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28 January 2011

Mr Warwick Anderson  
General Manager  
Network Regulation North Branch  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601

By email to: [aer inquiry@aer.gov.au](mailto:aer inquiry@aer.gov.au)

Dear Mr Anderson

### **EnergyAustralia submission on AER's objectives and priorities for performance reporting**

EnergyAustralia welcomes the opportunity to make a submission on the AER's discussion paper on the objectives and priorities of performance reporting. EnergyAustralia recognises that performance reporting improves the transparency and accountability of a regulated network service provider's operations.

We note that the AER's discussion paper does not provide detail on the content and form of annual reporting obligations. EnergyAustralia looks forward to working collaboratively with the AER to develop information requirements that result in cost-effective and meaningful performance reports. We expect that the AER will consult extensively with distributors prior to finalising these arrangements.

We would like to raise three issues with the AER's discussion paper.

### **Minimising regulatory costs**

Best practice performance reporting has regard to the costs and burden required in developing a report. We consider this principle applies equally to reporting regimes for regulated entities. In support of our view, we note that in 2009 the Productivity Commission conducted a review into regulatory burdens faced by electricity businesses and concluded that:

"It is essential that requests for information from businesses are the minimum necessary consistent with the efficient achievement of regulatory objectives.<sup>1</sup>"

The Productivity Commission's report recognises that reporting obligations impose additional costs on a regulated entity. In this respect we note that the additional costs are not borne by the AER. Rather, the costs are borne by the customer through higher electricity prices or absorbed by the

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<sup>1</sup> Productivity Commission, *Annual Review of Regulatory Burdens on Business: Social and Economic Infrastructure Service*, September 2009, p204.

business.<sup>2</sup> For this reason, it is important that the AER's reporting obligations specifically consider the costs and benefits of providing information for the purpose of a performance report.

To enable an efficient reporting regime, it is essential that the AER develop a tool that assesses the regulatory impact of reporting obligations. The tool should seek to identify the benefit of each element of an information request and the compliance costs associated in providing that information.

The objective of minimising regulatory burden should be reflected in the priorities identified in the AER's discussion paper. This could be demonstrated by:

- Considering whether information is more meaningful if provided on an annual basis or as part of the regulatory proposal process. For example, it would be more suitable to collect information on the age of assets as part of the 5 year reset process rather than to submit information on an annual basis.
- Considering the extent to which information is already reported or available, or has been provided by the distributor under a different regulatory obligation. For example, the AEMC's review into Distribution Network Planning and Expansion recommended that distributors report on network utilisation and planning arrangements. An efficient performance reporting arrangement would aim to source this information from these documents rather than impose a separate requirement, use a different format, or impose a different reporting period.

### **Comparative performance**

The information contained in a performance report should not mislead stakeholders on the comparative performance of distributors. A performance report would be more meaningful to customers if it ensured that comparisons of expenditure, service levels and profitability were supported by a qualitative analysis of the reasons driving differences between firms. For example:

- Accounting profitability and performance in terms of 'earnings before interest and tax' will vary with the timing of the investment cycle.<sup>3</sup> If performance is viewed solely on a year on year basis, this could provide a misleading indicator of the regulated entity's financial performance.
- EnergyAustralia operates in a highly congested CBD area and is subject to different service standard outcomes relative to other DNSPs. This should be addressed in comparative performance reporting.

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<sup>2</sup> The costs may be borne by the business if the AER has not provided sufficient operating and capital expenditure allowances in a regulatory determination to enable a DNSP to comply with the reporting obligations. This would not enable the regulated entity to earn a benchmark rate of return.

<sup>3</sup> Under a post-tax nominal regulatory framework, there can be a timing difference between the cash flows in and out of a business. The AER's PTRM model indexes the RAB by CPI, rather than returning the full nominal cost of capital as revenue. While the result is NPV neutral in the long term, the effect results in lower net cash flows at the beginning of an investment and higher net cash flows in the latter years of an asset's life. Therefore a single year measure of performance may distort the true performance of a business over a longer time period.



- Accounting treatment of operating and capital expenditure may provide a misleading indicator of relative efficiency. For instance, some firms expense leasing costs while other firms will capitalise these costs.

A performance report should also clearly state where the DNSP considers the information to be misleading or an inaccurate reflection of performance. For example, MAIFI data for EnergyAustralia is incomplete and therefore our performance should not be compared to other businesses.

To address these issues, we consider that a key priority of performance reporting should be to ensure that the material presented is accurate and representative of the performance of distributors.

### **3. Method to collect information**

The discussion paper does not identify how the AER will collect information for the purposes of performance reporting. The National Electricity Law (NEL) states that the AER must not serve a regulatory information notice (RIN) or general regulatory information order (RIO) solely for the purpose of collecting information for performance reporting.

We note that the AER currently publishes a TNSP performance report without the need of a RIN or RIO, and consider that a similar informal process could be applied to distributors. Such a process would enable the distributor to work collaboratively with the AER to provide meaningful information for a performance report and would also enable a distributor to identify issues with data quality and accuracy.

If you have any questions regarding our submission please contact me on (02) 9269 4171.

Yours sincerely



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Regulation and Pricing