



5 September 2007



Regulatory Test Version 3
Australian Energy Regulator
GPO Box 520
MELBOURNE VIC 3001

AERinquiry@aer.gov.au

Dear Sir/Madam

Proposed Regulatory Test Version 3 and Proposed Regulatory Test Application Guideline

ENERGEX appreciates the opportunity to comment on AER's Proposed Regulatory Test Version 3 and Proposed Regulatory Test Application Guideline.

ENERGEX notes that there are currently 4 separate consultations in progress that directly or indirectly affect the issue of the Regulatory Test, namely:

- AER's "*Proposed Regulatory Test Version 3 (July 2007)*" and "*Proposed Regulatory Test Application Guideline (July 2007)*";
- AEMC's "*National Transmission Planner National Transmission Planning Arrangements: Scoping Paper (August 2007)*";
- MCE/SCO "*Draft Chapter 6 Rules (April 2007)*"; and
- MCE/SCO release of the independent report by NERA/ACG on "*Network Planning and Connection Arrangements – National Frameworks for Distribution Networks (August 2007)*"

The discussions in the AER's and AEMC's consultation papers concentrate solely on the Regulatory Test as it applies to TNSPs. This focus suggests that it does not apply to DNSPs. This is not consistent with clauses 6.5.7(b)(4) and S6.2.2(3) of the *Draft Chapter 6 Rules (April 2007)* which provide for the application of Regulatory Test to DNSPs. The NERA/ACG report "*Network Planning and Connection Arrangements – National Frameworks for Distribution Networks (August 2007)*" confuses the issue further by seeking to replicate an equivalent regulatory test (but with a lower threshold) process to apply to DNSPs.

ENERGEX's observation is that the policy debate on Regulatory Test over the last two years and has been conducted without any reference to the application to DNSPs. It appears that the regulatory tests that are currently being developed by the AER and the AEMC are solely intended to apply in the context of the transmission network planning environment.

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ENERGEX is particularly concerned that the application of the Regulatory Test to a DNSP is not clearly articulated. Compared to transmission, there are a larger number of distribution projects driven generally by demand growth, reliability and asset replacement requirements. The formal application of the regulatory test for DNSPs is an onerous requirement given the shorter planning horizon, lack of economically viable alternative options and volume of projects undertaken.

ENERGEX would prefer that the requirements for DNSPs to undertake the Regulatory Test are removed from the Guidelines and a workable set of rules for DNSPs be developed. However, we believe that this is outside the scope of the AER's current review. In regards to the Guidelines specifically, ENERGEX does not see the rationale for the explicit exclusion of the cost of losses in option analysis. In some cases, the difference in losses can materially influence the outcome of the test.

ENERGEX looks forward to engaging in further discussions with the AER and the AEMC in the appropriate application of Regulatory Test to DNSPs. ENERGEX believes that an alternative set of rules relating to distribution network expansion that incorporates a robust cost benefits analysis would be more appropriate.

Yours sincerely



Kevin Kehl
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