



28 October 2004

Manager – EMR Projects
National Energy Market Branch
Department of Industry, Tourism and Resources
GPO Box 9839
Canberra ACT 2601
By email: MCEMarketReform@industry.gov.au

**Ministerial Council on Energy Standing Committee of Officials -
National Framework for Electricity and Gas Distribution and Retail Regulation
Foreword and Issues Paper**

Thank you for the opportunity to comment on the issues paper - National Framework for Electricity and Gas Distribution and Retail Regulation. TXU Networks supports national energy reform and the delivery of an efficient national regulatory regime.

Any review should seek to re-establish the key purposes and objectives of the Distribution and Retailer regulatory framework. There have been developments in regulatory thinking both in Australia and globally that mean the existing State based Licensing or regulatory regimes may no longer represent the necessary benchmark.

TXU has contributed to the development of the Energy Networks Association submission and supports the broad content of that document.

This letter draws out key matters that TXU believes require particular emphasis.

Features of an effective distribution regulatory framework

TXU notes there has been a substantial work program undertaken to review the Gas Access Regime. TXU supports many of the conclusions of that review and believes they have applicability to both Gas and Electricity regulation. The Issues paper's starting point appears to have been the National Electricity Code and the recommendations of the Gas Access review appear to have been overlooked.

TXU believes essential features of an effective distribution framework are:

- clear objectives and pricing principles;
- a 'propose-respond' model of network access pricing;
- accountability mechanisms including access to merits-based review on key regulatory determinations;
- investment certainty, and protection of both property rights and 'legitimate expectations';
- a strengthened link between the outcomes of economic regulation and the evolving market, technical and safety obligations; and

- non-economic objectives imposed by governments to be developed and implemented in a fair and transparent manner

A framework with these features would provide conditions that facilitated efficient investment that is sustainable in the long term, to the benefit of current and future distribution users.

Transitional arrangements

One of the principle concerns of long-term infrastructure businesses is to have consistent regulatory treatment over time. The transition to national regulation introduces risk that current incentive arrangements or treatment of imposed obligations are not continued in subsequent regulatory reviews.

Distribution businesses are incentivised to improve efficiency through economic mechanisms. Fundamental to the effectiveness of the incentives is that they are consistently applied over time. Arrangements for the new regulatory framework must provide for current incentive arrangements to operate to their conclusion, which in many cases will be several years after the conclusion of a price determination (for example the S Factor reliability mechanism runs for 6 years).

The Essential Services Commission has also mandated a roll out of interval meters. The future status of metering contestability is of critical importance given the magnitude of the investment.

Additionally, treatment of regulated asset values and the calculation of revenue required to cover tax liabilities have significant impact on business value. Ongoing treatment of these items must be transparent and fair with respect to the property rights of the distributor.

Provision of transitional arrangements that offer certainty to investors will enable efficient infrastructure investment to occur to the benefit of the Australian community.

Thank you again for the opportunity to participate in the consultation. Should you wish to discuss the content of this letter, please feel free to contact me.

Yours Sincerely,

Peter Firth
Manager Regulation
TXU Networks
Telephone: 03 8628 1035
Email: peter.firth@txu.com.au