24 October 2003

Mr Sebastian Roberts
General Manager
Regulatory Affairs - Electricity
Australian Competition and Consumer Commission
PO Box 1199
DICKSON ACT 2602

Email: electricity.group@accc.gov.au

Our ref: BN008/0005/0075

Dear Mr Roberts,

TRANSEND REVENUE CAP 1 JANUARY 2004 TO 30 JUNE 2009 – DRAFT REPORT

We refer to the request for submissions on the above Draft Report ("the Report") released by the Australian Competition and Consumer Commission ("Commission") for comment by 24 October 2003.

We thank you for the opportunity to comment and ask that you accept this letter as Ergon Energy Pty Ltd's ("Ergon Energy") submission on the Report. Ergon Energy has limited its comments to the issues of Service Standards and the Alternative Approach to Capex outlined in Appendix C of the Report.

Service Standards

Ergon Energy agrees with the Commission's view that service standards should be stretch targets, thereby ensuring that Transmission Network Service Providers ("TNSPs") are rewarded where they are able to effect improvement in service. As a general comment, Ergon Energy supports services standards that are:

- directed at market outcomes that benefit electricity users;
- applied during periods of system stress when performance matters;
- universally applied to all TNSPs both in scope and level;
- focused on best practice in the industry.

Ergon Energy agrees with the Commission's view that in addition to the service standards proposed to be reported by Transend, data on both Intra-Regional Constraints and

Average Outage Duration should be collected and reported. We note however that under the Commission's proposal this data will not be available until the next regulatory reset. In our view data should be collected on these service standards as soon as possible in order that service standards can be developed, measured and reported by mid determination, or a date earlier than the next regulatory reset.

Ergon Energy notes the Commission's comments that it intends to develop performance standards that are more closely aligned with time periods that are important to transmission customers. Ergon Energy strongly supports this approach. We also note that the Commission recognises that improvements will need to be made to the performance incentive regime to improve its effectiveness. We agree that the Commission should work with Transend and other TNSPs to further develop a more robust service standards framework. In this regard, the proposed TNSP, generator and Retailer working group which the ACCC has undertaken to establish to develop an appropriate set of service standards should be convened at the earliest opportunity to discuss service standards and issues around their application during a determination period.

Alternative Approach to Capex

We note Transend's proposal that its variable capex should be funded on a pass through basis, thereby avoiding the probabilistic method for capex for these assets. For the reasons stated by the Commission in the Report and in accordance with its previous decisions we agree with the Commission's view that the probabilistic approach should be utilised for the calculation of capex in this determination.

In Appendix C of the Report the Commission proposes a beneficiaries pays style approach to the funding of network development as a potential alternative to Transend's proposal. By way of a general comment Ergon Energy supports the concept of beneficiary pays for the allocation of transmission investment costs. However due to the wider policy implications of beneficiary pays and the work previously undertaken by NECA on this issue, we consider that prior to the implementation of a beneficiary pays regime specific to the Transend determination, further consultation needs to be undertaken by the wider forum of the NEM jurisdictions, NECA, the Commission and market participants.

Whilst we agree with the concept of beneficiary pays in theory, we have a number of concerns with the approach outlined in the Report as follows:

- On the limited information provided it is difficult to come to any firm conclusions on the proposed approach. The Report only considers the issue at a high level and whilst we agree with the proposal in principle, it is difficult to form a view without further detail.

- We query whether proponents of new developments would in fact be inclined to agree to individually fund assets particularly where substantial augmentation of the network is required to support a large new generator. It would seem that there would be a preference by proponents to have the costs of augmentation shared with other customers and accordingly it would appear that there is little incentive for individual users to individually fund assets.

- The approach outlined in the Report appears to be dependent upon the agreement of the proponent on an ongoing basis. It provides for the asset to be rolled into the asset base every year subject to a number of conditions including agreement from the proponent to fully cover the associated costs. Our concern is that this approach is subject to the ongoing agreement of the proponent or a subsequent owner. Where the proponent or subsequent owner no longer agreed to individually fund the augmentation it would appear that the asset would be treated as a shared asset and the costs recovered from all users, thereby exposing customers to increases in charges that cannot be anticipated.

- The approach is based on the premise that proponents are able to freely enter into agreements with monopoly TNSPs on a commercial basis. We note the Commission's comments that some oversight may need to be exercised by the Commission in some instances where parties cannot reach agreement. We agree that in these circumstance the Commissions intervention would be required.

Ergon Energy would be pleased to discuss this submission. Should you require clarification on any point in our submission please do no hesitate to contact me on (07) 3228 8134 or Michael Callow on (07) 3228 8259.

Yours sincerely,

Rebecca Myers
Manager Regulation