ETSA Utilities

Delivering energy to South Australians

29 January 2008

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

By email: AERInquiry@aer.gov.au

Dear Mr Buckley

ACT/NSW DNSP's DISTRIBUTION DETERMINATION 2009-14
PRELIMINARY POSITIONS PAPER

ETSA Utilities has previously responded to the November Discussion Paper on these matters. Our original comments still apply. We wish to add further comment on two items – the 'learning by doing' fund and the materiality test. Please contact me on (08) 8404 5694 if you have any questions on this submission. Alternately, contact James Bennett on (08) 8404 5261.

Demand Management and the Learning by Doing Fund

ETSA Utilities is disappointed at the apparent 'modest' level of funding currently proposed by the AER for the NSW learning by doing funds. The Energy Australia program is $0.2M per annum. We can only conclude that the existing and potential demand management obligations which the AER expects the NSW distributors will need to incorporate into their submissions are significant, given the AER's stated position that

'The amounts are reflective of the AER's position that it is appropriate to allow a modest learning-by-doing fund due to the existing and potential DNSP demand management obligations within the next regulatory period.'

The size of these demand management initiatives (perhaps through trials related to the Interval Meter initiative) will become clearer when the NSW distributors have their submissions assessed by the AER later this year.

It would be more appropriate for the AER to consider the optimal size of such a 'Learning by Doing' program as part of assessing the distributors' submissions, as opposed to taking a position today to require a very small program.

Materiality of Pass-Through Events

ETSA Utilities has two additional concerns on this matter for the NSW transitional arrangements. The first point concerns a dichotomy between the AER's apparent concerns for 'inappropriate administrative burden on the AER and DNSP's' when discussing the materiality arrangements and the extensive auditing requirements proposed for the learning by doing fund. For an amount of 0.02% of annual income in learning by doing, a distributor will be allowed to retrospectively claim such costs if they report to the AER each year:

'*on the demand management programs implemented, including:*
- *Aims of the demand management programs*
- *Outline of their implementation*
- *Implementation costs*
- *Foregone revenue (in the case of non-tariff demand management programs)*
- *Outcomes of the programs.*

Projects eligible for recovery will fall within the following proposed criteria which the AER will consider when reviewing DNSPs' applications under the learning-by-doing fund:
- *Demand management programs should not be based on addressing specific network constraints, as constraint based demand management costs are recovered under the D-factor scheme in NSW*
- *Programs implemented must be unable to have costs recovered under other state or federal schemes*
- *Demand management programs to be recovered under the fund should be innovative, and target broad based demand reductions across the DNSPs' networks*
- *Recoverable programs may be tariff or non-tariff based, however the foregone revenue of tariff based demand management will not be recoverable under the fund.*'

However, if a distributor has an increase in costs, perhaps caused by a change in policy requirements of the Government during a Reset, then no submission will be entertained by the AER under this pass-through materiality guideline unless the revenue involved is <u>50 times higher</u>, ie at 1.00% of annual revenue.

The second point concerns a failure by the AER to recognise the importance of pass-throughs in managing government policy initiatives that impact on distributors. Having a materiality clause as proposed by the AER will allow new obligations to be placed upon a distributor by a government with no prospect for a (albeit small) customer price rise until the next Price Reset.

ETSA Utilities experience with pass-throughs would generally have failed the pass-through test. We have had:
1. A Government policy initiative to introduce Full Retail Contestability with annual revenue requirements of 4% of current revenue. This would be allowed as a pass-through under the proposals.
2. A Regulator-initiated improvement in Outage Management Systems requiring revenues of about 0.4% of current annual revenue. This initiative would fail the proposed materiality test, probably delaying such initiatives until the start of the next Reset.

3. A Government policy initiative to recover additional costs related to the Electricity Market administration to be recovered from Licence Holders. This initiative would fail the proposed materiality test, leaving the distributor to finance new Electricity Market administration fees.
4. A possible Government policy initiative to encourage the feed-in of Photo-Voltaic Generation into the distribution system. This initiative would fail the proposed materiality test leaving the Distributor to pay an incentive for a government policy initiative on renewable energy.

The AER's proposed materiality test does not appear to have the flexibility to appropriately handle changes in obligations imposed on distributors by Governments and Regulators. It should be amended to ensure that such obligations are not required to be funded by the distribution company.

Eric Lindner
GENERAL MANAGER REGULATION AND COMPANY SECRETARY
ETSA UTILITIES
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