



12 December 2008

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Mr Michael Buckley  
Australian Energy Regulator  
General Manager, Network Regulation North  
23 Marcus Clarke Street  
Canberra ACT 2601

Our Reference: MN SU 01

**Multinet Response to Australian Energy Regulator – Access Arrangement Draft Guideline September 2008**

Dear Mr Buckley

Multinet welcomes the opportunity to provide comments on the Australian Energy Regulator (AER) draft access arrangement guideline. Multinet welcomes any consultation process that provides a genuine attempt to clarify matters and provide guidance to service providers in preparing an Access Arrangement revision.

**Confidential information**

The guideline proposes that service providers are required to provide two submissions in the case when confidential information is provided i.e. a full submission for the AER to consider and an identical submission that can be made public with the confidential components redacted. Further, the service provider is required to provide reasons for any claim of 'truly' confidential information and how public disclosure would cause harm to the legitimate business interests.

Multinet does not necessarily object to providing information that is confidential in nature. Multinet has provided confidential information to regulators in the past and is very open to provide the AER with information as required. Multinet understands and accepts the importance of providing information in order to assist the AER's decision making process.

Multinet queries why the AER requires submissions in two forms, particularly when an entire submission or substantive parts of submissions is confidential rather than specific parts. In this case it serves no purpose to provide two copies. In these cases Multinet assumes that this could be made clear as part of the submission rather than the AER publishing a submission that is redacted entirely.

The AER goes further in the draft guideline by suggesting that in the case that two copies are not provided, it will publish the confidential version or place less weight on the submission. Multinet would contend that the AER is obliged to place the same weight to all submissions that it has in its possession regardless of whether the information is confidential or not. The Rules do not give the AER the discretion to place different weights on whether the information is confidential or public in nature. There will also be times when the service provider has simply forgotten to provide a public version, despite proving a confidential version. It would be beyond the Rules for the AER to publish a confidential version simply because a service provider has not provided a public version.

The term 'truly' confidential does not provide Multinet guidance with whether information is confidential or not. This test of 'truly' is not envisaged in the Rules and is subjective in nature. The AER should rely on service providers demonstrating that the information is confidential in an objective manner, consistent with the Rules and remove any reference to 'truly' in the final guideline.

Service providers have rights of review when the AER is considering the publication of confidential information. These should be included in the guideline to ensure that service provider's interests are not harmed by the publication of confidential information because of an administrative oversight. Indeed the AER could include a number of processes it should meet prior to the publication of information as a preventative measure.

### **Confidential information where multiple service providers are involved**

Multinet envisages that the AER may receive confidential information from other parties who, under the code are also defined as service providers in respect of services that utilise Multinet Assets. Alternatively the AER may receive confidential information from parties that provide construction and maintenance services to Multinet in respect of its distribution network. In these cases it is essential Multinet should be provided with that information, consistent with the requirements of the laws and rules.

### **Merits review**

The draft guideline provides a discussion of the relevant provisions of the NGL and NGR in relation to reviews of a decision. Multinet believes that a discussion of this type is not warranted in this guideline. Section 1.2 of the draft guideline is as follows:

This Guideline has been formulated to provide information to service providers and interested parties about the content of access arrangements and access arrangement proposals and the AER's decision making processes relating to access arrangements under the NGL and NGR.

A review of the decision is outside the AER's own reason for the guideline and should therefore be removed. Service providers and other interested stakeholders are not required to provide information to the AER in the event of a review. This is outside of the AER's role and scope and should the discussion should be removed from the final guideline as it is not relevant in the preparation of an access arrangement.

### **Other administrative matters**

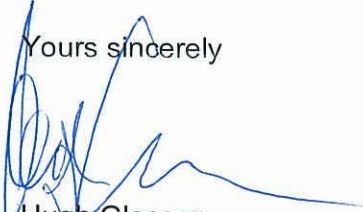
The AER proposes to advise interested stakeholders and service providers via the publication of notices in national newspapers. Whilst Multinet does not object to this requirement, the AER should also be required to inform service providers via an e-mail. Employees of Multinet are more likely to receive and respond to information via an e-mail rather than reading newspapers on a daily basis to check for AER notices. Multinet anticipates that the AER will use e-mail in these instance however the AER should commit itself to this tool and include this in the guidelines.

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The draft guideline proposes that all information that is relied upon in submissions be provided in those submissions, even if the document has previously been provided. Multinet believes this is an unnecessary administrative burden. Multinet's standard format in previous submissions has been to provide regulators with all new information and reference material that has previously been provided or otherwise provide references for other works not directly commissioned by the company. The guideline proposes that this information now be provided in full in all cases. The use of referencing in these cases should be sufficient and is consistent with the standard academic format when presenting submissions.

Please feel free to contact Andrew Schille on (03) 8544 9432 if you have any queries regarding this submission.

Yours sincerely



Hugh Gleeson  
**Chief Executive Officer**