



18 October 2013

Mr Chris Pattas
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Australian Energy Regulator
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Dear Mr Pattas

RE: Economic Benchmarking Regulatory Information Notice (RIN)

1. Introduction and context

United Energy (**UE**) welcomes the opportunity to comment on the Australian Energy Regulator's (**AER**) Draft Economic Benchmarking RIN (**draft RIN**) and associated Explanatory Statement. UE supports the consultative approach adopted by the AER in developing the draft RIN and considers that industry input into the development of both the draft RIN and the Indicative Draft Category Analysis RIN is critical to ensure that the final RINs are efficient and useful for all parties.

UE has separately commented on its ability to complete the Indicative Draft Category Analysis RIN which the AER is also currently consulting on. In particular, UE:

- Attended a joint Victorian distribution network service provider (**DNSP**) workshop with the AER on the data templates;
- Attended a bilateral meeting with AER on 8 October 2013; and
- Submitted a follow up written submission to the AER on 15 October 2013.

UE supports consultation which involves both written submissions together with face-to-face meetings. This is particularly important given the volume and complex nature of the information currently being sought in both RINs.

2. Overall concerns with the information being sought

UE emphasises that, in relation to both RINs, it is generally not able to readily populate the templates directly from the information it has on record or from its existing processes and systems. In order to collate and present the information requested in the format required by the AER, UE would need to undertake, in some cases, significant data mining and develop and apply assumptions and allocations in order to estimate the required information.

As noted above, UE has provided the AER with detailed information on its ability to populate each of the data templates in the Indicative Draft Category Analysis RIN. In relation to the draft RIN, UE submits

that in order to complete worksheet 4 relating to the RAB and section 8.2 of worksheet 8, it would need to make a number of assumptions and allocations.

UE highlights that completing both these RINs will require it to make significant time, money and effort commitments including to review and audit the information to ensure it is true and correct for the purposes of statutory declaration.

Given the extent of the allocation and estimations that will need to be made, UE queries the robustness and accuracy of the data for the purposes of the benchmarking exercises that the AER is intending to undertake. UE cautions that the data ultimately provided by DNSPs may not be sufficiently accurate to allow the AER to undertake reliable or meaningful benchmarking analysis.

Once the AER's RINs have been finalised, UE will assess the need to introduce process and system changes to allow it to collect the required information on the basis and in the format requested going forward in a more efficient manner where it is prudent and efficient to do so. This will assist in ensuring more accurate and reliable data capture and reporting going forward.

3. Specific concerns with the draft RIN

The Energy Network Association (**ENA**), on behalf of its members, is making a detailed submission to the AER on the draft RIN. UE is an active member of the ENA and has contributed to, and endorses, the views and recommendations presented by the ENA in its submission. In particular, UE supports the recommended amendments to the draft RIN as set out in section 1.2 of the ENA's submission. These relate to:

- The form and justification of regulatory information instrument;
- The accounting framework and information provision;
- The audit and assurance framework; and
- Statutory declaration

In **Attachment 1** of this submission, UE provides proposed amendments to the statutory declaration accompanying the draft RIN. The reasons for these amendments are as follows:

- Paragraph 2(b)(i) should be deleted on the basis that the deponent cannot say whether or not the information can be relied upon by the AER to prepare and publish a performance or benchmarking report because the content of these reports is a matter for the AER;
- Paragraph 2(b)(i) should be deleted on the basis that the AER determines the parameters for benchmarking opex and capex and the deponent cannot therefore say whether the information can be relied on by the AER for these purposes; and
- Paragraph (c) should be deleted on the basis that it is unnecessary given paragraph (a) which says that the response is in accordance with the requirements of the notice. Clause 1.3 of Schedule 2 already requires that "where it is not possible to provide the information for a particular Variable or part of a particular Variable as required by the Notice, provide an estimate. Where the information provided is an estimate, use the best endeavours to generate the most appropriate estimate...and explain why it is the most appropriate estimate".

Additionally, UE considers that it is not realistic or consistent with good governance arrangements for the AER to expect it to provide a statutory declaration prior to the information being audited. UE also strongly opposes publication and consultation on unaudited information on the basis that this is likely to

result in significant wasted time, money and effort for all parties and is unlikely to assist the AER in producing its Annual Benchmarking Report, which it is required to publish in September 2014.

4. Publication of the Economic Benchmarking Model

UE would welcome the opportunity to better understand the AER's Economic Benchmarking Model (i.e. total factor productivity (TFP) model).

The AER has issued and consulted on an early very limited example of this model only. UE considers that the AER should issue and consult on a further developed draft working version of this model, together with an accompanying handbook which explains how the model works and the linkages to, and reasons for requiring, the information requested in each of the data templates in the draft RIN.

5. Closing

Please do not hesitate to contact Stephanie McDougall, Price Review Manager, on (03) 8846 9538 or stephanie.mcdougall@ue.com.au if you would like to discuss any of the matters raised in this submission.

Yours sincerely

Andrew Schille
General Manager Regulation



ATTACHMENT 1: Statutory Declaration – proposed amendments

State of....

Statutory Declaration

I, _____ [full name] _____.

of _____ [address] _____.

.....do solemnly and sincerely declare that:

- 1. I am an officer, for the purposes of the *National Electricity (<state> Law (NEL)*, of NSP Name (ACN XXX XXX XXX) (The NSP), a regulated network service provider for the purposes of section 28D of the NEL.
- 2. The response of The NSP regarding the information required to be provided and to be prepared and maintained as specified by the Australian Energy Regulator’s (AER) Regulatory Information Notice (Notice) dated 15 November 2013, is to the best of my information, knowledge and belief:
 - a. in accordance with the requirements of the Notice; and
 - b. is true and accurate, and in all material respects can be relied upon by the AER to:
 - i. ~~prepare and publish a network service provider performance report (an annual benchmarking report) the purpose of which is to describe, in reasonable plain language, the relative efficiency of each Distribution Network Service Provider in providing direct control services over a 12 month period; and~~
 - ii. ~~to assess benchmark operating expenditure and benchmark capital expenditure that would be incurred by an efficient Distribution Network Service Provider relevant to building block determinations; and~~
 - c. ~~where it is not possible to provide the information required by the Notice I have provided an estimate. Where the information provided is an estimate, I have used my best endeavours to generate the most appropriate estimate, and have provided the AER with the basis for this estimate and reasons why it is the most appropriate estimate~~

in respect of the distribution services provided by way of the electricity distribution network The NSP operates in <state>.

I acknowledge that this declaration is true and correct, and I make it with the understanding and belief that a person who makes a false declaration is liable to the penalties of perjury

Declared at _____.

this _____ day of _____ 20 _____

.....
Signature of person making this declaration
[to be signed in front of an authorised witness]

Before me,

.....

Signature of Authorised Witness

The authorised witness must print or stamp his or her name, address and title under section 107A of the *Evidence (Miscellaneous Provisions) Act 1958* (as of 1 January 2010), (previously *Evidence Act 1958*), (eg. Justice of the Peace, Pharmacist, Police Officer, Court Registrar, Bank Manager, Medical Practitioner, Dentist) Regulatory