

15/11/2002

Theo Gazos
Assistant Director
Regulatory Affairs
Electricity

Dear Mr. Gazos,

**Re: Victorian Transmission Network Revenue Cap Draft Decision - 24
September 2002**

Introduction

TXU welcomes the opportunity to comment on SPI PowerNet's transmission revenue cap application. Comments are limited to the proposed re-valuation of the regulatory asset base (RAB).

Proposed revaluation of the Regulated Asset Base (RAB)

SPI PowerNet has proposed to revalue its asset base upwards by \$307.2 M of which \$231.8M is attributed to the value of easements. The company's original RAB had no value attributed to easements. As part of its revenue cap application, SPI has stated that both SPI PowerNet & the ACCC have obtained legal advice which confirms that it may allow adjustments to its RAB.

Requirements of the National Electricity Code

TXU submits, that the ACCC may have discretion on the basis on which to revalue the RAB under Section 6.2.3 (d) (4) (iv) of the National Electricity Code (NEC). However, if the ACCC is to revalue the original RAB, it must do so on the basis that ensures that it does not contravene the objectives of the transmission regulatory regime under clause 6.2.2 of the National Electricity Code (NEC).

Whilst there are provisions in the NEC under Section 6.2.(d) (4) (iv) that allows for a revaluation of the RAB, the NEC restricts the ACCC to revaluing the RAB on the basis that any revaluation is consistent with 6.2.3 (4) (iv) C of the NEC. In applying its discretion on how to revalue the original RAB, TXU believes that the revaluation of the RAB by the ACCC should comply with the broad principles of Section 6.2.2 (b) (2) of the NEC.

TXU believes SPI PowerNet should not be provided with a windfall gain by allowing the inclusion of the proposed adjustments to include a value for easements in the original RAB. The company acquired the Victorian electricity transmission business on the basis of the initial RAB, which did not attribute any value to easements.

In addition, TXU submits that the windfall gain achieved by SPI PowerNet by assigning a value for easements to the initial RAB contravenes Section 6.2.2 (b) (2) of the NEC. Any windfall gain via a revaluation of the RAB constitutes a contravention of the transmission regulatory principle of achieving a “fair & reasonable return” under the NEC.

TXU also submits that the ACCC’s discretion to assign a value to easements to the RAB, contravenes Sect.6.2.2 (g), which requires the reasonable recognition of pre-existing policies of governments transmission asset values, revenue paths and tariffs. The current Victorian Tariff Order that is based on the 1994 SKM valuation did not assign a value for easements.

TXU submits that the Victorian Government did not attribute a value to easements in the original RAB. The ACCC is therefore guided to recognise “this existing policy on asset values” under Section 6.2.2 (g) of the NEC. Hence, in applying its discretion on whether to revalue the original RAB, TXU submits the ACCC must recognise the Victorian Government’s original policy to not include a value for easements in the original RAB. This should help the ACCC determine their position on this issue.

If SPI PowerNet has the legal right to propose a revaluation of its original RAB, the ACCC must apply its own discretion in how it achieves this task. TXU believes that any revaluation must be undertaken on a basis that does not contravene the principles of regulating transmission revenues under Section 6.2.2 (b) (2) and 6.2.2 (g) of the NEC. The inclusion of an adjustment to the RAB for easements as proposed by SPI PowerNet is likely to contravene the regulatory principles contained in the NEC.

Yours Sincerely

Con Noutso
Economic Analysis & Advisory