



28 February 2003

Mr Sebastian Roberts  
Acting General Manager  
Regulatory Affairs - Electricity  
Australian Competition and Consumer Commission  
GPO Box 520J  
Melbourne VIC 3001

Our Ref: R-02-232

Dear Mr Roberts,

**MURRAYLINK TRANSMISSION COMPANY – APPLICATION FOR CONVERSION TO A  
PRESCRIBED SERVICE / APPLICATION FOR DETERMINATION OF A MAXIMUM  
ALLOWABLE REVENUE**

We refer to the application from the Murraylink Transmission Company (“MTC”) which was received by the Australian Competition and Consumer Commission (“Commission”) on 18 October 2002 (“Application”). The Commission has invited comment on the issues outlined in the Application by 28 February 2003. Ergon Energy Pty Ltd (“Ergon Energy”) welcomes the opportunity to provide comment and asks that you accept this letter as Ergon Energy’s submission.

**1. Application of Clause 2.5.2(c)**

Clause 2.5.2(c) of the National Electricity Code (“Code”) makes provision for an existing network service which ceases to be classified as a market network service to be determined, at the discretion of the Regulator, to be a prescribed service. Ergon Energy is of the opinion that clause 2.5.2(c) should not be applied in circumstances where a market network service investment is returning below forecast rates and therefore wishes to convert to a prescribed service in order to achieve guaranteed financial returns.

The Application cites the high level of uncertainty experienced in the National Electricity Market (“NEM”) during the past three years, as the main reason that MTC now wishes to convert the network service provided by Murraylink to a prescribed service. In our view this statement may indicate that the proponents of Murraylink are seeking to mitigate a poorly performing entrepreneurial investment by seeking conversion to regulated status. If this is the case then the principle of entrepreneurial transmission investments is being compromised. That is, the risk/reward ration is being artificially skewed toward reward due to the “risk” of failure being mitigated (ie if a market investment does not return as the proponent plans, then conversion places a floor under the loss). This asymmetry is inappropriate given that, for successful entrepreneurial transmission investments, a cap upon returns does not exist. It is our view that the Commission must not use its discretion under clause 2.5.2(c) to distort the relative attractiveness of regulated vs unregulated transmission investments in this fashion. It is Ergon

Energy's opinion that clause 2.5.2(c) should not be applied in circumstances where a market Participant is seeking to mitigate the effects of an investment decision by gaining a regulated return on an initially declared entrepreneurial transmission investment.

## **2. Receipt of Maximum Allowable Revenue**

If the Commission determines that the network service provided by Murraylink, following cessation of its classification as a market network service, should be classified as a prescribed service, then the Commission must only allow a regulated return on components of the investment that would have occurred had Murraylink not been constructed, and a regulated interconnector had been constructed following a regulatory test.

The Murraylink project was developed, and proceeded, on the basis that it was a market network service investment. Murraylink should therefore only receive regulated revenues if it can be established with certainty that an equivalent line would have been built (at that time) as a regulated asset to meet system needs. Costs of augmentation additional to that which would have formed part of an approved regulated investment should not be included in the regulated asset value for the purposes of calculating the regulated return.

## **3. Standards of Service**

Ergon Energy believes that if the network service provided by Murraylink is determined to be a prescribed service then it must meet the same standards of service as may be imposed upon other regulated interconnectors in the NEM.

## **4. Conclusion**

Ergon Energy thanks the Commission for the opportunity to comment on these matters as we consider the development and classification of interconnection assets to be an issue of high significance to electricity market Participants. Should you wish to discuss these matters further, please do not hesitate to contact me on 07 3228 8116.

Yours faithfully,

**Darren Barlow**  
Manager, Regulatory & Community Affairs