Monday, 11 February 2019

The Manager
Company Announcements
Australian Stock Exchange Limited
20 Bridge Street
SYDNEY NSW 2000

Dear Sir / Madam

FEDERAL COURT DECISION ON TAX LITIGATION, ASSET IMPAIRMENT AND CHANGE TO DISTRIBUTION GUIDANCE

I enclose an ASX Release by Spark Infrastructure that provides an update in relation to:

1. the Federal Court Decision on tax treatment of capital contributions for Victoria Power Networks;

2. Asset Impairment; and

3. Change to Distribution Guidance.

Yours faithfully,

Alexandra Finley
Company Secretary

ASX RELEASE

11 February 2019

Update on the Federal Court Decision on Tax Litigation, Asset Impairment and Change to Distribution Guidance

<u>Federal Court decision on the tax treatment of capital contributions for Victoria Power Networks</u>

Spark Infrastructure notes the decision handed down by the Federal Court on 7 February 2019 on the tax treatment of certain cash contributions and gifted assets for Victoria Power Networks ("VPN") for the tax years 2008 to 2011.

In summary, the Federal Court has decided that:

- for assets constructed by VPN whereby the customer contributes to the cost of construction of such assets, the cash contribution should be treated as assessable income for tax purposes on receipt; and
- assets transferred to VPN from customers (i.e. gifted assets) should be treated as assessable income to VPN for tax purposes at their estimated construction value net of any rebates paid by VPN as part of the connection agreement.

Spark Infrastructure and VPN are reviewing the judgement. No determination has been made as to whether VPN will appeal the Federal Court's decision.

Managing Director and Chief Executive Officer of Spark Infrastructure, Rick Francis, said: "We are deeply disappointed with the Federal Court's decision. VPN and SA Power Networks Partnership have obtained legal advice in relation to these technical tax matters and have vigorously defended their positions for several years, which we have supported. While Spark Infrastructure is not a party to the litigation, we will consider carefully how we move forward with this matter."

Spark Infrastructure has previously disclosed the detail of the tax matters under dispute in its financial statements. Due to existing tax losses available, there is no immediate cash tax payable by VPN as a consequence of the Federal Court's decision. However, if upheld, the Federal Court's decision may have an industry wide impact, establishing the basis for tax treatments in the future, and which may impact SA Power Networks.

Due to the partnership structure, Spark Infrastructure's share of the tax attributes of SA Power Networks are recognised in the Spark Infrastructure Holdings No.2 Pty Ltd ("Spark No2") tax consolidated group. The previously available tax losses attributable to Spark No2 have been reducing over time. If it is determined that the Federal Court's decision applies to Spark No2, it is anticipated that Spark No2 would need to restate its remaining tax losses, recognise additional capital assets that will be deductible in future income tax years and recognise a current tax liability estimated to be $65 to $70 million to cover all years up to and including 31 December 2018 (excluding interest).

We have previously disclosed that Spark Infrastructure expects to become a taxpayer in the short term, and that the timing and amount of tax payable will be dependent on the outcome of existing disputes with the Australian Taxation Office, among other things. In the absence of a successful appeal on the above tax matters, Spark Infrastructure will pay tax from 2019 onwards.

Asset Impairment

In determining the carrying value of its investments, Spark Infrastructure considers a range of assumptions, several of which, including the Australian Energy Regulator's Regulatory Tax Approach and the final Rate of Return Guideline released on 17 December 2018, have changed since the last carrying value assessment at 30 June 2018. Following the Federal Court's decision last Thursday, these assumptions have been updated for the change in tax treatment for cash contributions and gifted assets, which may affect Spark No2 with tax payable from 2019 onwards.

Due to these various changes, SA Power Networks' future recoverable amount has been determined to be less than its carrying value. Consequently, Spark Infrastructure announces that it expects to recognise a net impairment charge of its investment in SA Power Networks of $270 million in its FY2018 results to be released on 26 February 2019. The expected impairment charge is a non-cash item with no impact on cashflow and is subject to the finalisation of Spark Infrastructure's FY2018 accounts, auditor sign off and Board approval of the accounts.

Managing Director and Chief Executive Officer of Spark Infrastructure, Rick Francis, said: "As Spark Infrastructure has reported consistently to Securityholders and Analysts since 2011, cash contributions and gifted assets are not included in the Regulatory Asset Bases of Spark's businesses and consequently customers are not charged for them and no economic value accrues to the business. This is notwithstanding the historic accounting standard treatment which requires the businesses to capitalise these types of assets. Accordingly, the non-cash impairment charge announced today is a write-down of the historic book value of these assets at SA Power Networks that has accrued over many years."

Change to Distribution Guidance

Spark Infrastructure had previously anticipated growth in distributions per security through to the end of SA Power Networks and VPN's regulatory determinations in 2020 to be at least CPI, subject to business conditions.

Spark Infrastructure's revised cashflow forecasts including the impacts of the Federal Court decision indicates an acceleration in tax payable by Spark No2 and consequently a reduction in standalone cash at the Spark Infrastructure level available to fund distributions to Securityholders.

Subject to finalisation of the Spark Infrastructure FY2018 accounts, including auditor sign off and Board approval, Spark Infrastructure expects to reconfirm guidance for the final distribution for FY2018 of 8.0 cents per security ("cps"), i.e. a total of 16.0 cps for FY2018, and provide changed distribution guidance for

FY2019 of at least 15.0 cps, subject to business conditions. This would represent a decrease of no more than 6.25% in distributions compared with FY2018.

Looking further forward, Spark Infrastructure expects future cashflows to align more closely with the five-year regulatory periods of its investment businesses. With Spark Infrastructure becoming a tax payer, distributions to Securityholders will be funded from net cashflow from operating activities after tax payments. We anticipate being able to distribute franking credits to Securityholders, to the extent possible.

Spark Infrastructure anticipates its effective tax rate[1] for FY2019 will be approximately 6%. We expect to have an increasing tax profile over time with the effective tax rate in the range of 12% - 20% in the next 1 to 2 years.

The Board will make a final determination on distributions for FY2018 at the time of its FY2018 results announcement on 26 February 2019. Distribution guidance for FY2019 will be confirmed as part of the FY2018 results.

Spark Infrastructure Chair, Dr Doug McTaggart said: "Notwithstanding the prospect of successfully appealing the Federal Court's decision, the Board has decided that it would be prudent to plan to re-base distribution guidance for FY2019."

Further information:

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[1] The effective tax rate is defined as the cash tax paid in the year divided by pre-tax standalone net operating cashflows