

28 August 2017

Mr Warwick Anderson  
General Manager  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Via email: [rateofreturn@aer.gov.au](mailto:rateofreturn@aer.gov.au)

Dear Mr Anderson,

**Re: Process for reviewing the rate of return guidelines**

As institutional investors in Australian energy network businesses, we are writing to you as key stakeholders of the Rate of Return Guideline (ROR Guideline).

We welcome the AER's approach to consulting on the process to be adopted for reviewing the ROR Guideline and the incorporation of new approaches that will improve the effectiveness of engagement in identifying relevant information and impacts of the rate of return on investments in energy network businesses.

The ROR Guideline will outline the AER's views on an appropriate method to calculate the cost of debt and the returns required by equity holders to invest; significantly impacting on the regulated rate of return for a period of up to 10 years.

Collectively, the undersigned have individually invested an aggregate of more than \$12 billion in energy networks in NSW, Victoria and South Australia. Therefore, not only will we be directly affected by the ROR Guideline, we also have relevant and contemporary information and experience to inform the development of the ROR Guideline. The ROR Guideline will need to ensure returns to investors are sufficient to attract capital to promote the long term interests of customers in relation to price and services.

Financial investors seek a regulatory regime that provides ongoing confidence to invest efficiently through stability and transparency of process and outcomes. We are ready and willing to participate and contribute to the AER's ROR Guideline review process. We recommend that the AER formally recognise investors as key stakeholders in the ROR Guideline review process and utilise our expertise and experience. An effective way to do this is to establish an investor reference group similar to the customer reference group. This will enable the AER to efficiently and transparently test and access information and experience to inform its views on the requirements of investors. An investor reference group will enable options to be explored, early identification of issues and collaboration in resolving them.

In particular, the AER can draw on the investor group to test methodologies for estimating the efficient cost of debt and required returns on equity and the overall impact on finance-ability. We consider that a collaborative process followed by ongoing transparency and predictability of the rate of return will support the attraction of sufficient capital at the lowest cost to customers.

We support the process outlined in the consultation paper for developing the ROR Guideline and in addition to our recommendation to establish an investor reference group, we recommend that the following could further improve the process and provide clarity to stakeholders:

- **Independent review** – we consider this to be a key contributor to transparency, confidence and trust. Therefore:
  - The review should assess that the material considered has been understood and alternative views have been given objective consideration. We recommend that, in addition to assessing sufficient linkages between evidence and information presented, the independent review also include an assessment of the reasons for disagreeing with alternative views.

- To ensure that the panel can properly assess the material, reasons and decision, the independent panel should be appointed in advance of the workshops and hot-tubbing sessions so that they can attend.
- Limiting the panel to consultants that have not advised stakeholders on rate of return issues in the last two years could also reduce the relevant and contemporary expertise of the panel on rate of return issues in the context of economic regulation. We recommend that this constraint be relaxed and the process for selecting the panel is independent and transparent.
- The findings of the independent review must be made publicly available.
- **'Hot tubbing'** – we consider that this approach will enable the views of all stakeholders to be heard and understood. Therefore, to maximise the benefits of this forum:
  - The 'hot tubbing' forum should be open to observers.
  - A cross-section of stakeholders should have representation.
  - The process for selecting participants should be transparent and supported by stakeholders.

We look forward to working with the AER, customers and the network businesses to develop a robust, transparent and fit for purpose ROR Guideline. Please contact Sally McMahon, Economic Regulatory Advisor with Spark Infrastructure (phone: 0421057821) for further discussion or questions.

Yours sincerely,



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



**Andrew Day**  
CEO  
Hastings Funds Management



**Michael Cummings**  
Head of Funds, Australia  
and NZ AMP Capital




**Nik Kemp**  
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