



AER

AUSTRALIAN  
ENERGY  
REGULATOR

ANNUAL  
REPORT  
2016–17

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## Chair's review

I am pleased to introduce the Australian Energy Regulator's (AER) 2016–17 annual report, detailing our work throughout the year and our performance against targets laid out in our *Statement of intent* to the Council of Australian Governments (COAG) Energy Council and the Australian Government.

The energy market is in transition, and our work takes place in the context of significant technological, behavioural and systemic change. These changes are making it possible for consumers to shop around to reduce their power bills, and to use apps and other tools to better manage their energy usage. Consumers are also participating in the market by installing solar panels and becoming generators themselves, with battery storage expected to further widen their options as the uptake of this technology becomes more economical.

Our work places consumers at the heart of these transitions, as we play our part in delivering a secure, reliable and affordable energy future for Australia. Our recently launched strategic framework states our purpose is to make Australian energy consumers better off, now and in the future. We will do this by driving effective competition, where possible, supported by effective regulation where necessary. We continue to contribute our expertise and insight to policy debates, regulating in ways that take a long-term perspective, while considering impacts on consumers today.

The market faces significant challenges, with energy affordability being a central concern for consumers. Compounding this pressure, changing generation technologies and market dynamics have intensified concerns about the future security of our energy supply.

In electricity, coal-fired generators are being retired, resulting in a significant loss of capacity from the market and a tighter supply–demand balance. On the east coast rising costs of gas production, coupled with a tightness of supply to demand and limited supplier competition have led to domestic prices rising sharply at the same time as a sharp increase in demand from LNG exports. Higher gas prices have raised gas power generation costs, which in turn impact on wholesale electricity prices.

We are engaged in initiatives to address these issues, including as a member of the newly established Energy Security Board, which is responsible with other market bodies for coordinating the extensive reforms flowing from the *Independent review into the future security of the National Electricity Market* (Finkel review).

Separately, we are undertaking a new monitoring and reporting role on the effectiveness of competition in the National Electricity Market (NEM). We will provide initial reports, specifically on the NSW electricity market and on the impacts of the Hazelwood power station closure, to the COAG Energy Council in November 2017 and March 2018 respectively. Further investigations into whether the NEM is effectively competitive will follow and we will publish our first report on the overall market by December 2018.

Additionally, we are assisting with two ACCC inquiries into the competitiveness of energy markets. The inquiries, commissioned by the Australian Government, focus on retail electricity prices (due to report in June 2018) and wholesale gas markets (expected to run until 2020). We are also helping to implement market and pipeline reforms. From August 2017, we will administer a scheme that makes it easier for third parties to negotiate access to unregulated gas pipelines, both by enforcing compliance with the information disclosure framework and through our role as the scheme's arbitration administrator.

Our work in retail energy markets aims to equip consumers with information and confidence to engage in a challenging market environment. We also offer protections—especially to vulnerable customers—from unfair behaviour. During the year we handled over 600 000 site visits and published more than 15 000 offers on our Energy Made Easy price comparator website to help consumers choose an energy plan that meets their needs. Our staff ran forums and workshops to raise consumers' awareness of the site. We also assisted customers of a failed energy retailer by managing their successful transition to new retailers. Additionally, we introduced a new approach to assisting customers with financial difficulties through our Sustainable Payment Plan Framework.

An important contribution is to implement reforms aimed at empowering customers to make informed choices about their energy use, optimise the use of energy networks and avoid inefficient network investment. Our new demand management and incentive scheme will encourage the uptake of efficient alternatives to network investment. We are helping to facilitate competitive markets for services like metering, solar photovoltaic and battery installations by making costs more transparent through our new ring fencing guidelines to create a level playing field for new entrants.

In the current environment, our compliance work to support a transparent and efficient market, backed by appropriate consumer protections, is crucial. During the year, our enforcement action resulted in 21 infringement notices being paid by energy businesses for contravening provisions on explicit informed consent or for disconnecting customers reliant on life-support equipment. In the electricity wholesale market, we focused on compliance with the market operator's dispatch instructions, and issued three infringement notices to generators for failing to follow them. In gas, we focused on ensuring participants comply with the information requirements of the Gas Bulletin Board, to support gas trading in eastern Australia.

In the network sector, our network revenue and pipeline access decisions in 2016–17 reflected the continuing low interest rate environment. We completed or progressed 14 regulatory reviews during the year, including preparations for our first determination for the Northern Territory. We concurrently prepared for and responded to several appeals to the Australian Competition Tribunal and the Full Federal Court. Those processes absorbed significant resources and in some instances, the final outcomes for consumers and businesses remain uncertain. We are now commencing the process of remaking those parts of the NSW and ACT electricity distribution decisions which the businesses successfully appealed. The Australian Parliament removed the merits review provisions in October 2017. Also in October the Tribunal affirmed the AER's determination for the Victorian electricity and ACT gas distribution networks.

Open, transparent and inclusive stakeholder engagement has never been more important than in the current environment. We are seeing encouraging evidence of some network providers engaging proactively with their customers to identify and resolve issues earlier in the regulatory process, which may bring significant savings for businesses and customers alike.

We have consulted on a revised stakeholder engagement framework to provide a model of how we can all have a more effective and meaningful conversation. We are exploring more proactive ways to engage constructively with regulated businesses, better explain how stakeholder input was considered in our decisions, and more clearly articulate how our decisions affect consumers.

Recognising the importance to the economy of a well-resourced regulator, the Australian Government in 2017 significantly increased our resources to enhance our capability to deliver on programs that will make Australian energy consumers better off, now and in the future. Over the next two years our staffing will rise by almost 75 per cent. We will grow in a careful and considered way, recognising that bringing in the right skills and expertise and properly scoping and engaging on new projects, is vital to long term success. As a first step we will expand existing teams to improve timeliness and apply resources to areas where our effectiveness has been constrained in the past. Across the agency, we will focus on communicating better, and will build the skills and resources to do so.

Finally, we will invest to keep pace with the dynamic changes occurring in the market by increasing our capabilities in policy analysis and horizon scanning. We will contribute this expertise and insight to policy debates and work in partnership with the COAG Energy Council and the recently established Energy Security Board to develop and implement timely, effective reform.

**Paula Conboy**

Chair

Australian Energy Regulator



# Contents

<b>CHAIR'S REVIEW</b>	<b>1</b>
<b>GOVERNANCE &amp; MANAGEMENT</b>	<b>7</b>
<b>WORK PROGRAM 1 ENERGY NETWORKS</b>	<b>19</b>
<b>WORK PROGRAM 2 RETAIL ENERGY MARKETS</b>	<b>35</b>
<b>WORK PROGRAM 3 WHOLESALE ENERGY MARKETS</b>	<b>43</b>
<b>WORK PROGRAM 4 COMPLIANCE &amp; ENFORCEMENT</b>	<b>51</b>
<b>WORK PROGRAM 5 POLICY &amp; CORPORATE REPORTING</b>	<b>61</b>
<b>OUR PERFORMANCE</b>	<b>65</b>
<b>OUR PEOPLE</b>	<b>81</b>
<b>OUR EXPENDITURE</b>	<b>87</b>
<b>APPENDICES</b>	<b>93</b>



# **GOVERNANCE & MANAGEMENT**

## Our work in energy

The AER regulates energy markets and networks in jurisdictions other than Western Australia. Our specific responsibilities vary across jurisdictions, as detailed in this report.

Our work is guided by five strategic objectives, which are outlined in more detail in our published *Strategic Statement*. In particular, we strive to:

- drive effective competition where it is feasible
- provide effective regulation where competition is not feasible
- equip consumers to participate effectively, and protect those who are unable to safeguard their own interests
- use our expertise to inform debate about Australia's energy future, the long-term interests of consumers and the regulatory landscape
- take a long-term perspective while also considering impacts on consumers today.

These strategic objectives are reflected across our diverse and expanding work program. In summary, our key work is to:

- determine how much revenue network businesses can earn from transporting energy to customers via electricity poles and wires and gas pipelines. Currently, we undertake this role in jurisdictions other than Western Australia
- build consumer confidence to make informed choices when choosing an energy contract, both through our price comparator website (Energy Made Easy) and by making consumers aware of protections that are available. Currently, we perform this role in Queensland, NSW, South Australia, Tasmania and the ACT
- monitor wholesale energy markets to detect market irregularities and manipulation, as well as instances of participant non-compliance with the market rules. Currently, we perform this role for the NEM and wholesale gas markets in southern and eastern Australia
- ensure energy businesses comply with the energy legislation and rules, and take enforcement action where necessary
- help the community understand energy market issues, including through our flagship *State of the energy market* report.

We support the COAG Energy Council, with briefings on energy market activity and by providing advice on issues as they arise.

As a member of the Energy Security Board, we also help oversee implementation of reforms arising from the *Finkel review*. The Energy Security Board comprises an Independent Chair and Deputy Chair, the Chairs of the AER and Australian Energy Market Commission (AEMC), and the CEO of the Australian Energy Market Operator (AEMO).

More generally, we work closely with the AEMC, AEMO, Energy Consumers Australia (ECA) and other energy market bodies on policy matters, rule changes and market issues.

Additionally, we assist the Australian Competition and Consumer Commission (ACCC) on energy-related matters, including inquiries referred to it by the Australian Government (two such inquiries were launched 2016–17). We also assist the ACCC on energy issues arising under the *Competition and Consumer Act 2010*, including consumer protection, mergers and authorisations.

## Our legislative framework

The AER is an independent entity under the *Competition and Consumer Act 2010*, consisting of three board members. Our functions are set out in the national energy legislation and rules, including the National Electricity Law, the National Gas Law and the National Energy Retail Law. The legislation shares a common objective that guides our work—to promote efficient investment in, and efficient operation and use of, energy services for the long term interests of energy consumers with respect to price, quality, safety, reliability and security of supply.

## AER board

The three member AER board has extensive energy sector and infrastructure regulation experience. It exercises the agency's decision making responsibilities (as set out in the energy legislation and rules), sets strategic direction, approves major policy submissions and guides staff.

### Chair—Paula Conboy



Paula Conboy was appointed as the full time state/territory member and AER Chair in October 2014.

Paula has extensive experience in developing and implementing energy market reform and utility regulation. Prior to her appointment to the AER, she served as a full-time board member of the Ontario Energy Board. Before that Paula was the Vice-President of Regulatory and Government Affairs at PowerStream.

Paula holds a MSc (Agr) from Guelph University in Canada. She is a graduate of the Australian Institute of Company Directors.

### Cristina Cifuentes



Cristina Cifuentes was initially appointed to the AER Board in October 2010. She became the Commonwealth member of the Board in 2013 for a five year period.

Cristina has a breadth of experience in both the public and private sectors across public policy, finance and utility regulation, including positions at the Reserve Bank of Australia, the NSW Treasury and the Australian Securities Commission. She was a member of the NSW Independent Pricing and Regulatory Tribunal between 1997 and 2006.

Before joining the AER, Cristina held a number of directorships including with the NSW Treasury Corporation, the Hunter Water Corporation and First State Super Trustee Corporation.

Cristina holds degrees in law and economics.

## Jim Cox



Jim Cox was appointed as a state/territory member of the AER Board in June 2014.

Jim has held positions with the Reserve Bank of Australia, the Department of the Prime Minister and Cabinet and the Social Welfare Policy Secretariat of the Department of Social Security. He was a principal economist at the Office of EPAC and a consultant to the NSW Cabinet Office. Jim was Principal Adviser to the Government Pricing Tribunal of NSW from 1992 and was a member of the Independent Pricing and Regulatory Tribunal (IPART) from January 1996 to September 2013. He was Acting Chairman of IPART during 2004, 2009–10 and 2011 and a visiting fellow at Monash University during 1985.

Jim assisted the New Zealand Government with social policy changes in 1991 and has written extensively on economic and social policy issues. He was awarded the Public Service Medal in the Australia Day honours list in 2011 for outstanding public service to IPART.

## AER Board meetings 1 July 2016 to 30 June 2017

Description	Number of meetings
Full meetings	19
Standard meetings	20
Out of session meetings	4
<b>Total meetings</b>	<b>43</b>
Meetings with all AER board members	35

## AER structure

Our CEO is accountable to the AER Board, and is assisted by a senior management team covering technical and operating functions. The AER has its own financial budget that is funded through the ACCC's agency appropriation (see Part 6). Responsibility for managing the budget and other resources lies with the CEO and the AER Board, which approves the budget allocation according to the AER's legislative responsibilities, commitments set out in our *Statement of intent*, our anticipated work program and workforce requirements. The detailed management of the workforce plan is the responsibility of the CEO.

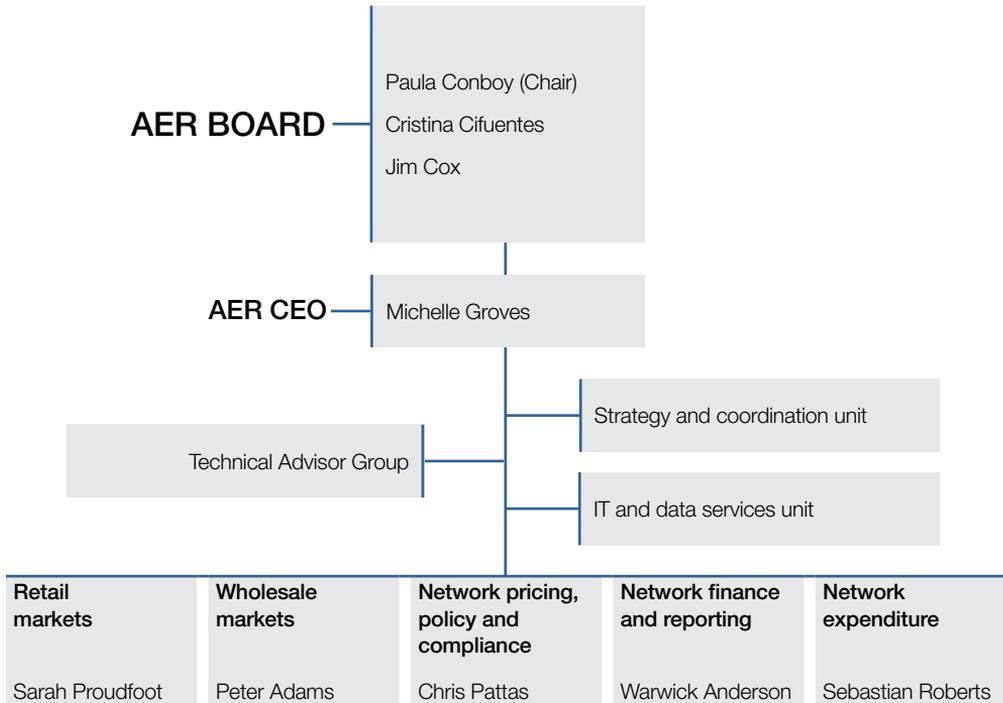
The AER Board and CEO are supported by staff working across five branches (three in the networks space, and one each for retail and wholesale energy markets). Three stand-alone units (strategy and external affairs, a technical advisor group, and IT and data services) assist the branches (figure 1). During 2016–17, 149 staff members supported the AER Board and CEO. Our average staffing level across the year was 125.2 (excluding the AER Board and CEO). We also engaged 44 contractors to assist in delivering our work program, bringing the total number of people supporting the AER Board and CEO during the year to 193.

The ACCC's legal, economic and infrastructure regulation divisions are available to the AER on a shared services basis. In addition, AER staff work closely with the ACCC on energy related matters under both the energy laws and the *Competition and Consumer Act 2010*. While there are areas of common concern relating to consumer protection, the AER operates independently in pursuing compliance and enforcement matters under the energy laws.

## OUR CEO

Our inaugural CEO, Michelle Groves, has over 20 years' experience in implementing national competition policy, energy market reform and utility regulation. Before joining the AER, Michelle worked at the National Competition Council, principally in the areas of energy reform and third party access to essential facilities. She worked for the Western Australian Government from 1988 to 1993.

Figure 1: AER organisation chart



## NETWORK BRANCHES

Our three network branches assess gas and electricity network revenue proposals and undertake broader regulatory oversight roles in relation to energy networks.

- The Network pricing, policy and compliance branch, led by Chris Pattas, assesses pricing/tariff proposals, monitors network business compliance with regulatory requirements and incentive schemes, and manages strategy and coordination of network revenue assessments.
- The Network finance and reporting branch, headed by Warwick Anderson, estimates required rates of return for network businesses, undertakes financial modelling, and manages performance and benchmarking data.
- The Network expenditure branch, headed by Sebastian Roberts, assesses capital and operational expenditure requirements for network businesses.

This specialised structure facilitates consistency in our approach to regulating network businesses and promotes the development of deep expertise and experience.

## RETAIL MARKETS BRANCH

Our *Retail markets* branch, headed by Sarah Proudfoot, regulates retail energy markets in the states and territories that apply the National Energy Retail Law—Queensland, NSW, South Australia, Tasmania and the ACT. The team aims to help customers participate confidently in retail energy markets, including through maintaining our energy price comparator website, Energy Made Easy ([www.energymadeeasy.gov.au](http://www.energymadeeasy.gov.au)), and to make them aware of protections that are available if problems arise. The branch also monitors and enforces compliance by energy businesses with their legal obligations, including on hardship policies, disconnections, and how they market offers to customers. Additionally, we protect consumers and the market if a retailer fails.

## WHOLESALE MARKETS BRANCH

Our *Wholesale markets* branch, headed by Peter Adams, monitors wholesale energy markets to detect irregularities and inefficiencies, including evidence of market manipulation, and investigates high impact market events. In 2016 we acquired a new role in monitoring the effectiveness of competition in the wholesale electricity market. The *Wholesale markets* branch also monitors the electricity and gas markets to support our compliance and enforcement program.

We report weekly on market activity to strengthen transparency and confidence, with more intensive reporting on high impact market events. We also publish quarterly reports on our compliance monitoring and enforcement activities in wholesale gas and electricity markets. Our market intelligence is drawn together in the *State of the energy market* report, which explains important market developments and factors impacting on energy prices.

## OTHER BRANCHES AND UNITS

Our five core branches are supported by:

- our Technical Advisor Group, which provides technical and industry advice
- our strategy and external affairs unit, which coordinates responses to policy/rule reviews, media and speeches
- our information technology and data services unit, which provides and maintains business systems, processes and technology support services
- a legal and economic division shared with the ACCC, including expert regulatory economists who contribute to our decisions on the cost of capital, benchmarking and incentive schemes. The division also provides training and helps coordinate economic expertise across the AER and ACCC. Additionally, it provides legal assistance on our enforcement matters and network decisions
- a people and corporate services division shared with the ACCC, which provides our human resources, finance and governance, information technology and strategic communication services.

## Our planning and reporting framework

The AER sits within the Commonwealth Treasury portfolio. The Hon. Scott Morrison MP, Treasurer of the Commonwealth of Australia, became our responsible minister following parliamentary elections held in July 2016.

### PORTFOLIO BUDGET STATEMENT AND CORPORATE PLAN

As part of the Commonwealth Budget process, a portfolio budget statement sets out our key program deliverables and performance indicators. From this, we develop an AER/ACCC organisation-wide corporate plan and an internal business plan that includes a risk assessment for our organisation and the energy industry. Individual action and performance plans for staff derive from the business plan.

### OUR RELATIONSHIP WITH THE COAG ENERGY COUNCIL

The COAG Energy Council is a Ministerial forum for the Commonwealth, states and territories and New Zealand, to work together in the pursuit of national energy reforms.

We support the COAG Energy Council and its Standing Committee of Officials (SCO) by providing clear advice on energy issues as required. In particular, we brief the Council on key issues, and draw on our expertise to engage in rule change processes and policy reviews initiated by the Council. The AER Chair and CEO typically attend part of each Council meeting to discuss energy market and network regulation issues.

Additionally, the AER Chair and CEO regularly meet with Commonwealth, state, and territory energy ministers. AER staff also communicate with energy departments, particularly on jurisdiction-specific and broader policy issues. More generally we support parliamentary processes where our expertise may add value. Appendix 1 provides details of submissions we made to such processes during 2016–17.

### STATEMENT OF INTENT

The AER is subject to two statements of expectations—one set by the COAG Energy Council, and another set by the Australian Government. In response, the AER publishes an annual *Statement of intent*, setting out how we propose to meet these expectations in the coming year, and specifying performance indicators to measure our progress. Our *Statement of intent 2017–18* was published on 28 September 2017. Its publication was delayed to allow proper consideration of new funding arrangements for the AER announced by the Australian Government in June 2017.

### ANNUAL REPORTS

This AER annual report sets out progress against our work program and in meeting expectations of us set by the COAG Energy Council and the Australian Government. It reports on outcomes against performance indicators detailed in our *Statement of intent*, as well as information on our staff and expenditure.

We also publish a combined annual report with the ACCC to meet our formal reporting requirements under the *Public Governance, Performance and Accountability Act 2013* and s. 44AAJ of the *Competition and Consumer Act 2010*. That report includes financial statements covering the ACCC and AER, and covers performance against our program deliverables in the portfolio budget statement and corporate plan. The ACCC published the combined *Annual report 2016–17* on 24 October 2017.

## OUR STAKEHOLDER SURVEYS

We periodically survey external stakeholders and publish outcomes. The surveys cover consumer representatives, the businesses we regulate, other energy bodies, departments and ministers. They provide feedback on our performance and reputation, and how effectively we consult and communicate with stakeholders.

Our *Annual report 2015–16* discussed our 2016 Stakeholder survey. We will conduct another comprehensive survey in 2018, and report on outcomes in our *Annual Report 2017–18*.

## STATE OF THE ENERGY MARKET

We published our 10th *State of the energy market* report on 30 May 2017, which covered developments in all jurisdictions in which the AER has regulatory responsibilities.

This flagship report provides independent and reliable information to policymakers, industry and the Australian community about what is happening in wholesale electricity and gas markets, the transmission and distribution networks and the rapidly evolving retail sector. It draws on a range of sources, including our internal monitoring and intelligence, regulatory reviews of energy networks, and external resources. It uses non-technical language to consolidate this material, highlighting trends and key issues across the electricity and gas industries. Our stakeholder surveys and other engagement provide consistently positive feedback on the report.

## ENERGY DISPATCH

As part of our work to strengthen external communications, we launched a regular newsletter, *Energy Dispatch*, in June 2017, following responses to our 2016 stakeholder survey that we could further strengthen our communication and engagement practices. The newsletter's target audience includes industry, government consumer representatives and the media. Its purpose is to increase knowledge and understanding of our everyday work and highlight key decisions or submissions. It will also point to interesting research and articles in other publications.

AER staff participated in a competition to name the newsletter.

## Our links with other energy bodies

We work productively at AER Board and staff level with other energy market bodies—the Energy Security Board, the AEMC, AEMO and the ECA. We share our expertise with these bodies, including through consultation on policy matters, rule change processes and administrative schemes.

Memoranda of understanding between the AER and other agencies set out expectations for information sharing, consultation and other communication, and coordination of activities. We have memoranda of understanding with the AEMC, AEMO, the Clean Energy Regulator, Energy Safe Victoria, the Commonwealth Department of Human Services, jurisdictional regulators and ombudsmen.

We also engage with agencies such as the Australian Securities and Investments Commission (ASIC) on energy market issues, participate in working groups and facilitate staff secondments as opportunities arise.

Our staff assist the ACCC on energy-related issues arising under the *Competition and Consumer Act 2010*, including consumer protection, mergers and authorisations. During 2016–17, our staff also assisted the ACCC in the conduct of two major inquiries directed by the Australian Government.

An inquiry into the supply of retail electricity and the competitiveness of retail electricity prices, launched in March 2017 and due to run until 30 June 2018.

An inquiry into wholesale gas markets in eastern Australia, initiated in April 2017, expected to run over three years, with six-monthly reporting.

More generally, we make submissions on and help with energy policy matters relating to our functions, particularly where we have specialist expertise and knowledge.

## ENERGY SECURITY BOARD

As a member of the Energy Security Board, we help oversee implementation of reforms arising from the *Finkel review*. The Board, established in 2017, comprises an Independent Chair and Deputy Chair, the Chairs of the AER and AEMC, and the CEO of AEMO.

## AUSTRALIAN ENERGY MARKET COMMISSION

The AEMC assesses rule changes and conducts policy reviews. The Commission and the AER board meet regularly, as do senior executives. We also communicate regularly with the AEMC on policy reviews and rule change proposals. In some instances, we propose rule changes.

Appendix 1 provides details of our submissions to AEMC processes in 2016–17.

## AUSTRALIAN ENERGY MARKET OPERATOR

AEMO operates the energy markets and has network planning functions. Its Board meets with the AER board on occasion, and senior executives meet every second month. We have operational meetings with AEMO on wholesale energy market and retailer of last resort issues, network reviews and planning decisions.

## ENERGY CONSUMERS AUSTRALIA

The ECA advocates on national energy market matters of strategic importance and material consequence for small energy consumers. It also provides grants for consumer advocacy or research. The ECA became a member of our Customer Consultative Group (CCG) in 2015.

## OMBUDSMAN SCHEMES

We work closely with state and territory energy ombudsman schemes and draw on their data to help establish our enforcement priorities. We refer some matters to the schemes, and vice versa.

## STATE/TERRITORY ENERGY REGULATORS

Alongside the shift to national energy market regulation, state and territory energy regulators retain some functions. We maintain strong relationships with jurisdictional regulators, and work closely with them to ensure a seamless transition where a handover of functions occurs.

We jointly convene the Utility Regulators Forum—a twice yearly meeting of decision makers and senior staff from Australian and New Zealand infrastructure regulators—with the ACCC.

## OTHER GOVERNMENT ORGANISATIONS

We work closely with other government organisations and departments, including energy safety departments and agencies, energy efficiency departments and agencies, environment and climate change departments, and treasury departments.

## OVERSEAS ENERGY AGENCIES

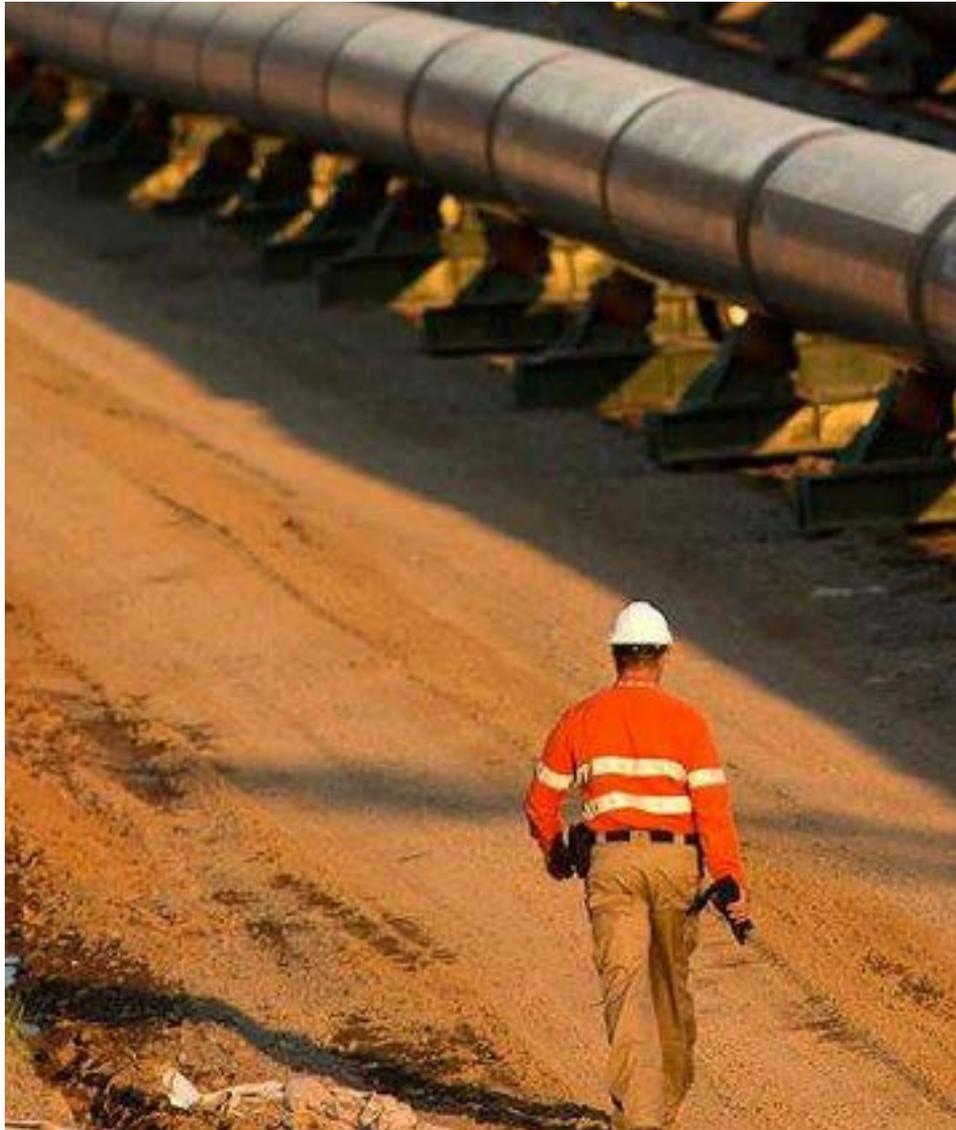
We have close working relationships with overseas regulators and energy market monitoring organisations. These relationships are bolstered by staff exchanges. In addition, we attend the World Forum on Energy Regulation and participate in its working groups.

The AER is a founding member of the Energy Intermarket Surveillance Group (EISG), the peak and only international group coordinating and sharing skills between energy market surveillance and enforcement bodies. It is a not-for-profit organisation, with 22 member agencies representing 17 electricity markets in North America, Latin America, South-East Asia, Australia and New Zealand.

In 2016–17 we participated in two meetings of the group, at which energy market monitoring agency representatives discussed electricity market monitoring, compliance and design issues. We also seconded a staff member from the Ontario Independent Electricity System Operator as part of an ongoing arrangement among EISG members.



QCLNG Pipeline (image BG Group)



# **WORK PROGRAM 1 ENERGY NETWORKS**



## 2016–17 highlights

- We made three final electricity network revenue decisions and progressed another 11 regulatory reviews of electricity networks and gas pipelines, including preparations for our first determination for the Northern Territory
- We commenced a new role assessing tariff structure statements for electricity distributors, to align network tariffs more closely with the costs of supplying electricity to consumers
- We launched new ring fencing guidelines to promote competition for services like metering, and solar photovoltaic and battery installations
- We published new guidelines making it easier for customers in embedded networks to participate in retail energy markets
- We worked with the AEMC to expand the cost-benefit test applied by network businesses to assess whether proposed new investments are efficient
- We appointed a new Consumer Challenge Panel of experienced and highly qualified individuals to help bring a consumer perspective to our decision-making processes.

## Our role

The AER sets the revenue that can be recovered from customers’ use of energy networks (electricity poles and wires, and gas pipelines) in jurisdictions other than Western Australia. We regulate energy networks to manage the risk of unfair pricing, applying regulatory frameworks in the National Electricity Law and the National Gas Law.

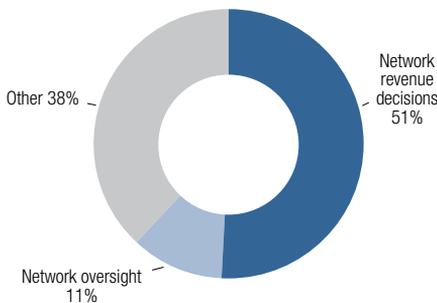
Additionally, we undertake broader regulatory roles; some recur regularly (such as annual tariff approvals) while the timing of others is unpredictable (such as dispute resolution and assessing cost pass throughs). An ongoing focus is our work to implement *Power of choice* reforms promoting the efficient use of energy networks and empowering customers to make informed choices about their energy use.

## RESOURCES APPLIED TO NETWORK REGULATION

In 2016–17 we dedicated 51 per cent of the agency’s staff time to network revenue and pipeline access decisions, including legal appeals relating to those decisions (figure 2). The proportion is lower than the 55 per cent of time applied in 2015–16, and coincides with a reduction in the number of final decisions made in 2016–17.

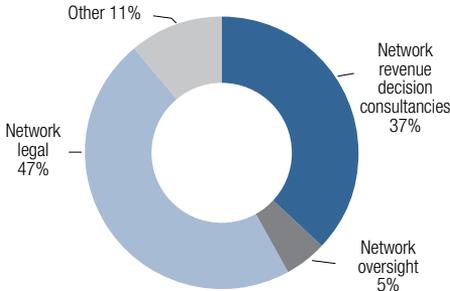
A further 11 per cent of agency staff time (up from 10 per cent in 2015–16) was allocated to wider network matters such as *Power of choice* policy reforms, annual tariff assessments, performance reporting and guideline development.

Figure 2: Agency staff time by function, 2016–17



During the year 88 per cent of the agency’s consultancy and external legal expenditure related to network issues, which reflects the inherently complex engineering, economic and legal issues involved in network regulation (figure 3). Due to the large number of legal appeals on our regulatory decisions being heard during the year, legal costs linked to those appeals accounted for 40 per cent of the agency’s entire consultancy and legal expenditure for the year. Other consultancies include the cost of external expert advice on retail and wholesale market matters.

**Figure 3: Consultancy and external legal expenditure, 2016–17**



## NETWORK REVENUE DECISIONS

We regulate the costs of electricity network services, and access prices for covered gas pipeline services, in all jurisdictions, other than Western Australia. In total, we regulate 32 energy networks, comprising:

- 21 electricity networks (seven transmission and 14 distribution)
- 11 gas pipelines and networks (four transmission and seven distribution).

Network businesses must periodically submit (usually every five years) regulatory proposals (for electricity networks) and access arrangements (for gas pipelines) to the AER for review. We assess the proposals with regard to legislative criteria, taking account of issues raised in consultation. Network businesses may apply to the Federal Court for judicial review of our decisions.

In determining allowable revenues, the AER accounts for the efficient costs of providing network services, including an adequate return on capital to network owners. Incentives are offered for efficient operation and investment decisions, with benefits shared between the business and consumers.

For electricity networks, we have 15 months to review a proposal and release a final decision. For gas pipelines and networks, we have six months (plus stop-the-clock time at certain stages of the process) to decide whether to approve an access arrangement proposal. The time can be extended by two months, with a maximum of 13 months to render a decision.

In assessing a regulatory proposal, we consider how effectively a network business has consulted with the community. We also seek stakeholder input in making our regulatory determinations. As part of our consultations, we publish framework and approach documents, issues papers and draft decisions for electricity networks; and a draft decision for gas pipelines. We also hold public forums and consult directly with network businesses, consumer representatives, and other key stakeholders. Once our final decision is made, we publish factsheets explaining how we made our assessment, and how the decision will affect consumers.

The Consumer Challenge Panel (CCP) advises the AER on whether network businesses’ proposals are in the long-term interests of consumers. In particular, the Panel advises on how effectively a business is engaging with its customers, and how they reflect this in regulatory proposals. In September 2016, we appointed a new CCP of experienced and highly qualified individuals with consumer, regulatory or energy expertise to help bring a consumer perspective to our decision-making processes.

Our senior Technical Advisor Group provides technical and industry expertise on regulatory matters during the year. The group improves our use of external consultants and strengthens our engagement with network businesses. During 2016–17 the group provided support and advice on regulatory determinations for electricity networks and on incentive schemes, technical reviews, consultancies, benchmarking, compliance assessments and rule changes.

## NETWORK DECISION ACTIVITY IN 2016–17

The AER in 2016–17 completed three electricity network revenue determinations and progressed another 11 regulatory reviews of electricity networks and gas pipelines, including preparing for our first determination for the Northern Territory (table 1 and box 1). Work program prioritisation, combined with the complexity of issues raised by some regulatory proposals (and revisions to those proposals) caused the timeframes for two determinations to be extended.

- Our final determination for AusNet Services (Victorian electricity transmission) was delayed by three months to 28 April 2017.
- Our draft determination on an access arrangement proposal for the Roma to Brisbane Pipeline was rescheduled to 6 July 2017, and the final determination rescheduled to November 2017.

### Final decisions

Our three final network decisions in 2016–17, released on 28 April 2017, covered:

- the Queensland electricity transmission network, Powerlink
- the Victorian electricity transmission network, AusNet Services
- the Tasmanian electricity distribution network, TasNetworks.

In making the decisions we applied new incentive schemes (that shared benefits between businesses and consumers), adopted a more flexible approach to estimating rates of return, strengthened consultation requirements, and placed more emphasis on benchmarking to assess electricity network proposals.

Powerlink and TasNetworks provided quality proposals that were generally supported by their customers, allowing the AER to accept much of what was submitted (box 1). A change in market conditions also led to slightly higher rates of return that would have applied when the proposals were made. TasNetworks' 2017–19 regulatory control period is shorter than the usual five year period to allow alignment of timeframes applying to its distribution and transmission businesses.

Table 1: Energy network revenue decisions completed in 2016–17

Network	Region	Period covered	Revenue proposed by business (\$m)	Revenue allowed by AER (\$m)	Difference between allowed and proposed revenues (%)
<b>Electricity transmission</b>					
Powerlink	Qld	1 July 2017– 30 June 2022	\$3742.2	\$3940.2	5.3
AusNet Services	Vic	1 April 2017– 31 March 2022	\$2967.5	\$2741.1	–7.6
<b>Electricity distribution networks</b>					
TasNetworks	Tas	1 July 2017– 30 June 2019	\$458.2	\$477.3	4.2

## Box 1: Network decisions ease pressure on electricity bills

The AER's three revenue determinations in 2016–17 continued the trend of recent years for rates of return to ease. Stable financial market conditions, coupled with the annual updating of capital costs, resulted in the average allowed rate of return easing to 5.94 per cent in 2016–17, compared with 6.18 per cent in 2015–16. Reflecting conditions in financial markets, the rate had been as high as 10 per cent in decisions made in 2008–10.

Energy network businesses are capital intensive, so lower returns on assets translate to significantly lower revenue requirements. The three decisions reduced the average revenues the networks can recover from electricity customers in real dollar terms, helping to offset the impact of rising wholesale electricity costs (table 2).

Powerlink and TasNetworks provided evidence of extensive consultation with their customers and proposed substantial savings in operating their networks. The proposed savings were identified following customer consultations and mostly reflect ongoing efficiencies in the operation of the networks. This consultative work laid foundations for the AER to accept major elements of the networks' regulatory proposals, including their capital and operating expenditure forecasts. The AER Board found that Powerlink and TasNetworks had demonstrated a genuine intent to put the interests of their customers first, allowing for a constructive approach in the AER's scrutiny of their proposals.

The revenues approved for Powerlink and TasNetworks in our final determinations were slightly above the levels in our draft determinations, primarily due to a rise in interest rates impacting the cost of capital in financial markets.

**Table 2: Impact of final decisions on network costs**

<b>Network</b>	<b>Change in average revenue compared with previous regulatory period (in real 2016–17 dollar terms)</b>	<b>Estimated impact on average household electricity bill if cost savings are passed on (in real 2016–17 dollar terms)</b>
TasNetworks	–21%	–\$133
Powerlink	–25%	–\$40
AusNet	–6%	+\$4

## Regulatory reviews in progress

Aside from the three final determinations, we progressed revenue determinations for another eight electricity networks in 2016–17 (table 3):

- the NSW, South Australian and Tasmanian electricity transmission networks
- the NSW, Tasmanian, ACT and Northern Territory electricity distribution networks
- the Victorian–South Australia Murraylink interconnector.

In gas, we progressed access arrangement assessments for three gas pipeline networks in 2016–17:

- the Victorian transmission network
- the Roma to Brisbane gas pipeline in Queensland
- the Victorian gas distribution networks.

Table 3: Energy network revenue determinations progressed in 2016–17

Network	Region	Period covered	Status
<b>Electricity transmission networks</b>			
TransGrid	NSW	1 July 2018– 30 June 2023	Proposal received 31 January 2017
ElectraNet	SA	1 July 2018– 30 June 2023	Proposal received 28 March 2017
Murraylink interconnector	Vic–SA	1 July 2018– 30 June 2023	Proposal received 31 January 2017
TasNetworks	Tas	1 July 2019– 30 June 2024	Preliminary framework and approach released 10 March 2017
<b>Electricity distribution networks</b>			
Essential Energy	NSW	1 July 2019– 30 June 2024	Preliminary framework and approach released 10 March 2017
Ausgrid			
Endeavour Energy			
ActewAGL	ACT	1 July 2019– 30 June 2024	Preliminary framework and approach released 10 March 2017
Power and Water Corporation	NT	1 July 2019– 30 June 2024	Preliminary framework and approach released 10 March 2017
TasNetworks	Tas	1 July 2019– 30 June 2024	Preliminary framework and approach released 10 March 2017
<b>Gas transmission pipelines</b>			
APA Victorian Transmission Systems	Vic	1 January 2018– 31 December 2022	Proposal received 3 January 2017
Roma (Wallumbilla) to Brisbane Pipeline	Qld	1 July 2017– 30 June 2022	Revised proposal received 14 August 2017
<b>Gas distribution networks</b>			
Australian Gas Networks (Victoria and Albury)	Vic	1 January 2018– 31 December 2022	Proposal received 3 January 2017
Multinet Gas			
AusNet Services			

## Merits and judicial reviews of AER decisions

An affected party may apply to the Federal Court for judicial review of an AER decision. An affected party had also been able to apply to the Australian Competition Tribunal for a limited merits review of an AER decision, however on 16 October 2017 merits reviews were removed for decisions made under the National Electricity and Gas Laws with the passage of the Competition and Consumer Amendment (Abolition of Limited Merits Review) Bill 2017.

Several merits and judicial review processes relating to AER determinations were active during 2016–17.

### REVIEWS OF AER DETERMINATIONS FOR NSW AND ACT DISTRIBUTION NETWORKS

In May 2015, several NSW and the ACT energy network businesses applied to the Tribunal for a limited merits review of our 2015 regulatory decisions on their networks—the NSW and ACT electricity distribution networks for 2014–2019 and the NSW gas distribution network for 2015–2020.

In February 2016, the Tribunal ordered the AER to remake its decisions on several aspects of the determinations. The AER then applied to the Full Federal Court in March 2016 for judicial review of the Tribunal's decision.

On 24 May 2017, the Full Federal Court upheld the AER's appeal in relation to the Tribunal's decision on income tax costs, but upheld the Tribunal's findings in relation to the networks' operating expenses and debt transition costs. On 4 July 2017, it made orders requiring the AER to remake those elements of its determinations. The process requires a re-determination of the return on debt for all five networks; operating expenditure for the four electricity distributors (as well as implications for the Service Target Performance Incentive Scheme for the ACT network); and elements of capital expenditure for the NSW gas network. The process is more complex than for previous remittals because of the scope of issues raised by the Tribunal. The AER has broad discretion in how to implement the Tribunal's directions.

The AER engaged closely with the AEMC in 2017 on a rule change allowing changes in electricity network revenues arising from the remade determinations to be 'smoothed' and recovered from customers over both the current regulatory period (2014–2019) and the next period starting on 1 July 2019. The rule change was finalised in August 2017.

### REVIEW OF AER DETERMINATIONS FOR SA POWER NETWORKS

In May 2016, SA Power Networks sought merits review of the AER's 2015 revenue decision for the network. The Tribunal conducted the merits review hearing in August 2016, and handed down its decision in October 2016 which affirmed the AER's determination in full.

SA Power Networks appealed the Tribunal's decision to the Full Federal Court, which heard the matter in May 2017. At 1 July 2017, the Court had reserved its judgment on the matter.

## VICTORIA ELECTRICITY AND ACT GAS DISTRIBUTION NETWORKS

The five Victorian electricity distributors and the ACT gas distributor sought merits review of the AER's May 2016 revenue decisions on those networks. The Tribunal conducted merits review hearings in November 2016. United Energy discontinued its applications for merits review. On 17 October 2017 the Tribunal decided to affirm the AER's determination on all issues.

## VICTORIAN ELECTRICITY TRANSMISSION

On 18 May 2017 AusNet Transmission Services applied for merits and judicial review of the AER's April 2017 determination. AusNet Transmission Services discontinued its applications in July 2017.

## JUDICIAL REVIEWS OF AER DECISIONS

At 1 September 2017, eleven applications for judicial review of AER determinations were with the Federal Court. The matters have been stayed pending the resolution of the merits review processes.

Table 4: Merits and judicial reviews of AER decisions active in 2016–17

Network name	Type of network	Australian Competition Tribunal merits review	Federal Court judicial review	Full Federal Court review of Tribunal decision
Ausgrid	NSW electricity distribution	concluded 26 February 2016	commenced 28 May 2015	concluded 24 May 2017
Endeavour Energy				outcome: The Full Federal Court upheld the Tribunal's decision.
Essential Energy	ACT electricity distribution	outcome: The AER was directed to remake its decision on several aspects of its determinations.	status: stayed	outcome: The Full Federal Court upheld the Tribunal's decision.
ActewAGL Distribution				On 4 July 2017 the Court made orders requiring the AER to remake its determinations.
Jemena Gas Networks (NSW)	NSW gas distribution	concluded 28 October 2016	commenced 1 July 2015  status: stayed	commenced 25 November 2016
SA Power Networks	SA electricity distribution			outcome: the Tribunal affirmed the AER's determination 2015–16 to 2019–20.

Network name	Type of network	Australian Competition Tribunal merits review	Federal Court judicial review	Full Federal Court review of Tribunal decision
CitiPower	Vic electricity distribution	concluded 17 October 2017	commenced 22 June 2016	N/A
Powercor		outcome: the Tribunal affirmed the AER's determination	status: stayed	
Jemena				
AusNet Services		United Energy	United Energy	
United Energy		status: discontinued	status: discontinued	
ActewAGL Distribution	ACT gas distribution	concluded 17 October 2017	commenced 22 June 2016	N/A
		outcome: the Tribunal affirmed the AER's determination	status: stayed	
AusNet Transmission Services	Vic electricity transmission	status: discontinued	status: discontinued	N/A

## ONGOING MANAGEMENT OF NETWORK REVENUE DECISIONS

The most intensive period of the regulatory cycle is the revenue determination process that typically occurs every five years. But the regulatory process is continuous and wide ranging. Revenue decisions require ongoing management through annual tariff reviews, cost pass through assessments, performance and benchmark reporting, the management of incentive schemes, and dealing with disputes and complaints. We also undertake functions for certain jurisdictions under state and territory legislation.

## ANNUAL TARIFF ASSESSMENTS AND TARIFF STRUCTURE STATEMENTS

The AER conducts annual reviews of tariffs for electricity distribution and gas pipeline services to ensure they do not breach revenue or pricing limits and reflect underlying costs.

In 2016–17, we reviewed and approved tariff applications from 14 electricity distribution businesses and 11 gas transmission and distribution businesses. The proposals related to prices applying in 2017–18 (except in Victoria, where they related to the 2017 calendar year).

Some pipelines and networks did not submit annual pricing proposals because the Australian Competition Tribunal had set aside the AER's revenue decisions. Instead those businesses offered an enforceable undertaking that set out proposed tariffs.

## COST PASS THROUGHS

We assess applications by network businesses to pass costs through to customers arising from events outside their control that were not anticipated when their regulatory decisions were made. Before approving a pass-through, we consider the efficiency of the expenditure and actions to mitigate costs.

In 2016–17 we approved cost pass-through applications for:

- Jemena to recoup unpaid distribution charges associated with a retailer insolvency event
- the return to customers of reductions in costs relating to ElectraNet providing network support
- AusNet Services to pay an annual easement land tax to the Victorian Government.

## Incentive schemes

We operate incentive schemes for network businesses to improve their performance. We also administer the schemes and monitor compliance.

### ELECTRICITY TRANSMISSION INCENTIVES

The AER's service target performance incentive scheme for electricity transmission networks encourages network businesses to maintain or improve service reliability in ways that customers value. The scheme promotes network development that supports efficient wholesale electricity prices.

In March 2017, we completed our annual review of how the NEM's seven transmission networks performed against the scheme, resulting in the businesses earning incentive rewards totalling \$57 million.

An amended scheme will first apply to upcoming determinations for the Victorian and Queensland networks covering the period 2017–22.

### ELECTRICITY DISTRIBUTION INCENTIVES

Our service target performance incentive scheme for electricity distribution networks encourages network businesses to maintain or improve performance to benefit end users. It aims to ensure efficiencies are not achieved at the expense of service performance. We review businesses' performance against the scheme annually.

In March 2017, we completed our annual review of how the NEM's 13 distribution networks performed against the scheme, resulting in the businesses earning incentive rewards totalling \$33 million.

We also assess expenditure by distribution businesses under the demand management innovation allowance. In the latest reporting year (2016 calendar year for Victoria, and 2015–16 for other networks), the businesses made total claims of around \$6 million in demand management allowances—equal to around 16 per cent of the total available under the scheme.

## Power of choice

The AER's work in network regulation extends into supporting policy reform implementation. A key focus in 2016–17 was our work to implement *Power of choice* reforms promoting the efficient use of energy networks and empowering customers to make informed choices about their energy use. Our work in this space included:

- commencing a new role in assessing tariff structure statements for electricity distributors, aimed at aligning network tariffs more closely with the costs of supplying electricity to consumers. Pricing reform provides clearer signals to consumers on the timing of their consumption and their investment in new appliances and technology. The AER approved tariff structure statements for all distributors in 2016–17, other than Power and Water (Northern Territory), which was not part of this first round of assessments.
- promoting competition for services like metering, solar photovoltaic and battery installations by launching a new Ring-fencing guidelines in November 2016. Ring-fencing creates a level playing field between network businesses and new entrants in the market for contestable services such as metering and solar photovoltaic and battery installations. The guidelines require distribution networks to separate their regulated network services (and the costs and revenues of those services) from contestable services. Electricity distributors must comply with the guidelines as soon as reasonably practicable and no later than 1 January 2018. We are now working with the sector to facilitate a smooth implementation of the new ring-fencing requirements by network businesses.
- developing a new demand management incentive scheme and innovation allowance mechanism. The scheme's objective is to incentivise electricity distribution businesses to undertake efficient expenditure on non-network options for demand management. The innovation allowance aims to encourage research and development in demand management projects that may potentially reduce network costs in the longer term. We invited submissions to inform the development of a best-practice scheme and allowance mechanism during 2016–17. This was followed with a Demand Management Options Day workshop in April 2017. We will publish the final scheme and allowance mechanism in November 2017.
- publishing a new guideline in December 2016, making it easier for customers in stand-alone embedded networks to participate in retail energy markets. Many of those customers currently cannot arrange for energy supply by a provider other than their network operator, or can do so only at significant cost. But the new rules, effective from December 2017, require an embedded network manager to link customers to AEMO's electricity market systems—a necessary first step for customers to access retail market offers and access government schemes and consumer protections. The AER is making further refinements in 2017–18, including arrangements for customer access to dispute resolution.

## Network planning and expansion

The AER plays a number of roles in promoting efficient investment in energy networks. Part of the revenue determination process involves forecasting a network's total efficient investment requirements. Additionally, network businesses must apply a regulatory investment test (RIT) to individual projects to test their efficiency. The test requires a network business to evaluate a proposed investment against credible alternatives (including non-network options) on a level playing field.

Separate tests apply for transmission (RIT-T) and distribution (RIT-D) networks. In each, a proposed investment must pass a cost–benefit analysis or provide the least cost solution to meet network reliability standards. As part of this, the business must identify the purpose of a proposed investment and show that it publicly consulted on its evaluation of alternatives.

The AER monitors businesses' compliance with the tests and, on request from a business, may determine whether an assessment satisfies the test. It also resolves disputes over how network businesses apply the tests.

The tests previously applied only to augmentation expenditure, which in recent years accounted for the bulk of network investment. But the composition of network investment is evolving, with replacement expenditure recently overtaking augmentation for distribution networks. Recognising this, the AER in June 2016 proposed a rule change to widen the scope of regulatory investment tests to cover replacement expenditure. The change also imposes new requirements on network businesses to justify asset retirement decisions in annual planning reports, and allow interested parties to propose alternatives to asset replacement.

We worked with the AEMC through submissions and other consultations during 2017 to progress the proposal, including on appropriate transitional arrangements. The AEMC completed its review in July 2017. The new rules will require electricity network service providers to include information on planned network asset retirements and certain de-ratings in their annual planning reports. It also extends the regulatory investment tests to include replacement expenditure. The AER updated the regulatory investment tests and application guidelines to give effect to the changes on 18 September 2017, when the new provisions took effect.

Additionally, the COAG Energy Council in 2017 tasked the AER with:

- reviewing the RIT-T in light of recent security issues in the NEM, to ensure the test adequately reflects net benefits relating to system security and renewable energy and climate goals. We launched this workstream in July 2017.
- improving the quality of information on transmission networks by including non-network providers in the AER's compliance review of annual planning reports, starting in 2017.
- exploring whether the RIT-T should adopt elements of the RIT-D to ensure competitive options are effectively tested—including requirements to consult with non-network providers and produce non-network options reports. This assessment should be completed by the end of 2017.

## DISPUTE RESOLUTION UNDER REGULATORY INVESTMENT TESTS

The Office of the Commissioner for Kangaroo Island and the Kangaroo Island Council lodged a dispute with the AER in January 2017 over conclusions made in SA Power Networks' application of the RIT-D to the proposed Kangaroo Island Submarine Cable. The parties contended that SA Power Networks did not apply the test in accordance with the Electricity Rules.

The AER in May 2017 found that SA Power Networks did not apply the RIT-D in accordance with the Rules, but that it was not required to amend its assessment report because the correct application of the rules would not change the outcome of its assessment.

## Performance reporting on network businesses

The AER uses regulatory information notices (RINs) to collect performance information from regulated network businesses. To support transparency and ensure stakeholders can access information affecting their interests, we publish the non-confidential information we receive.

In 2016–17 we published data on the operational and financial performance of electricity distribution networks in New South Wales, Queensland, South Australia, Tasmania, Victoria and the ACT for 2015–16.

In November 2016 we released our annual benchmarking reports for electricity network businesses on their relative efficiency over 2006–15. We also published economic benchmarking and category analysis regulatory information notice responses from the businesses for 2015–16.

While we did not publish discrete performance reports for energy network businesses in 2016–17 because of our heavy reset workload, performance reporting is an important function, to which significant resources have been allocated in 2017–18.

## Refining regulatory tools

In April 2017 the AER published a discussion paper and commenced a review of our treatment of inflation in our determination of revenue and prices for electricity and gas network services. A final decision is scheduled for December 2017. The review stems from debate in our regulatory determinations regarding the method for estimating expected inflation.

The AER will conduct a review of the weighted average cost of capital (WACC), and publish a new guideline by December 2018. A review had been scheduled for completion by December 2016, however we proposed a rule change to the AEMC to delay the review by two years as elements of the WACC approach were subject to merits review and appeals processes.

## Dispute resolution

### ACCESS AND CONNECTION DISPUTES

A customer who is dissatisfied with a connection offer from a distribution network business may request a review by the AER. In 2016–17 we received requests relating to 10 electricity connection disputes, of which nine were resolved and one is still under investigation. The connection charges of four customers were substantially reduced.

### NEW GAS PIPELINE PROVISIONS

From 1 August 2017, we are undertaking new regulatory functions under the National Gas Law and Rules, making it easier for third parties to negotiate access to unregulated gas pipelines. The AER's roles include enforcing and monitoring compliance with the information disclosure framework. We are also the arbitration scheme administrator.

## PUBLIC LIGHTING DISPUTE

South Australian municipal councils and the South Australian Department of Planning, Transport and Infrastructure—acting as public lighting customers—requested the AER resolve a dispute with South Australia Power Networks about public lighting charges that applied during 2010–15.

The AER in June 2017 agreed to hear and resolve the dispute, and wrote to the parties outlining how it would deal with the matter.

## NETWORK EXEMPTIONS

The AER can exempt small electrical networks such as those in apartment buildings, shopping centres and industrial parks from registering with AEMO. These networks, often referred to as ‘embedded networks’, are subject to a simplified regulation regime administered by the AER, covering safety, metering, dispute resolution, network charging and access to retail competition.

We maintain a register on our website of the holders of network exemptions. Since commencing the register in 2012 we have processed around 3200 registrations.

As noted elsewhere in this report, we published a new guideline in December 2016 making it easier for customers in embedded networks to participate in retail energy markets.

## Regulatory functions under state and territory legislation

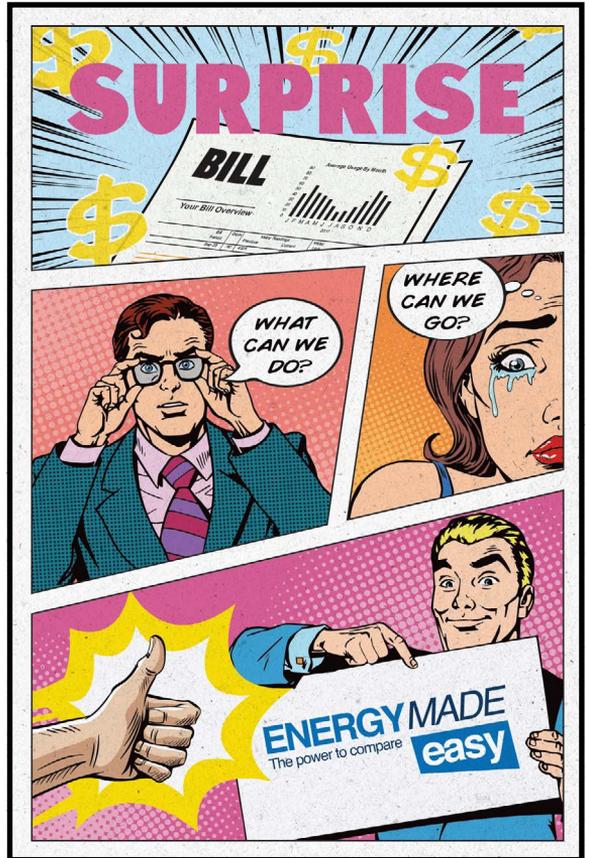
In addition to our work under the national energy legislation, we undertake functions under state and territory legislation. These roles (for certain jurisdictions) include resolving customer disputes on network access and regulating the capital contributions of customers connecting to distribution networks under jurisdictional guidelines.

In Victoria, we administer a fire factor scheme introduced by the Victorian Government to provide incentives for Victorian distribution networks to reduce the risk of fire starts from electricity infrastructure and to reduce the risk of loss or damage caused by fire starts.

All Victorian distributors reported fewer fire starts than their benchmark targets in 2016. The rewards ranged from \$70 000 for Jemena to \$3.42 million for AusNet Services in this period. The total of rewards to all distributors for 2016 was \$5.875 million.



Energy Made Easy Postcards (image Avant Card)





## 2016–17 highlights

- We published more than 15 000 offers on our Energy Made Easy website and hosted over 600 000 unique visits to the site
- We lodged our first rule change proposal under the National Energy Retail Rules, seeking changes to strengthen protections for customers requiring life support equipment
- We appointed 12 new members to our reconstituted Consumer Consultative Group, and held the inaugural meeting of the new group
- We successfully managed a Retailer of Last Resort event following the failure of Urth Energy Pty Ltd
- We published our fourth annual retail market performance report and retail market compliance reports

## Our role

The AER regulates retail energy markets in Queensland, NSW, South Australia, Tasmania (electricity) and the ACT. Our goal is to help energy customers (particularly residential and small business customers) participate confidently in retail energy markets, which are undergoing significant transition as new products and services (such as solar photovoltaics and battery storage products, load management and subscription pricing) become more popular. We empower customers to make informed decisions on their energy use, and make them aware of protections that are available if problems arise.

As part of this work, we:

- maintain an energy price comparator website ([www.energymadeeasy.gov.au](http://www.energymadeeasy.gov.au)) for residential and small business customers
- monitor and enforce compliance (by retailers and distributors) with obligations in the Retail Law, Rules and Regulations (Program 4)
- oversee retail market entry and exit by assessing applications from businesses looking to become energy retailers; grant exemptions from the requirement to hold a retailer authorisation; and administer a national retailer of last resort scheme to protect consumers and the market if a retailer fails
- report on the performance of the market and energy businesses (including information on energy affordability)
- approve policies that retailers offer to customers facing financial hardship and seeking help to manage their bills.

While we do not set retail energy prices, our Energy Made Easy website helps customers make sense of the range of offers available, make better choices about those offers, and be aware of their rights and responsibilities when dealing with energy providers.

We also produce publications (including new publications for consumers and consumer advocates) and web information, and participate in forums, conferences and meetings to promote wider understanding of the energy framework.

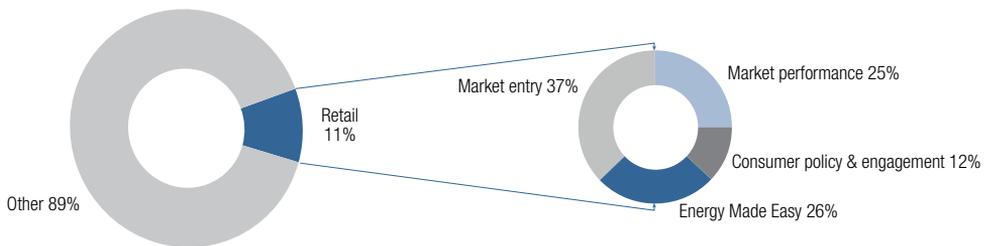
Our staff assisted the ACCC with its inquiry into the supply of retail electricity and the competitiveness of retail electricity prices. The Australian Government issued terms of reference for the inquiry on 27 March 2017. A preliminary report was submitted to the Treasurer in September 2017 and a final report is due by 30 June 2018.

## Resources applied to retail energy markets

In 2016–17 we dedicated 11 per cent of the agency’s staff time to retail energy markets workstreams, slightly up from 10 per cent in 2015–16. Market entry issues—assessing applications by energy sellers to be authorised or exempted from the provisions of the National Energy Retail Law, and managing the risks and impacts of a retailer failure—absorbed 37 per cent of that time (up from 31 per cent in the previous year).

Assessing and reporting on market performance absorbed 25 per cent of our staff time (up from 10 per cent in 2015–16), reflecting increased resourcing of that area. Our Energy Made Easy website absorbed 26 per cent of staff time (down from 36 per cent in 2015–16, when the site was upgraded). Consumer policy and engagement workstreams such as affordability and hardship absorbed 12 per cent of staff time (down from 23 per cent in 2015–16 when we worked closely with consumers and industry to develop a voluntary sustainable payment plan framework). Staff time devoted to retail market compliance and enforcement issues is recorded separately under Program 4.

Figure 4: Staff time on retail market issues, 2016–17



## Energy Made Easy

The complexity and structure of retail offers can make it difficult for consumers to make comparisons and exercise informed choice when entering an energy contract. The Energy Made Easy website ([www.energymadeeasy.gov.au](http://www.energymadeeasy.gov.au)), aims to help residential and small business energy consumers navigate electricity and gas retail markets to find a suitable energy offer. It includes a price comparator with details of all generally available offers in participating jurisdictions. The website allows consumers to compare their electricity use with that of similar households, and to learn about their rights and obligations, contracts and bills, and energy efficiency. It also provides general information on the energy market.

Retailers must enter all generally available offers onto Energy Made Easy within two business days of making an offer available to consumers. This timeframe ensures the website gives up-to-date and complete information on products in the market.

In 2016–17, Energy Made Easy had more than 600 000 visits, up from 400 000 in 2015–16. More than 15 000 offers were published, up from 5000 in 2015–16. Around 3500 electricity and 400 gas offers were available at any one time.

## RETAIL PRICE INFORMATION

We publish a *Retail pricing information guideline*, which mandates how retail energy prices are presented. The Guideline aims to help customers compare energy prices and make informed choices. It also gives direction to energy retailers about providing information for our price comparator website, Energy Made Easy. In 2016–17, we conducted regular reviews to monitor retailer compliance with the Guideline.

## Engaging with retail market stakeholders

We liaise with stakeholders interested in the Retail Law, including consumers and customer groups, energy businesses, ombudsman schemes, jurisdictional regulators, and the ECA. Our engagement with consumers helps us to identify gaps in their understanding of energy markets and barriers to their effective engagement. An important focus is our engagement with intermediaries that support disadvantaged and vulnerable energy consumers.

Our global approach is set out in our publicly available Stakeholder Engagement Framework. Our 2016 Stakeholder survey identified areas that could be improved, and we proposed revisions to the framework for consultation in June 2017. We proposed a shorter and more focused framework that more clearly articulates our purpose, how engagement helps our stakeholders, and how engagement fits with our wider regulatory approach.

### CONSUMER CONSULTATIVE GROUP

Our Consumer Consultative Group provides advice on issues as they arise, including market and compliance matters. Group members also raise issues of importance to their constituencies. In February 2017, following the expiry of the CCG's membership, the AER reconstituted the group. After calling for expressions of interest and reviewing applications, the AER appointed 12 new members. These applicants were considered to offer a broad range of knowledge and experience and provide good jurisdictional representation.

The AER held two CCG meetings in 2016–17. It will hold two meetings in the second half of 2017 and, so will comply with the aim of meeting three times in a calendar year. Topics discussed at the group's meetings in November 2016 and March 2017 included:

- the AER's annual retail performance and compliance reports
- the AER's sustainable payment plans frameworks
- consumer research being undertaken by CCG members and the AER
- the AER's work with the Australia and New Zealand Energy and Water Ombudsman Network on expanding dispute resolution services for customers of exempt sellers
- recent activity in the wholesale electricity and gas markets.

### OTHER CUSTOMER ENGAGEMENT

In addition to the engagement outlined above, the AER in 2016–17:

- participated in forums and workshops to promote better understanding of the energy framework and of consumers' rights and obligations
- engaged with consumers and stakeholders throughout our network determination process. This engagement included public forums on our issues papers and draft determinations and as part of assessing tariff structure statements
- participated in events aimed at raising awareness of our Energy Made Easy website, as well as promoting our new consumer resources—such as translated and 'easy English' fact sheets and animated videos—to key stakeholder groups. For example, we hosted stalls at the South Australian Council of Social Service (SACOSS) annual vulnerability and affordability conference (Adelaide, November 2016); Financial Counselling Australia's annual conference (Gold Coast, May 2017); and the Adelaide Home Show (April 2017)
- engaged closely with consumers, their representatives and other stakeholders in developing and reviewing AER guidelines. For example, we:
- served on the Queensland Council of Social Service's steering committee to research energy issues experienced by tenants (a project funded by the Energy Consumers Association)
- participated in the SACOSS workshop 'Consumer Protection Framework: Rights and Responsibilities'

- participated in the Essential Services Commission of South Australia forum on small scale electricity and water networks
- participated in ECA's 2017 'Foresighting' forum
- made submissions to the AEMC's review of regulatory arrangements in embedded networks; on consumer protections for behind-the-meter electricity supply; and on stand-alone energy systems in the electricity market
- proposed a rule change aimed at strengthening protections for customers requiring life-support equipment.

## ENGAGING WITH RETAILERS

We held retailer forums in November 2016 and April 2017. The April 2017 forum updated retailers on the performance of the retail energy market and highlighted strategies to improve consumer engagement. As part of the agenda, retailers gave presentations about innovative approaches they are implementing to improve customer payment strategies.

## Hardship and disconnection provisions

The Retail Law requires energy retailers to develop and maintain a customer hardship policy for identifying and assisting customers with difficulties paying their energy bills. Referral to a hardship program may be appropriate if a customer faces chronic or severe payment difficulties. We assess the hardship policies of new entrant retailers, and monitor and assess compliance with approved policies. We also assess amendments to policies. In 2016–17 we approved three new hardship policies.

Our voluntary *Sustainable payment plans framework*, launched in June 2016 and effective from November 2016, aims to improve outcomes for customers experiencing financial difficulties by helping customers and retailers agree on payment plans that are affordable and sustainable. It includes principles to guide retailers' conversations with customers on their capacity to pay, and good practice actions and considerations for each stage of a payment plan.

The Retail Rules prohibits a retailer from disconnecting a customer's premises for non-payment of a bill where the amount outstanding is less than an amount approved by the AER and the customer has agreed to repay that amount. This is one of a suite of consumer protections in the Retail Law and Rules that assist customers who are having difficulty paying their energy bills. Other protections include the requirement for retailers to offer payment plans or hardship assistance.

In 2016–17, we conducted a review of the minimum disconnection amount, and in March 2017 we decided to maintain it at \$300 (GST inclusive). The aim is to avoid customers incurring significant debt before seeking assistance and to avoid further debt accruing before the collection cycle starts, which would exacerbate their payment difficulties.

# Retail market entry and exit

The Retail Law requires a party selling energy ‘to a person for premises’ to either hold a national retailer authorisation or be exempt from that requirement. We are responsible for granting those authorisations and for the Retail Law’s exempt selling regime. An authorisation allows a party to sell electricity or gas to any consumers in jurisdictions where the Retail Law operates.

## AUTHORISATIONS

A business must apply to the AER for an authorisation to sell energy. It must demonstrate appropriate capacity and suitability to perform as a retailer. We produce guidance for, and work closely with, potential new energy sellers during the application process to make sure they are aware of their obligations.

When we receive an application, we publish it on our website and seek submissions from interested parties before deciding whether to grant an authorisation. We granted electricity retailer authorisations during the year to Positive Energy, Sustainable Savings, Online Power and Gas and Energy Locals. We granted gas retailer authorisations to Weston Energy, WINconnect and Savant Energy Power Networks.

We refused an authorisation application from Ultium Energy on the grounds it did not satisfy the entry criteria and did not provide all of the information required to make an application assessment.

## EXEMPTIONS

Some energy sellers may be exempt from the requirement to obtain authorisation to sell electricity and gas. There are three types of exemptions.

- Deemed exemptions—for small-scale selling arrangements where the costs of registration would outweigh the benefits of increased regulation. A person covered by a deemed exemption need not apply to or register with the AER.
- Registrable exemptions—for defined classes of energy-selling activities that need regulatory oversight, usually because of scale and market impact. These exemptions apply to a particular person or company for a particular site. They must be registered with the AER. As at 30 June 2017 there were approximately 3000 published registrable class exemptions.
- Individual exemptions—for specific situations where the activity is not covered by a deemed or registrable exemption. In 2016–17 we granted eight individual exemptions. Six of these were from businesses retrofitting existing sites to create embedded networks. All but one of these were for residential sites. We refused a retrofit application for a shopping centre, as the applicant did not provide all the information required for this type of application, including evidence of mitigation of customer detriment.

Our *Exempt selling guideline* outlines the classes of deemed and registrable exemptions that apply, as well as the process for obtaining an individual exemption.

## Retailer failure

The AER manages the Retailer of Last Resort (RoLR) scheme. If an energy retailer fails, its customers are transferred to another retailer so that they continue to receive electricity and/or gas supply. Our functions include registering retailers to which consumers could be transferred; appointing RoLRs when an event occurs; and making cost recovery determinations.

In 2016–17 we:

- oversaw an electricity RoLR event for Urth Energy Pty Ltd. Customers of the failed retailer in Queensland, New South Wales and South Australia were transferred to default RoLRs
- appointed ActewAGL Retail as the default RoLR for gas customers connected to the Shoalhaven gas network in New South Wales.

The AER maintains a RoLR plan and conducts RoLR exercises with plan participants. No exercise was required in 2016–17 because of the Go Energy RoLR event in 2015–16 and the Urth Energy RoLR event in 2017.

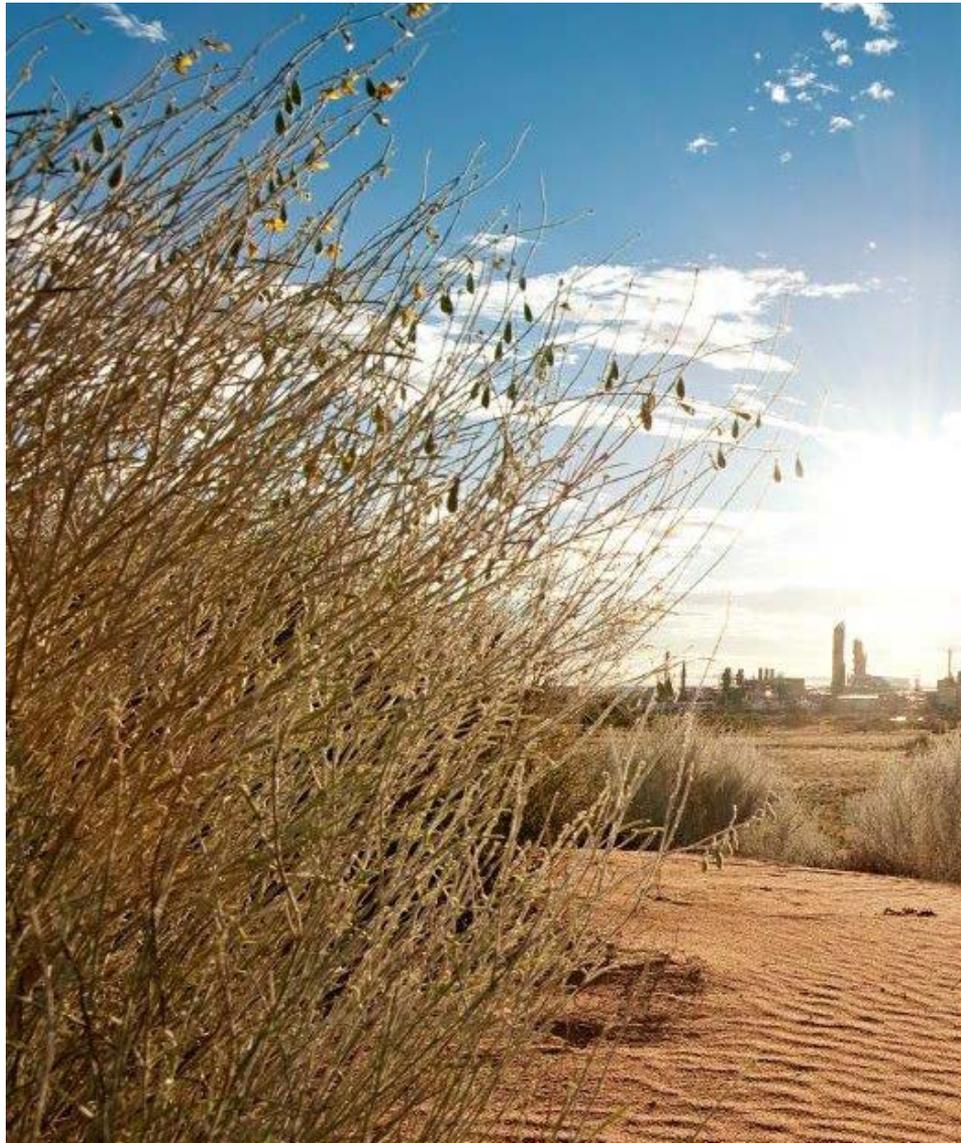
## Retail performance reporting

Performance reporting on energy businesses enhances transparency and accountability, and provides incentives to improve performance. It also helps identify emerging issues that may require a compliance or enforcement response.

We released our fourth annual retail market performance report (for 2015–16) on 22 November 2016. The report covers states and territories where the Retail Law applies. It consolidated quarterly data on customer service and complaints, energy bill debt, payment plans, hardship programs, energy concessions and disconnections. It also reported on energy affordability.

In addition to a performance report, each quarter we publish key market and retail performance data on a range of indicators, including data on customer switching levels, customers experiencing payment difficulties, customer hardship, disconnections and reconnections, and complaints.

*Moomba Gas (Santos)*



# **WORK PROGRAM 3 WHOLESALE ENERGY MARKETS**



## 2016–17 highlights

- We participated in policy reviews following ongoing market volatility, including the *Finkel Review* and the House of Representatives Standing Committee on the Environment and Energy *Inquiry into modernising Australia's electricity grid*
- We assisted the ACCC in its inquiry into wholesale gas markets in eastern Australia, initiated in April 2017
- We published 98 weekly electricity and gas monitoring reports, 25 reports on high-price electricity events (the largest number in a reporting year since the market began), and 6 reports on significant price variations in wholesale gas markets
- We acquired a new legislative role to systematically monitor wholesale market performance in the NEM and consulted on frameworks to undertake this role
- We monitored compliance with expanded data reporting obligations on the Gas Bulletin Board, and engaged in ongoing reforms to the Bulletin Board's architecture

## Our role

The AER monitors wholesale energy markets to detect irregularities and inefficiencies, including evidence of market manipulation. Additionally, we monitor the markets to support our compliance and enforcement program (Program 4).

We have responsibilities to monitor and report on wholesale electricity and gas markets in jurisdictions other than Western Australia and the Northern Territory. The markets are:

- the NEM in eastern and southern Australia, in which over 300 generators compete to dispatch electricity. The market covers Queensland, NSW, Victoria, South Australia, Tasmania and the ACT
- spot markets for gas—the short term trading market operating in Adelaide, Sydney and Brisbane, the Victorian declared gas wholesale market, and gas supply hubs at Wallumbilla (Queensland) and Moomba (South Australia)

We report weekly on these markets, with more detailed reporting on extreme price events.

Our monitoring work and market intelligence is drawn together in the *State of the energy market* report, which explains important market developments and the factors impacting on energy prices. We published the report's 10th edition in May 2017.

In December 2016 the AER acquired a new legislative role to systematically monitor wholesale market performance in the NEM and report our findings at least every two years. In particular, we will monitor whether competition is effective, and report any features that may be detrimental to efficiency or competition. During 2017 we consulted on frameworks to undertake this role. Our first report is due in December 2018.

Separately, the Australian Government in November 2017 requested that we monitor the electricity market in light of the closure of Victoria's Hazelwood power station, and report our finding to the COAG Energy Council in March 2018.

Additionally, our wholesale market team are assisting the ACCC in the conduct of two major inquiries, following directions from the Australian Government.

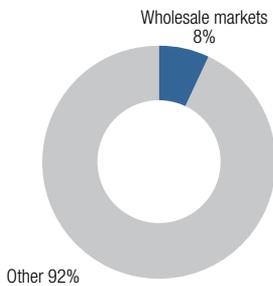
- An inquiry into wholesale gas markets in eastern Australia, initiated in April 2017, focusing on impediments to efficient supply, including the exercise of market power. The inquiry will run over three years, with six monthly reporting.
- An inquiry into the supply of retail electricity and the competitiveness of retail electricity prices, launched in March 2017. The inquiry, which considers wholesale market issues, is due to run until 30 June 2018.

More generally, we draw on our monitoring expertise to advise the COAG Energy Council and other market bodies on wholesale electricity and gas market issues, including matters subject to policy review and rule change processes.

## Resources applied to wholesale energy markets

In 2016–17 we devoted 8 per cent of our staff time to wholesale market monitoring and reporting (figure 5). This area is likely to expand in future years as we take on new legislative responsibilities. Additional staff time was devoted to wholesale market enforcement and compliance issues (Program 4).

Figure 5: Staff time for wholesale market issues, 2016–17



## Market monitoring and reporting

We draw on our market monitoring work to publish weekly market reports on activity in the NEM and gas spot markets, as well as more comprehensive reports on significant market events.

### WEEKLY MONITORING

Our market monitoring team reports weekly on market activity in the NEM and gas spot markets. This work provides a foundation to detect market irregularities and manipulation, as well as instances of participant non-compliance with the market rules.

In 2016–17, we published 98 weekly reports (44 for electricity and 54 for gas), focusing on demand and supply conditions, spot prices, reasons for variations between forecast and actual prices, and activity in energy derivatives markets.

We aim to publish the reports within 12 business days of the end of the relevant week. In 2016–17 we met that timeframe for 70 per cent of weekly reports. This outcome reflected the complexity of market conditions during the year and the resourcing impact of an unusually high incidence of extreme price events.

In electricity, our weekly reports identified how demand conditions, plant closures, generator bidding behaviour, a changing generation technology mix, and high gas fuel prices impacted on the market during the year. The market recorded over 2500 instances of thirty-minute settlement prices exceeding \$200 per megawatt hour during 2016–17, the second highest tally since the NEM commenced.

An emerging theme was the rising incidence of security issues. South Australia was blacked out on 28 September 2016 when severe storms brought down transmission lines and caused voltage instability, affecting wind farms and the Heywood interconnector. An insecure operating state also led AEMO to intervene in the market by cutting supply to some South Australian customers on 1 December 2016 and 8 February 2017.

Volatility also affected other regions in summer 2016–17, when high temperatures drove up peak demand and contributed to a series of price spikes in Queensland and NSW. Infrastructure issues—planned and unplanned generator outages, interconnector outages and network constraints—played a part in several high price events.

In NSW, a combination of factors caused load shedding on 10 February 2017. High demand, some plant being unavailable, low renewable output, and import constraints overloaded the interconnectors into NSW, resulting in insufficient generation being available to meet demand. In response, AEMO instructed TransGrid to reduce demand at the Tomago aluminium smelter (290 MW) for one hour, and the NSW Government urged the public to reduce its electricity use.

In Tasmania, network issues were the main reason for load shedding on 20 December 2016, when outages caused the loss of 170 MW of load and the power system being in an insecure operating state for 15 minutes.

In gas, we reported on the continuing evolution of the east coast industry to meet demand for liquefied natural gas exports, and flow-on impacts for electricity generation. Queensland's LNG industry continued to impact on domestic gas markets during the year, with domestic prices often exceeding LNG netback levels. The gas market continued to tighten in summer 2016–17, with the commissioning of a sixth LNG train, outages at the Longford gas plant in Victoria and high temperatures driving a rise in gas powered generation.

More generally, we maintained a strong focus on the gas market's architecture to determine whether it is meeting the needs of the evolving market. In particular, we closely monitored participants' compliance with their obligations to report data to the Gas Bulletin Board, which promotes transparency and facilitates trade in gas and pipeline capacity. We intensified our monitoring in the lead up to and following a widening of data reporting requirements in October 2016.

We made a submission to the AEMC Bulletin Board review in August 2017, supporting reforms to the timeliness and quality of information submitted to the Bulletin Board. We also supported the COAG Energy Council's proposals to attach civil penalty provisions to incentivise participants to comply with their reporting obligations. The reforms are currently being progressed through an AEMC rule change process.

## SIGNIFICANT EVENT REPORTING

We publish a report whenever the spot price for electricity exceeds \$5000 per megawatt hour, or if an ancillary service price exceeds \$5000 per megawatt for a sustained period. We also report on significant price variations for gas. During 2016–17 we published 25 reports on high-price electricity events, the largest number in a reporting year since the AER's inception. Only six such reports were required in 2015–16.

The reports covered high electricity prices in South Australia (July and December 2016 and February 2017), NSW (November 2016 and February 2017) and Queensland (January and February 2017). Several reports related to extreme prices for frequency control ancillary services in South Australia (in September, August and October 2016).

The complexity and unusual quantum of events meant that the statutory timeframe for some reports was not met.

During 2016–17, we published six reports on significant price variations in gas markets, relating to the Victorian declared gas market and short term trading market (Adelaide, Brisbane and Sydney). An unplanned shutdown of Esso's Longford gas plant (which meets a majority of Victorian gas demand) in October 2016 was the most significant gas market event.

## Wholesale energy market reform

We draw on our regulatory and monitoring work to advise the COAG Energy Council, the AEMC and other bodies on wholesale market issues. We also engage in policy reviews and rule change processes by sharing information, making submissions and participating in forums.

### ELECTRICITY MARKET REFORM

During 2016–17, we continued to engage in workstreams aimed at improving wholesale market efficiency. Ongoing market volatility in South Australia, and the September 2016 blackout in particular, triggered urgent policy reviews of the NEM's changing generation mix. During 2016–17, we participated in several processes, including the *Finkel review* and the *Inquiry into modernising Australia's electricity grid*.

#### Independent review into the future security of the NEM—Finkel review

In March 2017 the AER made a submission to the *Finkel review*. We agreed with the preliminary report that the NEM faces challenges in delivering security and reliability. We noted the challenges associated with greater reliance on variable renewable energy and with the types of services required to deliver security and reliability. We submitted that these challenges are not insurmountable and that the NEM has many strengths that can deliver outcomes in the interests of consumers. The NEM is founded on the principle that reliance on competitive markets, where feasible, will deliver the best outcomes for consumers in terms of price and innovation.

An outcome of the *Finkel review* was the creation of an Energy Security Board, of which the AER is a member. In partnership with the Energy Security Board, we will help oversee other reforms arising from the *Finkel review*, including the development of:

- an annual Health of the NEM report, with the first report to be delivered by the end of 2017
- a comprehensive data strategy for the NEM, with consultation finalised by the end of 2017 and the data strategy in place by the end of 2018.

#### Inquiry into modernising Australia's electricity grid

In May 2017 the AER made a submission to the House of Representatives Standing Committee on the Environment and Energy *Inquiry into modernising Australia's electricity grid*. We highlighted the work the AER is undertaking to ensure the regulatory framework meets the opportunities and challenges presented by technological change. We also provided views on the role that additional interconnection could play in meeting a range of goals, including impacts on wholesale energy prices.

## GAS MARKET REFORM

In August 2016, the COAG Energy Council agreed to a series of reforms relating to gas supply, market operation, gas transportation and market transparency in the eastern Australian gas market. The AER is participating in workstreams to implement the package, including proposed reforms to the Gas Bulletin Board and closer scrutiny of liquidity in markets for wholesale gas and pipeline capacity trading.

From 1 August 2017, we commenced new regulatory functions under the National Gas Law and Rules, making it easier for third parties to negotiate access to unregulated gas pipelines. The new elements include a commercial arbitration framework, supported by information disclosure requirements.

In April 2017, the government directed the ACCC to monitor wholesale gas markets in eastern Australia, using its inquiry powers to acquire information compulsorily as necessary. The inquiry will run over three years, with six monthly reporting. The AER has provided staff to assist the inquiry.



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# **WORK PROGRAM 4 COMPLIANCE & ENFORCEMENT**



## 2016–17 highlights

- Our enforcement action resulted in retailers and distributors paying 21 infringement notices for allegedly failing to meet their obligations under the Retail Law and Rules. Of those, 12 alleged breaches related to supply disruptions to customers on life-support equipment
- We launched compliance investigations into several high impact events in the NEM, including South Australia's 28 September 2016 blackout
- We initiated compliance measures to facilitate a smooth transition to the launch of metering contestability in the NEM later in 2017
- We monitored gas participants' compliance with obligations relating to the Gas Bulletin Board, demand forecasting, metering and gas pipeline provisions
- We published a revised version of our Retail markets compliance procedures and guidelines to reflect new rules, refine the reporting framework and provide guidance on compliance audits.

## Our role

We monitor and enforce the compliance of market participants, energy service providers and AEMO with the national energy legislation and rules governing:

- wholesale energy markets—the NEM, the short term trading market for gas, gas supply hubs at Wallumbilla and Moomba, and the Victorian declared gas market. We also monitor for compliance with obligations relating to the Gas Bulletin Board
- retail energy markets in Queensland, NSW, South Australia, the ACT and Tasmania
- the supply of electricity network services in the NEM and gas pipeline services in jurisdictions other than Western Australia.

We have similar roles under local instruments in some jurisdictions, as agreed by the COAG Energy Council.

Our compliance and enforcement roles span our other program areas—energy networks, wholesale markets and retail markets. Our general approach is to provide guidance on good industry practice, and promote a culture of compliance by businesses with effective internal practices. An aspect of this work is to identify the boundaries of unacceptable conduct and clearly communicate our expectations to energy businesses.

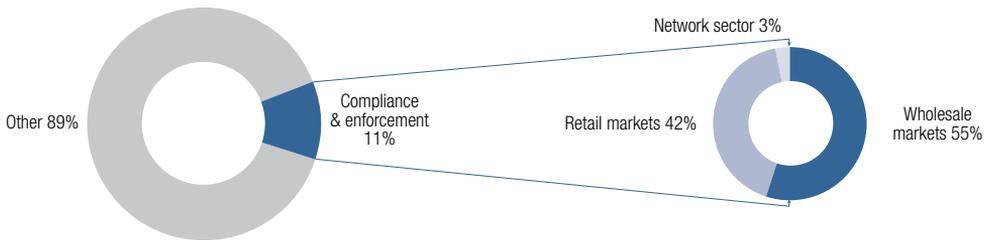
We employ a risk-based approach to monitoring and enforcing compliance with the national energy legislation and rules, focusing on the impact and probability of a breach, and allocate our resources on that basis.

We strive for a proportionate response to breaches. Ideally, energy businesses should resolve compliance issues through agreed outcomes, without the exercise of statutory enforcement powers or financial penalties. But targeted and timely enforcement action is necessary and appropriate in certain circumstances.

## Resources applied to compliance and enforcement

In 2016–17 we spent 11 per cent of our staff time on compliance and enforcement issues, up from 10 per cent in 2015–16 (figure 11). This time is fairly evenly split between wholesale and retail matters. While only 3 per cent of compliance activity was tagged as network issues, some compliance matters addressed in the wholesale and retail sector overlap into network issues (for example, metering issues).

Figure 6: Staff time for compliance and enforcement, 2016–17



## Statement of approach

Our compliance and enforcement statement of approach (available on our website) sets out how we monitor compliance, how we respond to potential breaches, and factors we may consider when deciding whether to take enforcement action. The statement aims to promote transparency and consistency of approach across the industry.

We take a risk-based approach to target and prioritise our monitoring and compliance activity. The risk assessment involves analysing and ranking each obligation to determine its compliance risk, taking into account both the impact and the probability of a breach.

We commenced a comprehensive review of the energy legislation and rules in 2016–17, reviewing over 5000 provisions and updating our risk assessment and approaches to monitoring.

## Compliance toolkit

We apply a range of tools to encourage participants to operate in ways that deliver efficient market outcomes. Our core approaches include:

- market monitoring to identify possible compliance issues
- applying a risk-based approach that avoids unnecessary regulatory burden
- engaging with other regulators and organisations (such as energy ombudsmen) to identify compliance issues
- engaging with energy businesses and other participants through forums and meetings on our approach to compliance and enforcement, and to address industry concerns
- regular targeted compliance reviews of areas of the national laws and rules to assess how industry participants comply with their obligations
- reviews of information that energy businesses publish on their websites and in other media
- exception reporting, whereby regulated entities track and notify us of their own breaches

- strategic projects that focus on longer term harms or risks, with metrics to measure our effectiveness
- targeted compliance reviews of key consumer protections, such as retailers' implementation of customer hardship policies
- general audits of compliance with certain provisions, including audits that we conduct in response to market events or inquiries that raise compliance concerns
- rolling annual audits of compliance programs, including technical performance standards of generators and network businesses
- publishing reports and bulletins with guidance on our compliance activity and expectations of market participants.

## Enforcement toolkit

The AER takes effective, targeted and timely enforcement action when necessary. We can respond to a breach by:

- accepting an administrative resolution
- seeking a court enforceable undertaking
- issuing an infringement notice of up to \$4000 for an individual or \$20 000 for a body corporate. We can issue an infringement notice if we have reason to believe that a business has contravened a civil penalty provision. Payment of an infringement notice penalty is not an admission of guilt, but finalises the matter
- starting court action with a civil penalty of up to \$20 000 for an individual, or \$100 000 for a body corporate for each breach.

## Compliance reporting

### NATIONAL ENERGY RETAIL LAW AND RULES

In November 2016 we published our annual retail compliance report on our compliance monitoring and enforcement activity in 2015–16 and outlining priority areas for the coming year. The report noted that, while the number of reported breaches from businesses was lower than in previous years, the key compliance issues were similar to those of previous years—in particular:

- life-support customers not receiving the required notice before an interruption to their energy supply
- retailers placing customers on contracts without their explicit informed consent.

### NATIONAL ELECTRICITY AND GAS LEGISLATION

We publish quarterly reports on our compliance monitoring and enforcement activities in wholesale gas and electricity markets. The reports summarise the results of investigations (including special reports on significant market or power system events), compliance audits, targeted compliance reviews and rebidding inquiries undertaken during the quarter. The reports are an important tool to encourage participants to act according to good industry practice.

In 2016–17, we published four quarterly reports. Due to competing resource priorities, two were released outside our target timeframe of six weeks from the end of the relevant quarter.

We also publish more detailed investigation reports of major incidents in the market. In 2016–17, we published five reports into significant price variations in gas markets, and 20 reports on high price events in the NEM electricity market. Several reports raised compliance issues. These included a report into supply disruptions in the Victorian gas market on 1 October 2016 and several events resulting in supply interruptions to electricity customers (detailed below). Due to competing resource priorities, and the complexity of some of these matters, several reports were released outside our target timeframes.

## Outcomes and work in 2016–17

Our compliance focus in retail markets during 2016–17 included explicit informed consent (particularly unsolicited sales), protections for life support customers, billing (including content, recovering under or overcharged amounts and billing frequency) and new requirements for metering contestability

In the wholesale electricity market, we focused on compliance issues associated with significant market events. In gas, we continued to focus on reform areas, including Gas Bulletin Board requirements. In the networks space, we focused on metering reforms.

## MATTERS UNDER THE RETAIL LAW AND RULES

### Enforcement Action

In 2016–17, 21 retailers and distributors paid infringement notices for allegedly failing to meet obligations under the National Energy Retail Law and Rules. Twelve matters related to distributors failing to provide customers reliant on life-support equipment with four days' notice of a planned interruption to their energy supply. For these matters:

- Ausgrid paid a penalty of \$160 000
- Endeavour Energy paid a penalty of \$20 000
- Ergon Energy paid a penalty of \$20 000
- Energex paid a penalty \$40 000.

Additionally, the AER accepted a court enforceable undertaking from Ausgrid on compliance with its life-support obligations.

In other matters:

- Origin Energy LPG Limited paid a penalty of \$20 000 for allegedly submitting inaccurate information and data to the AER relating to the number of residential customers on standard retail contracts for the supply of gas.
- IPower Pty Limited and IPower 2 Pty Limited (trading as Simply Energy), paid a penalty of \$60 000 for allegedly failing to obtain explicit informed consent from customers before entering them into (or extending) gas and electricity contracts.
- Property company Stockland Corporation Ltd paid penalties totalling \$100 000 for allegedly selling electricity at a shopping centre in NSW and at four sites in Queensland, including two retirement villages, without holding a retail authorisation or exemption. Stockland also provided an administrative undertaking as part of the resolution of the matter. Energy Intelligence, the energy management provider for one of the Stockland properties, gave an undertaking to improve its internal processes and to appoint a compliance officer with specific responsibilities in relation to energy.

## Compliance checks

The AER periodically issues compliance checks to industry, highlighting obligations under the Retail Law and Rules, and highlighting the importance of compliance processes and systems. Matters warranting guidance may become apparent through retailers' compliance reporting under the Law and Rules, and through our engagement with ombudsman schemes.

In 2016–17, we issued three compliance checks relating to retailers' obligations when billing customers. The checks sought to clarify the required content on an energy bill; explain how customer complaints should be resolved; and explain the appropriate processes for dealing with incorrect customer charges.

## Amendments to compliance procedures and guidelines

Our *Compliance procedures and guidelines* provide transparency on our approach to compliance with the Retail Law, Rules and regulations. They establish a self-reporting framework for businesses to report potential noncompliance, and a process to manage compliance audits. In effect, the procedures and guidelines enable us to:

- monitor the extent to which retailers and distributors comply with key obligations
- identify emerging or systemic compliance issues that may warrant further action
- set out our approach to using the compliance audit powers.

In 2017, we updated the procedures and guidelines, with the new framework effective from July 2017. The changes incorporate new rules introduced by the AEMC and refine the reporting framework. To supplement coverage on compliance audits, we also issued a Practice guide for that area.

## Life support rule change

On 28 February 2017 the AER submitted a rule change proposal to the AEMC on the protection of customers whose premises require energy for the purposes of life-support equipment. Our proposal aims to:

- simplify the registration of premises where life support equipment is required
- clarify retailers' and distributors' obligations by introducing processes to confirm the need for life support equipment, and timeframes for confirming this information with customers.
- The AEMC published a draft rule on 26 September 2017, amending the provisions so that customers will be entitled to life support protections from the time they first inform either their retailer or distributor that they need life support.

# MATTERS UNDER THE ELECTRICITY LAW AND RULES

Our *Quarterly compliance reports* discuss our activities relating to the compliance of electricity generators, network businesses and other participants with their obligations under the National Electricity Law and Rules. The following summarises our focus areas in 2016–17.

## Enforcement action

### Compliance with dispatch instructions

In December 2016, the AER issued infringement notices to EnergyAustralia for its Yallourn and Hallett power stations allegedly failing to follow AEMO's dispatch instructions. The incidents occurred across several dispatch intervals on a day of high prices in January 2016. EnergyAustralia paid penalties totalling \$40 000.

We also investigated the compliance of EnergyAustralia's Mount Piper units with dispatch instructions. This matter was resolved administratively, with EnergyAustralia agreeing to monthly reporting to the AER on its compliance with dispatch instructions for a six-month period.

The AER also issued an infringement notice to AGL Hydro Partnership for allegedly failing to ensure its Somerton Power Station was able to comply with dispatch offers submitted to AEMO on a high price day in NSW in January 2016. AGL Hydro Partnership paid an infringement penalty of \$20 000.

Additionally, we reviewed CS Energy's compliance with an enforceable undertaking it gave the AER in June 2016, following our investigation into its compliance with dispatch instructions. CS Energy was required to conduct an independent review of its guidelines and procedures, provide regular compliance training and employ an officer to oversee compliance with its undertakings. Our review raised no further issues. The undertaking remains in place until June 2018.

## Compliance bulletin on dispatch instructions, offers and bids

In response to recurring compliance issues in this area, we updated our compliance bulletin on dispatch instructions, offers and bids in July 2016 to communicate our understanding of relevant obligations and our approach to monitoring and enforcing compliance. The bulletin accounts for the AER's *Compliance and enforcement statement of approach* and the Federal Court decision in *Australian Energy Regulator v Snowy Hydro Ltd (No 2)* [2015] FCA 58.

## Significant market events

The AER prioritises investigating compliance issues where they coincide with significant market events. In 2016–17 we conducted targeted assessments of potential compliance issues associated with high impact market events. The following investigations were ongoing at 30 June 2017, with published reports scheduled to follow in 2017–18.

- On 28 September 2016, South Australia experienced a state-wide blackout for several hours when severe storms brought down three transmission lines, creating voltage instability that tripped off (shut down) the operating systems on 400 MW of wind generation and the Heywood interconnector to Victoria.
- On 1 December 2016, a fault on one of the Heywood interconnector's lines coincided with maintenance on another line, leaving South Australia islanded from the NEM. In consequence, 230 MW of South Australian customer load was interrupted for 90 minutes, along with 473 MW of load to the Portland aluminium smelter in Victoria.
- On 8–10 February 2017, Queensland, South Australia and NSW experienced high prices, with load-shedding in South Australia and industrial curtailment in NSW. In South Australia, AEMO ordered 100 MW of customer load to be shed on 8 February. But SA Power Networks erroneously cut supply to 90 000 homes instead of the required 30 000, shedding 300 MW of load. We are also examining a number of rebids related to the high priced events in Queensland in February.

Our assessment of possible compliance issues linked to the events of December 2016 and February 2017 is continuing. The findings of our investigation into the September 28 events, to determine whether those involved satisfied their obligations under the Electricity Rules, will be published in late 2017.

## Rebidding and technical parameters guideline

In 2015–16, the AER engaged closely with rule change processes relating to the integrity of bidding behaviour in the NEM. Reforms, relating to bidding in good faith and generator ramp rates, came into effect in July 2016. The reforms strengthen the requirement for generators to have genuine intent to honour their bids into the market.

The AER in February 2017 revised its *Rebidding and technical parameter guidelines* to reflect the new rules and other market developments. The revised guidelines set out the information that must be provided to AEMO to support rebids of capacity, and bids or rebids of technical parameters. They also explain how the AER may request additional information from generators on their bidding behaviour.

In 2017, we also reported on issues arising from inconsistencies in participants' recording of time associated with the location of generators in different time zones.

## Metering reforms

We launched a compliance review to ensure a smooth transition to metering contestability, scheduled to commence in December 2017. Our review covered electricity distributors' practices for upgrading meters where a change in a customer's consumption requires a new meter. In 2017–18 we will undertake a similar review of retailers' practices in this area.

The *Power of choice* reforms also introduce the Embedded Network Manager who will provide market interface functions required to address access to retail markets for energy customers in embedded networks. From 1 December 2017, most network exemption holders who operate large embedded networks (over 30 customers) will be required to become or appoint an Embedded Network Manager. Smaller embedded networks and those in caravan parks will require an Embedded Network Manager once a customer seeks to enter into an offer with a retailer of choice. Pending assent to bills within the legislative assembly of both Queensland and the ACT, it is anticipated that the requirement will be in effect in all NEM states and territories except Tasmania and Regional Queensland. The AER engaged with participants on this new role and the circumstances in which it may or may not apply. As part of this work, we developed web content in 2017 to assist network exemption holders in ascertaining when an Embedded Network Manager must be appointed. We also advised retailers and distributors to be aware of any life support customers in embedded networks.

## Targeted compliance reviews and technical audits

In 2016–17, we completed a review of performance standards compliance programs for Origin Energy's Uranquinty Power Station. Our audit, initiated in 2015–16, concluded that Origin's approach was consistent with the requirements of the Electricity Rules.

We aim to annually audit the compliance systems of two energy businesses to assess whether they maintain robust and effective compliance programs consistent with good industry practice. However, work program prioritisation in 2016–17 required us to divert resources away from this workstream, resulting in no new audits being launched.

## MATTERS UNDER THE GAS LAW AND RULES

Our *Quarterly compliance reports* discuss our activity relating to the compliance of gas producers, pipeline businesses and other participants with their obligations under the National Gas Law and Rules. The following summarises key focus areas in 2016–17.

### National Gas Services Bulletin Board

Our compliance work in gas focused on raising awareness of changes to the National Gas Services Bulletin Board (Gas Bulletin Board) as a comprehensive resource on east coast gas market activity. We intensified our monitoring in the lead up to and following the introduction of new Gas Bulletin Board reporting requirements on 6 October 2016 around daily gas flow data. We monitored the standard of reporting since the changes, observing some data errors and late data submissions but also found an improvement in the timeliness and accuracy of reporting.

Gas Bulletin Board reform will continue through 2017–18, with previously exempt facilities being captured by the reporting framework for the first time, and new layers of reporting being introduced for facilities that already report.

### Demand forecasting errors in gas spot markets

We directed significant attention to forecasting errors in gas spot markets, which inhibit transparency and can lead to inefficient dispatch and balancing costs. We reported on demand forecasting errors in the Sydney hub of the short term trading market, which have been a recurring issue for several years. Over forecasting of demand was chronic in summer 2016–17, occurring on 97 per cent of days in January 2017.

To better understand the drivers behind these errors, we met with participants including AGL Energy, which has the highest incidence of demand forecasting errors among Sydney hub retailers. Participants stated they are trying to improve accuracy by using new forecasting models and improving their understanding of gas customers' demand profiles.

We also reported on two participants (retailers) in the Victorian declared gas market with a significant history of errors in their demand forecasting. One participant committed to revising its demand forecasting systems to better detect forecasting errors and to submit daily demand data to the AER. The second participant stated it had amended its forecasting model and agreed to provide us with further data to assist our ongoing assessment.

## Gas pipeline issues

### Moomba to Adelaide Pipeline

During the September 2016 quarter, we approached Epic Energy as part of our analysis of high winter gas prices and a constraint on the Moomba Adelaide Pipeline System. Our discussions with the business revealed that Epic had introduced a new calculation methodology for gas deliveries to Adelaide. We approached Epic to get a clear understanding of its new calculation methodology and whether this enabled Epic to meet the accurate daily reporting requirements in the Gas Rules.

In light of this change, we launched a review into how other pipeline entities calculate available capacity on transmission pipelines supplying spot market hubs. We engaged with pipeline operators in 2017 to better understand their calculation methodologies and to consider any implications for participant compliance with the Gas Rules.

### Longford outage

Following our investigation into an outage at the Longford gas plant on 1 October 2016, we launched a targeted compliance review of offers at the Longford injection point. Participants noted a rising incidence of constraints being applied to the Victorian Transmission System. Participants also highlighted inconsistencies in approaches to rebidding on gas days when constraints are imposed. Our review was ongoing at 30 June 2017.

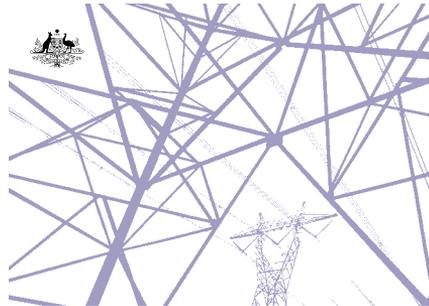
### Gas metering issues

During the year we continued to engage with Jemena Gas Networks to address a material breach of the NSW–ACT Retail Market Procedures relating to the provision of metering data. In moving towards resolution, Jemena began providing monthly compliance reports to the AER in February 2016. The reports outline steps the business has taken to improve its compliance and overall performance. As part of this engagement, Jemena agreed to provide a more detailed breakdown of its meter reading performance against a range of indicators and proposed an action plan to address deficiencies and improve its meter reading performance.

State of the Energy Market 2007–17 (images AER)



STATE OF THE ENERGY MARKET 2007



STATE OF THE ENERGY MARKET 2008



AER  
AUSTRALIAN  
ENERGY  
REGULATOR



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STATE OF THE ENERGY MARKET 2012



STATE OF THE ENERGY MARKET 2013



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# WORK PROGRAM 5 POLICY & CORPORATE REPORTING



STATE OF THE ENERGY MARKET 2009



STATE OF THE ENERGY MARKET 2010



STATE OF THE ENERGY MARKET 2011



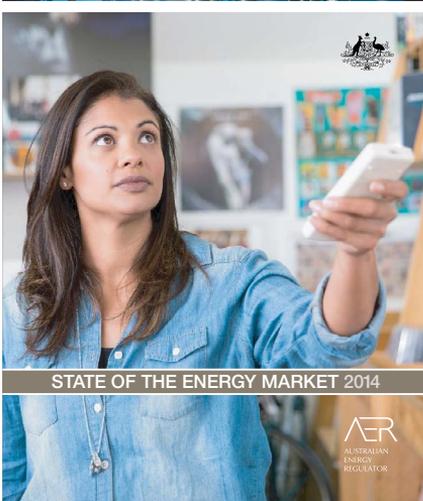
STATE OF THE ENERGY MARKET 2014



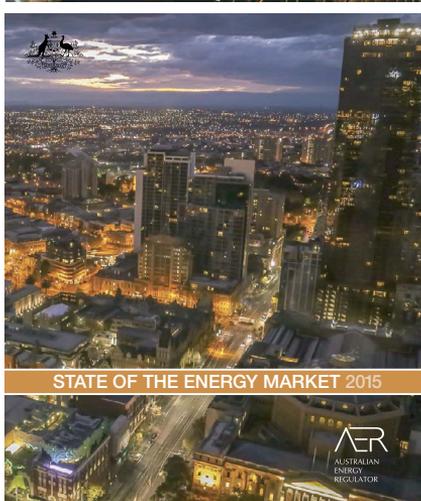
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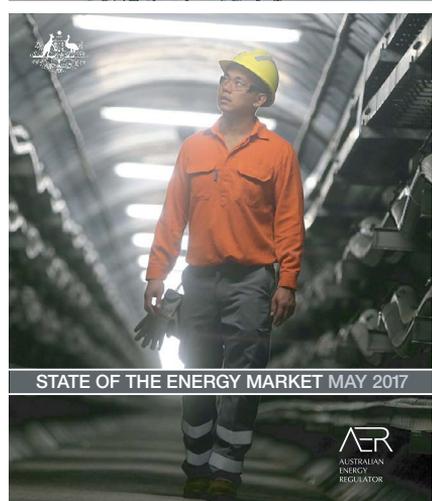
STATE OF THE ENERGY MARKET MAY 2017



  
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## 2016–17 highlights

- We published our 10th *State of the energy market* report in May 2017
- We made 19 submissions to policy reviews and rule change processes where our expertise could bring a valuable perspective
- AER Board members and senior executives gave 27 speeches or presentations at Australian and international forums
- We published 156 communication notices, 29 media releases, and over 3800 documents on the AER website

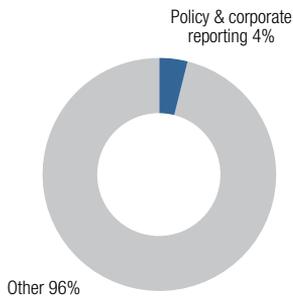
## Our role

We publish a range of information about the Australian energy sector, including our flagship *State of the energy market* report. We also contribute to energy policy issues, particularly in areas where we have built strong expertise. We make submissions to energy policy reviews and provide information to the bodies conducting those reviews, including the COAG Energy Council and the AEMC. Our annual report provides an overview of our activity during the year.

## Resources applied to policy and corporate reporting

In 2016–17 we allocated 4 per cent of our staff time to policy work and corporate reporting (figure 7). A further 1 per cent of staff time related to maintaining the AER website.

Figure 7: Staff time on policy and corporate reporting, 2016–17



# Outcomes and work in 2016–17

## ANNUAL REPORT

We published the 2015–16 AER annual report on 7 October 2016. The report highlighted energy market conditions and factors affecting our operating environment. It also set out our work in setting revenue allowances for energy networks, regulating wholesale energy markets, and protecting customers in the retail energy markets. The report assessed our performance against an extensive list of key performance indicators. It also included the findings and outcomes of the AER's fourth stakeholder survey.

## STATE OF THE ENERGY MARKET REPORT

On 30 May 2017, we published our tenth *State of the energy market* report. The report targets a wide audience, including market participants, policy makers and the wider community. It draws on information from a range of sources, including our internal monitoring and intelligence, regulatory reviews of energy networks, and external resources. It uses non-technical language to consolidate this material, highlighting trends and key issues across the electricity and gas industries.

## SUBMISSIONS

We contribute to policy reviews and rule change proposals where our expertise in network regulation, energy markets and consumer issues can add value. In 2016–17, we made submissions to 19 rule change proposals and policy reviews (appendix 1).

We made 17 submissions to a number of AEMC and COAG Energy Council policy reviews and rule change processes in 2016–17 including on:

- the AEMC's review of regulatory arrangements in embedded networks
- consumer protections for behind-the-meter electricity supply
- stand-alone energy systems in the electricity market.

Submissions were also made to the Gas Market Reform Group and the *Finkel review*.

## SPEECHES

In 2016–17, the AER Chair and senior executives participated in forums and gave 27 public presentations to stakeholders. Appendix 2 provides a full list.

## OUR WEBSITE, MEDIA RELEASES AND COMMUNICATIONS

We continually updated our website throughout 2016–17 with our decision documents, guidelines, other public reports and submissions from third parties. We published over 3800 documents during the year and where possible in multiple formats for accessibility. Website users downloaded over 448 000 documents and viewed 2.2 million pages during the year.

In 2016–17 we released 156 communications (which our website subscribers receive via email) and 29 media releases (see appendix 2).

Our website subscription service offers targeted communication choices for stakeholders. Based on individual subject matter preferences, over 4900 subscribers received up to 380 updates on specific projects during the year, in addition to general AER communications.



# **OUR PERFORMANCE**

The following tables assess our performance against target deliverables and performance indicators laid out in our Statement of Intent 2016–17 to the COAG Energy Council and the Australian Government.

The indicators cover the breadth of our work. Some are objectively quantifiable, while others are subjective. Some indicators measure delivery only (for example, whether we publish a report), while others measure perceptions of quality (for example, as measured through surveys).

For each indicator, we include a ‘traffic light assessment’ — a green light indicates we fully achieved the performance target, orange indicates partial achievement and red indicates non-achievement. Where we did not meet a performance target, we explain why. In some instances, we outline measures to improve our performance. We were able to deliver on most of the performance targets, however due to work program prioritisation, a number of tasks were completed outside the target deadlines.

We report separately on performance against the Treasury portfolio budget statements in the combined *ACCC/AER 2016–17 annual report*, as required under s. 44AAJ of the *Competition and Consumer Act 2010*.

# 1. MEETING THE COAG ENERGY COUNCIL'S EXPECTATIONS

The AER's Statement of intent 2016-17 established the following indicators to assess our progress in meeting the COAG Energy Council's expectations of us.

Deliverable	2016-17 Target	Outcome	
<b>Progress on work program and expenditure against budget</b>			
<i>Publish a detailed work program as part of our Statement of Intent.</i>	Publish by 1 July 2016.	We published our Statement of Intent 2016-17, including a detailed work program, on 30 June 2016.	  
		To allow proper consideration of new funding arrangements announced in June 2017, the AER wrote to the COAG Energy Council, requesting that our Statement of Intent 2016-17 remain operative to 30 September 2017, pending publication of a 2017-18 Statement on that date.	
<i>Report through the ACCC/AER statutory Annual Report on our expenditure against the program budget allocated to AER.</i>	Report to Treasury by 29 August 2016.	We provided the 2015-16 ACCC-AER annual report to Treasury on 29 August 2016. It reported on the agency's expenditure against the program budget allocated.	  
<i>Publish an AER Annual report setting out progress against our work program, including compliance with statutory timelines.</i>	Publish by 30 September 2016.	We published our 2015-16 AER annual report on 7 October 2016. The report contained information on resource use, our work program and agency performance. Competing priorities led to a slight delay in publication.	  
<i>Undertake our work program within budget as determined through the Australian Government budgetary process.</i>	Undertake work program within budget.	Achieved	  
<i>Publish any significant changes to our work program on AER website.</i>	Publish all changes within 14 days.	There were no significant changes to the work program.	  

<p><i>Report to COAG Energy Council on progress against work program, including outcomes, issues and any variations.</i></p>	<p>Provide updates as requested by the COAG Energy Council.</p>	<p>We provided verbal updates to the COAG Energy Council on our key work and strategic issues, in response to the Council's requirements.</p>	
<p><b>Stakeholder engagement</b></p>			
<p><i>AER board and senior executives communicate with stakeholders via speeches, forums and the media.</i></p>	<p>Qualitative target.</p>	<p>The AER Board and CEO presented at 26 forums, conferences and other public events (list provided at appendix 2). Liaison with media included interviews, briefings, responses to questions, and 29 media releases.</p>	
<p><i>Meet periodically with the Consumer Challenge Panel, jurisdictional groups of consumer representatives and the Customer Consultative Group, in conducting our work program.</i></p>	<p>Monthly meetings of CCP and at least two meetings of jurisdictional groups during each regulatory reset; and three meetings of CCG.</p>	<p>Our approach to CCP engagement has evolved, with the panel now assembled at least twice yearly to meet in person and undertake training, supported by more regular meetings of sub-panels.</p> <p>We appointed a new CCP in September 2016 and held a whole of CCP induction and training on 25–26 October. A follow up meeting was held on 19 June 2017. The CCP also discusses issues by regular teleconference.</p> <p>CCP sub-groups are formed for each regulatory determination process, with meeting schedules tailored to the status and progress of each review. The sub-panel Chairs also exchange views at scheduled meetings.</p> <p>Expressions of interest were sought for jurisdictional groups of consumer representatives, with groups being constituted where stakeholder demand was evident.</p> <p>We reconstituted the CCG in February 2017. Two meetings were held in 2016–17, but three meetings will occur in calendar year 2017.</p>	
<p><i>Undertake a broad stakeholder survey every two years that includes an assessment of the quality of our stakeholder engagement.</i></p>	<p>Publish outcomes of 2016 stakeholder survey in 2015–16 AER Annual report.</p>	<p>We undertook a broad stakeholder survey in 2016, and published key outcomes in September in our 2015–16 Annual report.</p> <p>We will conduct another comprehensive stakeholder survey in 2018.</p>	

<p><i>Publish the State of the energy market report, with accessible information on market activity and dynamics.</i></p>	<p>Publish report by 1 April 2017. Our 10th State of the energy market report was published on 30 May 2017. Competing priorities caused a delay in publication.</p>	
<p><b>Improving capabilities</b></p>		
<p><i>Utilise dedicated IT team which consolidates our systems capabilities, to strengthen efficiency through agency-wide consistency.</i></p>	<p>Qualitative target. Our IT and data services team is fully operational and providing support across the agency.</p>	
<p><i>Streamline information requirements on energy businesses to reduce regulatory burden</i></p>	<p>Implement changes to RIN requirements through the review of the Expenditure assessment guideline. We streamlined annual reporting and regulatory determination information requirements on network businesses to eliminate duplication and target key areas for expenditure analysis. We will further streamline information requirements on energy businesses in 2017–18.</p>	
<p><i>Continue to improve our data systems to support effective benchmarking.</i></p>	<p>Database refinements operational by 30 June 2017. We continued to enhance the scope and functionality of our networks database, with emphasis on supporting our economic benchmarking and expenditure analysis teams. In particular, we developed comprehensive reports to support data extraction for use in economic benchmarking annual reports. We will continue to enhance our data storage and reporting functionality in 2017–18.</p>	

## 2. PROGRESS IN ACHIEVING OUR WORK PROGRAM

The AER's Statement of intent 2016–17 established the following indicators to assess progress in achieving our work program.

Deliverable	2016–17 Target	Outcome
<b>Work program 1: Energy networks</b>		
<i>Complete all regulatory decisions on electricity networks and gas pipelines within statutory timeframes.</i>	Publish three electricity and one gas determination, within statutory timeframes.	All electricity determinations were published, but a revised proposal from AusNet Services (Victorian electricity transmission) and work program prioritisation within the AER resulted in our final decision on that network being delayed by three months to 28 April 2017.  An access arrangement proposal for the Roma to Brisbane Pipeline raised several complex issues. This led to our draft and final decisions being delayed. Our draft decision was published on 6 July 2017.
<i>Publish annual benchmarking report and RIN data for electricity networks.</i>	Publish benchmarking report by 30 November 2016.	Our annual benchmarking report for electricity transmission and distribution networks was published on 30 November 2016.
<i>Resolve disputes within legislated timeframes, including on network access and connections, and regulatory investment tests.</i>	100 per cent.	One regulatory test dispute was referred to the AER in 2016–17. The AER published its determination on 17 May 2017.  We received requests relating to 10 electricity connection disputes, of which nine were resolved and one remained under investigation at 30 June 2017. The connection charges for four customers were substantially reduced.  We did not receive any gas connection disputes during this financial year.  We received a request to resolve a dispute over public lighting costs in South Australia and proposed to the parties a process to deal with the matter.

<p><i>Implement any reforms arising from AEMC rule changes, by developing or amending guidelines and through the regulatory determination process.</i></p>	<p>Qualitative target.</p>	<p>A key focus was our work to implement Power of choice reforms promoting the efficient use of energy networks and empowering customers to make informed choices about their energy use. This work included (1) approving tariff structure statements for electricity distributors that more closely align network with the costs of supplying electricity to consumers; (2) promoting competition for metering, solar photovoltaic and battery installations by launching new ring fencing guidelines to create a level playing field for new entrants (3) developing a new demand management incentive scheme and innovation allowance mechanism to incentivise electricity distributors to invest in non-network options to manage demand; (4) publishing a new guideline making it easier for customers in embedded networks to participate in retail energy markets.</p>	
<p><i>Prepare for the application of the National Electricity Law in Western Australia.</i></p>	<p>Finalise regulatory framework in consultation with WA officials.</p>	<p>The Western Australian Government in June 2016 introduced bills for a transfer of energy network regulatory functions to the AER. While we continued to work with officials on the proposed handover, the WA Government was not able to pass the legislation in 2016–17, as it had intended.</p>	<p>N/A</p>
<p><b>Work program 2: Retail energy markets</b></p>			
<p><i>Actively monitor retail markets as new products and services are made available to ensure our guidelines and systems remain efficient and effective.</i></p>	<p>Qualitative target.</p>	<p>We updated our compliance procedures and guidelines in June 2017 to incorporate changes to the energy rules and refine the reporting framework. To supplement coverage of compliance audits, we also issued a Practice guide to that area.</p> <p>Our Retail Exempt Selling Guideline (2016) account for new approaches to selling energy (such as on-selling through an embedded network). Additionally, our Network service provider registration exemption guideline published in December 2016 improves access to retail competition for customers in embedded networks.</p>	

<p><i>Our price comparator website, Energy Made Easy, provides accurate and timely information for consumers.</i></p>	<p>All offers published on website within two business days of receipt from retailers.</p>	<p>100 per cent of offers were published within two business days of receipt.</p>	
<p><i>Publish an annual performance report and quarterly data on the retail energy market (including energy affordability).</i></p>	<p>Annual report published by 30 November 2016. Quarterly data published on website within 12 weeks of quarter's end.</p>	<p>Our fourth annual retail market performance report was published on 22 November 2016. Quarterly data was published within the 12-week timeframe.</p>	
<p><i>Assess retailers' hardship policies (and proposed amendments) in a timely manner.</i></p>	<p>Assess all policies and amendments within 12 weeks of receiving required information.</p>	<p>Two of three submitted policies were assessed within the targeted timeframe.</p>	
<p><i>Assess retail authorisation/exemptions/applications in a timely manner.</i></p>	<p>Assess all authorisation/exemption applications within 12 weeks of receiving required information.</p>	<p>100 per cent of the eight authorisation applications received, and 89 per cent of the nine exemption applications received, were assessed within the targeted timeframe.</p>	
<p><i>Apply processes to support the timely transfer of affected customers in the event of a retailer failure.</i></p>	<p>Meet all obligations within statutory timeframes.</p>	<p>One RoLR event occurred during the year (in electricity). Our processes supported the timely transfer of all affected customers to designated retailers of last resort.</p>	
<p><b>Work program 3: Wholesale energy markets</b></p>			
<p><i>Monitor energy spot markets to detect impediments to efficient trade, market irregularities and consumer harm.</i></p>	<p>Report on identified impediments in weekly reports and State of the energy market report, and through briefings with regulatory bodies and the COAG Energy Council.</p>	<p>We published 98 weekly performance reports on spot energy markets, 25 reports on extreme electricity prices, and six reports on a significant price variation in gas. The State of the energy market 2017 report provided an overview of market activity. Work program prioritisation affected publication timeframes across these reporting areas.</p>	

<p><i>Prepare for expected new legislative responsibilities in the NEM by developing metrics on the effectiveness of competition in energy wholesale markets</i></p>	<p>Qualitative target.</p>	<p>In December 2016 the AER acquired a new legislative role to systematically monitor wholesale market performance in the NEM and report our findings at least every two years. During 2017, we consulted on frameworks to undertake the new role. The first report is due in December 2018.</p> <p>In May 2017 we reported on the effectiveness of competition in electricity wholesale markets in State of the energy market 2017.</p>	
<p><i>Support the AEMC in progressing rule change proposals aimed at improving market efficiency.</i></p>	<p>Engage in all processes where the AER can provide valuable perspectives.</p>	<p>We made submissions to 10 AEMC rule change processes (see appendix 1)</p>	
<p><i>Publish timely reports on wholesale electricity and gas market activity.</i></p>	<p>Publish at least 75 per cent of weekly reports within 12 business days of week's end.</p>	<p>We published 70 per cent of weekly reports within the required timeframe. This outcome reflected the resourcing impact of an unusually high incidence of extreme price events, combined with work program prioritisation.</p>	
<p><i>Report within statutory timeframes on extreme price events in wholesale electricity markets, and significant price variations in spot gas markets.</i></p>	<p>Publish all reports within statutory timeframes.</p>	<p>Market conditions led to an unusually high incidence of extreme prices in wholesale energy markets, resulting in 31 reports being required. Work program prioritisation affected timelines, with 68 per cent of reports meeting statutory timeframes</p>	
<p><b>Work program 4: Compliance and enforcement</b></p>			
<p><i>Enforcement action is targeted and proportionate to regulatory risk.</i></p>	<p>Matters selected for enforcement activity improve market outcomes for customers.</p>	<p>Our targeted enforcement action included the issue of 24 infringement notices (21 in retail markets and three in wholesale) and entering into two court enforceable undertakings (both in retail).</p> <p>We base our compliance and monitoring activity on risk assessments of the impact and likelihood of breaches. We commenced a comprehensive review of the energy legislation and rules in 2016–17, reviewing over 5000 provisions and updating our risk assessment and approaches to monitoring.</p>	

<p><i>Publish an annual compliance report on retail markets.</i></p>		<p>The report was published in November 2016.</p>
<p><i>Communication with businesses is clear and targeted.</i></p>		<p>We held retailer forums in November 2016 and April 2017. The April forum updated retailers highlighted strategies to improve consumer engagement. Retailers also presented on innovative customer payment strategies.</p> <p>We published three compliance checks for industry in 2016–17, relating to obligations on retailers when billing customers.</p>
<p><i>Provide clear targeted guidance to businesses on our compliance monitoring framework.</i></p>		<p>Distributors and retailers covered by the compliance monitoring framework were provided a written summary of reporting outcomes, although work program prioritisation meant the targeted timeframe was not met in each instance.</p>
<p><i>Consistent with regulatory risk, conduct targeted reviews of compliance with the national energy rules, and report on outcomes.</i></p>		<p>We conducted targeted compliance reviews of obligations to submit data to the Gas Bulletin Board, metering obligations in electricity and issues relating to high impact events in the NEM during the year. We provided progress reports in our quarterly compliance reports.</p>
<p><i>Audit the compliance systems of selected energy businesses, and report on outcomes.</i></p>		<p>In 2016–17 we completed a technical audit of the robustness of Origin Energy’s compliance program for its Uranquinty Power Station. While we aim to annually audit the systems of two energy businesses, market dynamics and work program prioritisation during the year required us to divert resources away from this workstream, resulting in no new audits being launched.</p>
<p><i>Publish quarterly compliance reports on wholesale markets and networks.</i></p>		<p>All reports were published, but work program prioritisation meant two reports failed to meet the targeted timeframe.</p>

### 3. MEETING THE AUSTRALIAN GOVERNMENT'S EXPECTATIONS

The AER's *Statement of intent 2016-17* established the following indicators to assess our progress in meeting the Australian Government's expectations of us as a high performing regulator, based on measures set out in the Australian Government's *Regulator performance framework*.

Deliverable	2016-17 Target	Outcome
<p><b>Regulators do not unnecessarily impede the efficient operation of regulated entities</b></p>		
Apply regulation consistently with guidance developed in consultation with regulated businesses.	Independent surveys of stakeholder satisfaction with AER processes.	We continued to engage widely with energy businesses on the appropriate application of guidelines, and throughout regulatory processes. 
Meet statutory timeframes applicable to our work program to promote regulatory certainty.	Document instances of non-compliance and why they occurred.	Work program prioritisation resulted in timeframes for two revenue determinations being extended beyond statutory timeframes. 
Regularly meet with other agencies, including the AEMC, AEMO, the ECA, ASIC, the Utility Regulators Forum and the EISG, to share knowledge and experience on efficient regulation.	Number of meetings with each agency and nature of engagement.	Meetings were held with each agency in accord with agreed schedules. 
Assess costs and benefits of additional information requirements prior to widening the scope of RINs.	Consult with affected businesses in each instance.	The RINs are periodically streamlined to ease the regulatory burden on regulated businesses. 
<p><b>Communication with regulated entities is clear, targeted and effective</b></p>		
Regulatory determinations and other major decisions are accompanied by a decision document explaining the reasoning for the decision.	Document instances of non-compliance and why they occurred.	Regulatory determinations were accompanied by fact sheets in plain English and short form overviews. Consultation on guidelines was accompanied by explanatory documents. 

<p>Guidance materials and decisions published by the AER comply with government accessibility guidelines.</p>	<p>Document instances of non-compliance and how remedied.</p>	<p>AER decisions publications met government web accessibility requirements.</p>	
<p>AER Board and staff engage with regulated businesses throughout the regulatory determination process.</p>	<p>Number of meetings with businesses.</p>	<p>We met with regulated businesses throughout the determination process and designate relationship managers for each business.</p>	
<p><b>Actions undertaken by regulators are proportionate to the regulatory risk being managed</b></p>			
<p>Apply a risk based approach to compliance and monitoring activities.</p>	<p>Document basis for compliance and monitoring focus in compliance reporting.</p>	<p>Our compliance and monitoring activity accounts for risk assessments of the impact and likelihood of breaches.</p>	
<p>Recognise the compliance record of regulated entities in making enforcement decisions.</p>	<p>Document reasoning for enforcement decisions in compliance reporting.</p>	<p>Enforcement decisions accounted for an entity's historical behaviour, as set out in our Compliance Guideline.</p>	
<p><b>Compliance and monitoring approaches are streamlined and coordinated</b></p>			
<p>An agency-wide Statement of approach guides compliance and enforcement activity across work program areas.</p>	<p>Document agency's consistent application of Statement of approach.</p>	<p>Our compliance and enforcement statement of approach (available on our website) aims to promote transparency and consistency of approach across the industry.</p>	
<p>Collaborate with the ACCC on energy market enforcement activity falling under the scope of both agencies.</p>	<p>Document communication forums and nature of engagement.</p>	<p>We commenced a comprehensive review of the energy legislation and rules in 2016–17, reviewing over 5000 provisions and updating our risk assessment and approaches to monitoring.</p>	
<p>Collaboration at staff and AER Board levels occur in relation to conduct in energy markets where the Australian Consumer Law applies.</p>	<p>Document communication forums and nature of engagement.</p>	<p>Collaboration at staff and AER Board levels occur in relation to conduct in energy markets where the Australian Consumer Law applies.</p>	

<p>For reporting purposes, use existing information where possible and limit information sought from external parties to that necessary to undertake a task.</p>	<p>Justify reasons for information gathered beyond that which is otherwise available.</p>	<p>Reporting guidelines are developed in consultation with stakeholders. No reporting requirements are imposed beyond those set out in guidelines.</p>	
<p><b>Regulators are open and transparent in their dealings with regulated entities</b></p>			
<p>Stakeholders have an opportunity to provide written submissions prior to the AER making major regulatory decisions.</p>	<p>Document instances where submissions not sought and why they occurred.</p>	<p>Processes for all major regulatory decisions included opportunities for stakeholders to make written submissions.</p>	
<p>Publish submissions to regulatory processes on the AER website.</p>	<p>Document instances where submissions not published and why this occurred.</p>	<p>Subject to meeting confidentiality protocols, all submissions to regulatory processes were published on the AER website.</p>	
<p>Published decisions clearly set out how we accounted for stakeholder views.</p>	<p>Independent surveys of stakeholder satisfaction with transparency of AER decisions.</p>	<p>Our 2016 stakeholder survey indicated some dissatisfaction with our performance in this area. We have implemented changes in this area, and continue to work with stakeholder groups to make further improvements.</p>	
<p>Consult with industry in the preparation of any guidelines or policies.</p>	<p>Document instances where consultation did not occur.</p>	<p>Guidelines and policies are developed in consultation with stakeholders. In 2017, we consulted with industry and other interested parties on a revised stakeholder engagement framework aiming for a more focused approach.</p>	
<p>Engage with industry through forums.</p>	<p>Document number of meetings and nature of engagement.</p>	<p>Our extensive engagement with industry through forums, speeches and other presentations is documented elsewhere in this report.</p>	
<p>Apply risk-based frameworks, processes, guidelines and decisions that are publicly available.</p>	<p>Survey stakeholder confidence in our consistency with published guidance.</p>	<p>We aim for consistent practice with our published guidelines in the wholesale, retail and networks space. Our 2016 Stakeholder survey indicated some dissatisfaction with our performance in this area. We took steps in 2016–17 to improve consistency and it remains a focus of our ongoing work.</p>	

**Regulators actively contribute to the continuous improvement of regulatory frameworks**

<p>Engage with agencies that have energy market responsibilities in accordance with legislation and memoranda of understanding.</p>	<p>Number of meetings with each agency and type of engagement.</p> <p>High level meetings were held with each agency in accord with agreed schedules. Communication at staff level occurred more regularly on a needs basis.</p>	
<p>Engage in policy reviews, rule change processes and reform implementation through information sharing, making submissions and participating in forums.</p>	<p>Document engagement and relevant processes in each area.</p> <p>Our engagement through submissions and forums are documented elsewhere in this report. Information sharing occurred in accord with memoranda of understanding.</p>	
<p>Promptly respond to requests for information from government (including the COAG Energy Council) within specified timeframes.</p>	<p>Adhere to agreed time frames. Requests were met in accord with specified or agreed timeframes.</p>	





**OUR  
PEOPLE**

Our staff are committed to making Australia's energy markets work for consumers, now and in the future.

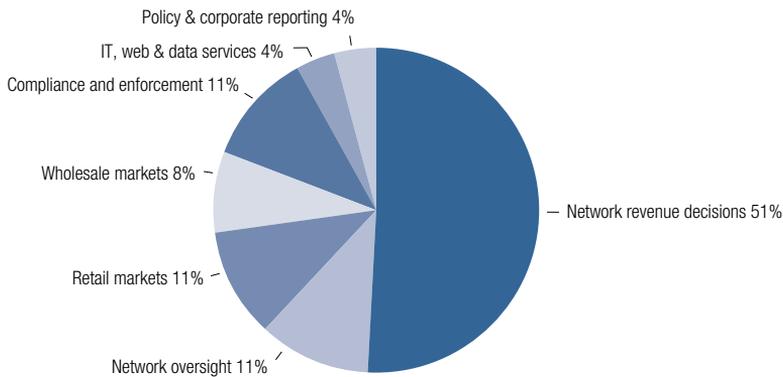
In total, 149 staff members worked in our agency during 2016–17. Our average staffing level across the year, including the AER Board and CEO, was 128.7, a slight rise on 2015–16 levels (127.4). We also engaged 44 external contractors to work with our staff and assist in delivering our work program.

Our staffing is supplemented by:

- legal and economic staff shared with the ACCC, which contributed around 15 FTE over the year (similar to 2015–16). The legal and economic division's contribution is higher in years when we undertake a large number of network decisions, when our network decisions are subject to appeals, or when major enforcement matters are underway.
- staff from the people and corporate services division shared with the ACCC.

As in previous years, networks regulation absorbed a majority of our staffing resources (figure 13). Staff allocation to network revenue decisions was down from 55 per cent in 2015–16 to 51 per cent, reflecting a reduction in the number of final decisions made in 2016–17. The resources released were absorbed across other program areas.

Figure 8: Allocation of AER staff time across functions, 2016–17



## Staff turnover

Our staff turnover for 2016–17 was 8.7 per cent, a rise on 2015–16 (3.7 per cent) and 2014–15 (4.6 per cent) levels. The rate was the highest since a voluntary redundancy program in 2013–14.

## Our capabilities

We are a broad based team of energy specialists—experts in energy network regulation, wholesale and retail energy market operations, and compliance and enforcement. Reflecting the diverse nature of our work program, our team includes economists, engineers, lawyers and accounting/finance specialists.

Our staff has a diverse range of experience. Some joined us from other regulatory agencies, both Australian jurisdictional utility regulators and international agencies such as Great Britain's Office of the Gas and Electricity Markets (Ofgem). Others came from consulting firms and the energy sector, including from technical roles in system engineering. While we are a relatively young organisation, we

have many staff with years of experience in energy sector issues. This broad skill base and experience gives us the flexibility to deal with a wide range of complex energy market issues.

Our internal staff are supplemented by externally sourced technical expertise, particularly for network issues. In addition, we have mechanisms in place to ensure we keep up to date with regulatory best practice.

We have made staff secondments and exchanges with AEMO, the AEMC, government agencies/departments, and international regulators including Ofgem and the Alberta Market Surveillance Administrator.

## Looking after our people

### TRAINING AND DEVELOPMENT

As part of our performance development framework, each staff member has an individual action plan to develop their capabilities. Regular reviews and one-on-one feedback sessions are key to the framework.

In 2016–17, we strengthened staff capabilities, particularly our technical skills base, by offering learning and development opportunities. The Technical Advisor Group provided tailored courses on principles of energy network planning, reliability standards and reporting, network operation and regulation, and emerging network trends and technology. The AER (sometimes in conjunction with the ACCC) also offered courses in resilience training, negotiation and stakeholder engagement, writing skills and leadership.

AER staff participated in meetings of the Energy Intermarket Surveillance Group in New Orleans (November 2016) and Rhode Island (May 2017). The Group meets twice yearly and coordinates information and skills sharing among members on wholesale energy market surveillance and enforcement. In New Orleans we presented on the difficulties in balancing environmental, system security and affordability objectives, and the AER's new role in monitoring and reporting on the effectiveness of competition in the NEM. In Rhode Island we presented on learnings from the 28 September 2016 blackout in South Australia and subsequent market disruptions triggered by plant failures.

### WELLBEING

Our staff's health and wellbeing is essential, so we stress the importance of an appropriate work–life balance. Our commitment to these issues was reflected in a variety of programs during 2016–17.

- New measures improve the capacity of managers and employees to deal with mental health issues. The measures included an enhanced Workplace Contact Officer network and training for managers in mental health first aid principles.
- An Influenza Vaccination offered all employees access to fully funded vaccinations at the workplace or offsite as arranged by the employee.
- A new Employee Assistance Program offered employees and their immediate families access to a free professional counselling service for personal or employee related matters.
- Our Healthy Lifestyle Reimbursement scheme supports healthy lifestyle choices by eligible employees.
- Our Ally Network made up of employees at all levels to show support for the LGBTIQ community reflects our commitment to an inclusive workplace free from discrimination or bullying.

## WORKPLACE FLEXIBILITY

In 2016–17, we prepared for the September 2017 move of our Melbourne office. As well as meeting whole-of-government requirements, the new premises will be a more collaborative and flexible work space tailored specifically for the ACCC and AER. It will be adaptable over the lease period and supported by mobile technology such as laptops, better collaboration tools and document management capability, to support a more mobile workforce both in the office and away from it. The work done in designing our new Melbourne office will form a template as our office leases elsewhere come up for renewal.

## REMUNERATION

The Remuneration Tribunal determines AER Board members' remuneration, in accordance with the *Remuneration Tribunal Act 1973*, Determination 2010/10 Remuneration and Allowances for Holders of Full Time Public Office. Table 2 sets out the nature and amount of AER board members' remuneration in 2016–17.

Table 2: Remuneration of AER board, 30 June 2017

Position	Base salary	Total remuneration of office
Chair	\$365 570	\$522 240
AER Board Members	\$285 930	\$391 680

Most AER staff work under an enterprise agreement that sets out remuneration, leave entitlements, and other conditions and allowances. A new agreement came into effect on 21 December 2016, offering a 3 per cent salary increase on commencement, a 2 per cent salary increase 12 months after commencement, and a 1 per cent salary increase 24 months after commencement. The prior agreement expired on 30 June 2014, but its conditions applied until December 2016. Our CEO, general managers and some specialist staff are subject to individual determinations covering remuneration, leave and other employment conditions.

Table 3 sets out AER staff remuneration in 2016–17. It does not include superannuation contributions, allowances or performance pay. The data excludes AER Board members.

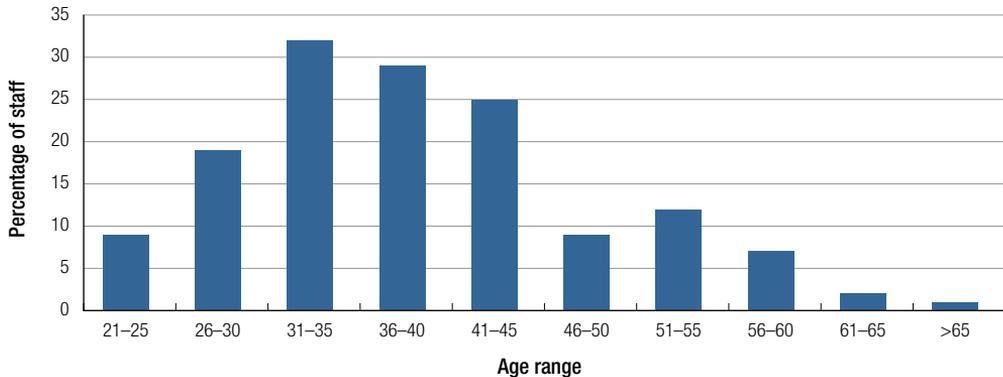
Table 3: Remuneration of AER staff, 2016–17

Annual Salary	Percentage of staff (%)
\$40 000 to \$60 000	2.1
\$60 000 to \$80 000	17.4
\$80 000 to \$100 000	21.5
\$100 000 to \$120 000	27.8
\$120 000 to \$140 000	21.5
\$140 000 to \$160 000	2.1
\$160 000 to \$180 000	2.1
Above \$180 000	5.6

## WORKFORCE PLANNING—AGE, GENDER AND DIVERSITY PROFILE

We are committed to developing a sustainable AER. The age profile of our staff demonstrates a core of experienced staff, yet also reflects our commitment to employing and developing more junior staff (figure 9).

Figure 9: Age profile of AER staff, 30 June 2017



We are committed to a diverse workforce. Of our six senior managers, two are women, including the CEO. Diversity activities included programs on reconciliation with Indigenous Australians, how numerous cultures make up Australia, how all employees should be embraced for who they are regardless of their sexual orientation, and strategies to improve our accessibility to employees with a disability.

Table 4 presents data on AER staff from Aboriginal or Torres Strait Islander backgrounds (ATSI); self-identified staff from culturally or linguistically diverse backgrounds (CALD) and people with disabilities (PWD).

Table 4: AER workplace diversity profile, 30 June 2017

	Total number	Female	ATSI	CALD	PWD
SES and AER members	8	3		1	
GRAD	5	2			
APS1	3	2		2	
APS2					
APS3					
APS4	5	4		2	
APS5	15	10		12	
APS6	32	14	1	3	2
EL1	43	16		6	1
EL2	33	11		1	2
<b>Totals</b>	<b>144</b>	<b>62</b>	<b>1</b>	<b>27</b>	<b>5</b>
<b>Proportion of the total (%)</b>		<b>43.1%</b>	<b>0.7%</b>	<b>18.8%</b>	<b>3.5%</b>

Note: A staff member may be classified under multiple headings.



# **OUR EXPENDITURE**

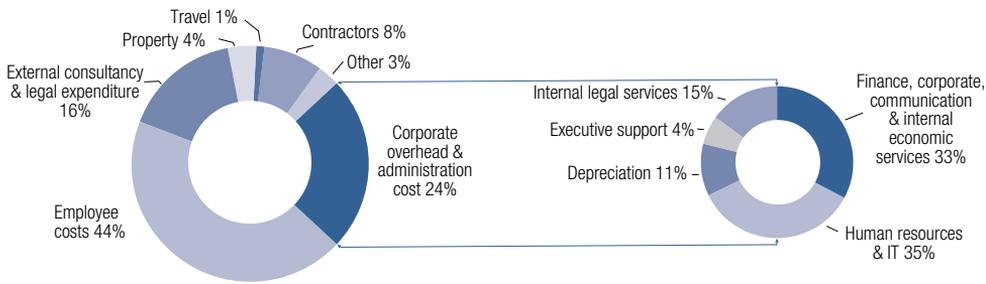
## Expenditure by category

The AER's total expenditure for 2016–17 was \$41 million. Employee costs accounted for 45 per cent of this total (down from 49 per cent in the previous year). Corporate overheads and administration absorbed another 25 per cent (down from 35 per cent). The shift is partly explained by property costs being separately accounted for in 2016–17 for the first time.

We supplemented our workforce in 2016–17 with external contractors to work alongside employees. Contracted staffing accounted for 8 per cent of our spending (this rate was negligible in 2015–16). The combined costs of employees and on site contractors accounted for 53 per cent of our total expenditure.

The impact of legal appeals was reflected in external consultants and lawyers costs accounting for 14 per cent of all AER expenditure in 2016–17, compared with 12.5 per cent in 2015–16. Internal legal costs were accounted for separately and comprised 15 per cent of corporate overheads (up from 7 per cent).

Figure 10: AER expenditure by category 2016–17



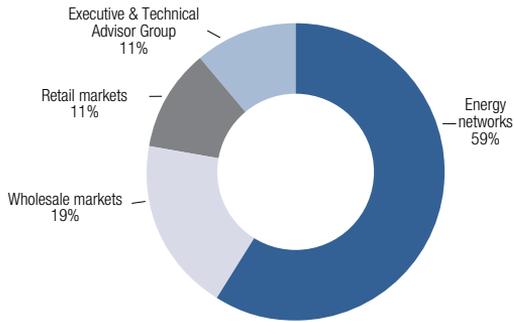
## Expenditure by work program

The AER's direct expenditure in 2016–17 (excluding our contribution to corporate overheads and administration costs shared with the ACCC), was \$31 million—a 29 per cent increase on the previous year. Network regulation absorbed a majority of this expenditure, although the ratio (59 per cent) was slightly lower than last year. The network regulation area also drew heavily on the Technical Advisor Group (which absorbed 13 per cent of direct costs).

Wholesale markets absorbed 19 per cent of direct expenditure (up from 14 per cent), reflecting the resourcing impact of investigating a record number of high impact events in the electricity market. Despite an expanding work program, the retail branch continued to achieve significant efficiencies to absorb only 11 per cent of our total expenditure.

The AER funded the Consumer Challenge Panel and the Customer Consultative Group to facilitate consumer input in network revenue decisions and retail energy market matters. Overall, around \$1.5 million of our annual expenditure was allocated to support the technical advisors and consumer input.

Figure 11: Direct expenditure, by AER work area, 2016–17

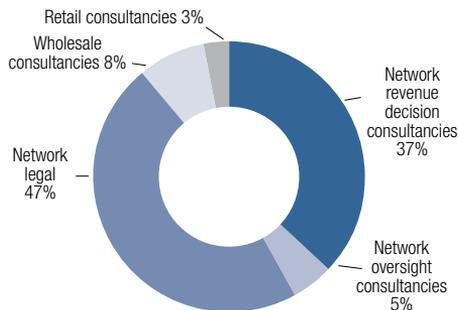


## Expenditure on consultants and external lawyers

Our total expenditure on consultants in 2016–17 was \$4.2 million (GST exclusive), including consultancy contracts organised through our core branches (figure 12). This excludes contracts with technical experts working full time on AER matters in our offices. It also excludes IT consultancy contracts, corporate consultancy contracts and consultancy contracts entered by the ACCC *Infrastructure regulation division* for expert advice on regulatory economics issues (many of which relate to matters before the AER board). While we make significant use of in-house legal expertise, we engage external lawyers for legal appeals, enforcement matters and ad hoc advice. Our total expenditure on external lawyers in 2016–17 was \$2.3 million (GST exclusive). This figure excludes external legal advice sought by corporate areas (on human resource matters, for example).

Most consultancy expenditure arises in the networks space, where we draw on experts to assist on complex issues for our guidelines and to assess network businesses' proposals. A significant portion of this expenditure (52 per cent) related to network legal costs in 2016–17, reflecting the impact of legal appeals against several of our regulatory decisions. There was an increase in consultancy and legal costs associated with network oversight (up from 1.4 per cent in 2015–16 to 6 per cent). This increase covered expert advice on the redevelopment of our ring fencing guideline. Consultancy and legal expenditure relating to wholesale and retail markets represented 12 per cent of total legal and consultancy and included costs for external dispute resolution, functionality and scoping enhancements to our energy made easy website and advice on retail bill benchmarks. Legal and consultancy expenditure on compliance and enforcement activities was negligible in 2016–17.

Figure 12: Consultancy and external legal expenditure, by AER work area, 2016–17



## Expenditure on travel

We spent \$0.5 million on travel in 2016–17. This expenditure was mostly on domestic travel, and included travel by AER board members, travel allowance, flights, ground travel and accommodation.

## Employee costs

Total wage and associated costs (including leave entitlements and superannuation) for AER staff was \$18.3 million for 2016–17. This figure included costs for AER board members and the Technical Advisor Group but excludes the costs associated with engaging external contractors to undertake work as in our offices as staff (\$3.4 million). Total expenditure for employees and in-house contractors was \$21.7 million for 2016–17.

## Corporate overheads and other costs

Our corporate overheads are combined with those of the ACCC. They include the costs of people and corporate services division staff (finance and corporate services, information management and technology services, human resources, and strategic communications), legal and economic division staff, facilities/accommodation, IT contracts/capital and other costs associated with our offices.





# **APPENDICES**

# Appendix 1 – AER submissions

## SUBMISSIONS TO COAG ENERGY COUNCIL REVIEWS

- Limited merits review (consultation paper), 4 October 2016
- Consumer protections for behind the meter electricity supply (consultation paper), 4 October 2016
- Stand-alone energy systems in the electricity market (consultation paper), 4 October 2016
- Submissions to AEMC rule change processes
- NSW distributors and ActewAGL revenue smoothing (draft determination), 23 June 2017
- Replacement expenditure planning arrangements (draft determination), 6 June 2017
- Contestability of energy services (consultation paper), 1 March 2017
- Proposal to strengthen protections for customers requiring life support equipment, 28 February 2017
- Replacement expenditure planning arrangements (consultation paper), 13 January 2017
- Participant derogations for NSW and ACT distributors revenue smoothing (consultation paper), 20 December 2016
- Improving the accuracy of customer transfers (draft determination), 19 December 2016
- Market participant suspension framework (draft determination), 14 October 2016
- Rate of return guideline review (consultation paper), 15 September 2016
- Market participant suspension framework (consultation paper), 6 July 2016

## SUBMISSIONS TO AEMC REVIEWS

- Regulatory arrangements for embedded networks (consultation paper), 17 May 2017
- Victorian Declared Wholesale Gas Market (assessment of alternative market designs paper), 10 May 2017
- Distribution market model (approach paper), 20 December 2016
- Victorian Declared Wholesale Gas Market, 29 November 2016

## OTHER SUBMISSIONS

- Gas Market Reform Group - Information Disclosure and Arbitration Framework (implementation options paper), 13 April 2017
- Independent review into the future security of the National Electricity Market (preliminary report), 14 March 2017

## Appendix 2—News releases and speeches

### NEWS RELEASES

- AER welcomes increased funding, 20 June 2017
- AER welcomes Finkel report on National Electricity Market, 9 June 2017
- Ausgrid provides court enforceable undertaking and pays \$100 000 in penalties for alleged breaches of its life support obligations, 7 June 2017
- AER State of the energy market report highlights sector challenges, 30 May 2017
- Federal Court judgement on AER electricity and gas price decisions disappointing outcome for NSW and ACT consumers, 24 May 2017
- Decision on TasNetworks electricity network charges to ease pressure on electricity bills, 28 April 2017
- Decision on Powerlink electricity network charges to ease pressure on electricity bills, 28 April 2017
- Decision on AusNet electricity network charges to ease pressure on electricity bills, 28 April 2017
- Origin Energy fined \$20 000 for alleged failure to submit accurate data on its market performance, 5 April 2017
- The Body Corporate for Freshwater Point CTS 35855 granted individual exemption, 16 March 2017
- ACT consumers will have greater choices to manage their electricity bills, 28 February 2017
- South Australian consumers will have greater choices to manage their electricity bills, 28 February 2017
- NSW consumers will have greater choices to manage their electricity bills, 28 February 2017
- Queensland consumers will have greater choices to manage their electricity bills, 28 February 2017
- Former Urth Energy customers transferred to new retailers, 2 February 2017
- Simply Energy fined \$60,000 for alleged failure to obtain consent before switching customers, 24 January 2017
- AGL and EnergyAustralia pay penalties for alleged failure to follow electricity market dispatch and offer rules, 13 January 2017
- Infringement notices issued to electricity distribution businesses for alleged breaches of the life support rules, 19 December 2016
- AER releases findings on smart meter spending, 16 December 2016
- Robust guideline will give consumers better energy choices, 30 November 2016
- Annual benchmarking report shows improvement in electricity network productivity, 30 November 2016
- New framework will assist Tasmanian energy customers, 22 November 2016
- New assistance available for ACT households, 22 November 2016
- Big savings available on electricity in South Australia, 22 November 2016
- New assistance available to NSW energy customers, 22 November 2016
- New assistance available to Queensland energy customers, 22 November 2016
- Mixed results in retail energy market, 22 November 2016
- AER approves network tariffs for Victorian electricity customers in 2017, 9 November 2016

Tribunal confirms AER approach to setting South Australian electricity network prices, 28 October 2016

TasNetworks electricity distribution network charges fall under draft determination, 29 September 2016

Powerlink electricity network charges fall under draft determination, 29 September 2016

Lower network revenues proposed for transmission and distribution networks, 29 September 2016

AER appoints Consumer Challenge Panel to advise on energy network costs, 29 September 2016

Stockland pays \$100 000 in penalties for allegedly selling energy without appropriate authorisation, 13 September 2016

AER approves Victorian energy distributors' tariff statements, 24 August 2016

AER releases draft ring-fencing guideline, 15 August 2016

AER seeks amendments to ActewAGL Tariff Structure Statement, 2 August 2016

Changes required to NSW Tariff Structure Statements, 2 August 2016

AER releases draft decision on SA Power Networks Tariff Structure Statement, 2 August 2016

AER releases draft decision on Energex and Ergon Energy Tariff Structure Statements, 2 August 2016

AER proposes stable transmission charges in Victoria, 20 July 2016

Three energy distributors pay \$120 000 in penalties for alleged breaches of the life support obligations, 19 July 2016

Energy regulator proposes network planning reforms, 14 July 2016

CS Energy pays penalties and provides court enforceable undertakings to the AER, 4 July 2016

## SPEECHES AND PRESENTATIONS

Paula Conboy delivered a speech at a NAB Client lunch, Melbourne, 19 July 2016

Paula Conboy presented to the Clean Energy Regulator, Canberra, 26 July 2016

Cristina Cifuentes delivered a speech at the 2016 Energy Networks Association Regulation Seminar, Brisbane, 3 August 2016

Paula Conboy provided opening remarks at the ACCC/AER Regulatory Conference, Brisbane, 4 August 2016

Cristina Cifuentes delivered a speech at the 2016 Energy Networks Association Regulation Seminar, Brisbane, 4 August 2016

Michelle Groves was a discussant at the Women in Energy Breakfast, Perth, 25 August 2016

Michelle Groves was a discussant at the Energy in Western Australia Conference, Perth, 25 August 2016

Michelle Groves was a discussant at the Essential Services Commission Victoria, Melbourne, 19 September 2016

Paula Conboy presented at the Asia Pacific Energy Regulatory Forum, Seoul, 27 September 2016

Paula Conboy delivered a speech to the Commonwealth Bank Infrastructure, Utilities and Renewables team, Melbourne, 12 October 2016

Paula Conboy delivered a speech at an Ernst & Young Women in Utilities lunch, Melbourne, 18 October 2016

Michelle Groves delivered a speech at the NZ Smart Grid Forum, Wellington, 18 October 2016

Paula Conboy was a discussant at the South Australian Council of Social Service Conference, Adelaide, 2 November 2016

Cristina Cifuentes delivered a speech at the OECD Network of Economic Regulators Conference, Paris, 3 November 2016

Michelle Groves was a discussant at the National Consumer Roundtable on Energy, Brisbane, 7 November 2016

Paula Conboy delivered a speech at the Committee for Economic Development of Australia Queensland Energy and Resources series, 9 November 2016

Paula Conboy presented to the ElectraNet Board, Adelaide, 23 November 2016

Chris Pattas delivered a speech at the Institute of Electrical and Electronics Engineers, Power and Energy Society, Innovative Smart Grid Technologies Asia Conference, Melbourne, 30 November 2016

Paula Conboy was a discussant at an Energy forum luncheon with Alan Moran, Melbourne, 1 March 2017

Paula Conboy presented to the International Energy Agency, Melbourne, 7 March 2017

Sebastian Roberts and Warwick Anderson met with delegates from Bhutan, Melbourne and Canberra, 14 March 2017

Michelle Groves met with the Guangxi regulator, Melbourne, 28 March 2017

Paula Conboy was a panellist at the Committee for Economic Development of Australia Securing Australia's Energy Future panel, Melbourne, 22 May 2017

Paula Conboy delivered a speech at the Energy Users Association of Australia national conference, Brisbane, 24 May 2017

Paula Conboy delivered a speech to the Canadian Australian Chamber of Commerce, Sydney, 1 June 2017

Paula Conboy delivered a speech at a Gilbert & Tobin boardroom lunch, Melbourne, 20 June 2017

Paula Conboy was a panellist at the Australian Energy Week session, Melbourne, 21 June 2017

## Appendix 3— Decisions, reports and consultations

### ELECTRICITY TRANSMISSION DECISIONS

- Draft decision: AusNet Services transmission determination 2017–22, July 2016
- Draft decision: Powerlink transmission determination 2017–22, September 2016
- Decision: Approved a network support pass through for ElectraNet, November 2016
- Decision: Approved the cost allocation method for TransGrid, January 2017
- Final decision: Powerlink transmission determination 2017–22, April 2017
- Final decision: AusNet Services transmission determination 2017–22, April 2017
- Decision: Approved a negative cost pass through for AusNet Services for Easements tax change, May 2017

### ELECTRICITY DISTRIBUTION DECISIONS

- Decision: Approved demand management incentive scheme expenditure for 2015 and 2014–15, July 2016
- Decision: Energex—Ring fencing waivers 2016, August 2016
- Draft decision: TasNetworks distribution determination 2017–19, September 2016
- Decision: Approved annual tariffs for 2017 for Victorian businesses, November 2016
- Decision: Approved annual tariffs for 2017–18 for Power and Water Corporation, February 2017
- Final decision: TasNetworks distribution determination 2017–19, April 2017
- Decision: Approved annual tariffs for 2017–18 for Queensland, South Australia, New South Wales and ACT businesses, May 2017
- Decision: Victoria F-factor scheme determination 2016–20, June 2017
- Decision: Approved annual tariffs for 2017–18 for TasNetworks, June 2017
- Decision: SA Power Networks—Ring fencing waiver 2017, June 2017

### GAS TRANSMISSION AND DISTRIBUTION DECISIONS

- Decision: Approved a cost pass through for Jemena Gas Networks for unpaid distribution charges, September 2016
- Decision: Approved a cost pass through for AusNet Services for gas mains replacement, September 2016
- Decision: Approved annual tariffs for 2017 for Victorian businesses and AGN (Albury), November 2016
- Decision: Approved annual tariffs for 2017–18 for Central Ranges Gas Network, ActewAGL, April 2017
- Decision: Approved annual tariffs for 2016–17 for South Australia businesses, May 2017
- Decision: Approved annual tariffs for 2017–18 for Jemena Gas Networks, June 2017

## RETAIL ENERGY MARKET DECISIONS

Electricity retailer authorisations

Granted Energy Locals an electricity retailer authorisation, July 2016

Granted Online Power and Gas (OPG) an electricity retailer authorisation, December 2016

Granted Sustainable Savings an electricity retailer authorisation, April 2017

Granted Positive Energy TM Pty Ltd an electricity retailer authorisation, June 2017

Refused Ultium Energy an electricity retailer authorisation, January 2017

## GAS RETAILER AUTHORISATIONS

Granted Savant Energy Power Networks (Gas) a gas retailer authorisation, July 2016

Granted WINconnect Pty Ltd (Gas) a gas retailer authorisation, July 2016

Granted Weston Energy Pty Ltd a gas retailer authorisation, September 2016

## INDIVIDUAL EXEMPTIONS

Granted Australian Unity Retirement Living Services (residential retrofit) (NSW) an individual exemption for the sale of electricity, June 2017

Granted Stucco Co-operative an individual exemption for the sale of electricity, November 2016

Granted Energize Energy Pty Ltd an individual exemption for the sale of electricity, September 2016

Granted Couran Point Services Pty Ltd (Stradbroke Island) an individual exemption for the sale of electricity, November 2016

Granted The Body corporate for Freshwater Point CTS 35855 an individual exemption for the sale of electricity, February 2017

Refused Charter Hall Holdings Pty Ltd (Brickworks Marketplace) an individual exemption for the sale of electricity, December 2016

Granted Park Avenue at South Bank an individual exemption for the sale of electricity, December 2016

Granted Lend Lease Property Management (Australia) Pty Limited (Macarthur Square Shopping Centre) an individual exemption for the sale of electricity, March 2017

Granted The Body Corporate of The Waratah Main Beach CTS 16570 an individual exemption for the sale of electricity, June 2017

## RETAILER OF LAST RESORT

Appointed a default Retailer of Last Resort for gas customers connected to the Shoalhaven gas network, March 2017

## HARDSHIP POLICIES

Approved a hardship policy for Sumo Power Pty Ltd, August 2016

Approved a hardship policy for Energy Locals, October 2016

Approved a hardship policy for OC Energy, March 2017

## REPORTS

Compliance Check—contract price variations, July 2016

Transmission service standards compliance reports 2015 for ElectraNet, Directlink and TransGrid, July 2016

Prices above \$5000/MWh—7 July 2016 (SA)

Prices above \$5000/MWh—13 July 2016 (SA)

Prices above \$5000/MWh—14 July 2016 (SA)

FCAS prices above \$5000/MW—11 August 2016 (SA)

FCAS prices above \$5000/MW—1 September 2016 (SA)

FCAS prices above \$5000/MW—16 September 2016 (SA)

AER Annual Report 2015–16, October 2016

ACCC and AER Annual Report 2015–16, October 2016

FCAS prices above \$5000/MW—18 October 2016 (SA)

AER annual report on the performance of the retail energy market 2015–16, November 2016

AER National Energy Retail Law annual compliance report 2015–16, November 2016

Distribution network service providers 2016 benchmarking report, November 2016

Transmission network service providers 2016 benchmarking report, November 2016

Prices above \$5000/MWh—18 November 2016 (NSW)

Prices above \$5000/MWh—1 December 2016, 12.16 am event (SA)

Prices above \$5000/MWh—1 December 2016, 10.30 am (SA)

Roll forward model (distribution) amendment, December 2016

Prices above \$5000/MWh—13 January 2017 (QLD)

Prices above \$5000/MWh—14 January 2017 (QLD)

Prices above \$5000/MWh—2 February 2017 (QLD)

Prices above \$5000/MWh—6 February 2017 (NSW/QLD)

Prices above \$5000/MWh—8 February 2017 (SA)

Prices above \$5000/MWh—9 February 2017 (NSW)

Prices above \$5000/MWh—9 February 2017 (SA)

Prices above \$5000/MWh—10 February 2017 (NSW/QLD)

Prices above \$5000/MWh—11 February 2017 (QLD)

Prices above \$5000/MWh—12 February 2017 (Qld)

Significant price variation report—21 November 2016 (Adelaide STTM), March 2017

State of the Energy Market, May 2017

Overview of annual compliance reports by gas distribution and transmission pipelines for 2015–16, June 2017

Quarterly compliance report: national electricity and gas laws, August 2016, November 2016, March 2017, June 2017

Economic Benchmarking RIN information and Category Analysis RIN information, October 2016, November 2016, June 2017

Compliance Check—billing complaints and incorrect charges, June 2017

Compliance Check—calculating and basis for bills, June 2017

Compliance Check—bill content, frequency and payment method, June 2017

Electricity reports, weekly

Gas reports, weekly

Guidelines and other consultation

Electricity ring-fencing guideline, November 2016

Network service provider registration exemption guideline, December 2016

AER Sustainable Payment Plans Framework, July 2016

Review of the Minimum Disconnection Amount, March 2017

AER Compliance Procedures and Guidelines, June 2017

