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25 May 2018

Mr Brent Cleeve
Manager Regulation
United Energy

By email (bcleeve@powercor.com.au)

Dear Mr Cleeve

Re: Revocation and substitution of United Energy electricity distribution determination 2016-2020

We are writing to advise you that the AER has revoked its determination for United Energy for the regulatory control period 1 January 2016 to 31 December 2020, which was published on 26 May 2016, and substituted a revised determination.¹

Subsequent to making our determination for United Energy published on 26 May 2016, in the merits review of Victorian Electricity and ACT Gas decisions the Australian Competition Tribunal became aware of an inflation estimation error impacting each of the AER's determinations on review in this process.² The Tribunal noted the error in each of its determinations and stated it left it to the AER to determine the appropriate response to its error.³

The estimation error identified by the Tribunal in the above proceedings is reflected in the AER's United Energy determination for the 2016-20 regulatory control period published on 26 May 2016. This is a mathematical calculation error that impacts the United Energy distribution determination for 2016-2020.

On 15 December 2017 the AER wrote to United Energy (by email to bcleeve@powercor.com.au) proposing, subject to consideration of any submissions on our proposal, to make a determination to correct the identified error set out above under clause 6.13 of the NER by no later than 1 March 2018.⁴ On 1 March 2018 AER staff sent an email

¹ AER, *United Energy Final decision 2016-2020*, 26 May 2016

² File Nos: ACT 3, 4, 5, 6, 7, 8 of 2016; <http://www.competitiontribunal.gov.au/current-matters/tribunal-documents>.

³ For example, see ACT, *Application by ActewAGL Distribution [2017] ACompT 2*, 17 October 2017, p i – iii.

⁴ The AER, *letter to United Energy: Proposed revocation and substitution of United Energy electricity distribution determination 2016-2020*, 15 December 2017

indicating the AER's determination on the matter had been delayed by approximately 1 month.⁵

In addition to the letter sent to United Energy with respect to its regulatory determination, the AER sent letters proposing to make similar corrections in relation to 9 other regulatory determinations.⁶ The AER also sent letters to four service providers the subject of determinations on remittal from the Australian Competition Tribunal proposing to correct the error as part of the AER's remade determinations.⁷

The AER has received 4 submissions with respect to the proposed inflation corrections. These were from APTNT, AusNet Services, Australian Gas Networks and Ausgrid.⁸ We also received a submission from Consumer Challenge Panel 10 in response to the AER Remitted debt decision position paper that also commented on the inflation correction.⁹

Under clause 6.13 of the NER, the AER may revoke a distribution determination where there has been a material error or deficiency of one or more of the following kinds:

- (1) a clerical mistake or an accidental slip or omission;
- (2) a miscalculation or misdescription;
- (3) a defect in form; or
- (4) a deficiency resulting from the provision of false or materially misleading information to the AER.

Having considered the matter and all submissions, the AER has determined to make the proposed correction set out in our Dec 2017 letter referred to above by revoking United Energy's determination published on 26 May 2016 under clause 6.13 of the NER and substituting it with a new determination.

For the purposes of clause 6.13(a), we consider the error identified above is material and would come within the scope of a 'clerical mistake or an accidental slip or omission' or a 'miscalculation or misdescription'.

⁵ AER, *Email to Mr Cleeve of United Energy in relation to the inflation correction matter*, 1 March 2018.

⁶ The AER, *letter to AGN: Proposed revocation and substitution of Australian Gas Networks (SA) access arrangement 2016-2021*, 15 December 2017; The AER, *letter to Amadeus: Proposed revocation and substitution of Amadeus Gas Pipeline transmission access arrangement 2016-2021*, 15 December 2017; The AER, *letter to AusNet: Proposed revocation and substitution of AusNet distribution determination 2016-2020*, 15 December 2017; The AER, *letter to Citipower: Proposed revocation and substitution of Citipower electricity distribution determination 2016-2020*, 15 December 2017; The AER, *letter to Jemena: Proposed revocation and substitution of Jemena electricity distribution determination 2016-2020*, 15 December 2017; The AER, *letter to Powercor: Proposed revocation and substitution of Powercor electricity distribution determination 2016-2020*, 15 December 2017; The AER, *letter to TasNetworks: Proposed revocation and substitution of TasNetworks transmission determination 2014-2019*, 15 December 2017; The AER, *letter to TransGrid: Proposed revocation and substitution of TransGrid transmission determination 2014-2018*, 15 December 2017; The AER, *letter to ActewAGL gas: Proposed revocation and substitution of ActewAGL Gas Distribution access arrangement 2016-2021*, 15 December 2017.

⁷ The AER, *letter to ActewAGL: Proposed correction of an inflation calculation error impacting ActewAGL distribution determination 2014-2019*, 15 December 2017; The AER, *letter to Endeavour Energy: Proposed correction of an inflation calculation error impacting Endeavour Energy distribution determination 2014-2019*, 15 December 2017; The AER, *letter to Essential Energy: Proposed correction of an inflation calculation error impacting Essential Energy distribution determination 2014-2019*, 15 December 2017; The AER, *letter to Ausgrid: Proposed correction of an inflation calculation error impacting Ausgrid distribution determination 2014-2019*, 15 December 2017.

⁸ Ausgrid, *Response to AER inflation letter*, February 2018; AGN, *Letter to AER: proposed revocation and substitution of AGN access arrangement*, 1 February 2018; AusNet, *AusNet response inflation error correction*, 1 February 2018; APA, *APTNT response to AER revocation proposal*, 9 January 2018.

⁹ CCP10, *Response to AER position paper: remitted debt decisions for NSW/ACT 2014-19 electricity distribution determinations and Jemena Gas Networks 2015-20 (NSW) Access Arrangement*, December 2017, p. 8.

The AER has now revoked the determination under clause 6.13 of the NER and substituted a new determination. The amended PTRM was provided to you via email on 3 May 2018 and the amount of over-recovery arising from correcting the error is set out below in table 1.

Table 1 Difference between the revoked and substituted determination

United Energy (\$m, nominal)							
Inflation rate			2016	2017	2018	2019	2020
2016 final decision (including annual updates)	2.32%	Unsmoothed revenue	395.68	400.41	413.81	438.09	442.68
		Smoothed revenue	375.07	398.48	420.61	445.44	455.79
		X-factor	8.56%	-3.83%	-3.16%	-3.50%	0.00%
Corrected unrounded value	2.35%	Unsmoothed revenue	395.10	399.88	413.35	437.72	442.40
		Smoothed revenue	375.07	398.48	420.61	443.30	455.51
		X-factor	8.56%	-3.83%	-3.16%	-2.97%	-0.40%

The new determination will have the effect of reducing United Energy's revenue in the 2019 and 2020 regulatory years by the amount of the correction (in net present value terms).

This letter along with the amended PTRM will be published on the AER webpage for United Energy's regulatory determination for the 2016–20 regulatory control period.

If you have any questions in relation to this notification, please contact Esmond Smith on 03 9290 1956.

Yours sincerely



Warwick Anderson

General Manager

AER Network Finance and Reporting

