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**To: The COAG Energy Council Secretariat
COAG Energy Council Senior Committee of Officials**

By email (energycouncil@environment.gov.au)

National Electricity Rules (NER) and National Gas Rules (NGR) – Consultation

We welcome the opportunity to provide input on the proposed rules to give effect to a binding rate of return instrument within the national electricity rules (NER) and the national gas rules (NGR).

We support the draft rules package. In our view, it:

- Appropriately simplifies the rules framework. The requirements developing a rate of return methodology for the binding instrument are set out in the draft Statutes Amendment (National Energy Laws) (Binding Rate of Return Instrument) Bill 2018.
- Clearly identifies which rate of return instrument applies to any specific regulatory determination or access arrangement revision
- Maintains consistency where possible between the electricity and gas frameworks.

We recognise that in some cases the comparable clauses or definitions are drafted differently between the NER and NGR. For example, the formulae definitions in the draft r. 6.5.2 and 6A.6.2 (NER) and r. 87 (NGR) are constructed differently. However, we understand this is done solely to account for differences in existing definitions within the NGR and NER. We consider the rules as drafted will permit a consistent approach to be adopted in implementing the binding rate of return instrument to electricity and gas networks. Specifically, we expect that the updated rules should permit that the rate of return will be estimated on a forward-looking basis by multiplying the forecast value of the asset base at the beginning of a regulatory year by the relevant forecast rate of return for that same regulatory year.

We also wish to raise one further issue for consideration. Transitional rule 11.93 in the NER governs the application of the rate of return guideline under the current framework several upcoming revenue determinations. Upon implementation of a binding rate of return instrument, this provision no longer appears necessary. Further, the draft Statutes Amendment (National Energy Laws) (Binding Rate of Return Instrument) Bill 2018 specifies the application of the binding rate of return instrument to the affected determinations. We recommend removal of that provision for clarity.

We are available to discuss this or related issues further.

Yours sincerely



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