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Dear Mr. Roberts

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REVIEW OF THE REGULATORY TEST

The Commission has called for submissions on its Discussion Paper of 5 February 2003 on the above topic.

I do not intend to comment on the 3 options put forward, other than to observe that – to the extent they all depend on the results of modeling – they will continue to present grounds for disagreement and dispute. The faith in modeling is not justified by the experience; any result desired can be pre-programmed for delivery from any model. The heroic assumptions required, the sensitivity to these, and the wide deviation from actual outcomes, make any approach for a regulatory test based on modeling a recipe for dispute.

After considerable involvement in the SNI and Murraylink projects, I can only emphasise ESCOSA's belief that it is not productive to pursue regulatory tests based on this false hope of assessing the benefits. ESCOSA was party to modeling of SNI benefits which could be set at whatever level we wished. Whilst engineers and economists may be convinced that modeling is the solution, it is my experience that it is a dangerous diversion.

I have come to the conclusion that it is time to recognize that decisions on interconnectors between jurisdictions are political decisions, and if the two jurisdictions want such facilities, that should be sufficient. The ballot box can decide if the decision was correct or not. The regulatory test should be a political process, not an economic one.

Once that decision is taken, we can then start to focus on how to make the political process more accountable and responsive to the market. This might be achieved through some

central planning process, or through the TNSPs approaching the governments for approval, or by a private investor seeking the endorsement of the two jurisdictions for the project. Alternatively, there may be other mechanisms for ensuring the jurisdictional endorsement is open, transparent and competitive.

Once a project has been endorsed by the two relevant jurisdictions, that should be the end of the process. Normal commercial and regulatory activities should then proceed – commercial to negotiate the financial arrangements between the relevant parties, and regulatory to determine the impact on TUOS and other matters such as performance standards and reporting etc.

I have not developed these concepts in any detail, as there is little point in doing so until there is acceptance that the holy grail of quantifying benefits is unachievable. If the ACCC moves its thinking to this new paradigm, then I am sure it will be possible to develop details of how the political test can be applied.

I strongly urge the Commission not to proceed with the attempt to better quantify the benefits based on modeling, but instead to aim for a practical and transparent approach to facilitating greater interconnection between regions.

Yours sincerely

Lewis W Owens

Chairman

Essential Services Commission of SA