



30 November 2017

Mr Sebastian Roberts  
General Manager, Network Expenditure  
Australian Energy Regulator  
GPO Box 520  
Melbourne VIC 3001

Dear Mr Roberts

### **AER REMITTED DECISION FOR NSW/ACT 2014-19**

Origin Energy (Origin) appreciates the opportunity to comment on the AER's Issues Paper relating to the remaking of its operating expenditure decisions for NSW and ACT electricity distribution determinations for the 2014–19 regulatory period.

A key aspect of the remittal is for the AER to use a broader range of modelling and benchmarking including a "bottom up" review of forecast operating expenditure (opex). As pointed out by the AER, in doing so it must consider a range of factors including whether to provide the distribution network service providers (DNSP) with a transition path allowance.

The AER notes that read together the legislative requirements relevant to remaking its decision requires it to identify a level of opex that is efficient and prudent and at a level that sustainably maintains the safety and reliability of the network in the long-term interests of consumers.

In achieving this objective, the AER has posed the question whether it is reasonable for it to rely on the revealed costs of the DNSPs of the current regulatory period to date. The AER also raises the question that if it does not rely on the DNSPs' revealed costs or revised targets, what other tools should it use?

In addition, the AER asks whether, or the extent to which, it should provide the DNSPs with a "transition path allowance".

We consider that there is benefit in using the DNSPs' costs to date as they provide the most relevant actual data. However, we are also mindful that the DNSPs' expenditure decisions to date would have been influenced by the AER's original determination which it must now re-do. As a result, choosing one approach over another may result in a material difference in a re-made decision.

On that basis, we consider that the overarching determinant in making its decision is the AER's legal obligations and what is permissible under those obligations. Specifically, the AER should be guided by what data and method best allows it to discharge its obligations under the Federal Court's ruling.

The AER has also raised the issue of whether it should provide the DNSPs with a transition path allowance noting that both the Tribunal and the Court did not substantively address this issue.

We believe that a regulatory framework should not support circumstances where governments impose legally binding conditions on businesses that give rise to inefficient costs and for these to be borne by consumers. The integrity of the regulatory framework should be sacrosanct and that the regulator should be allowed to independently make a judgment on the efficiency of proposed costs. For these reasons, we retain our position that inefficient transition costs should not be included in the approved opex allowances and thereby borne by customers. Subject to the application of reliable benchmarking, we do not believe this approach is inconsistent with the Court's decision.

**Concluding comments**

Origin believes it is essential that the AER provide participants and customers resolution of the 2014-19 regulatory determination. This will provide pricing certainty and a necessary starting point for the 2019-24 revenue determination process. For these reasons, in remaking its decision we encourage the AER to ensure it adopts data and an approach that ensures it discharges its legal obligations to minimise the potential for any further delays in finalising this determination.

If you have any questions regarding this submission, please contact Sean Greenup in the first instance on (07) 3867 0620.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'R. Keith Robertson'.

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