



TransGrid

FILE No:

Corporate Development/Regulatory Affairs
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Ms Kanwaljit Kaur
General Manager
Regulatory Affairs – Gas
Australian Competition and Consumer Commission
PO Box 1199
Dickson ACT 2602

Dear Ms Kaur

Transgrid Submission - Appropriate CPI Indexation in the EAPL Access Arrangement Draft Decision

TransGrid is writing to submit its views on the appropriate adjustment to CPI indexation for the impact of the New Tax System (NTS) to be included in the ACCC's Final Decision on the East Australian Pipeline Limited (EAPL) Access Arrangement for the Moomba to Sydney Pipeline System.

We note that proposed amendment A2.14 in the ACCC's December 2000 Draft Decision states:

"In order for EAPL's access arrangement for the MSP to be approved, the CPI-X formula must be exclusive of the impact of the New Tax System."

The treatment of the impact of the NTS on CPI indexation of revenues is an important issue for all regulated businesses. TransGrid notes that the precise meaning of a CPI "exclusive of the impact of the New Tax System" is not spelt out in the above-proposed amendment. However, TransGrid is concerned that indexation of all regulated revenue streams to an "NTS exclusive CPI" may:

1. reduce the real value of regulated businesses' existing capital assets;
2. infringe on established regulatory principles, in particular the principle of the real maintenance of financial capital where this applies; and
3. attempt to enforce a potentially flawed interpretation of Section 75AU of the Trade Practices Act on regulated businesses.

We consider it important that the ACCC does not apply a simple "one size fits all" approach on this issue and that each individual decision is fully consistent with the governing legislative/regulatory framework.

For your information, attached is a copy of a letter to General Manager Regulatory Affairs / Electricity on this issue in relation to adjustments that may appropriate to TransGrid's revenue cap.

Yours sincerely

Philip Gall 8/2/2001
Philip Gall
Manager/Regulatory Affairs

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Corporate Development/Regulatory Affairs
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Mr Michael Rawstron
General Manager
Regulatory Affairs - Electricity
ACCC
PO Box 1199
Dickson ACT 2602

Dear Sir

TransGrid's Revenue Cap

As per my telephone discussion with Mr Paul Bilyk on Thursday, 1 February, TransGrid has real concerns about the Commission's proposed approach to addressing the issue of how the impact of GST will be reflected in the CPI factor used in determining TransGrid's revenue cap.

TransGrid does not agree with what appears to be the Commission's current approach of "one size fits all" to this issue. The electricity industry is different to other regulated industries. For example, in making its decision, the Commission not only has to develop an approach which complies with the *Trade Practices Act 1974*, but also has to act in accordance with the provisions of the National Electricity Code.

One of our main concerns is that we have approached our discussions with the Commission on this issue on the basis that we would be formally consulted before any final decision was made. It now appears, from discussing this issue with staff from the Commission, that the matter may have already been determined prior to any formal consultation taking place with TransGrid.

TransGrid has relied on the Commission's comments in its decision on TransGrid's revenue cap dated 25 January 2000 (the "Decision") that it would be consulted with a number of parties prior to making a decision on the impact of GST on TransGrid's revenue cap:

"The Commission proposes to make that assessment in cooperation with TransGrid, Energy Australia and the parallel efforts of State Regulators with the intention of arriving at an appropriate CPI adjustment figure for the 2000/2001 revenue cap by the end of April 2000. The Commission welcomes the fact that TransGrid has already indicated its willingness to assist the regulators in this regard."

TransGrid expected, as a result of these assurances in the Commission's Decision, that it would be fully consulted by the Commission before it made a final decision as to how the issue of the impact of GST on the CPI factor would be addressed.

TransGrid is committed to working constructively with the Commission and, as agreed, will be submitting further economic evidence to the Commission on this issue by the end of March 2001 for its consideration. TransGrid looks forward to the Commission demonstrating through its consultations with TransGrid and other interested parties that there is no foundation to TransGrid's concern that the Commission has pre-determined the matter.

Yours sincerely

Philip Gall 8/2/2001
Philip Gall
Manager/Regulatory Affairs