31 July 2018

Mr Warwick Anderson
General Manager, Network Finance and Reporting
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

Submitted by email: TaxReview2018@aer.gov.au

Dear Mr Anderson,

RE: AER Review of regulatory tax approach

Endeavour Energy appreciates the opportunity to provide feedback to the AER regarding its review of the regulatory tax approach.

Endeavour Energy supports the submission made by the ENA on 31 May 2018 and is of the view that the likely drivers of the observed variance in allowed and actual income tax paid have been identified and provided for investigation.

We believe that a detailed excursion into the tax affairs of non-regulated entities will be:

- Unneccesarily costly;
- Irrelevant to the discharging of the AER's mandate of regulating network service providers; and.
- Unlikely to be completed in the time frames available to the AER.

Within the available timeframe, the AER should seek to confirm the explanatory value of the issues put to it by industry and the AER's own advisors for the observed variance. Whilst a complete reconciliation is unrealistic, Endeavour Energy recommends that the AER seek to satisfy itself, on the basis of probable likelihood, that the issues identified are indeed the source of the noted variation in the observed income tax returns.

Specifically, we submit that the AER should focus on understanding and evaluating:

- The degree to which the regulated business have adopted tax depreciation approaches other than that of prime cost (straight line);
- The impact that differences in capitalised values of the regulated entities would be expected to have on tax returns; and
- The extent that unregulated expenditures would be expected to influence the actual tax returns of the regulated entities.

Should the AER determine that the types of matters outlined above are indeed the material drivers for the differences observed in the ATO note, then the AER should determine whether the observed drivers are an issue to be addressed by the AER.

Endeavour Energy is concerned that the current course of investigation will go beyond the AER's dceisions on the benchmark cost of income tax and the benchmark entity assumption and could draw the AER into the remit of the ATO.

Further, the type and sources of information suggested to date by the AER and other stakeholders can be reasonably expected to include entities or persons unknown to the regulated entities and therefore would require a long series of information requests being issued sequentially over an extended period to trace the ownership interests, well beyond the timeframes currently afforded to the AER and possibly beyond the AER's jurisdiction.

Endeavour Energy submits that the AER should abandon the consideration of a straight pass through of actual tax paid. We support the concerns raised by Professor Lally with respect to this option, and the probable contribution to the observations of the ATO arising from the issues listed above.

Finally we note that one of the strengths of the PTRM as currently applied is the general consistency of approach between income tax decpreciation methodiolgioies and the methodologies used for RAB depreciation. If the AER's final report considers that PTRM changes are required, regard should be given to whether the RAB depreciation method should also be adjusted to address intergenerational equity consdierations.

If you have any queries or wish to discuss this matter further please contact me on [redacted] or via email at jon.hocking@endeavourenergy.com.au.

Yours sincerely,

[redacted]

Jon Hocking
Manager Network Regulation
Endeavour Energy