

20 April 2004

**Via email: [electricity.group@acc.gov.au](mailto:electricity.group@acc.gov.au)**

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

**ACCC Regulatory Test**

Thank you for the opportunity to comment on the ACCC Draft Determination on refinements to the Regulatory Test. NEMMCO submits the following comments primarily to emphasise the need for active high level co-ordination of reviews that are currently being carried out in the areas relating to transmission networks in the NEM.

While specific work on the nature of the Regulatory Test is important, and timely, NEMMCO submits that the overarching objective should be for the industry to reach a fully consistent position on all the transmission areas currently being reviewed, and in particular those listed below:

- The role of regulated networks in the NEM needs to be clarified. In particular, a definition of a market-based service standard for regulated networks is required. This service standard would show how regulated networks would be rewarded and provide a framework for encouraging efficient investment and appropriate operational network decisions. These issues have not yet been fully addressed and are only partially considered in section 5.2 of the Supplementary Discussion Paper”.
- The Annual National Transmission Statement (ANTS) is currently being developed by NEMMCO, for release in mid 2004. As the key forward looking transmission statement, its role in future investment and regulatory processes needs to be considered. The scope of the ANTS, and the adequacy of the data sources, must be consistent with the intended role of the statement.
- The MCE are currently reviewing the Regional Boundary Criteria – This review has the potential to affect the way in which network congestion impacts the market. Outcomes of this review therefore have the potential to impact market drivers for both generation and transmission investment – both of which must take place in an environment that fosters reasonable levels of certainty.

The ACCC “Supplementary Discussion Paper” considers some of these broader areas, in particular the potential for an ex-ante cap arrangement. Discussions in that paper tend to focus somewhat on intra-regional reliability standards as a driver for determination of an ex-ante cap, while postulating the exclusion of interconnector investments from such a regime.

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NEMMCO would suggest further high-level consideration of these issues is warranted, with a focus on treating the transmission network as a national one rather than a collection of regional or jurisdictional networks.

An ex-ante cap approach is attractive, but would be greatly enhanced if coupled with an incentive regime that is linked to market outcomes as well as the currently noted physical outcomes, applied across the whole network. While such a global arrangement might appear unwieldy as noted in section 5.2 of the Supplementary paper, if appropriately designed, it may have potential to commercially encourage efficient decision making across the grid through commercial interaction between network owners.

NEMMCO also notes that there is a tendency for the ACCC discussion paper to focus on the capital cost of network infrastructure, rather than considering ways to ensure that network standards are delivered at the lowest overall cost. For example, if a particular network augmentation requires greater ancillary service support than another, then such considerations should bear on the investment decision. This raises the question of whether network support costs should be considered part of the network service.

In summary. NEMMCO submits this brief note to encourage ACCC to adopt a broad perspective to reviewing the regulation of transmission. While this may require that only interim adjustments be made to specific areas of focus, such as review of the Regulatory Test, it would ensure that the primary focus for the industry remains on developing a consistent overall transmission management regime that is compatible with (though not a direct part of) the competitive energy market.

Yours sincerely



**Dr Charlie Macaulay**  
**General Manager Development & Strategy**