

17 July 2009

The Secretary
Senate Standing Committee on Environment, Communications and the Arts
PO Box 6100
Parliament House
CANBERRA ACT 2600
Australia

Dear Sir/Madam,

***Inquiry into the Telecommunications Legislation Amendment
(National Broadband Network Measures No 1) Bill 2009***

Integral Energy welcomes the opportunity to provide a submission on the *Telecommunications Legislation Amendment (National Broadband Network Measures No 1) Bill 2009* (the Bill).

Integral Energy is the second largest state owned energy corporation in New South Wales, serving some of Australia's largest and fastest growing regional economies. It provides distribution network services to almost 860,000 customers or 2.1 million people in households and businesses spanning 24,500 kilometres in Greater Western Sydney, the Blue Mountains, the Illawarra and Southern Highlands.

Integral Energy supports and encourages the Government's plan to invest in an FTTP network that delivers superfast broadband to Australian homes and workplaces. The services that an FTTP network will enable will be important in maintaining the nation's international competitiveness in the future to the benefit of all Australians.

Undertaking the nation's largest single infrastructure project represents an enormous challenge, not just in terms of the size of the investment required but also ensuring the active participation of all stakeholders required for successful end to end delivery. In this regard, Integral Energy:

- agrees that symmetries with the planning and delivery of essential infrastructure means that leveraging those well understood models is likely to provide the most cost effective and timely approach; and
- submits that leveraging those well understood models also offers the most economic way to deliver the smart meter and smart grid technologies that will underpin Australia's low carbon and energy efficient future.

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As a first step, it will be necessary for those developing the relevant policy, undertaking the Implementation Study and establishing the National Broadband Network (NBN) company to have access to good quality information concerning the relevant essential infrastructure. Integral Energy supports the adoption of a clear framework for doing so that ensures:

- the accurate scope of information requests;
- realistic delivery timeframes;
- mechanisms to ensure that the information obtained is used for relevant purposes only; and
- appropriate information security and cost recovery arrangements.

Comments on each of these matters are provided below.

Accurate scope

Integral Energy notes that the convergence of telecommunications and other essential infrastructure is a relatively recent development. Those involved with the NBN process may not necessarily be familiar with the complexities and challenges associated with the planning and operation of other essential infrastructure, including electricity distribution networks.

To assist in developing that understanding, Integral Energy submits that processes be put in place to ensure strong engagement between the relevant Government Departments and their contractors and the essential infrastructure businesses. This would give effect to the Government's preference, expressed in the Explanatory Memorandum (EM) that accompanied the Bill, that the information gathering process be voluntary. Those processes should help to refine the scope of information requests.

In addition, to ensure that the formal mechanism in the Bill for doing so functions effectively, Integral Energy submits that the timeframe for the Minister to consult on a proposed information request should be extended from five to a minimum of fifteen business days. Integral Energy understands that there is a tight timeframe for progressing the NBN process. However, it is also important that a pragmatic balance be struck to ensure that the infrastructure businesses have a realistic opportunity to ensure that the information being sought is both directly relevant and capable of being delivered. Allowing an adequate period for formal consultation is particularly important given that the Bill contemplates a civil penalty regime for delivery failure.

Realistic delivery timeframes

As with the above issue, Integral Energy is concerned that the ten day minimum timeframe for providing the requested information is inadequate. It would be unrealistic to assume that all infrastructure businesses have to hand all of the information that may be required and in the format sought. Asset management systems are not developed for such specific purposes and cost information is likely to require build-ups drawn from accounting, financial and regulatory models developed for other purposes. Integral Energy submits that a pragmatic balance would be to allow a minimum delivery timeframe of twenty working days.

Mechanisms to ensure the information is used for relevant purposes only

The mechanisms contained in the Bill for this purpose are broadly satisfactory. It appears to be contemplated that the Australian Competition and Consumer

Commission (ACCC) has access to at least part of the information collected. Integral Energy submits that the Bill should make it explicit that the ACCC and its subsidiary, the Australian Energy Regulator (AER), may not use that information for the purpose of undertaking the economic regulation of essential infrastructure businesses. The ACCC and AER already have strong information gathering powers in this regard and there are well understood mechanisms for ensuring that that information is used appropriately. Any changes to those arrangements for NBN-related purposes should not be an unintended consequence of the Bill. Rather, they should be explicitly addressed as part of the broader telecommunications regulatory review that the Government currently has underway.

Appropriate information security arrangements

The provision of essential infrastructure asset and operating information raises key security concerns. The Bill provides a framework that allows such information to be provided to "entrusted public officials", including consultants, and "entrusted company officers". However, there is no process for ensuring that infrastructure businesses can have input into the decisions as to who qualifies under those two very broad categories. This is particularly a concern given the Government's intention to encourage private investment in the NBN company. It would also be highly desirable that the Bill includes an obligation on the Minister to consult with infrastructure businesses on the content of any proposed information control regulations.

Appropriate cost recovery arrangements

As noted above, the EM that accompanies the Bill expresses the Government's preference for the voluntary provision of information. The EM also states the need for arrangements to ensure that infrastructure businesses are able to recover the full costs associated with providing the requested information. Integral Energy supports these policy positions but is concerned that arrangements for both are not contained in the Bill. Clarity regarding those mechanisms is crucial to ensuring that infrastructure businesses:

- are positioned to provide the information in a timely way thereby minimising any risk of being unable to comply with the formal process (and so expose the businesses to civil penalties that they may be unable to recover from their customers); and
- are not required to subsidise the cost of providing the information through their customers rather than those who will benefit from the NBN services.

In conclusion, Integral Energy emphasises its support for the Government's plan to provide Australians with superfast broadband services. However, it also stresses the importance of ensuring that the information gathering processes needed to efficiently leverage essential infrastructure to deliver those services, are pragmatic, do not compromise security and provide for full cost recovery.

Should you wish any further assistance regarding the contents of this submission, please contact Anthony Englund on (02) 9853 6511 or anthony.englund@integral.com.au.

Yours sincerely



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