

18 October 2013

Mr Chris Pattas  
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Australian Energy Regulator  
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via email: [expenditure@aer.gov.au](mailto:expenditure@aer.gov.au)

Dear Chris,

### **Draft Economic Benchmarking RIN – Distribution and Transmission**

This letter is in response to two draft Regulatory Information Notices (RINs) that relate to SP AusNet's Electricity Distribution and Transmission businesses respectively. SP AusNet welcomes the opportunity to provide this submission in response to the AER's draft RINs, and more broadly appreciates the consultative approach that has been taken in relation to the development of the RIN templates.

SP AusNet recognises that the RINs are being used to facilitate the collection of data to be used for benchmarking to be performed under the AER's Better Regulation program and for the purposes of producing the annual benchmarking report. SP AusNet has provided separate submissions on the AER's Expenditure Forecast Assessment Guideline in relation to the appropriate use of benchmarking in the regulatory process. This submission focuses on issues specific to the RINs, in particular related to process, audit and assurance requirements and data availability.

SP AusNet has a number of significant concerns in relation to the Director statutory declaration and independent audit requirements of the Draft RIN and believe that a number of changes to these requirements are necessary.

While assurance has been a standard practice for the annual regulatory accounts, there are a number of challenges in obtaining the level of assurance detailed in the draft RIN due to the higher level of sign-off contemplated, the breadth of information to be reported (both financial and non-financial), the level of detail required in terms of granularity, the time periods the information is required (up to 10 years), and the requirement to back cast historical information.

SP AusNet believes that the sign-off and audit requirements in their current form will actually limit the level of information that Directors will be able to provide and will likely result in the auditors being unable to provide an opinion or conclusion in a number of cases. This would negatively impact the AER's ability to perform a meaningful and robust benchmark analysis.

This submission addresses the following issues:

1. Directors' declaration – assurance requirements will limit what data can be provided.
2. Historical data to be provided – data may not be available or able to meet assurance standards required.
3. Timing – the timing is poorly aligned with the regulatory year for the Victorian Transmission network, resulting in less up to date data being available.
4. Reallocation of the Regulatory Asset Base – the template seeks data that do not exist so further guidance is required to enable NSPs to provide useful information.
5. Availability of data – an initial view as to what data SP AusNet has available.

SP AusNet has contributed to and supports the submission of the Electricity Networks Association (ENA) on the Economic Benchmarking RIN. This response should be read together with the ENA submission which highlights some of the more detailed issues.

### **Directors' declaration**

The statutory declaration requires Directors provide their sign-off that the information is “true and accurate” and that it can be relied upon by the AER to prepare a network service provider performance report (an annual benchmarking report) and to assess expenditure by an efficient Network Service Provider. The draft statutory declaration provided by the AER requires a higher level of sign-off compared to what Directors have previously provided as part of the annual regulatory accounts and annual RIN. More importantly, it does not provide the framework by which Directors can make the statements required and there are concerns that it requires Directors to anticipate all of the AER's uses of the information in order to state that it can be relied upon by the AER. As SP AusNet is not clear how the information received by the AER will ultimately be used, the Directors will not be in a position to provide a statutory declaration to that effect.

There may be instances where the information required by the AER cannot be obtained or even estimated but this is not contemplated in the statutory declaration. The Draft RIN also does not consider the implications of the AER requesting changes to audited information that is covered under the statutory declaration. The Directors will not sign the statutory declaration stating that the information provided is “true and correct” in advance of an audit report, especially if making a false claim is liable to the penalties of perjury.

SP AusNet recommends that the wordings in the statutory declaration be amended to state that the information is true and fairly stated and in accordance with the requirements in which the auditor will be required to sign-off. The statutory declaration is also proposed to be provided to the AER at the same time as the audit report, not before.

### **Historical information to be reported**

The decision to subject the substantial amounts of historical and backcast data being sought by the AER for benchmarking purposes to onerous audit standards raises a series of concerns, including that it may hinder the provision of data, or that it may provide a false sense of assurance over the quality and robustness of segments of data that are inherently thin.

SP AusNet is aware that the AER is currently also developing a RIN for the purpose of category benchmarking and that the intention is for the audit and assurance requirements to be consistent for the two benchmarking RINs. Based on the preliminary template for category benchmarking, which seeks network data to an order of magnitude higher in both breadth and level of detail, these concerns are exacerbated. Hence, the remainder of this section addresses the issues for both economic and category benchmarking in relation to the provision of historical data.

The Draft RIN requires the provision of a significant amount of both financial and non-financial information which have not been previously reported and/or audited. The Draft RIN does not contemplate the ability or otherwise of a network service provider to provide or produce the requested information.

Requesting back cast information for 10 years is fraught with difficulties and issues. The Corporations Act 2001 only requires companies to retain records for seven years for statutory purposes. SP AusNet has also changed and/or upgraded its systems, including the financial and asset management systems over this period. The structure and records of both financial and operational data would have to be adjusted or reallocated to fit the current Draft RIN requirements, to the extent possible. As SP AusNet is not required to retain data for more than seven years, SP AusNet may not even have other management accounting or operational data in which to derive the requested information.

For example, it will be difficult for SP AusNet to access its previous archived financial system in order to report some of the information required and there are minimal personnel (if any) who still remember where or how to extract information from that financial system. In such a case, SP AusNet will need to estimate the information to be reported. It is also expected that the auditor will not be able to conclude on the appropriateness of the data estimated.

Furthermore, there will be requested information that does not exist as SP AusNet was not previously required to report or record that information. Once again, assumptions will have to be made to derive an estimate for this information, the result of which may be materially misleading or unreliable.

SP AusNet has had a change in auditor in the past 10 years. In order for the current auditor to sign-off on the information reported during the period where SP AusNet had a different auditor, the current auditor will need to obtain sufficient appropriate audit evidence to form a view over historical periods. However, as the previous auditor is only required to retain its audit records for a period of seven years, there is a likelihood that the current auditor may not be able to form a view over historical periods, resulting in an inability to form an audit opinion. This will in turn impact the ability of Directors to sign a statutory declaration.

SP AusNet recommends the following:

- Only 5 years of historical information is provided rather than 10 (consistent with section 3.3 of the ENA's Submission on Draft RIN and Explanatory Statement);
- The requirement to back cast information where there has been a change in the Network Service Providers cost allocation methodology be removed (consistent with section 3.4 of the ENA's Submission on Draft RIN and Explanatory Statement);
- The RIN should require that a basis of preparation is prepared by the Network Service Provider, and that the basis of preparation forms part of the completed RIN

(consistent with section 3.2 of the ENA's Submission on Draft RIN and Explanatory Statement); and

### **Timing**

The timeframes proposed for the submission of information by the Network Service Provider are extremely tight, especially for first-time reporting and given the level of historical information required. Network Service Providers will have to incur significant costs to prepare, and have audited, the information in the timeframes required. In addition, the timeframes for the preparation of information in the Draft RIN coincide with the timeframes for the annual regulatory accounting statements preparation as well as the AER's proposed Category Benchmarking RIN, placing further pressure on a Network Service Providers resources and ability to meet the information and audit requirements.

The Draft RIN defines a Regulatory Year as being "12 calendar months in a Regulatory Control Period." SP AusNet's electricity transmission network, however, has a March Regulatory Control Period. This essentially means that the latest data to be provided will be up to the 31 March 2013 Regulatory Year. For the initial RIN reporting in 2014, this would mean that SP AusNet will provide data for the year ended 31 December 2013 in relation to the electricity distribution network and for the year ended 31 March 2013 in relation to the electricity transmission network. SP AusNet is unable to provide data in respect of the 31 March 2014 Regulatory Year by 30 April 2014 as a significant amount of time is involved to gather and subsequently have the data audited. At the moment, SP AusNet gathers data and prepares the annual electricity transmission Regulatory Accounts by June, followed by an audit prior to lodgement with the AER by 31 July.

### **Reallocation of the Regulatory Asset Base**

While SP AusNet will face some (non-trivial) issues in relation to compiling a range of the data required in the Draft RIN template, the area of greatest difficulty is in relation to the 'Assets (RAB)' tab, which seeks historical regulatory asset base values restated based on a different disaggregation to that on which it is built.

The Regulatory Asset Base (RAB) is a regulatory construct. The RAB was not constructed in its whole as the sum of a series of detailed pieces that match one-to-one with physical parts of the network. Hence, it the RAB cannot be rebuilt in new categories by identifying those pieces that belong to each category. For example, in Distribution, it is not possible to say as a fact (with accompanying audit and director signoff) what share of the RAB is 'overhead distribution assets' or 'easements' for example.

The AER is seeking this RAB data as an input to economic benchmarking and in consultations has acknowledged that there is no existing RAB allocation in the form required, that this will need to be created based on other information. Yet, this is not acknowledged in the RIN.

The AER should provide sufficient information or guidance as to what information is being sought in relation to the 'Assets (RAB)' template to enable NSPs to demonstrate that they are complying with the RIN. This should not rely upon knowledge of the detailed workings of the economic benchmarking models (such as TFP) that it is unreasonable to assume that the businesses have.

### **Availability of Data**

As discussed in the sections above, there are a number of difficulties that exist in relation to the provision of historical data. To provide a more meaningful guide to data availability, attached to this submission are the two RINs colour coded to reflect an initial assessment of what can be provided from SP AusNet's data systems. Some comments are also

provided. The colour coding is consistent with that proposed in Section 3.8 of the ENA submission, albeit that SP AusNet officers have not made any assessment of whether the data they could produce would be likely to pass audit as they are not qualified to make that assessment.

Colour Code	Availability of data from NSP's primary system	Additional work around / estimation techniques
Green	Available and verifiable	<b>Straightforward</b> – no additional work or minor work around (e.g. source data from a secondary system)
Yellow	Available but with some gaps	<b>Moderate</b> – estimate based on statistically significant sample size
Orange	Little or no data available	<b>Complex</b> – estimate based on formula, standard parameters or other source
Red	Little or no data available	<b>Impossible</b> – rough estimate (e.g. rule of thumb from experience) or not possible
Black	Not applicable to relevant NSP	Not applicable to relevant NSP

SP AusNet would be pleased to address any queries you may have in relation to this submission. Please do not hesitate to contact Katie Yates, Principal Economist on (03) 9695 6622 if you wish to do so.

Yours Sincerely,



Tom Hallam  
Manager Economic Regulation