



Ref.: BN008/0005/0077

30 January 2004

Mr Sebastian Roberts
General Manager
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Regulatory Affairs Division
Australian Competition and Consumer Commission
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Dear Mr Roberts

Transgrid Transmission Revenue Determination 2004-2009

We refer to the request for submissions on TransGrid's application ("Application") to the Australian Competition and Consumer Commission ("Commission") concerning the reset of TransGrid's revenue cap for the period 1 July 2004 to 30 June 2009 released by the Commission for comment by 30 January 2004.

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 Application. Ergon Energy has limited its comments to the issues of service standards, cost pass through and revenue smoothing.

Service Standards

Ergon Energy has undertaken an active role in the Commission's consultation on the development of Services Standard Guidelines. We enclose a copy of our previous submission to the Commission's Draft Decision on Service Standards Guidelines. Ergon Energy was also a joint signatory to the Energy Retailers Association of Australia's ("ERAA") submission to the ACCC on this matter and will continue to participate in the Commission's consultation with market participants via the ERAA's participation on the Commission's Service Standards Working Group.

As a general comment Ergon Energy considers that service standards should be stretch targets, thereby ensuring that Transmission Network Service Providers ("TNSPs") are rewarded where they are able to effect improvements in service standards. Ergon Energy supports service standards that are focused on the market impact of transmission failures by taking into account the financial impact and the timing of the failure and the relative importance of the particular transmission asset to the wider effective operation of the market. Ergon Energy also supports the transition to service standards that can be universally applied to all TNSPs.

Ergon Energy recognises that the service standards regime being developed by the Commission is in its infancy and that consultation with market participants is ongoing. Accordingly it is likely that there will be further development of the service standard regime following the finalisation of Transgrid's revenue determination (given that this will occur prior to the Ministerial Council on Energy's July 2004 deadline).

In light of the fact that revenue determinations are for a period of five years we consider it essential that revenue determinations must be capable of accommodating the development of a more robust and sophisticated service standard regime during the determination period. On this basis we recommend that Transgrid's revenue determination incorporates the current minimum service standards plus a statement applying the extended market-based service standards that are under development in conjunction with an accompanying penalty/incentive regime. The extended standards should be structured such that Transgrid has an incentive to move beyond the minimum standards incorporated in the determination to the higher standards once implemented.

Ergon Energy supports the proposed services standards regime that the ERAA has previously outlined in its submission to the Commission's Draft Decision on Service Standard Guidelines. We urge the Commission to continue to progress work on these guidelines, taking into account the ERAA's recommendations, as soon as possible.

Whilst Ergon Energy has raised these concerns over services standards in relation to Transgrid's determination, we consider it imperative that the other forthcoming TNSP revenue determinations anticipate these developments and provide the scope to incorporate them during their term.

Cost Pass Through

Ergon Energy has concerns about unlimited pass-through of costs during a determination period and considers that cost pass throughs should only be allowed in exceptional circumstances. A pass-through should not be used to recover losses incurred as a result of poor management, growth forecasts or inadequate risk/insurance cover.

Ergon Energy notes that Transgrid seeks to include, among others, "Unforeseen External Events" as a pass through. While we note Transgrid's comment that the major category of event envisaged is a terrorism event we are concerned that the definition of "Unforeseen External Events" as proposed is very wide. Additionally this definition does not take into account the potential for self-insurance for certain eventualities that may be contemplated by this definition. Ergon Energy's view is that the definition should be more specific with respect to the nature of the events contemplated.

Any cost pass-throughs that are permitted for exceptional events should be smoothed in accordance with our comments below.

Revenue Smoothing

Ergon Energy is of the firm view that any increase in transmission charges should be smoothed and price increase side constraints used for individual customers to prevent price shocks. Price smoothing is important in providing protection to customers as well as allowing customers to better forecast and budget for future network costs. Previous Commission determinations have imposed little if any constraints upon pricing, following the setting of the Maximum Allowable Revenue ("MAR"). However the translation of the

MAR into prices and the variation of these prices year by year can cause price shocks which could be mitigated through the implementation of a constraint on price increases, for example we recommend that individual customers would have TUOS charges constrained to a maximum of CPI + 5%.

Ergon Energy would be pleased to discuss this submission. Should you require clarification on any point in our submission please do not hesitate to contact me on (07) 3228 8134 or Michael Callow on (07) 3228 8259.

Yours sincerely

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