



**THE HON JOSH FRYDENBERG MP
MINISTER FOR THE ENVIRONMENT AND ENERGY**

MS18-000442

Ms Paula Conboy
Chair
Australian Energy Regulator
GPO Box 520
Melbourne Vic 3001

Dear Ms  Conboy

As you are aware, recent analysis by the Australian Taxation Office (ATO) has identified a discrepancy between the tax allowances the Australian Energy Regulator (AER) has previously set for network businesses and the amount of tax they actually pay.

The AER's network revenue determinations estimated total tax payable by electricity network businesses and regulated gas pipelines at around \$4.6 billion (nominal) for the five financial years from 2013-14 to 2017-18.

The ATO reviewed the tax paid by electricity distribution businesses between 2013 and 2016 against its tax allowance. It found that the tax allowance provided to non-state owned electricity distribution networks consistently overstated the actual tax payable by these entities.

The Australian Government wants to ensure that consumers are paying a fair price for their energy. I am concerned network businesses may be collecting more than is needed to cover their tax liabilities, at the consumers' expense.

Under the national energy laws, the AER has information gathering powers to compel network businesses to share information relevant to setting their revenue determinations. I ask that the AER investigate whether network businesses are being overcompensated for their corporate tax liabilities, including using its information gathering powers if necessary. This should include a review of how the AER models tax costs. As part of this investigation, I also ask that you consider whether the method for estimating the cost of corporate income tax as set out in the rules remains appropriate.

I ask that you release an initial public report in June 2018 and a final report to COAG Energy Council on the results of your investigation and provide recommendations on any changes required by December 2018.

I have copied this letter to the Treasurer, the Hon Scott Morrison MP.

Yours sincerely

A handwritten signature in black ink, appearing to be 'Josh Frydenberg', with a long horizontal line extending to the right.

JOSH FRYDENBERG