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Manager – Energy market Reform Team
National Energy Market Branch
Department of Industry Tourism and Resources
GPO Box 9839
Canberra ACT 2601

By e-mail: MCEMarketReform@industry.gov.au

Dear Sirs,

Response to Exposure Draft National Electricity Rules

Thank you for the opportunity to offer an initial response to the exposure draft of the National Electricity Rules (**NER**). This response should be read as supplementary to the submission made by the Energy Networks Association.

Background

Powercor Australia and CitiPower own and operate electricity distribution networks in Victoria. Key issues arising from the Energy Market Reform for Powercor and CitiPower will be the provisions of the NER relating to access to services provided by energy infrastructure and the form of economic regulation to be applied to distribution by the Australian Energy Regulator (**AER**).

We therefore reserve our position on these expected amendments to the NER and look forward to the opportunity to be fully consulted on these amendments. The following comments are therefore necessarily very limited in scope.

CitiPower and Powercor are also concerned that there may be unforeseen effects arising from the transitional arrangements which have not yet been released. CitiPower and Powercor would appreciate the opportunity to review these provisions and urge the Standing Committee of Officials to arrange for their release and provide the opportunity for consultation before their introduction into the South Australian Parliament.

NER Issues

Form of Economic Regulation and Access

The deletion of clause 1.12 highlights the current uncertainty surrounding the proposed access arrangements for distribution. We note the ongoing absence of transparency in relation to proposed access arrangements, transitional arrangements and savings and repeat our prior requests for transparency and consultation in relation to these matters.

Reviewable decisions and merits review

We note the revocation of the concept of reviewable decisions and disestablishment of the National Electricity Tribunal with concern, as this significantly erodes regulator accountability. We are further concerned that proposed amendments to clause 8.2.1(h), which exempted decisions which were reviewable from the dispute resolution procedure under 8.2, has now been amended to expressly exempt decisions of NEMMCO which were previously reviewable.

CitiPower and Powercor understand that this exemption was originally to avoid decisions that were reviewable also being subject to the dispute resolution process. As the concept of reviewable decision no longer exists, there is no longer any justification to exempt these decisions from the dispute resolution process under clause 8.2. Powercor and CitiPower therefore submit that the these exemptions proposed under clause 8.2(h) be deleted in order to maintain at least some level of regulatory accountability for these decisions. More importantly Powercor and CitiPower repeat prior submissions that all significant regulatory decisions should be subject to an appropriate form of merits review.

Amendments extend beyond the scope necessary for the conversion to Rules

CitiPower and Powercor are concerned that in some cases the amendments shown in the exposure draft go beyond the scope required to convert the existing Code into Rules.

For example, new clause 7.2.8 (d1) introduces a new provision relating to NEMMCO's obligations to provide a B2B e-Hub and for participants to be obliged to use this e-Hub. A similar provision is currently part of the NECA Code consultation process to amend the Code to include B2B procedures and it is unclear why it is necessary to make this amendment under the conversion of the National Code into Rules.

Other examples which appear to extend beyond the scope of this project include 7.4.2(bb) and S7.4.1(c) which deal with the obligations of metering providers.

Changes to rights and obligations

CitiPower and Powercor are concerned that in some cases the amendments shown in the exposure draft significantly change the rights and obligations of participants or regulators.

For example, the deletion of clause 8.7.1 significantly changes the scope for the AER to establish a monitoring regime without regard for the monitoring objectives set out in this clause including consistency, equity and cost effectiveness.

The amendments proposed for clause 8.7.2 require the AER to consult "as the AER considers appropriate" when establishing reporting requirements. It would seem more appropriate for the consultation to occur in accordance with the Rules Consultation Procedures set out in section 8.9.

Yours sincerely

Richard Gross
General Manager Regulation