



6 May 2011

Ms Lynley Jorgensen
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Email: AERInquiry@ aer.gov.au

Dear Ms Jorgensen,

RE: DRAFT AER COMPLIANCE PROCEDURES AND GUIDELINES

CitiPower Pty and Powercor Australia Ltd (**the Businesses**) refer to the following documents released on 23 March 2011, by the Australian Energy Regulator (**AER**) in their communication No. 395 – “Notice of draft instrument: Statement of Approach, Procedures and Guidelines for compliance with the National Energy Customer Framework”:

1. Notice of draft instrument entitled *AER Compliance Procedures and Guidelines National Energy Retail Law, Retail Rules and Retail Regulations*;
2. Draft document entitled *Statement of Approach: compliance with the National Energy Retail Law, Retail Rules and Retail Regulations*; and
3. Draft document entitled *AER Compliance Procedures and Guidelines - National Energy Retail Law, Retail Rules and Retail Regulations*.

(collectively **the draft papers**)

The Businesses appreciate the opportunity to respond to the draft papers and make the following submissions for the AER’s consideration.

Statement of Approach section 4.2.1 – Market intelligence and information

The Businesses note that the AER proposes to collect and monitor information from consumers, regulated entities, energy ombudsman schemes or consumer groups, to identify issues that may be of concern to the wider market. The Businesses reiterate that the AER should not place undue reliance upon the information provided from sources external to the Businesses without first ensuring the veracity of the information provided before publication, and supports the AER’s amendment to the

REGISTERED OFFICE

40 Market Street, Melbourne VIC Australia Telephone: (03) 9683 4444 Facsimile: (03) 9683 4499
Address all Correspondence to: Locked Bag 14090, Melbourne VIC 8001 Australia
CitiPower Pty ABN 76 064 651 056 General Enquiries: 1300 301 101 www.citipower.com.au
Powercor Australia Ltd ABN 89 064 651 109 General Enquiries: 13 22 06 www.powercor.com.au

Statement of Approach to “endeavour to engage with the relevant regulated entity or entities” on specific issues raised via market intelligence prior to publication.

Draft document Procedures and Guidelines section 3.3 – Form and contents of reports

The AER has amended the guideline to allow the CEO to delegate responsibility for the approval of immediate reports on Type 1 obligations to a suitably qualified person within the organisation, but requires the CEO to approve a consolidated report of all such breaches at the end of every six-monthly period, and to submit that report together with the report on Type 2 breaches for the relevant period. The Businesses submit that this is unnecessary and that all reports submitted to the AER should be able to be approved by a delegate appointed by the CEO for this purpose.

Draft document Procedures and Guidelines section 4.6 – Audit reports

The Businesses note that the AER has specified that they “will endeavour to provide the relevant regulated entity with a reasonable opportunity to review the final report for errors of fact before it is made publicly available.” The Businesses submit that the AER **must** allow the regulated entity to review the report prior to finalisation to ensure all facts in the audit report are correct. This may prevent embarrassment to both the AER and regulated entity should errors be publicly published.

Draft document Procedures and Guidelines - corrections

Please note that the reference to the second “3.2.4” in clause 3.3.6 should be to “3.2.5” and that the heading above clause 3.4.2 “*Written reports under clauses 3.2.2, 3.2.3 and 3.2.4*” should also contain “3.2.5” after 3.2.4.

The Businesses would like to reiterate that the AER must take into account the nature and complexity of the NECF and the transition from state energy laws, and the Businesses’ efforts in meeting compliance, in assessing any breaches of compliance and subsequent remedial enforcement actions. The new regulatory environment has yet to be tested and situations may arise where there are uncertainties in compliance obligations.

Should you have any further questions in relation this submission, please do not hesitate to contact me on (03) 9683 4465 or at bcleeve@powercor.com.au.

Yours sincerely



Brent Cleeve
Manager Regulation