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LAWYERS

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**By email**

Mr Chris Pattas  
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Dear Mr Pattas

**Supplementary submission to the AER's review of the weighted average cost of capital parameters**

We refer to the submissions of the Major Energy Users Inc. (**MEU**) and National Consumers Roundtable on Energy (**Roundtable**), lodged in January 2009 (**MEU submission**) in response to the Australian Energy Regulator's (**AER**) explanatory statement and proposed statements relating to the AER's review of electricity transmission and distribution WACC parameters (**AER WACC review proceedings**).

We submit on behalf of the Joint Industry Association (**JIA**), a report prepared by CEG in response to the MEU submission (**CEG report**), with particular focus on submissions that the utilities sector has outperformed the general market in the long run. This issue was raised for the first time in the MEU submissions lodged on 30 January 2009.

Although outside the 2 February 2009 deadline set for the JIA's submissions in the AER WACC review proceedings, we submit, on behalf of the JIA, that the AER ought to consider the CEG report, because it is important that the new material presented and erroneous conclusions reached in the MEU submissions be addressed.

While the JIA has acted expeditiously in commissioning CEG to review the MEU submission, CEG had to undertake a detailed review and analysis of the MEU submission and data presented as part of the submission, before it could arrive at a view on the veracity of the conclusions presented by the MEU and roundtable.

The JIA submits that the AER exercise its discretion under section 28ZC of the *National Electricity (South Australia) Act 1996* to consider submissions received outside the period specified in the AER WACC review proceedings, because:

- (a) the MEU submission is based on a misunderstanding of the facts, and in fact arrives at an incorrect conclusion about the riskiness of regulated firms; and
- (b) the attached CEG report clearly identifies the points at which the MEU submission is incorrect and provides the AER with a correct interpretation of the data presented in the MEU submission.

Specifically, the CEG report reaches the following conclusions:

- 1 the MEU and Roundtable appear to have misinterpreted a number of facts, including making an assumption that the Utilities index provides a good proxy for movements in share prices for the regulated electricity distribution and transmission businesses;
- 2 the data presented in the MEU submission in fact shows that investment in the Utilities index has a higher than average risk, and therefore has a higher cost of equity; and
- 3 regardless, the analysis presented by the MEU is of questionable usefulness.

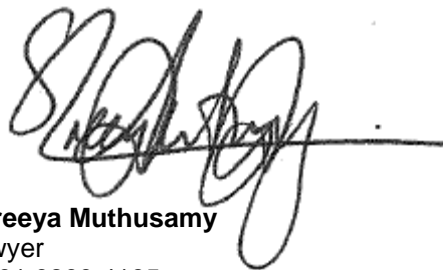
Therefore, the JIA submits that if the AER is to have regard to the MEU's submissions on these issues, it should exercise its discretion and consider the CEG report in order to properly assess the facts presented to it in the AER WACC review proceedings.

If you have any queries, please contact Nick Taylor at [NTaylor@gtlaw.com.au](mailto:NTaylor@gtlaw.com.au) or on (02) 9263 4255.

Yours sincerely



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