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By email to: networkperformancereporting@aer.gov.au

Re: Priorities and objectives for reporting on regulated electricity and gas network performance Consultation Paper

Spark Infrastructure is a provider of long-term equity capital into energy infrastructure investments in the National Electricity Market (**NEM**) including TransGrid in NSW, SA Power Networks in South Australia and CitiPower and Powercor in Victoria.

Spark Infrastructure welcomes the opportunity to respond to the AER's Consultation Paper on the priorities and objectives for reporting on regulated electricity and gas network performance.

We support the inclusion of the additional objective to consider the effectiveness of the regulatory regime. However, this objective is unhelpful in the absence of a clear vision of what we should expect to see when the regulatory regime is effective and how this might be assessed.

There appears to be some disparity between stakeholders as to how an effective regulatory regime is assessed. Some stakeholders consider that outperformance of regulatory allowances in pursuit of financial incentives that results in returns above the regulatory return should be applauded as this outcome is consistent with improving efficiency and maintaining services to benefit customers over time. Others consider that this same outcome simply demonstrates that the regulators got it wrong and Network Service Provider (**NSP**) allowances are too high or the incentives are ineffective or inappropriate. The appropriate response to these scenarios should differ. Therefore, it is insufficient to simply state that an effective regulatory regime is an objective. Rather, a vision for an effective regime should be outlined and supported by an objective and transparent assessment framework with measures that are clearly linked to outcomes in both the short and long term. This will facilitate improved understanding between stakeholders and focus efforts on change that can be linked to the long-term interests of consumers as intended under the National Gas Objective (**NGO**) and National Electricity Objective (**NEO**).

Over the last few years, there have been significant changes and interventions in the regulatory regime which have delivered short term reductions in prices to customers, but arguably have added long-term risk to the regulatory framework. We support a regime that ensures that customers pay no more than necessary for energy network services. However, we remain concerned that there has been a focus on delivering lower prices in the short term with little regard for the longer-term impacts on price, reliability or security of service or the system as explicitly required under the NGO and NEO. The development of the performance reporting framework provides an opportunity to address this.

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As long-term investors in energy infrastructure, it is in our interests to ensure that customers receive services as the lowest efficient cost. Looking after customers is more likely to support a stable and predictable regulatory regime, less intervention and sustainable returns over time. This in turn keeps the cost of capital low and provides investors with confidence to continue to invest in providing services.

We wish to emphasise the increasing importance of the accountability objective not just for NSPs but also for the regulator in the absence of review of regulator decisions. In the same way that NSPs outline expected outcomes across a range of measures in proposals, the regulator could also include expected outcomes in its decisions with actual outcomes being reported against expectations in performance reports over time. This would also improve the ability to identify and understand different drivers of variations such as NSP behavior, external factors, changes to policy and rules, changes in the application of rules or the use of regulatory discretion to inform future decisions.

We support the continued priority of reporting on operating and financial performance. However, to improve the relevance and reliability of this information to achieve the objectives, we recommend:

- Financial performance measures to include an assessment of the ability of a ring-fenced NSP adopting the assumptions of the benchmark efficient entity (**BEE**) to maintain the assumed credit rating. This 'financeability' measure is forward looking and provides an indication of expected changes in the efficient cost of capital given future investment programs.

- Recognising the relationship between operational and financial performance. A variation between forecast and actual expenditure can reflect variations in the cost or availability of capital. For example, the regulated returns provided to NSPs have reduced significantly since 2013 coinciding with a significant reduction in network investment. We accept that there may be many reasons for low levels of investment. However, ignoring the possibility of a relationship could put future investment at risk, for example, if the incentives in the form of regulatory returns and opportunities to outperform the regulatory returns, prove insufficient to sustain efficient levels of investment.

- Financial performance (profitability and financeabilty) to be assessed by adopting the BEE assumptions for the ring-fenced NSP if it is to be useful and reliable for assessing the effectiveness of the regulatory regime, embedding accountability for outcomes and enabling comparisons across NSPs over time. This approach enables the impact of the economic regulatory framework to be isolated from the impact of external factors, accounting standards and tax policy that are outside the scope of the AER and its regulatory decisions. Note that a 'hybrid' approach that imposes a different set of assumptions[1] to those adopted in economic regulation, accounting standards or tax law will provide information that 'falls between two stools'. That is, is of no use to assessing the performance of the regulatory framework or the financial performance of NSPs.

[1] For example, the application of a tax rate in developing profitability measures that reflects neither the regulatory assumption nor the actual tax rate that would be applied to the regulated NSP.

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- Performance metrics that are capable of being reliably measured across periods and assessed on a consistent basis between NSPs, for them to be considered as relevant to the key decision makers of the NSPs. As mentioned above these metrics must be able to be clearly linked to the ring-fenced NSP, and not include any benefits or uplifts that may accrue to the NSP from being part of a wider conglomerate business either operationally or financially in the same way the costs of the wider conglomerate are not to be attributed to the NSP.

We also wish to foreshadow that we expect the set of performance metrics to adapt to the changing way the networks are being used such as the shift from one-way transportation of electricity from centrally located generation plants to two-way flows of electricity between consumers (within distribution networks). Over time we would expect the grid to be used as a platform to support the efficient exchange of energy. Hence the historical measures of performance (e.g. utilisation, consumption, cost per line length) will need to be replaced with, or at least supplemented by, measures that better reflect a changing set of outcomes valued by customers.

Please contact me on [redacted] for further discussion regarding this submission.

Yours sincerely,

[redacted]

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