



Ministerial Council on Energy (MCE)
“Application of the Industry Levy to fund the AER
and AEMC” Consultation

TransGrid Submission

7 April 2004

Industry Levy
c/- MCE Market Reform
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Industry Levy to fund the AER and AEMC

Dear Sir / Madam

TransGrid would like to thank the Ministerial Council on Energy Standing Committee of Officials (SCO) for the opportunity to provide a response on this significant issue in the current energy market reform process.

TransGrid supports certain aspects of the proposed levy – in particular for the common costs of the operation of the AEMC/AER to be recovered from end users in a more direct manner. However, TransGrid is concerned that the paper does not fully develop the arguments for the levy options, nor does the paper deal with a number of specific industry concerns regarding governance of the market institutions.

In this submission, TransGrid would like to bring to the SCOs attention a number of remaining concerns with respect to the discussion paper and the material contained within the document.

1. As noted above the paper is incomplete and fundamentally inconclusive. Although the paper appears to err in favour of fees on transmission with these fees passed through to end use customers, the paper does not yet provide a clear process for the determination of a preferred funding option.
2. The paper does not provide any insight into the difficult governance problems that can (and have arisen in the past) when there is a 'disconnect' between those who oversight the performance of the entity, and those who actually pay the bills. The discussion paper identifies that an objective of the funding arrangements is to provide an incentive for financial responsibility, but the paper fails to provide any detail on accountability arrangements for the AEMC and the AER. It appears from the proposed governance arrangements that the decision makers who oversee the performance of the entities (Jurisdictions) will not bear the costs of running the organisations. This disconnect reduces the incentive on the part of jurisdictions to control the AEMC/AER costs, but provides no decision rights to those who are carrying these costs. As you would be aware this has been a significant problem in the NEM, giving rise to significant industry concerns regarding the performance of NECA and NEMMCO.

TransGrid believes that there should be a more formal process established to enable industry and end-users the opportunity to review the performance of the market institutions, particularly if these organisations are funded by an industry levy.

TransGrid also suggests that if these costs are to be collected via additional transmission charges the invoices sent from the transmission entities should identify these charges separately from network component charges, and that any annual increases must be authorised by the parties representing the generators and distributors/large users.

3. There may be a conflict between the objective of promoting efficiency and the development of a simple and transparent pricing rule. The paper provides no attempt to measure the likely efficiency consequences of one levy option over another, in order to assess the relative importance of efficiency against simplicity considerations.

The analysis of the possible options, and scope for “cost recovery” seems incomplete. In particular, there appears to be no basis for distinguishing between the impacts of imposing charges on retailers, distribution businesses or transmission businesses (pp.13-15).

In addition, because transmission costs are not equally allocated to generators and distributors/large users, it is recommended that any additional regulatory-based charge be allocated equally to both the generators and the distributors/large users on the basis of a fixed \$/kW (or \$/kWh) capacity (or transported energy) charge.

4. TransGrid in some respects concurs with the paper’s statement on page 10 where, *“The ‘wires business’ in the electricity sector ... are considered to operate as effective monopolies and are heavily regulated by the Federal or State bodies. Because of the current arrangements these businesses may be more easily able to pass through rule making and regulatory fees which might be imposed upon them”*. This contention is not entirely accurate under the current regulated pricing and revenue mechanisms, and therefore must be clearly recognised and addressed by the AER, in their capacity as energy regulator, or preferably, established within the market rules.
5. The implications of the ‘causer pays’ principle in respect of the allocation of the costs in relation to economic regulation is not straightforward. The paper does not sufficiently elaborate on the application of the ‘causer pays’ principle. The question may be asked, is a “regulated participant”, in fact a causer? If we think of a regulator as fulfilling a public service by acting as a non-market proxy for the competitive processes, then the ‘causer’ may be the end users who consume (benefit from) the regulator’s services. That is, the regulator’s activities are implicitly demanded by the community in order to protect them against the possible economic implications of monopoly services. By way of example, this is one approach currently utilised by the Queensland Competition Authority with respect to the variable component of their fees (*as per Appendix A*).
6. A major shortcoming of the analysis is that there is no real attempt to provide sufficient empirical assessment of the underlying cost structure of the new organisations. For example, it would be helpful to develop a clear understanding of the regulators roles and functions, and on that basis determine the likely costs structure. Are these costs going to be reasonably predictable, and be stable from period to period? What is the scope for variation in the level of costs that might be driven by Market Participant actions e.g. the level of Code change activity promoted by Participants.
7. The case studies outlined in the Appendix are of limited value as they are not fully assessed against any particular decision criteria.

TransGrid would suggest to the SCO and their consultant(s) that further clarification and in some instances, more sophisticated economic and technical justification is required as part of any new industry levy. As you are no doubt aware, under existing arrangements NEM Transmission Network Service Providers do not pay participants fees. Having already been through significant dispute and legal action in relation to this matter we would strongly request a thorough analysis before this arrangement is amended, as part of any new funding arrangements.

On a practical note, any potential option that contemplates charging fees to the regulated electricity transmission sector should be accompanied with a clear commitment that a robust mechanism for passing these costs through to customers (the ultimate beneficiaries) be adopted. This position is premised on the basis of simplicity and *efficiency*, to the extent that such a measure is unlikely to distort customer behaviour, should such a levy be applied to TNSPs.

Should you wish to discuss any of the issues raised in this response, please feel free to contact TransGrid's Manager/Regulatory Affairs, Mr. Philip Gall on (02) 9284 3434 or via e-mail at phil.gall@transgrid.com.au

Yours sincerely

[Original signed]

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