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Dear Ms Groves

**Request for Correction of Final Decision That Was Made in Error**

I am writing on behalf of TransGrid to request the Australian Energy Regulator to revoke TransGrid's revenue cap made by the Australian Competition and Consumer Commission's (ACCC) in its *Final Decision: NSW and ACT Transmission Network Revenue Cap TransGrid 2004-05 to 2008-09* (the **Decision**) and substitute a new revenue cap that is free of material error.

This request is made pursuant to clause 6.2.4(d)(2) and 6.2.4(e) of the National Electricity Rules. Clauses 6.2.4(d)(2) and 6.2.4(e) state:

- (d) Notwithstanding clause 6.2.4(b), the AER may revoke a *revenue cap* determination during a *regulatory control period* only where it appears to the AER that:
  - ... (2) there was a material error in the setting of the revenue cap and the prior written consent of parties affected by any proposed subsequent re-opening of the revenue cap has been obtained by the AER;...
- (e) If the AER revokes a revenue cap determination under clause 6.2.4(d), then the AER may make a new revenue cap determination in substitution for the revoked revenue cap determination to apply for the remainder of the regulatory control period for which the revoked revenue cap determination was to apply.

TransGrid notes that transitional provisions in the National Electricity (South Australia) Regulations allow for the AER to be treated for all practical purposes as the decision maker in respect of ACCC decisions made under the predecessor to the National Electricity Rules, the National Electricity Code.

**The Decision**

TransGrid has identified material error in the Decision and decision-making process with respect to its revenue cap.

The National Electricity Code required the ACCC in the Decision to adopt a cost of debt which is "established with reference to current prices in domestic and overseas corporate debt markets".

TransGrid made initial submissions concerning an appropriate source for the cost of debt and, in the course of the revenue cap setting process, made a number of submissions to ACCC staff specifically outlining concerns TransGrid had with the use of the CBASpectrum data. In particular, TransGrid's concern was that the CBASpectrum service systematically understated the rate for 10 year bonds. In this case the Decision understated the cost of debt by approximately 27 basis points.

Notwithstanding those submissions, the Decision relied on unadjusted CBASpectrum data as the cost of debt without referring to the concerns expressed by TransGrid. TransGrid understands that its submissions were not considered by the ACCC. Subsequent decisions by a range of regulators performing analogous functions have recognised this problem or used alternative sources of data.

The decision was made in error in that it failed to take account of the above submissions resulting in a Decision that significantly understated the revenue that TransGrid would be permitted to earn. Rectification requires the AER to take TransGrid's submissions into account, with the effect of modifying the cost of debt used to establish TransGrid's revenue cap.

A comparison between TransGrid's allowed revenues during the control period as set out in the Decision and the allowed revenues as corrected for the revised cost of debt are as follows:

<b>Unsmoothed (\$m)</b>	<b>MAR</b>	<b>04/05</b>	<b>05/06</b>	<b>06/07</b>	<b>07/08</b>	<b>08/09</b>	<b>Total</b>
ACCC Decision		435.14	454.78	477.32	502.28	545.98	2,415.50
Corrected figures		440.06	459.92	482.73	508.02	552.33	2,443.06

*Note, however, that the actual MAR is derived from the CPI-X formula in the decision and the above are figures are projections made at the time of the Decision. They are, therefore, illustrative only. The actual MAR figures depend upon movements in the CPI.*

#### **Method of correction**

TransGrid has already charged for transmission services for each of the financial years 2004-2005 and 2005-2006 and disseminated its prices for the financial year 2006-2007. Those prices were all based on the ACCC Decision. TransGrid will therefore have earned less revenue in those years than it should have been permitted to do.

The correction to the permitted revenue in the final two years needs to enable the recovery of the lost revenues from the first three years. That correction can be achieved in a manner that is NPV neutral to TransGrid and in a manner that smoothes the adjustment over the final years of the revenue period by replacing the Decision's "X" value of -2.93% with -4.99% for those two final years.

#### **Affected parties**

TransGrid has identified as potentially affected parties under clause 6.2.4(d)(2) those that it invoices for transmission services. These parties are set out in Attachment A.



### Timetable for correction

As per our discussions with respect to the appropriate process for this application, TransGrid will need to finalise and disseminate the prices for transmission services for the years 2007-2008 by 1 July 2007. TransGrid is the regional coordinator amongst NSW TNSPs which means it is responsible for collecting, combining and disseminating the overall TUOS charges for all NSW TNSPs. With this in mind the following timetable is necessary:

Time	Action
Early December 2006	The AER writes to potential affected customers advising them of TransGrid's request to revoke the existing revenue cap.
Early January 2007	Deadline for any responses by customers to the AER letter.
Late February 2007	The AER makes a new revenue cap determination for TransGrid.
Late March 2007	Based on the new revenue cap determination all cost inputs for the calculations of TUOS charges for 2007-2008 must be finalised by TransGrid.
April 2007	ABS releases 1 <sup>st</sup> Quarter CPI figures which is the last input to the calculation of prices.
April 2007	TransGrid's TUOS prices for 2007/2008 to be disseminated to DNSPs.
Early June 2007	DNSPs disseminate combined TUOS and DUOS charged to retailers and other customers.

Your assistance in progressing this matter to meet the proposed timetable would be most appreciated.

Yours sincerely

 22/4/06  
Kevin Murray  
Managing Director

**Attachment A: Potentially affected parties**

EnergyAustralia

Integral Energy

Country Energy

ActewAGL

Norske Skog (in respect of its Albury complex)

Visy Pulp and Paper Mills Pty Ltd (in respect of its Tumut complex)

Delta

Eraring Energy

Macquarie Generation

Snowy Hydro