Mr Mike Buckley
General Manager
Network Regulation North Branch
Australian Energy Regulator
GPO Box 3131
Canberra ACT 2601

12 December 2007

Dear Mr Buckley,

AER Electricity Distribution Review: Proposals re Demand Management

Email: AERInquiry@aer.gov.au

The Clean Energy Council is an independent member-based industry association representing the broader clean energy sector in Australia. It was formed out of the merger of the Business Council for Sustainable Energy and AusWind. The Clean Energy Council has over 400 organisations as members covering renewable, gas and distributed energy generation equipment suppliers and installers, energy retailers and generators and energy service and efficiency providers. The common feature of our membership is their interest in meeting Australia's energy needs with lower greenhouse emissions.

The Clean Energy Council appreciates the opportunity to comment on the Issues Paper on Matters relevant to distribution determinations for ACT and NSW DNSPs for 2009-2014, particularly as it relates to a proposed "Demand Management Incentive Scheme". If you have any questions or issues you would like to raise on this submission please do not hesitate to contact our NSW Manager, Chris Dunstan via phone: 02 9799 0695 or e-mail: chris@cleanenergycouncil.org.au.

The extensive barriers in the national electricity market to the efficient development of Demand Management (DM) have long been acknowledged. More recently, our Federal, State and Territory Governments have recognised that redressing these barriers are not just a matter of competitive neutrality and economic efficiency, but also a primary element in the urgent task of reducing Australia growing greenhouse gas emissions.

Economic regulators of electricity networks in Australia have also recognised the large untapped potential for cost effective DM and the market and regulatory barriers to realising this potential. Despite repeatedly urging networks businesses to do more, the regulators have generally failed to take effective steps to support efficient investment in DM and alter incentive structures so that network service providers are at least not financially disadvantaged by DM initiatives. In the context of urgent community concern about rising greenhouse gas emissions and Climate Change and in the midst of the largest boom in network capital investment in Australia's history (and the associated rise in electricity bills and prices), the AER must at this determination, go beyond window dressing and offering encouraging words on DM.

Of course, network businesses should not be the only driver for DM, energy efficiency and distributed generation. But network businesses should be assisted by their regulator to use these options whenever they represent the most cost-effective option for maintaining and developing a safe and efficient electricity network. The time for tokenistic network DM and pilot programs is long gone. The AER should both expect and support DM playing a significant role in meeting the community's expectations for affordable, reliable and sustainable electricity distribution services.

The key points we wish to make in relation to this issues paper are:

1. Network driven DM (including Energy Efficiency, interruptible loads, distributed generation, cogeneration, time of use tariffs with dynamic peak pricing, standard offers and community based programs) must be central and not an afterthought to the next regulatory determination for distribution networks in both NSW and ACT.
2. The AER should continue to provide incentives for distributors to undertake cost effective DM, particularly in the current context of continuing regulatory and market failure.
3. While the level of DM activity in NSW falls far short of what is needed and what is economically prudent, the current D-factor has stimulated some DM activity and should be retained and enhanced.
4. To "prime the pump" of network DM activity, and recognising the cost effectiveness of DM to date, the AER should stipulate a minimum annual D-factor that is automatically incorporated into the initial price determination. A level of say, 1% to 2% of Distributor revenues should suffice for this purpose. If this level of expenditure of DM is not undertaken each year, this allocation should be "recovered" through the annual price setting process. This mechanism will provide both an incentive and a funding base for Network businesses to build their DM capacity.
5. The current D-factor in NSW only permits the network businesses to recover DM initiatives where they can be shown to be cost effective in network constrained areas. While this category should retained, it should be complemented by two other categories:
    - A "learn by doing" category for DM R&D and other DM measures where the outcomes are hard to quantify in advance. Initiatives in this category should be approved in advance on a case by case basis by the AER.
    - A "long term DM" category for low cost DM that may not deliver short term identifiable network investment deferral in specific network constrained locations, but contributes to reducing the demand for new capacity in the longer term. This would be particularly important in avoiding "lost opportunities" where short term DM opportunities may not be available later if not adopted now. For this category, distribution network businesses should (via the D-factor) be permitted to recover associated electricity sales foregone for the remainder of the regulatory period, plus the direct cost of the DM measure up to a default Avoidable Distribution Cost (ADC). This long term default ADC should be set at a level that reflects the long term average value of avoidable network investment
6. For the ACT, the AER should establish a D-factor that includes recovery of DM program costs (including "long term DM" and approved "learn by doing' activities) but excludes recovery of electricity sales foregone (as these are automatically recovered though the ACT's average revenue cap).

The above steps would not be sufficient to overcome fully the longstanding barriers to DM in the National Electricity Market. They would however, represent important progress in tilting the balance back towards a more equitable, efficient and sustainable electricity sector.

It is important to emphasise that the above comments are intended only as a response to the AER's proposed DM incentive scheme and do not address the full range of regulatory and other barriers to DM. The Clean Energy Council recognises that other issues relating to these barriers will need to be considered over the course of this regulatory review. In particular, complementary additional actions that the AER should undertake to complement the proposed DM incentive scheme include:

1. As a matter of urgency, gather and publicly report reliable, consistent and comprehensive data on DM activity by distributor network businesses across Australia.
2. Ensure prudence of capital and operating expenditure reviews fully and fairly consider DM options.

3. Ensure that any efficiency benefit sharing mechanisms do not create penalties for networks businesses that reduce electricity consumption or peak demand.
4. Ensure Distributed Generators receive the full benefit of pass through of avoided transmission use of system (TUOS) charges and distribution network businesses are not disadvantaged in this process.

We understand that there will be further opportunities to comment on the shape of DM incentives in the context of this determination. We hope the above comments are helpful and we look forward to further participation in the AER's consultation processes in this landmark regulatory determination.

Yours sincerely

Original signed by

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