

Record No: D2008/128733
Container No: F2007/7677

Mr Alan Tregilgas
Utilities Commissioner
Utilities Commission
5th Floor, 38 Cavenagh Street
Darwin NT 0800

Dear Alan

Re: 2009 Networks Regulatory Reset – Power and Water Response to Draft Price Control Mechanism Decision

Please find attached Power and Water's response to the Commission's Draft Price Control Mechanism Decision.

The main issues covered in the response relate to the financial impacts of the Commission's proposed methodology on Power and Water's ability to undertake its forward plans in its proposed 2008-09 Statement of Corporate Intent; concerns regarding the exclusive use of a total factor productivity price setting methodology; and concerns relating to the precise application of Chapter 6 of the National Electricity Rules.

If you require further information on any matters raised in Power and Water's response, please contact Ms Djuna Pollard, Manager Regulation, Pricing and Economic Analysis, on 8985 8431.

Yours sincerely



Andrew Macrides
Managing Director

18 April 2008

GPO Box 1921, Darwin NT 0801



Power and Water Corporation

Submission to the
Northern Territory
Utilities Commission:
Draft Decision Paper –
Price Control Mechanism

April 2008

This Report contains 16 pages

Contents

1	Executive Summary	1
2	Introduction	2
3	Financial Impacts of the Commission's Proposed Methodology	5
4	Proposed Use of a TFP Price Setting Methodology	8
5	Use of Chapter 6 of the National Electricity Rules	11

1 Executive Summary

Power and Water thanks the Northern Territory Utilities Commission (the Commission) for the opportunity to comment on its *Draft Decision Paper: Price Control Mechanism* (Draft Decision) prior to the formulation of the Final Methodology by the Commission. Power and Water has considered its comments carefully in light of its future obligations to its customers and shareholders, and the Commission's timeframes for finalisation of the Methodology.

Power and Water considers that elements of the Draft Decision warrant further investigation prior to finalisation. These are that the proposed methodology:

- Will re-apply a Total Factor Productivity (TFP)-like methodology which will not enable Power and Water to meet its capital and operating expenditure budgets for the third regulatory control period, as set out in the Draft 2008-09 Statement of Corporate Intent (SCI), by limiting the amount of network tariff revenue available to fund the proposed capital and operating expenditure projects;
- Does not take into account the causes of divergence between actual and forecast (base-year) revenue requirements over the current regulatory control period, resulting from the application of a TFP-like methodology. The Commission should modify the TFP-like methodology to be re-applied during the upcoming regulatory period to address the issues that resulted in Power and Water being significantly under-funded and in turn the need for a significant Po adjustment to establish opening tariffs in the third regulatory control period; and
- Makes it difficult for Power and Water to understand how each of the Northern Territory Electricity Networks (Third Party Access) Code (Access Code) and Chapter 6 of the National Electricity Rules (and the NSW Transitional Rules encapsulated in Chapter 6) (Rules) will be applied during Power and Water's reset, and in particular how matters will be considered, accepted or rejected by the Commission.

Power and Water considers that modifications would be required to meet the above issues, such that:

- If a TFP-like methodology is to be used, then the 2008-09 base year should be calculated with reference to the cost base that an "efficient and prudent" service provider would face given Power and Water's forecast expenditure requirements;
- An X factor should be determined and applied which reflects possible industry-wide TFP efficiencies (total industry "inputs"/ total industry "outputs"). Where industry wide productivity data is not available then the Commission should calculate X with respect to Power and Water's opportunity for real productivity gains; and
- The Commission should make clear how it intends to consider, approve or reject each matter that it has set out in the Draft Decision. While the Commission has made clear that it intends to use the Rules, it is not clear to Power and Water precisely how these would be applied.

2 Introduction

2.1 Background

In submitting this response to the Draft Decision prepared by the Commission, Power and Water:

- Understands the Draft Decision, and in particular the Commission’s intentions which Power and Water considers are to encourage an efficient electricity industry, efficient network prices and an efficient Power and Water Corporation; and
- Acknowledges the limited time available for the Commission to change direction and impose a cost based building block method for determining network tariffs, and focuses on stating clearly the potential impacts of the Draft Decision and the procedural issues for Power and Water in working with the Draft Decision.

2.2 Power and Water’s Understanding of the Draft Decision

Power and Water considers that there is merit both for the Commission and for stakeholders to understand what the Draft Decision requires of Power and Water for the upcoming revenue reset process. In short, the Draft Decision imposes a very large and complex amount of work on Power and Water which is similar to that which would be required under Chapter 6 of the National Electricity Rules, but without Power and Water having the protection of the Transitional Arrangements in place in NSW and Queensland.

In order to meet the requirements of the Draft Decision, Power and Water is required to:

- Classify all of its distribution services having regard for the criteria set out in Part B Division 1 of Chapter 6 of the Rules, and section 2F(a)-(g) of the National Electricity Law. Power and Water must also explain the difference between its proposed service classification and the Commission’s “default” classification in Appendix C of its Draft Decision (paras. 7.6 and 7.7);
- For all services that Power and Water classifies as negotiated services, prepare a negotiating framework in accordance with clause 6.7.5(c) of the Rules. This framework is required to set out detailed terms and conditions of access to negotiated services (para. 7.13);
- For all services that Power and Water classifies as alternative control services:
 - Set out a proposed control setting mechanism and form of price control consistent with clause 6.2.15 of the Rules (para. 7.9); and
 - Provide an initial pricing proposal for the first year of the next regulatory control period which gives effect to clause 6.18.2(b) of the Rules (para. 7.14);

- For all services that Power and Water classifies as standard control services, prepare:
 - A Po building block proposal in accordance with Part C of the Rules and a Po adjustment factor for 2009-10 based on (para. 3.58) including:
 - Operating expenditure for 2008-09 which satisfies requirements of clause 6.5.6(c) of the Rules (para. 5.28);
 - A proposed rate of return (justifying any movement from the New South Wales Transitional Rules) (para. 2.17);
 - A completed Post Tax Revenue Model (PTRM) which calculates an aggregate revenue requirement under the Rules. Power and Water is required to use the Australian Energy Regulator's (AER's) PTRM (para. 5.3);
 - Expected 2008-09 corporate tax payable by Power and Water for standard control services in accordance with the requirements and formula set out in clause 6.5.3 of the Rules (para. 5.16);
 - Asset values for 2008-09 using the AER's asset roll forward model (RFM) and meeting the requirements set out in clause 6.5.1 of the Rules (para. 5.14);
 - A depreciation schedule by asset class and category driver, which satisfies the requirements of clause 6.5.5(b) of the Rules (para. 5.25);
 - 2008-09 expected total annual revenue from all network tariffs;
 - A tariff schedule for 2008-09 for each network which gives effect to clause 6.18.2(b) of the Rules (para. 7.42).
 - A draft Network Pricing Principles and Methods Statement which must give effect to the detailed requirements set out in clauses 6.18.3, 6.18.4 and 6.18.5 of the Rules (para. 7.39); and
 - If Power and Water elects, a service target performance incentive scheme proposal which gives effect to clause 6.6.2(b) of the Rules and an efficiency benefit sharing proposal which gives effect to clause 6.5.8(c) of the Rules. These will only be imposed by the Commission if sought by Power and Water (paras. 6.56 and 6.60).

Power and Water acknowledges that both itself and the Commission are under considerable time pressure to have the revenue reset settled before March 2009, which reinforces the importance of having this response to the Draft Decision considered carefully by the Commission.

2.3 Structure and Main Points Raised in this Response

Power and Water's response covers three main areas:

- The potential impact of the Draft Decision on its agreed forward plans in its Draft 2008-09 SCI, as approved by the Board and currently being considered by the Shareholding Minister. This is set out in section 3;
- Power and Water's concerns with the Commission re-applying the 2004 TFP-like methodology, given that it considers that the proposed approach under-funded the Corporation over the current regulatory period and expects that the re-application of this methodology will repeat and worsen the problem for Power and Water. This is set out in section 4; and
- Power and Water's concerns with the Commission's proposal to use a mixture of the Access Code and Chapter 6 of the Rules, as well as the New South Wales Transitional Rules, to meet its proposed assessment methodology for the upcoming revenue reset. This is set out in section 5.

3 **Financial Impacts of the Commission's Proposed Methodology**

Power and Water understands that the Commission will determine the Corporation's maximum allowable revenue (MAR) for the third regulatory control period by:

- Estimating the MAR that Power and Water will receive in 2008-09 based on previous years' actual revenue (actual MAR) (para. 5.10);
- Assessing Power and Water's costs for 2008-09 using a building block approach in order to calculate a notional revised MAR for 2008-09 (recalculated MAR) (para. 5.8), and that the MAR will:
 - Be based on estimated capital and operating expenditure for 2008-09 only; and
 - Include a return on, and of, assets for 2008-09.
- Calculating a Po adjustment to establish the opening 2009-10 tariffs. Po will be calculated based on the percentage change in the 2008-09 tariff basket that is required in order to recover the recalculated MAR in 2009-10 (para. 5.10); and
- Applying a productivity measure to the opening 2009-10 tariffs in order to derive Power and Water's required tariff adjustment and therefore its MAR for the remaining years of the regulatory control period, i.e. 2010-11 to 2013-14 (para. 3.96).

This means that the Commission's proposed methodology:

- Determines Power and Water's MAR for the third regulatory control period based on historic capital and operating expenditure values;
- Does not involve forecasting future required capital and operating expenditure over the regulatory control period; and therefore
- Does not seek to recover Power and Water's costs of maintaining, on a financial or operational sense, the assets in place for each year of the regulatory control period.

Power and Water notes that this proposed approach is significantly different to the approach adopted by other regulators in the National Electricity Market for determining a distribution business' required revenue over a regulatory control period – and notes that the Commission made this point clearly in its Draft Decision. That notwithstanding, it is worth re-stating that the general regulatory approach applied across Australia involves:

- Applying a building block approach based on forecast estimates of capital and operating expenditure for each year of the regulatory control period;
- Rolling forward the regulatory asset base (RAB) each year based on annual capital expenditure, depreciation, disposals and inflation; and

- Ensuring that the financial capital maintenance theory holds, so that the net present value (NPV) of revenues equals NPV of costs over the regulatory control period.

This approach means that a distribution business earns revenue based on its forecast required costs, rather than its historic or even “normalised” costs.

Power and Water understands that this is a deliberate decision by the Commission based on its understanding of the benefits to be gained by a TFP method, however remains unconvinced of the merits of a pure TFP method. This is because there is considerable evidence to suggest that a cost based approach is a well founded, well demonstrated and precedented approach to revenue resets elsewhere, which would seem to provide a basis for it being used in the Northern Territory market. Power and Water does not consider that such evidence can be discounted readily, particularly given that Power and Water’s tariff revenue is currently well below its building block calculation of costs, and is expected to continue to be so in 2008-09.

Power and Water’s primary concern with the Commission’s proposed methodology is that it does not:

- Consider future costs – Power and Water has an increasing expenditure pattern over the next regulatory period which will not be taken into account under the proposed method. The proposed method instead establishes a base year which is meant to, but does not, simulate all future years; or
- Roll forward Power and Water’s RAB between each year of the regulatory control period, meaning that Power and Water’s asset base is not assumed to grow in real terms at all over the regulatory period. This is at odds with what Power and Water considers will be the case. The proposed method therefore does not meet Power and Water’s requirements to maintain financial capital maintenance, because Power and Water will essentially only receive a return on, and of, capital for 2008-09 expenditure (and the RAB at the start of the regulatory control period), not on its forecast rolled forward RAB.

Of most concern is the fact that the Commission’s Draft Decision will result in Power and Water not being able to fund the operations and capital expenditure it has committed to in its Draft 2008-09 SCI over the third regulatory control period, and which has been put forward to the Shareholder on the basis of objective needs and capacity to deliver, determined with reference to estimates of economic growth and expected customer demand.

In relation to its operations and maintenance costs, Power and Water notes that:

- its operations and maintenance costs have been increasing steadily since 2004-05 and are expected to continue to rise until the end of the SCI forecast period. This historical and proposed trend in expenditure is characteristic of a growing market and is not suitable for a TFP-like method of regulation;
- these increases are both justifiable and understandable. There have been nation wide and industry wide cost increases in materials and labour, the latter of which has been extensively documented in other electricity distribution and

transmission regulatory decisions over the past few years¹. These cost increases are at odds with the industry wide X factor increases in productivity which were part of the Commission's 2004 Decision, and Power and Water requests that the Commission acknowledge them in its Draft Decision; and

- Under the Commission's Draft Decision, Power and Water will not be funded for the increase in its future operations and maintenance cost requirements. This is because, as noted above, the Commission proposes to only fund Power and Water for operating expenditure at 2008-09 levels minus the impact on expenditure caused by the X factor in each year of the regulatory control period. This will result in a significant revenue shortfall for Power and Water.

In relation to its capital expenditure requirements, Power and Water notes that:

- The Commission's Draft Decision would result in Power and Water being unable to fund these works. This is because, as noted above, the Commission proposes to only consider Power and Water's capital expenditure requirements for 2008-09 and will not consider its future capital expenditure requirements in its calculation of Power and Water's 2009-10 opening tariffs. Power and Water's opening tariffs will only allow it to recover its recalculated 2008-09 costs and will then be adjusted annually for each remaining year of the regulatory period by a productivity measure.

The divergence between the aggregate revenue requirements that the Commission would determine based on the Draft Decision and Power and Water's draft numbers, and that which Power and Water requires in order to fund its Draft 2008-09 SCI, is set out in the table below. This makes clear Power and Water's expectation that a Po of around 19% will be required to ensure that Power and Water recovers its 2008-09 costs alone. This is the Po that Power and Water considers would be consequent to the application of the Draft Decision as currently drafted.

¹ See AER Decision on ElectraNet at :
[http://www.aer.gov.au/content/item.phtml?itemId=716296&nodeId=6512e19670dc3393e00d4b755e08cd23&fn=Draft%20decision%20\(9%20November%202007\).pdf](http://www.aer.gov.au/content/item.phtml?itemId=716296&nodeId=6512e19670dc3393e00d4b755e08cd23&fn=Draft%20decision%20(9%20November%202007).pdf)

4 Proposed Use of a TFP Price Setting Methodology

Power and Water understands that the Commission proposes to apply an approach akin to TFP in order to determine Power and Water's annual tariff adjustment and in-turn its aggregate revenue requirement over the next regulatory control period.

Aside from the potential financial impact consequent to the future use of TFP, Power and Water has the following concerns with the use of the TFP-like methodology, being that:

- TFP has never been applied to regulate electricity and gas distribution or transmission businesses in Australia. Rather, the building blocks control setting method has been the standard regulatory approach to determining a business' revenue requirement. TFP could therefore be considered to be 'experimental', particularly in the way that the Commission intends applying it; and
- Its application in the 2004 Determination has led to a wide divergence between Power and Water's actual tariff revenue and that which would be derived by a cost based build up, indicating that its use over the current regulatory period has not been appropriate. This issue has been considered in the previous section.

On the first issue, Power and Water notes that TFP has been applied widely in the United States and understands that it is the subject of a Draft Rule Change Proposal to Chapter 6 of the Rules by the Victorian Government (Draft Rule Change Proposal). Following a review of these precedents, Power and Water notes that:

- The application of TFP in the United States appears to accommodate uncertainty surrounding a business' future expenditure requirements in growing markets, akin to the Northern Territory, by allowing for "off ramps". These are not currently part of the Commission's Draft Decision, and involve reviewing and updating either initial prices (P_0) to take account of past expenditure, or X estimates². This provision provides a certain level of revenue protection for businesses regulated by TFP. Power and Water would support the incorporation of such measures for uncertainty; and
- The Victorian Government's Draft Rule Change Proposal is to allow a version of TFP as an alternative to the building blocks control setting method in Chapter 6 of the Rules. However, under the Draft Rule Change proposal:
 - The X-factor is a rolling X mechanism and is calculated annually by the regulator based on the previous year's total productivity data. This is designed to ensure that distribution businesses are financially compensated for industry wide capital expenditure bow waves, albeit with a lag (page 14 of the Draft Rule Change Proposal); and
 - It is not intended that it could even be applied by a regulator as a mandatory measure, rather it makes very clear that the TFP method should only ever be proposed by the utility.

² Expert Panel On Energy Access Pricing Report To The Ministerial Council On Energy April 2006:
<http://www.mce.gov.au/assets/documents/mceinternet/CompleteFinalReportFINAL20060419162032.pdf>

Power and Water remains concerned that:

- Its own experience with a TFP-like methodology, which has led to the stated divergence between allowed and actual costs, seems to reflect the agreed limitations of applying TFP, including by the Expert Panel on Energy Access Pricing which assessed the merits of applying TFP to electricity distribution businesses for the Ministerial Council on Energy (MCE) in 2006³. These limitations derive largely from the absence of robust, consistent and relevant long term data on outturn costs of supply as well as a range of physical input and output parameters, for a large number of firms operating in the electricity distribution sector. The Expert Panel acknowledged in its 2006 submission to the MCE that this information is currently not available for the electricity industry in Australia;
- Adopting TFP is inconsistent with the Commission's own stated intention to "follow the procedures which have been enshrined in the National Electricity Rules ...regarding the price control mechanism to apply to regulated electricity networks..." (para. 4.11). As noted above, TFP is not currently included as an alternative to the building blocks control setting method in the new Chapter 6 of the Rules. The Rules were developed subject to a fully consultative approach, in which TFP was considered but not included;
- Under the proposed national approach TFP will be calculated as an industry wide efficiency measure based on (total industry "inputs" / total industry "outputs"). The information included in the "inputs" and "outputs" will be standardised, reliable, and consistent. Therefore, only certain distribution businesses will be included in the "pool" of firms that will contribute to the X factor calculation. These businesses will be limited to those :
 - Whose revenue and expenditure is in a 'steady state' and therefore not subject to significant uncertainty. This will ensure that a long term estimate of TFP represents a relatively good estimator of future cost and or demand changes;
 - Are expected to experience productivity growth in line with the industry average. Businesses will not be included in the pool if they are "expected to experience a lower or higher productivity growth than the industry average";
 - Are based in Australia.

In contrast, the Commission proposes to derive the X factor (specifically the X_1 component) from existing X factors calculated by various jurisdictional regulators with respect to a building block assessment during a reset. These X factors are smoothing mechanisms rather than efficiency measures and have not been calculated on the basis of standardised productivity data. The basis for calculating X_1 is therefore in contradiction to underlying philosophy of the proposed national TFP approach.

³ Expert Panel On Energy Access Pricing Report To The Ministerial Council On Energy April 2006:
<http://www.mce.gov.au/assets/documents/mceinternet/CompleteFinalReportFINAL20060419162032.pdf> , page 106

Power and Water acknowledges that the time left before the commencement of the next regulatory period is limited, and the Commission will likely not agree to shift the reset to a building block method. For that reason, Power and Water proposes that the proposed method be amended such that the Commission:

- Sets opening tariffs based on a full forward looking building block assessment, by calculating a “base” year based on 2008-09 but adjusted for forward looking costs;
- Calculates X to be an industry wide efficiency measure based on (total industry “inputs” / total industry “outputs”). To the extent that this information is not available then the Commission should base this on its view of Power and Water’s opportunity for real productivity gains; and
- Allow “cost pass-through” provisions to deal with significant unforeseen costs that are not reflected in the initial building block assessment, and therefore the opening tariffs. For example, costs associated with the introduction of full retail contestability.

5 Use of Chapter 6 of the National Electricity Rules

Power and Water:

- Understands that it must prepare, and the Commission will assess, its revenue proposal in accordance with:
 - The Northern Territory Access Code; and
 - To the extent that the Access Code does not provide sufficient guidance for the Commission’s assessment, selected parts of Chapter 6 of the Rules; and
- Agrees that the Access Code provides the Commission with significant discretion in relation to how it might interpret the range of requirements between the Access Code and Chapter 6 of the Rules with respect to Power and Water’s revenue proposal.

Power and Water supports the Commission’s intention to provide further detail on its intentions by calling up the Rules, however it is unclear as to how the various jurisdictional legislative and regulatory instruments, and the national regulatory framework, will be considered together by the Commission to assess Power and Water’s Regulatory Proposal and to determine its MAR over the third regulatory control period. The four most important aspects of this lack of clarity are in relation to:

- How the Commission will consider Power and Water’s services classification, in particular how it will interpret the requirements for negotiated services under the Rules;
- How, once a services classification has been decided, the Commission will “flow” this into other aspects of the decision, for example the bounds of the PTRM, the cost allocation methodology and the RAB;
- How the Commission intends for the PTRM to be used by Power and Water; and
- How the Commission intends to use the operating expenditure requirements set out in the Rules, in particular the “objectives” and “criteria”, to assess Power and Water’s 2008-09 expenditure forecasts and what supporting information is required from Power and Water in order to satisfy these requirements.

Power and Water has not raised the issue of financial capital maintenance in this section because it considers that this has been adequately dealt with in previous sections. The remaining four issues above are dealt with below.

On the first issue of the services classification, Power and Water notes that:

- The Commission’s Draft Decision requires Power and Water to classify all of its distribution services having regard for the criteria set out in Part B Division 1 of Chapter 6 of the Rules, and section 2F(a)-(g) of the National Electricity Law. Power and Water must also explain the difference between its proposed services classification and the Commission’s “default” classification in Appendix C of its Draft Decision (paras. 7.6 and 7.7);

- The Commission’s “default” services classification at Appendix C of the Draft Decision, in which the Commission has classified above standard connection services as negotiated services and miscellaneous services as alternative control services is not suitable for Power and Water because:
 - The requirement to prepare a negotiating framework for above-standard connection services, which the Commission has classified as “negotiated services”, would place an unrealistic burden on Power and Water given the number and small size of these services. Moreover, Power and Water considers that above-standard connection services do not satisfy the criteria set out in section 6.2.1(c) of the Rules and section 2F(a)-(g) of the NEL. This is largely because above-standard connection services are not competitively provided and the purchaser of these services has no countervailing market power. Power and Water considers that customers would be seriously disadvantaged if this classification was to be upheld; and
 - Miscellaneous services do not meet the criteria set out in clause 6.2.2(c) of the Rules for classifying services as alternative control rather than standard control services. Based on this criterion, miscellaneous services are more appropriately classified as a second category of standard control services. Power and Water notes that it is working towards this outcome;
- It is required to submit its services classification proposal to the Commission as part of its regulatory proposal. This requirement is in contrast to arrangements in New South Wales and Queensland where the distribution businesses are allowed to submit their services classification to the AER well ahead of submitting their regulatory proposal. This allows these businesses to agree with the AER what services are standard control, alternative control, negotiated and unregulated services prior to preparing and submitting their regulatory proposals. This is critical because:
 - Only standard control services are subject to regulation under the building block approach. This is discussed further below; and
 - Power and Water will only be required to prepare and submit a negotiation framework if it has negotiated services.

On the second issue of the how the services classification “flows” into other aspects of the Regulatory Proposal, Power and Water notes that:

- Part C of the Rules which sets out the requirements relating to the building block formula, the PTRM and the RFM, only apply to standard control services. This means that the costs and assets within these models are consequent to the classification of services decision; and
- The Commission’s current process is a significant step away from the understanding and framework outlined in the Commission’s Issues Paper, such that if the Commission rejects Power and Water’s services classification (required to be prepared in a compressed timeframe) there is a high risk that Power and Water’s revenue proposal will no longer satisfy the requirements of Part C of the Rules and will therefore need to be re-submitted to take account of

changes to its services classification. Re-doing its PTRM and RFM would place a huge burden on Power and Water.

On the third issue of how the Commission intends for the PTRM to be used, Power and Water notes that:

- The application of the PTRM and RFM (based on the AER's version of these models) will negatively impact on the size of Power and Water's revenue requirement over the third regulatory control period and the size of Power and Water's asset base. Power and Water therefore considers that the Commission must give further consideration to not using the AER's PTRM and RFM to calculate the 2008-09 base year. Specifically the application of these models will result in these outcomes because:
 - The PTRM uses the opening value of assets as the regulatory asset base, whereas the current treatment takes the opening asset base plus 50 per cent of capital expenditure in the year of expenditure. This difference impacts on the revenue requirement via the return on capital and tax (as interest on debt for tax is determined using the regulatory asset base). It also means that the 2008-09 base year will not include 2008-09 capital expenditure (it appears that the PTRM will use 2007-08 expenditure);
 - The PTRM applies economic depreciation in the revenue requirement, calculated as the difference in the opening and closing value of assets (depreciation less inflationary gain). This approach is currently not used by any other jurisdictional regulator for distribution and will result in a divergence between Power and Water's regulatory asset base and that expressed by the PTRM; and
 - The RFM uses a smaller number of asset classes than Power and Water actually uses for its depreciation schedules. This is yet another reason why the RAB that will be established for 2008-09 will not bear any resemblance to the RAB used by Power and Water.
- It has a concern about the way in which the Commission's use of the PTRM will practically work given that:
 - Under the Commission's methodology Power and Water is required to submit its 2008-09 capital expenditure for the purposes of determining the 2009-10 MAR; and
 - Under the proposed PTRM, there is an 18 month delay in the allowance for the return on and of capital expenditure before it is included in the MAR.

Applying the AER's PTRM would mean that Power and Water's 2008-09 capital expenditure will not be recognised in determining its 2009-10 MAR calculation. Power and Water considers that the Commission should clarify in its Final Decision the apparent mismatch between the need for Power and Water to provide its 2008-09 capital expenditure and the use of the AER's proposed PTRM.

On the fourth issue of the intended use of the operating expenditure requirements under the Rules, Power and Water seeks the Commission's clarification in its Final Decision on the nature of the documentation it should provide to support its 2008-09 expenditure forecasts in order to address the operating expenditure "objectives" and "criteria" set out in sections 6.5.6(a) and (c) of the Rules.

Power and Water notes that there is no similar requirement in the Commission's Draft Decision for it to satisfy the capital expenditure "objectives" and "criteria" set out in the Rules.