



28 October 2020

Ms Clare Savage  
Chair  
Australian Energy Regulator

Dear Clare

**Re: Regulatory treatment gifted assets**

On 21 October 2020 the Full Federal Court of Australia handed down its decision in the appeal by Victoria Power Networks against the Commissioner of Taxation (Commissioner) in relation to the tax treatment of customer contributions.

The decision of the Full Federal Court was:

1. Cash contributions should be treated as assessable income for income tax purposes. This is consistent with our regulatory proposal and the draft determination.
2. In respect of gifted assets, there is effectively net nil taxable income for income tax purposes, but the associated rebate is to be treated as a tax depreciating asset. This is inconsistent with our regulatory proposal and the draft determination.

We intend to reflect this change in tax treatment in the 2021-26 revised proposals of CitiPower, Powercor and United Energy. The net effect is expected to be a reduction in regulatory tax allowances for CitiPower and United Energy, and increase the regulatory value of tax losses by 30 June 2026 for Powercor.

The Commissioner has 28 days from 21 October 2020 to seek special leave to the High Court of Australia to appeal the decision.

Here is a link to the Full Federal Court decision.

<https://www.judgments.fedcourt.gov.au/judgments/Judgments/fca/full/2020/2020fcafc0169>

Should you have any queries, please contact Mark de Villiers on [REDACTED] or [REDACTED].

Yours sincerely,



Renate Vogt  
**General Manager Regulation**  
**CitiPower, Powercor and United Energy**