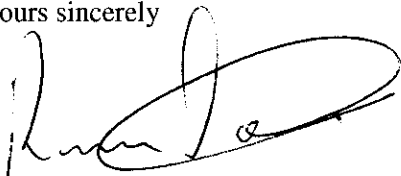


Under clause 6.2.4(d) of the *National Electricity Rules*, a revocation of a revenue determination can only be performed if a material error was made in the setting of the revenue cap and prior written consent of parties affected by the proposed subsequent re-opening of the revenue cap has been obtained by the AER. As we understand, the AER has written to a number of affected parties based on the advice of TransGrid. The EUAA is particularly concerned that the majority of the listed parties would not be materially affected by the reopening of TransGrid's revenue cap, given that they can simply pass on increased prices to end users via cost pass through arrangements and only two of the ten listed parties are actual end users. In short, most of the parties from whom consent is being sought are indifferent to the outcome. This appears to be a cursory approach to obtaining the consent of affected parties, which does not give regard to those parties who will be ultimately most affected. End users are being asked to bear almost \$28 million in extra costs and should have been consulted from the outset.

The EUAA also questions why it has taken Transgrid and the AER so long to raise this issue. All the facts were known at the time of the determination and Transgrid would have been able to initiate action at the time. To seek a reopening so late smacks of 'shopping' for the best outcome, even when the system provides for 'overs and unders'. We consider that if the determination is to be reopened then this aspect of it should not be the only matter placed under AER scrutiny. Other aspects where there may have been a contrary movement in costs or other parameters should also be considered by the AER.

The EUAA believes that this request for a reopening raises some fundamental issues of principle. The process for regulating monopoly businesses is afflicted by an imbalance in information between the regulator and end users on one hand and the regulated business on other, and its effectiveness is largely dependant on the regulator having equally effective information (which is extremely unlikely). Information asymmetries in the regulatory process are also compounded by the appeal of revenue determinations favouring regulated monopoly businesses. As can be seen in this case, the regulated party enjoys the privilege of requesting a correction during a regulatory control period where that correction would serve to positively impact their allowable revenue. Clearly, there would be no undertaking to seek a re-opening based on a material error that would serve to reduce their maximum allowable revenue.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Roman Domanski', written in a cursive style.

Roman Domanski
Executive Director