



InterGen (Australia) Pty Ltd  
Level 18, Comalco Place  
12 Creek Street  
BRISBANE QLD 4000  
Australia  
ABN: 71 080 050 737  
Tel: + 61-7 3001 7177  
Fax: + 61-7 3001 7178

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Industry Levy  
C/- MCE Market Reform  
Department of Industry, Tourism and Resources  
GPO Box 9839  
Canberra ACT 2601

Via E-mail: [MCETMarketReform@industry.gov.au](mailto:MCETMarketReform@industry.gov.au)

Dear Sir,

### **Application of the industry levy to fund the AER and the AEMC**

InterGen (Australia) Pty Ltd ("InterGen") would like to thank the Ministerial Council on Energy ("MCE") and the Standing Committee of Officials ("SCO") for the opportunity to provide comments on the Discussion Paper "Application of the Industry Levy to fund the AER and AEMC" released in March 2004.

InterGen is a member of the National Generators Forum ("NGF") and fully endorses the detailed discussion paper prepared and submitted on this matter.

InterGen provides specific further comments in a number of areas as set out below.

#### **1.0 Summary of Position**

InterGen notes that the discussion paper prepared by the SCO does not develop any recommendations, only possible cost recovery mechanisms to fund the proposed Australian Energy Regulator and the Australian Energy Market Commission.

InterGen's comments are therefore limited to a discussion of the principles that should shape the new funding arrangements. InterGen believes the following principles should be considered by the MCE:

- clearly defined accountability;
- industry involvement in determining regulatory costs and levy arrangements; and
- levy mechanism should be an explicit and transparent pass through to customers.



Each principle is discussed briefly below.

## **2.0 Accountability**

The MCE discussion paper sets an objective of encouraging financial responsibility but does not provide any detail on accountability arrangements for the AEMC and the AER. InterGen considers that the AEMC and AER must be accountable for its actions and cost base and the MCE must have in place mechanisms that are capable of assessing the performance of the new institutions on an ongoing basis.

Accountability is not explored in the discussion paper and this fundamental disconnect needs to be addressed, preferably via a legislation approach rather than the non-enforceable MoU path. InterGen considers that the legislative path ensures that roles and accountabilities can be proscribed and efficiently enforced.

## **3.0 Industry Involvement**

InterGen considers that the SCO, as a minimum, should provide industry participants with the opportunity to review costs and cost categorisation methodologies prior to the commencement of the new funding arrangements.

InterGen notes the NGF submission that supports the SCO's analysis of the efficiency effects of alternate cost recovery arrangements and concurs with the NGF view that transparent cost pass through arrangements are desirable as a mechanism to minimise distortions and improve economic efficiency. Charging industry fees to market generators without an explicit mechanism to pass through those costs to end users can alter behaviour in a competitive market and act as a deterrent for new entry into the wholesale market.

InterGen supports the introduction of an explicit and transparent cost pass through mechanism to recover the full cost of operating the AEMC and AER from end users, subject to industry consultation and agreement.

## **4.0 Cost Pass Through**

The MCE discussion paper outlines four options for recovering regulatory costs from customers via: retailers, transmission businesses, distribution businesses and/or wholesale energy purchasers.

To minimise economic distortion, InterGen supports the inclusion of a levy for regulatory and rule making services as part of the setting of service charges that apply to transmission or distribution businesses. Given the monopolistic nature of these businesses, the choice of transmission or distribution should allow pass through of all relevant costs to the next stage in the supply chain. This approach has a range of advantages:

- monopoly network charges are set by independent regulators based on actual costs;
- the new national arrangements should see a single national regulator setting all network charges over the few years;



- the move to a national regulator applying a uniform pricing methodology should allow for the inclusion of all regulatory and rule making fees in transmission or distribution charges; and
- retail contracts should allow retailers to pass through monopoly network service charges to end-use customers without dispute.

InterGen considers that significantly, this approach is competitively neutral for all market participants and would incur minimal implementation and administrative costs as a funding mechanism.

## 5.0 Conclusion

The SCO discussion paper is a high level document outlining options, making it difficult to endorse or criticise the proposed arrangements. In the absence of a specific proposal developed by the MCE, InterGen has described a number of principles that need to be considered regarding the funding of the AEMC and AER including resolving accountability issues, inclusion of industry involvement mechanisms and ensuring that the levy process delivers a transparent and explicit cost pass through to minimise distortions.

InterGen supports the case for recovering all regulatory and rule making costs through a direct and transparent pass through mechanism subject to industry involvement to determine the pass through mechanisms, preferably as part of the setting of service charges that apply to transmission or distribution businesses. Such an arrangement would remove the scope for dispute and ensure that customers, who are the ultimate beneficiaries of regulation, are the group that funds the new institutions.

To discuss this issue further please contact the undersigned on (07) 3001 7133.

Yours Sincerely,

**Simon Taylor**  
**Manager, Strategy and Market Development**