



## **TXU's comments on the MCE Discussion Paper "Application of the Industry Levy to fund the AER & AEMC"**

### **A. Introduction**

TXU welcomes the opportunity to comment on the "Application of the Industry levy to fund the AER & AEMC" discussion paper recently released by the Ministerial Council of Energy (MCE). It offers the following key points as part of its submission. However, it believes that the quantum of funding used to operate the new regulator should be appropriate and that regulatory body face reasonable disciplines on the expenditure of industry funds.

### **B. Key Issues**

1. TXU supports the submissions on this issue made by the Electricity Retailers Association (ERAA), the National Generators Forum (NGF) & the Electricity Suppliers Association of Australia (ESAA).
2. TXU believes that in the short term the industry should not be charged an additional levy (above that which is currently being used to fund NECA) until the roles of both the Australian Energy Regulator (AER) & the Australian Energy Market Commission (AEMC) are fully established. After the AER & the AEMC are established on 1 July 2004, their responsibilities will progressively increase as they acquire more responsibility from the ACCC & other jurisdictional regulators. It is only when the AER & the AEMC have taken over the responsibility for market development and Code management roles relating to the transmission, distribution and retail sectors for both electricity and gas, that a true understanding of the resource requirements and budgets can be achieved.
3. TXU believes that the tight consultation period for gathering comments in relation to this consultation heighten some of the concerns it has regarding a number of issues including
  - The consultation paper does not address how the budgets for the AER & AEMC will be developed heightening fears that the levy imposed will reflect an inefficient amount.
  - The costs imposed upon the industry appear to be increasing, not remaining static or decreasing.
  - The industry is concerned that the industry levy imposed will be incorporated into the legislative framework given timeframe pressures.
4. TXU believes that some cost of energy regulation is unavoidable in the context of a modern economy, and there is probably nothing that any individual firm can do to alter the cost of running these regulators. Thus, the levy is effectively a form of taxation, and we should be less concerned about allocating the levy against any "users" of the services, and instead more concerned with principles of efficient and non-distortionary taxation. Should the MCE propose to allocate costs against "users" of the services, TXU believes that the AER's transmission functions for the regulation of transmission have no association with the operation of the National Electricity Market (NEM) pool. Therefore these costs should not be allocated as pool levies.
5. TXU believes that if costs are to be imposed upon the industry via a levy, then it must be allocated in such a way that it can be efficiently collected from end-users. This is the

fairest and least distortionary method of allocation. Ideally it should be explicitly itemised as per GST.

6. TXU has been concerned about the allocation of NEMMCO pool levies in the past where they have been allocated upon upstream participants without an ability to pass them through. In particular, levies associated with registered capacity of generation are manifestly un-fair on peaking generators, distort competition and present an in-efficient barrier to entry for peaking plant.

Regards

Con Noutso  
Senior Regulatory Economist