Adviser, on (08) 8300 0000 or andrewm@business-sa.com.

Yours sincerely,

Anthony Penney

Executive Director, Industry and Government Engagement

Why this matter is important to South Australian businesses

As South Australia's Chamber of Commerce and Industry, Business SA is the peak business membership organisation in the State. Our members are affected by this matter in the following ways:

- The increase in electricity prices, particularly over the last two years, has had a devastating impact on South Australian businesses with major spikes for both small and large market customers; bills typically increasing between 30% and 75% depending on the volume of electricity use.
- South Australia's electricity market has changed substantially since Alinta's announced Northern Power Station withdrawal in 2015 set off the futures market, followed by its actual closure in 2016 which impacted the physical market; resulting in high priced gas fired electricity being the only firm contract source for local businesses.
- Up until mid-2015 when South Australia's wholesale electricity prices began to rise dramatically, network costs had been the primary driver of the significant increases in electricity costs over the past decade and South Australian businesses cannot afford to return to the spending patterns associated with that period which have been compounded through rising regulated asset bases.

Key Policy Points

1. Business SA recognises that any entity which currently, or in future may, operate/s any component of South Australia's distribution or transmission utility network needs to be appropriately incentivised to do so, a principle tenet of economic regulation in Australia.

2. Any change to the tax allowance for network operators should be based on what can be achieved by a competitive and efficient entity. Whether or not Government owned networks in New South Wales and Queensland can minimise tax to the same extent as private sector businesses elsewhere should be irrelevant, considering for all other purposes the revenue raising capacity of regulated utility networks is predicated on being an efficient entity.

3. We acknowledge your advice that 'Our regulatory determinations set regulated revenue based on the efficient costs that a network service provider (NSP) expects to incur in running its electricity network or gas pipeline.'

   Efficient costs should also include efficient tax management and if private networks can more effectively manage their tax outlays through legal means, then the bar for what is a reasonable tax allowance should be set according to what an efficient entity can achieve. Consumers in States with privately owned networks should not outlay any additional tax allowances to compensate for the fact that Government owned networks in New South Wales and Queensland cannot efficiently manage their tax affairs.

4. It is clear that before the AER can make any substantive changes to tax allowances, that it needs to better understand the actual tax paid by regulated entities and we support your current approach. Furthermore, the AER needs to understand to what extent tax minimisation occurs at a group rather than a regulated entity level. Regulated networks may have legitimate tax minimisation strategies within their broader ownership structures and this should not necessarily be a deciding factor for regulated tax allowances. Notwithstanding, if it becomes clear to the AER through its investigations that there are common operating structures to avoid tax payments derived from the profits of regulated utility network operations, then it should be clear that any efficient entity would employ the same structures and regulated tax allowances should be adjusted to appropriately reflect this paradigm.