



15 August

Ms Paula Conboy  
Chair  
Australian Energy Regulator  
GPO Box 3131  
Canberra ACT 2601

Via email [REDACTED]

Dear Ms Conboy,

### **Request for meeting between the Network Shareholders Group (NSG) and the AER Board**

We write to you as investors in the network infrastructure that provides essential services to express our concerns with the 2018 Rate of Return Guideline Review process (the '**2018 Review**'). As capital providers and asset managers, we contribute to reliable and safe provision of electricity services to 9.3 million people in NSW, ACT, VIC and SA, and seek a regulatory regime that provides ongoing confidence to invest efficiently in the long-term, through stable and transparent regulatory processes and outcomes. This ensures that investors continue to invest in the long term with an appetite to drive operating and capital efficiencies to deliver lower prices to customers.

We acknowledge the AER's efforts in enabling new platforms for stakeholder collaboration. We have actively participated in the 2018 Review in good faith and in the belief that the multiple communication avenues would ensure transparency of the process, aid in understanding of the objectives of all stakeholders and ultimately result in a set of outcomes that evidenced the consistency of approaches and logic applied by the regulator. Regrettably, this is not the case.

In our view, the approach taken by the AER in undertaking the 2018 Review has not been incremental as intended and represents a departure from the previous regulatory practice. It is our position that the AER:

- Changed the scope of the review from reviewing the prevailing market evidence on the movement of Rate of Return ('**ROR**') parameters since the 2013 Guideline to assessing the 'appropriate' level of the ROR with the prima facie assumption that the current ROR was excessive;
- Sought to reduce the ROR estimate by discounting the explanatory power of models and estimation approaches which support evidence of higher investment risk with insufficient justification for doing so;
- Essentially disregarded the Expert Panels' consensus views and reverted to relying on its own experts' positions; and
- Has introduced significant uncertainty and instability that will increase the cost of debt and equity and therefore have an adverse impact on the cost to customers in the longer term.

In doing so, the AER has neither exercised its regulatory discretion in a manner that instils confidence in the regulatory system nor upheld the spirit of its newly established consultation process.

The AER has emphasised throughout the 2018 Review that the process would enhance confidence that the findings are robust and thoroughly tested, and that the process would be accessible, transparent, collaborative and would have broad stakeholder engagement.

Given the CCP16 and ENA have had the opportunity to present during this process to the AER Board, and given the circumstances above, we are seeking a meeting with the full AER board during the month of August to discuss our concerns and way forward so that we can best contribute to the 2018 Review from here on and achieve outcomes for the long-term benefit of consumers and stability of the industry.

Importantly, in light of the apparent change in scope of the 2018 Review set out above, we strongly believe that the responsibility of the Independent Panel ('**Panel**') has increased and request that the AER enables public forums



with the members of the Panel to discuss this unexpected change in the process well in advance of the public release of their report. This would go a long way in safeguarding the credibility of the 2018 Review process and restoring confidence in the regulatory framework.

We are looking forward to continuing working with the AER and consumer groups on delivery of the 2018 Rate of Return Guideline.

Please contact Stasha Prnjatovic via email to [REDACTED] by phone on [REDACTED] to discuss and finalise the meeting arrangements.

Yours sincerely,



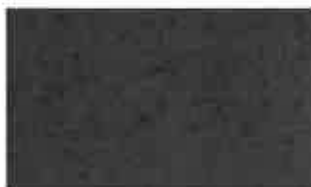
**Rick Francis**  
Managing Director & CEO  
Spark Infrastructure



**Steven Fitzgerald**  
Head of Asset Management  
HRL Morrison



**Michael Cummings**  
Global Co-Head of Asset Management  
AMP Capital



**Nik Kemp**  
Head of Infrastructure  
AustralianSuper



**Michael Hanna**  
Head of Infrastructure – Australia  
IFM Investors



**Francis Kwok**  
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Macquarie Infrastructure and Real Assets



**Jean-Etienne Leroux**  
Regional Director, Infrastructure Investments – Australia & New Zealand  
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