

22 December 2005



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Dear MCE Secretariat

RE: EUAA Response to MCE Expert Panel Review of Revenue and Network Pricing across the Energy Market

The Energy Users Association of Australia (EUAA) welcomes the opportunity to provide comments to the Ministerial Council on Energy's (MCE) Expert Panel Review of Revenue and Network Pricing across the Energy Market.

The EUAA is a non-profit organisation focused entirely on energy issues on behalf of large end users of electricity and/or gas. The EUAA currently has over 80 members. Membership ranges across a number of sectors, including mining, manufacturing, construction, commercial property and service sector. Many of the EUAA's members operate across States.

Network revenue and pricing is an important component of a large energy users' final energy bill. In particular, network charges make up approximately 40% to 60% of the final bill. Hence, the EUAA believes that the Expert Panel's Terms of Reference, as contained in the MCE Energy Market Reform Bulletin No. 56, dated 7 December 2005, is important to streamlining network revenue and pricing regulation across Australia and reducing the burden on Australian industry of having to manage a number of different Federal and State based energy regulatory frameworks.

We note that the time provided for comment on the Terms of Reference is limited (i.e. two weeks). This is an extremely short timeframe to prepare a detailed response to the Panel's Terms of Reference.

If you have any questions about the submission or would like to discuss it further please do not hesitate to get in contact with EUAA's Director Policy and Regulation, Mr Con Hristodoulidis or myself, on telephone number (03) 9898 3900.

Yours sincerely

A handwritten signature in black ink, appearing to read "Roman Domanski".

Roman Domanski
Executive Director



EUAA RESPONSE TO MINISTERIAL COUNCIL ON ENERGY:

**EXPERT PANEL REVIEW OF REVENUE AND NETWORK
PRICING ACROSS THE ENERGY MARKET**

DECEMBER 2005

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1. Introduction

The Energy Users Association of Australia (EUAA) welcomes the opportunity to provide comments to the Ministerial Council on Energy's (MCE) Expert Panel Review of Revenue and Network Pricing across the Energy Market.

The EUAA is a non-profit organisation focused entirely on energy issues on behalf of large end users of electricity and/or gas. The EUAA currently has over 80 members. Membership ranges across a number of sectors, including mining, manufacturing, construction, commercial property and service sector. Many of the EUAA's members operate across States.

Network revenue and pricing is an important component of a large energy users' final energy bill. In particular, network charges make up approximately 40% to 60% of the final bill. As network charges are regulated, it provides users with limited scope to negotiate an individual price/service offering with a network supplier. Often, our members (and other large to medium end users) are offered 'a take it or leave it' network connection and pricing agreement by the network owner.

There are significant differences between the ACCC and State based energy regulators in applying network revenue and pricing principles that determine how network owners can recoup large regulated expenditures. The variations across jurisdictions are a significant cost impost on large Australian electricity users, especially those that operate across State boundaries. Ultimately, energy transport costs can be an important factor for large end user in determining to proceed with the development of a 'greenfield' proposal and/or an expansion of current operations. We believe that jurisdictional differences in these costs are unnecessary and can mostly be removed with an appropriate national and consistent approach to energy network regulation.

Further, an appropriate national and consistent approach is consistent with the Single Market Objective (SMO) of the new National Electricity Law (NEL) (a similar SMO is also proposed for the new National Gas Law), being that energy market reform should be 'in the long-term interests of consumers'.

The EUAA believes that the Expert Panel's Terms of Reference, as contained in the MCE Energy Market Reform Bulletin No. 56, dated 7 December 2005, is important in streamlining network revenue and pricing regulation across Australia.

We note that the time provided for comment on the Terms of Reference is limited (two weeks). This is an extremely short timeframe to prepare a detailed response to the Panel's Terms of Reference.

However, we also note that there is a significant degree of overlap of this review with the review of transmission revenue and pricing that is currently being conducted by

the AEMC and that the Expert Panel will consider the AEMC work in its deliberations. The EUAA (in conjunction with the Energy Action Group – EAG) is providing detailed submissions to the AEMC on their *Issues Papers*. The comments contained in this submission are generally reflective of the views we are expressing to the AEMC.

As the EUAA stated in its submission to the AEMC, it is essential that the Expert Panel consider quantitative outcomes from current regulatory policies and practices – in a formal ‘regulatory policy audit’ – before any decision is made to propose an alternative arrangement, or endorse any current arrangement in the Rules. In particular, the Expert Panel should evaluate the outcomes of energy regulatory network models across jurisdictions against the SMO (and proposed for the National Gas Law - NGL). The ‘policy audit’ should determine what aspects of the current regulatory practices have worked and which practices have not. This will give the Expert Panel a comprehensive understanding of the success or otherwise of current regulatory practices against the SMO and therefore allow it to make an informed decision on developing a common set of arrangements for economic regulation of electricity and gas networks.

Based on the ‘policy audit’ and as a matter of principle, changes to the Rules should only be pursued where the Expert Panel can clearly demonstrate (quantify) that:

- Existing arrangements do not assist in meeting the SMO; and
- Rules changes will facilitate achievement of the SMO in a manner that delivers long-term net economic benefits to energy users (and the overall economy).

Moreover, given the parallel operation of the transmission revenue and pricing review by the AEMC and uncertainty regarding how the outcomes of this review and the Expert Panel review will be integrated, the EUAA considers that the Expert Panel must outline in their Draft Report how possible Rules change proposals from both reviews will be co-ordinated.

The EUAA would see no value in a set of Rules changes being pursued by the AEMC as a consequence of their Chapter 6 Review, followed by a separate, and possibly conflicting, set of Rules changes being instigated as a consequence of the MCE response to the Expert Panel’s Final Report findings.

The remainder of the submission provides specific comments on the areas where the Panel has requested input as outlined in the MCE Energy Market Reform Bulletin No. 56, pages 1 and 2.

2. Distinction and Commonality

The Expert Panel has requested comment on “*the extent to which technology, market circumstances or other differences between the electricity and gas sectors (and transmission and distribution within each sector) may best be reflected within a common regulatory framework and whether, and if so how, distinctions need to be reflected in separate provisions*”.

The EUAA suggests that the starting point for the Expert Panel is that a common regulatory framework should apply to electricity and gas network regulation. As outlined above, any deviation from this principle should be founded upon quantifiable net economic benefits for end users.

3. Possible Alternatives to Current Regulatory Methodologies

The Expert Panel are seeking comments on a range of issues related to regulatory methodologies, including:

- The scope of regulation;
- Feasibility and appropriateness of alternatives to the building blocks approach (such as Total Factor Productivity);
- Merits of capping prices or revenue; and
- The economic principles that should underpin the development of an appropriate regulatory method.

The EUAA offers the following comments on these four matters. We also address the issue of providing incentives to network owners to maintain the long-term reliability of the networks.

A. Scope of Regulation

The reforms applied to the energy sector in Australia have involved vertical separation and the introduction of competition wherever possible. However, some important sections, namely transmission and distribution networks, have remained as monopolies. These are for the most part now regulated through an incentive-based approach applied by economic regulators. Incentive based regulation of energy network monopolies was a central tenet in the setting up of the regime as part of the National Competition Policy reform program in the early 1990s.

Under the incentive based regulation model, economic regulators are required to balance the needs of end users and the network businesses. Applied effectively, the regulatory regime is suppose to result in network businesses charging prices and delivering services that “mimic” the outcomes expected in a competitive market. This is in recognition of the fact that energy network owners are ‘natural monopolies’ and regulation was needed to overcome the absence of competition.

Under the incentive based model, economic regulators need to be left to exercise some judgement and discretion. The challenge for Governments is to provide as much as possible guidance with the use of sound principles for regulators to apply and to make sure regulators remain independent and effective.

More recently, there has discussion, policy debate and reports¹ recently on whether the current scope and form of regulation of essential infrastructure in Australia as outlined above remain the most appropriate. The discussion has focused on how flexible an approach to regulation Governments should adopt in ensuring the interests

¹ Reports include the Productivity Commission Review of the Gas Access Regime, the Prime Minister’s Taskforce on Export Infrastructure and the Senate Economics Committee Review of the Trades Practices Amendment (National Access Regime) Bill 2005.

of users and the owners of the infrastructure are appropriately balanced. The scope of regulation has ranged from light- and heavy-handed regulation to introducing greater competition for the construction and provision of infrastructure where sufficient competitive forces exist.

The EUAA has been involved in over 20 regulatory reviews over the past decade. This is greater than any other end user advocacy organisation and indeed more than most regulators. The EUAA believes that this experience provides a sound basis for responding to the Expert Panel on this matter. Based on our experience, the factors that the EUAA consider important in evaluating whether an asset or service should be exposed to heavy- or light-handed form of regulation includes:

- The extent to which current arrangements are effective (or not) in facilitating achievement of the SMO; and
- The extent that robust quantitative evidence exists to show that Rule changes (that assist in achieving the SMO) delivers net economic benefits to energy users.

Further, and irrespective of the form of regulation, we believe that there is a need to establish a robust, reliable, consistent and audited information disclosure regime that allows the AER to:

- Effectively regulate network revenues and pricing;
- Show energy users they are getting ‘value for money’ from both regulators and networks; and
- Effectively use pressure that can be applied through ‘competition by comparison’ (and civil penalties) to bolster ‘commercial incentives’ to the maximum extent possible.

In addition, to the extent that more effective information disclosure involves tighter regulation, it needs to be recognised that information asymmetries operate in favour of utilities and their shareholders. Any regulatory actions taken to address these asymmetries are merely redressing the imbalance and the costs of ensuring the information is provided needs to be set against the fact that energy networks remain monopolies.

To illustrate this point, it has been apparent to us for some time that the current regulatory regime applied in Australia is weak in the area of information provision and this has detracted from the performance of the regime and also the quality of regulatory decision-making. For example, virtually all regulators have been unable to obtain the information needed to make well informed decisions due to constraints on their power, failure to use them effectively, being too ready to accept failures to provide timely information or failure to pursue regulated businesses. In addition, a number of regulators have failed to require information in an effective, consistent and standard form from regulated businesses (even at the first reset).

It is also apparent that regulated entities have been prepared to engage in ‘tactics’ with the regulators over information provision. Some have failed to provide information in the manner requested and others have failed to provide timely information. Perhaps the most farcical example so far occurred during the recent ESC Victorian Electricity Distribution Price Review. There one of the regulated businesses refused to provide information on its operating costs in the manner requested by the ESC. The issue essentially revolved around the business structure set up by the entity concerned whereby the assets were owned by the entity but managed by a third party. The ESC requested better information after it published its Draft Determination and its requirement was appealed to a specially convened Panel by the business concerned. The business argued that it would be virtually impossible for it to provide more details of its operating expenses as this was outside its control. The appeal was upheld and the ESC was forced to use its ‘best estimate’ of the expenses in its Final Determination. The business concerned has now appealed the final decision of the regulator on the basis that the ESC has used “estimates” of its operating expenses that are not accurate! Although the final outcome is not yet known, this example illustrates the farcical nature of weak and ineffective information provision in any regulatory regime. The Expert Panel needs to address this issue and ensure that strong and effective information disclosure is part of the national regulatory structures.

Any move away from the current position to a less intrusive form of regulation needs to consider carefully these points and also the costs to users of regulation that is more ‘light handed’ but at the cost of monopolies that can more easily abuse their power and compromise the single market objective.

Finally, the EUAA also believes that, to the maximum extent possible, network owners should be exposed to competitive market forces. However, any area where the Expert Panel is considering reduction of ‘regulatory constraints’ should be subject to realistic assessment of the level of actual economic power that it likely to be exhibited by regulated businesses *vis-a-vis* energy users. It will be counterproductive to implement changes to Rules that rely on ‘regulation by competitive market forces’ if such forces cannot be effectively applied.

B. Alternatives to the Building Block Approach

The system of regulation currently applied to energy monopolies is based on the so-called ‘CPI-X’ regime. Under this system, monopoly charges are permitted to increase by the rate of *inflation, less a factor ‘X’*, that is a catch all for efficiency improvements. The EUAA believes such a method provides an opportunity for privately owned natural monopolies in the energy sector to ‘game’ the system, including by inflating Capital and/or Operating Expenditure forecasts and understating energy consumption growth.

There is currently a vigorous debate about whether the way we apply the CPI-X regime in Australia is actually ‘light handed’ and based on providing regulated businesses with incentives to improve their performance. Some have argued, especially regulated businesses and their representatives, that we are really applying a

‘heavy handed’ form of regulation based on the so-called cost of service model with regulators micro managing the business.

The EUAA fundamentally believes that regulation needs to be effective above all. Whilst we tend to support less heavy-handed regulation and less micro-management where possible, this needs to be considered against the need for regulation of energy monopolies to be effective. Certainly, we do not want to see an incentive approach to regulation that embeds inefficient costs or asset values, or allows monopolies to abuse their position.

We believe that we are not yet at the point of having established a truly efficient cost structure for regulated businesses and that existing asset have embedded inflated values. Hence, it is our firm view that we still need a form of incentive regulation that pays some attention to the cost structure of regulated energy monopolies and sets a ‘reasonable’ rate of return as part of the incentive structure. Under this system, it is up to regulated businesses to outperform the cost and return benchmarks set for them. Their incentive is that they get to keep the efficiency gains for a period of time. However, the regulator needs to ensure that this provides the business with enough incentive to keep pursuing efficiencies.

Unfortunately, some regulators appear to be becoming less vigilant and prepared to place challenging efficiency benchmarks before the businesses. For example, the recent Essential Services Commission of Victoria (ESC) final determination for Victorian electricity distribution charges permitted large increases in capex and opex without any clear evidence presented by either the businesses and/or the ESC that the state of the Victorian Distribution system was in dis-repair. Based on the decision, it is difficult to determine what long-term benefit Victorian end users will receive from a 40% step increase in expenditure from historical actual spending levels².

We have now moved into the second round of economic regulation in the energy sector and the EUAA would support a rigorous and detailed public examination of the usefulness of using Total Factor Productivity (TFP) as an alternative to the building blocks approach for the X factor. End users would need to be extensively consulted and involved in any such review, which would need to be extensive. We do not believe that the Expert Panel process is an effective way to do this as its timeframe is short, its consultation limited and there are no experts on the Panel who reflect end user views.

In undertaking the examination the following needs to be considered:

- Whether we have gathered enough information on regulating costs to a point where customers can be confident that they have been minimised (as outlined above, we are not yet convinced about this);
- Whether we have accurate historical picture of TFP for energy networks upon which ‘X’ can be set with confidence and, if not, what we need to do to begin to gather a better set on information; and

² Interestingly, the ESC Final Decision actually stated that the five Victorian distributors, on average, improved the reliability of the network between 2000 to 2004 even though the distributors spent below the forecast expenditure set by the ORG in the 2000 Determination.

- It is also important to develop a robust ‘baseline condition’ assessment for implementing a Productivity Index form of regulation (which the EUAA accepts may assist in addressing some of the undesirable ‘strategic behaviour’ incentives). Otherwise it is inevitable that physical difference in network configuration and operating conditions will determine the need for detailed disclosure of cost and service performance information for each individual network owner.

We note that the Utility Regulators’ Forum (URF) has begun consideration of the application of TFP approach to economic regulation in Australia and commissioned Farrier Swier to compare the building blocks approach to TFP. This has been recently reinforced by the ESC, who appointed Pacific Economics Group to evaluate the potential benefits of using TFP and developing a methodology in deriving the ‘baseline condition’ for Victorian distribution businesses. This work has unearthed many issues that still need to be addressed before the principles of any TFP regime could be applied to energy networks to the satisfaction of energy users, let alone obtain agreement on the baseline to apply and other important matters of application of such a regime.

Until these matters are evaluated and appropriately addressed the EUAA does not support switching from the building blocks approach.

C. Price versus Revenue Caps

Based on our experience with previous regulatory reviews, we believe that a ‘tariff basket’ price cap approach provides a better regulatory outcome compared to a revenue and/or hybrid of price/revenue cap approach.

From our involvement and observations we believe that the benefits of the ‘tariff basket’ price cap approach are, essentially, that it provides:

- A direct commercial incentive for regulated entities to reasonably forecast business conditions (including their costs and consumer demand for services);
- A direct commercial incentive for regulated entities to link unit prices for each regulated tariff component to underlying costs; and
- A ‘self-compensating’ mechanism that adjusts for the financial effects on the regulated entity from differences between forecast and actual demand for services within a regulatory period.

However, the ‘tariff basket’ price cap approach is no guarantee that regulation will be effective or protect/promote the long term interests of consumers.

Poorly constructed forecasts can still create problems for regulated entities, end users and regulators. One well-known effect is for the regulated entity to provide forecasts that are conservative in the knowledge that, to the extent that regulators accept them, the end result will be higher growth and revenue to the business.

A forecast of consumer demand and/or costs that is not robustly based could still result in an (presumably unexpected) shortfall in revenue for the regulated utility; or (more likely) present the AER with a serious challenge in appropriately separating ‘strategic behaviour’ from reasonable demand/cost trends under the revenue building block approach.

Therefore, the EUAA believes that the Expert Panel will need to address the following matter prior to recommending a ‘tariff basket’ form of price control for network services:

- Identify and appropriately separate ‘strategic behaviour’ from reasonable demand/cost trends by network owners. As part of this, the Expert Panel will need to carefully consider that the network owners’ affairs (particularly their understanding of consumers, their cost allocation practices and their pricing policies) are up to the task of ensuring end users benefit from the change;

As part of the transitional arrangements, it will be important to develop a timetable for managing jurisdictional ‘side constraints’ and specific ‘incentive Factors’. In particular, and over time, the EUAA would expect the AER to develop appropriate expertise to consider how jurisdictional specific factors will impact on network charges and take account of these factors in a nationally consistent and transparent manner.

A further issue that the Expert Panel will need to address, should it accept the challenge of promoting ‘regulatory consistency’, is that electricity transmission networks clearly need incentives that focus on more than reducing their own direct costs. Given the impact of transmission operation, and transmission constraints, on the wholesale energy market, it is essential that the form of price control be inexorably linked to effective service incentives that focus on reducing overall costs to energy users – and improving overall operation of the energy market – than is the case in the distribution sector. See section 3 E below for more discussion on this matter.

D. Economic Principles Underpinning Regulation

The Expert Panel is seeking comments on the relative weight to be attributed to allocative, dynamic and productive efficiency and the trade off between the risks and costs of regulatory failure versus the risks and costs of market failure.

The EUAA is concerned that placing a higher emphasis on productive efficiency (at the expense of allocative and dynamic efficiency) and therefore moving to a light-handed regulatory model (as the regulated businesses and their representatives are seeking) would result in a redistribution of income from energy users to network owners. This would be to the detriment of Australian industries, especially those that are highly dependent on energy as a major input source to their production processes. Such industries, which include minerals, mining, chemical and manufacturing, are also major Australian exporters. These industries account for 44% of Australia’s merchandise exports or some \$21.3 billion of income³.

³ Australian Bureau of Statistics, Publication No. 5368.0, October 2005

The EUAA believes that such an outcome could lead to a loss of international competitiveness, investment and employment opportunities to the Australian economy. It would also be contrary to the interests of end users and the single market objective in the NEL and proposed objects clause in the National Gas Law.

Ultimately, the deadweight efficiency losses to the economy will be large if increased monopoly rents are allowed under the guise of ‘light-handed’ regulation or through looser or lax economic regulation of strategic infrastructure. Effective access regulation has much to do with removing a distortive input tax on downstream industries and the economy as was fundamental to the objectives of COAG in respect of the original and subsequently reaffirmed objectives for energy market reform.

Hence, the EUAA would encourage the Expert Panel to place a higher weight on efficiency outcomes that underpin the objectives of the NEL, NGL and COAG and deliver an effective regulatory framework for monopoly energy network services.

E. Incentive Arrangements for Reliability

Most end users obtain their energy supply through a direct connection to the distribution network. Hence, apart from price of transporting energy, reliability and quality of supply of distribution network services is important to end-users. It is not clear to the EUAA, based on current information, that customers are satisfied with their current level of supply reliability and quality. Further, the question of how much poorly served consumers are willing to pay to improve the reliability and quality of their supply has not been established. Nor has the question of how much consumers generally are prepared to pay to improve supply reliability and quality – either for themselves or for consumers experiencing poor reliability of supply – and whether current distribution practices in this area are delivering efficient outcomes.

Incentives developed on actual end users’ known and proven willingness to pay for improvements in reliability and quality of supply are therefore crucial for the long-term reliability of the energy network.

The EUAA believes that the AEMC/AER should exercise caution in accepting the results of survey results obtained by network owners, particularly given that the network owners have a ‘built in’ incentive to produce results that suggest end users want to pay more for better service.

The Expert Panel should require the AEMC or the AER to carry out independent studies of end users willingness to pay for supply reliability and quality improvements.

Enhanced regulatory outcomes would also emerge if regulators required distribution businesses to focus more on quality of supply (rather than reliability), parts of the network where service is below standard and the specific needs of larger users. In regard to the latter, there is a growing body of evidence that existing regulation and incentives have meant that distribution businesses have ignored the needs of larger users (or used their network monopoly position to extract capital investment). The generally poor state of implied connection agreements across the various jurisdictions (and few users have found it advantageous to negotiate specific agreements due to an

ineffective bargaining position vis-à-vis the network) means that there is no effective mechanism to deliver the sought of service they need at a reasonable price. This matter is in need of serious attention and the EUAA has previously advocated the need for greater attention to be paid to it.

Electricity transmission not only provides a mechanism for transporting energy to the distribution network, it also plays a central and critical role into the efficient dispatch and pricing of the National Electricity Market (NEM). Analysis carried out by Marsden Jacob Associates for the EUAA has found that inter-regional transmission constraints alone have cost end users around \$10 billion since the commencement of the NEM in late 1998. This cost has resulted because transmission constraints have led to the inefficient dispatch of generators, therefore, raising the price of wholesale electricity higher than it would have been without any inter-regional transmission constraints.

Therefore, the EUAA recommends that the incentive regime developed to promote the long-term reliability of the electricity transmission network should also encompass a wider range of incentives for electricity transmission networks to minimise their adverse impact on the efficient dispatch of generation across the NEM⁴.

In relation to gas networks, there is also a need to consider issues such as the quality and pressure of gas at the distributions level and at the transmission level the availability of innovative offerings such as backhaul, interruptible supply, etc.

4. Regulatory Discretion

The Expert Panel seeks comments on “*the level of regulatory discretion/guidance that should be provided to the AER when setting or assessing regulated prices and to the AEMC when assessing changes to the ‘Rules’ for electricity and gas*”.

Given the range of issues that must be addressed in any regulatory or Rules review, it is inevitable that the AER and AEMC must be permitted discretion to perform their functions effectively. Indeed, it would be more damaging to prescribe the role of the regulators and how they must play it in a black and white manner.

Further, sections 15, 35 and 36 of the NEL provide guidance to the AER and the AEMC on the manner in which they must perform or exercise their economic regulatory functions or powers in undertaking electricity regulatory reviews and Rules change proposals. The EUAA would envisage that the draft National Gas Law, to be released for public consultation on February 2006, would contain similar guidance.

However, the EUAA also recognise that exercise of ‘unrestrained’ discretion cannot be permitted under any circumstance. Therefore, it is highly desirable that the AER and AEMC be compelled to specify clearly and as simply as possible prior to commencing a review which areas will require exercise of discretion, and the criteria

⁴ The AER (work was started by the ACCC in 2003) is currently in the process of developing Market Transparency measures based on the impact transmission constraints have on the effective functioning of the NEM. The EUAA is a member of the AER Service Standards Working Group that has assisted the AER to develop these market transparency measures. The EUAA anticipates that these market transparency measures will form the basis of an incentive regime for electricity transmission networks to minimise their impact on the operation of the NEM.

to be applied in each review that will be used to guide and/or constrain this discretion. This can best be done by establishing high level guidance in the Rules and/or the MCE establishing principles and requiring the AER and the AEMC to specify more detailed conditions in initial guidance to all stakeholders.

Finally, and as stated above, the starting point for the Expert Panel is that a common regulatory framework, which would include the level of discretion afforded to the AER and the AEMC, should apply consistently across electricity and gas network regulation. Any deviation from this principle should be founded upon quantifiable net economic benefits for end users and which is consistent with the objective of ensuring longer-term benefits to energy consumers.

5. Conclusion

The EUAA welcomes the chance to make this response to the MCE's Expert Panel Review of Revenue and Network Pricing across the National Energy Market. Unfortunately, this contribution has been limited by the short time (2 weeks), which the Expert Panel has placed on stakeholders to make preliminary comments on their Terms of Reference.

Despite the time constraint, the EUAA has made efforts to provide useful response to the matters raised in the *Energy Market Reform Bulletin No. 56*, and the main conclusions as contained in our response are:

- The Expert Panel should ensure a 'regulatory policy audit' is undertaken to quantify the outcomes from the current regulatory policies and practices before any decision is made to propose an alternative regulatory arrangement;
- As a matter of principle, changes to the Rules should only be pursued where the Expert Panel (or some other review body) can clearly demonstrate that;
 - Existing arrangements do not assist in meeting the new NEL (and proposed new NGL) Single Market Objective (SMO), being the 'long-term interests of consumers'.
- The EUAA suggests that the starting point for the Expert Panel is that a common regulatory framework apply consistently across the electricity and gas network and that any deviation from this principle should be founded upon quantifiable net economic benefits to end users.
- The EUAA supports the current incentive based approach to regulation of energy network monopolies. Any change to this form of regulation must ensure that it delivers net economic benefits to end-users.
- Irrespective of the form of regulation, energy network providers should be required to provide robust, reliable, consistent and audited information under a nationally consistent information disclosure regime.

- The EUAA supports a rigorous and detailed public examination of the usefulness of using Total Factor Productivity as an alternative to the building blocks approach. However, there should be no introduction of TFP until;
 - There is confidence in the data integrity collected on TFP,
 - There is developed a robust ‘baseline condition’ for costs and other relevant measures.
- Support for ‘tariff basket’ price cap regulation over pure revenue or a hybrid price/revenue cap.
- However, the following deficiencies of the ‘tariff basket’ price cap regime must be addressed;
 - Alleviating ‘strategic gaming’ of the expenditure and energy consumption forecasts by network operators,
 - Managing a transition away from current jurisdictional ‘side constraints’ and specific ‘incentive Factors’.
- The EUAA would encourage the Expert Panel to place a higher weight on efficiency outcomes that underpin the objectives of the NEL, NGL and COAG and deliver an effective regulatory framework for monopoly energy network services.
- The Expert Panel should require the AEMC or the AER to carry out independent studies of end users willingness to pay for supply reliability and quality improvements.
- The incentive regime developed to promote the long-term reliability of the electricity transmission network should also encompass a wider range of incentives as a consequence of the impact electricity transmission owners behaviour have on the efficient operation of the wholesale electricity market.
- The AER and AEMC should have regulatory discretion to deal with the complex issues that arise in any regulatory or Rules review. However, they should be compelled to specify, prior to commencing a review, which areas will require discretion and the criteria they will apply in utilising the discretion.