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Mr Michael Rawstron
General Manager
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Australian Competition and Consumer Commission
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Dear Mike

Approval of Changes to the NEM Access Code

I refer to the letter from NECA to the Commission dated 10 May 2002 seeking approval of the changes that have been made to the NEM Access Code under section 44ZZAA(6) of the Trade Practices Act, and the associated request for submissions on the Commission's website.

TransGrid is disappointed at the approach that is being taken in relation to the changes to the NEM Access Code. It appears that NECA is treating the application as, effectively, a procedural matter, by seeking approval of all Code changes made to date solely on the basis that those changes have already been authorised under Part VII of the TPA. This also seems to be reflected in the seven-week consultation period that has been allowed, which does not appear to contemplate further submissions of substance on the large number of Code changes that are under consideration.

TransGrid recognises that the test for authorisation and the test for approval of changes to an access code both have the ultimate objectives of delivering public benefits. However, the tests do in fact require materially different matters to be taken into consideration. In particular, Part IIIA requires the ACCC to have regard to the legitimate business interests of the access provider. This is not part of the test applied in relation to TPA authorisation. We note, in particular, the extensive nature of the Code changes authorised by the ACCC that are now subject to approval under Section 44ZZAA(6).

Accordingly, it seems that the truncated procedure adopted in making these amendments works to the detriment of TransGrid and other Code Participants.

We therefore request that:

- 1 our concern in this regard be noted in the draft decision to be issued by the Commission in relation to NECA's application; and
- 2 the time for submissions be extended by eight weeks to provide TransGrid and other Code Participants with the opportunity to raise issues of substance in relation to the assessment of the Code changes against the test for approval of changes to an access code.

I look forward to hearing from you in relation to this matter.

Yours sincerely

Philip Gall 28/6/02

Philip Gall
Manager/Regulatory Affairs



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