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Aurora ENERGY

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Chris Pattas
General Manager
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Dear Mr Pattas

Better Regulation: Shared Asset Guidelines Issues Paper

Thank-you for the opportunity to provide input to the Better Regulation Issues Paper Shared Asset Guidelines for Electricity Distribution and Transmission, released by the AER in March 2013 (the "Issues Paper").

Aurora Energy Pty Ltd, ABN 85 082 464 622 (Aurora) is an incorporated, State Government owned fully integrated energy and network business, with complementary activities in telecommunications and energy-related technologies. Aurora provides electricity generation, retail and distribution services to more than 270,000 customers in the Tasmanian jurisdiction. In this document, reference to Aurora should be taken as reference to Aurora in its capacity as the provider of distribution network services licensed by the Regulator under the Electricity Supply Industry Act 1995.

Aurora is generally in agreement with the ENA's response on the Shared Asset Guidelines and with the concept of sharing benefits with NSP customers. However, Aurora would like to bring to the attention of the AER a number of matters that Aurora considers are critically important based on its experience with joint use of assets, in particular regarding telecommunications.

Of primary concern in setting the framework is the real risk that NSPs will be discouraged from offering unregulated shared asset services. Not only will this lead to the inefficient use of the network assets and is contrary to the NEO, it has the potential to have negative societal benefits. In Aurora's experience, the business cases of unregulated services will be materially affected by the framework. Commercial services Aurora offered in the past may not have been justifiable under the new framework. There are numerous risks associated with offering such services, particularly in a competitive market, and if profit margins do not justify the risk, NSPs will not enter into such arrangements.

This can have societal impacts and these are more pronounced in the case of Tasmania, which is a small market and subject to market failure. For example, Aurora's participation in the telecommunications market has been critical in fostering competition via investment in broadband infrastructure and services and has been encouraged by the Tasmanian Government. Prior to Aurora's involvement and due to the monopoly power of the private sector incumbent, there was essentially no penetration of ADSL2+ services by Internet Service Providers in Tasmania with pricing of Hobart to Melbourne services across Bass Strait extremely high relative to costs on the mainland. Through commercial arrangements and the use of Aurora's assets, prices have dropped significantly and competition has flourished.

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Aurora also uses its infrastructure to provide numerous telecommunications services to Government, as well as the private sector, including services to schools and hospitals. Aurora strongly believes that prices for such services would be higher were it not for Aurora's presence given the limited number of providers in the state. It should also be noted that as a State owned entity, profits earned on unregulated activities are ultimately returned to taxpayers through government dividends, albeit indirectly. Consideration should also be given to the potential negative societal benefits arising from the implementation of the Guidelines against the reduction in network customer prices, which is likely to be relatively small.

Aurora can also envisage a number of possible future projects that may have societal benefits, including the RF mesh telecommunications infrastructure required to support a Smart Network. Offering these services on an unregulated basis may cease to be a commercial proposition under the Guidelines. Alternatively, the NSP will potentially have to increase prices for services to justify the business case and the profit margin reductions resulting from the Guidelines (again recognising that there are risks and costs associated with providing unregulated services. Profit margins need to reflect these issues – the fact a project is expected to simply earn a profit is not justification for moving ahead with it). Note also there are some commercial services that only Aurora currently offers given the small size of the Tasmanian market.

Aurora is strongly of the view that a grandfathering arrangement is necessary to minimise the risks to NSPs from the application of the Guidelines. The Shared Asset Guidelines are a very material change to the commercial environment. For example, the Facilities Access Agreement (FAA) Aurora entered into with NBNCo is a long term arrangement, with the complex negotiations taking two years to conclude. If negotiated under the proposed framework, it is highly likely that the terms of the FAA would have been different. In line with this, the Guidelines should be forward looking and not apply retrospectively.

Aurora recognises the AER has concerns given the regulatory framework in its ability to use profit to inform shared asset cost adjustments. Aurora considers this is unfortunate because basing adjustments on revenues ignores the costs associated with providing unregulated services. In Aurora's experience, depending on the service provided, these costs can be significant. The same argument holds for basing materiality only upon unregulated revenues, especially if the materiality threshold is small. Aurora supports the ENA that improved and more detailed methodologies for cost adjustment, and also for determining materiality, be developed. In Aurora's view, consideration of the costs, not just the revenues of unregulated shared asset services, is critical.

If you have any questions, please address them to the contact noted above.

Yours faithfully

Anton Voss

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