30th August 2013

Ms Jacqui Thorpe
General Manager – Retail Markets
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Submitted online at: AERInquiry@aer.gov.au

Dear Ms Thorpe

Re: EnergyAustralia response to the draft AER Stakeholder Engagement Framework

1. Introduction

EnergyAustralia is one of Australia's largest energy companies, providing gas and electricity to over 2.7 million residential and business customers. EnergyAustralia owns and operates a multi-billion dollar portfolio of energy generation and storage facilities across Australia including coal, gas and wind assets with control of over 5,600 MW of generation in the National Electricity Market (NEM).

Our position as one of the leading energy retailers and wholesalers in Australia and our reliance on distribution and transmission networks means that we are in frequent contact with the AER on energy regulation and compliance matters across the entire range of the AER's activities. It's therefore very important to us to engage effectively with the AER and we are pleased to have the opportunity to participate in this consultation on the AER's Draft Stakeholder Engagement Framework (Draft Framework).

Overall, we support the intention of the Draft Framework and the principles stated by the AER to establish and improve communication and engagement with stakeholders.

At a high level, the engagement principles are sensible and straightforward. The Productivity Commission has outlined principles of good governance for a regulator and in the area of stakeholder engagement the relevant principles are that the regulator:[1]

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[1] Productivity Commission, Electricity Network Regulatory Frameworks, Inquiry report, 26th June 2013, Box 21.1, page 765

- *"consults with the wider community in making decisions and taking actions*
- *has the trust and confidence of all its stakeholders*
- *is transparent about its decisions and actions*
- *is timely in its decisions and actions"*

These objectives generally align with those proposed by the AER, however we encourage the AER to include the aim to have or gain "the trust and confidence of all its stakeholders" as a specific objective in the final Framework. Many of the other principles outlined in the Draft Framework will assist in the achievement of the aim to gain stakeholders' trust and confidence, but we believe it is important to include this objective separately. Although a regulator has a role that includes control and enforcement, this role is not incompatible with a regulator building a sense of trust and confidence by listening to stakeholder concerns and being consistent, fair and transparent in making decisions.

In the sections below, we discuss and provide feedback on each principle.

2. Clear, accurate and timely communication

Reports and determinations

All stakeholders benefit from reports and determinations that are clear, well structured and written in plain English. Overall, we find that the AER consistently produces high quality reports, but we suggest several areas where these documents could be improved.

- **Accessibility and ease of understanding:** At times, we find AER documents, particularly network determinations and decisions, to be somewhat impenetrable or inaccessible as they often contain series of long statements of fact without an obvious narrative.[2] Clearly, much of the industry and regulatory terminology is unavoidable and we are not suggesting that it be removed. We recognise that simpler terms could dilute the meaning and regulatory intent of the decision. However, the accessibility to stakeholders could be improved by laying out the text differently, making the text more succinct and adding context and commentary to assist the reader.
- **Summary of impacts to affected stakeholders:** As a retailer, we often review the AER's decisions on network reviews to assess impacts on the costs we pass through to customers. The summaries for cost pass through decisions and other determinations often contain useful information about the magnitude and timing of the impact on customers.[3] However, at other times, we find it very difficult to assess flow on impacts to customers even after reading the whole document.[4] It would be useful if the AER could include a section or summary in all pricing related determinations that clearly specifies the impacts to affected stakeholders.

Clear and timely communications

We are generally satisfied with the regular AER email and website updates, and in particular find the quarterly wholesale market compliance reports and annual strategic compliance priorities

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[2] For example: AER, SA Power Networks cost pass through application for Vegetation management costs arising from an unexpected increase in vegetation growth rates, Final Decision, July 2013, pages 11-12
[3] For example: AER, SA Power Networks cost pass through application for Vegetation management costs arising from an unexpected increase in vegetation growth rates, Final Decision, July 2013, page 7
[4] For example: AER, Jemena Gas Networks (NSW) cost pass through event application – Decision, May 2013

informative and useful. However, we would like more information on upcoming events and project milestones:

- **Emails:** The regular email updates are our primary means of finding out the latest information on the AER's work program. These are timely, useful and clear.

- **Timely publication of proposals & decisions:** For network pricing approvals, we are particularly reliant on the AER publishing information in a timely manner. Earlier this year, we worked with the Energy Retailers Association of Australia (ERAA) to request a number of simple and straightforward improvements to the annual network price approval process and communication steps that would assist retailers in getting final network prices as early as possible.[5] These steps included:

    o   using the same publication and approval process for gas distribution tariffs as used for electricity distribution tariffs;

    o   communicating (at least a week in advance) the dates that the AER board would be meeting to consider approval of the network prices for each distributor;

    o   publishing any new or updated distribution proposals and the final approvals on the AER site within 24 hours of being provided or approved; and

    o   allowing the network tariffs for each state or fuel to be approved and released separately when ready rather than to wait for all tariffs to be approved at the same board meeting.

    These steps helped to improve the process for retailers in the mid 2013 network pricing process.

- **Summary of key consultation dates:** We also find it useful to understand the consultation timeframes and see at a glance where the process is up to. For example, the tables provided in electricity distribution determinations are ideal, but are usually contained in a large document found amongst various other documents on the relevant AER website page.[6] Some of this information is contained in the text on the website page, but is not easy to review quickly. It would be ideal if a summary table of the consultation steps could be made more readily accessible on the specific AER review page (see discussion on 'node' pages in the section below).

- **Calendar of key events:** It would benefit all stakeholders if the AER provided a more holistic view of dates and events. We recognise and appreciate the newsletters provided by the AER, which contain a calendar of events for the coming two months on specific work programs.[7] However, we would appreciate having visibility of a full year calendar with indicative dates for all major AER programs and work streams that is updated periodically throughout the year. The details contained in the AER Strategic Priorities and Work Program 2013-14 are useful and do contain some dates,[8] but not at a level that allows us to predict when activities are likely to begin. This level of detail would help stakeholders plan for consultations and likely improve the quality of submissions to the AER.

AER website

As the primary means of communication with stakeholders, it's vitally important that the AER focus on the quality and ease of use of their website. We find the AER website contains all the required information and that documents can be found quickly when you know what you want; however, some of the layout and functionality of the site could be improved.

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[5] ERAA, Letter to Andrew Reeves on annual network pricing approval, 16th April 2013
[6] For example: AER, Stage 1 Framework and approach paper Ausgrid, Endeavour Energy and Essential Energy Transitional regulatory control period 1 July 2014 to 30 June 2015 and Subsequent regulatory control period 1 July 2015 to 30 June 2019, Table 1, page 6 (found at http://www.aer.gov.au/node/11483)
[7] For example: AER, "Better Regulation Update – August 2013" newsletter
[8] For example: AER Strategic Priorities and Work Program 2013-14, page 9

We offer the following comments and suggestions on the main features of the AER site:

- **AER home page:** The front page on the AER site shows the open projects and the latest news in addition to the navigation panel (see below). It's useful that the open projects are given a prominent position on the site, although it would be good if this date information were also listed for upcoming milestones (e.g. the dates when submissions close, or a draft or final decision is expected, etc.). The latest news section is also useful but its layout could be improved so it is easier to read.

- **Navigation panel**: The navigation panel on the left hand side of the page can be cumbersome to use. For example, to access network price determinations or cost pass through reviews requires three clicks, whereas other websites allow sub menus to open up more quickly if the arrow hovers over the relevant menu option.

- **General search functionality:** The search function (top right hand corner) works quickly and effectively.

- **Filter-based search functionality:** Many of the AER pages rely on filtered search forms. These are easy and quick to use if you know which navigation option to select. However the main problem with these filter forms is that if you return to your search (using the back button on your browser), the information originally selected in the filter is erased and you have to re-select all options again if needed. We frequently want to look at multiple results from these filter searches, and this lack of persistence of search terms is very frustrating.

- **'Node' page layout:** Each review or document is located on a 'node' page (e.g. http://www.aer.gov.au/node/2464), which describes the type of review or issue and lists relevant dates, documents and communication notes. These pages do contain all the relevant information; however, we find the layout to be difficult to review and navigate to find the right information. The more documents listed in the 'Milestones' section and communication notes in the 'Overview' section, the more complicated and time-consuming it is to understand the sequence of events and the current status.[9] Although these pages are somewhat intuitive and are used consistently throughout the site, they are not as visually clear as they could be and much of the useful information that we and other stakeholders might like is buried in some of the documents (e.g. a summary table of consultation steps mentioned earlier).

3. Accessible, inclusive and timely engagement

Principle 2 expresses the intent of the AER to seek out stakeholders and provide them with information to enable meaningful participation in AER activities, processes and decisions. In our view, it's important that engagement should be timely as well as accessible and inclusive and this should be reflected in the statement of the principle. Many of the AER's reviews and compliance responsibilities are detailed and complex so timely engagement of stakeholders is the key to encouraging them to participate effectively.

We appreciate the accessibility and responsiveness of the AER when contacted on specific issues and make the following suggestions to assist in engaging more broadly with stakeholders in an accessible, inclusive and timely manner:

- **Consultation timeframes:** The AER sometimes provides for an extensive review phase, but other projects can feel rushed. For most reviews, a response time of four weeks is

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[9] For example: The SP AusNet electricity distribution determination 2011-15 page (http://www.aer.gov.au/node/7211)

usually sufficient for stakeholders to draft a submission to the AER. Although, depending on the complexity of the review, more or less time may be required. As we are not involved in the network business, it can be challenging for us to respond to network reviews with very tight timeframes (such as cost pass through reviews) when we are less familiar with the subject matter. At times, the AER may benefit from extra time in the consultation process to seek clarity on industry issues.[10]

One area that the AER would have benefited from more consultation was around the Retail Pricing Information Guideline (June 2012). The AER did not undertake any formal engagement on the guideline, despite it having a significant impact on retail operations. Had consultation been undertaken the AER may be better able to understand the resource implications of the requirements in the guideline.

- **Workshops:** The AER already runs many workshops (for example for Better Regulation activities) and we value highly this face-to-face interaction with the AER and other stakeholders. For any consultations that are complex or broad ranging, it would be useful to have a workshop the week before submissions are due. This can help stakeholders to clarify their understanding of key points and focus their arguments in their submissions.

   We recognise that it's difficult to run workshops and other meetings when stakeholders need to participate via teleconference/video conference, but we encourage the AER to continue to run workshops, extend their use where appropriate and to consider streamlining the facilitation of teleconferences/video conferences where they become time-consuming or tedious.

- **High-level forums:** At senior levels, the majority of our contact with the AER is via ad hoc meetings. Senior representatives from the AER and stakeholder bodies may benefit from a regular (annual or bi-annual) forum on the AER's work program and strategic priorities. Possibly these could be held separately for wholesale/network and retail markets.

- **Overlapping reviews:** We also believe that consultations could be better coordinated where issues and topics under review overlap with other regulators (e.g. AER, AEMC and to a lesser extent, AEMO). It is not uncommon for multiple energy market institutions to need to engage with the same set of stakeholders on similar issues at the same time. We encourage the AER to explore opportunities to coordinate consultation with the AEMC and AEMO where relevant. There may be opportunities to avoid concurrent submission deadlines and even to coordinate the timing and location of information sessions or workshops where they are likely to be attended by similar stakeholders.

4. Transparency

Transparency is an important principle, but we feel that the description in the Framework is a little too narrow. The wording is:

> *"We will clearly identify and explain the role of stakeholders in the engagement process and communicate how their input affected the decision or project."*

Arguably, it is not enough that stakeholders have transparency of just their role in the engagement process. To the extent possible, they also need transparency of the process followed by AER (this is usually done well) and transparency around the content and substance of the AER's decision making to allow proper public scrutiny (this is not always done so well). Therefore, we believe the principle

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[10] For example when implementing the National Energy Retail Rules

of transparency should be extended to also refer to the transparency of the process and content of the AER's decision-making.[11]

One aspect of the AER's consultation documents that we value is the inclusion of a summary table that contains the points raised in submissions and details the AER's response to each.[12] However the responses are often brief and somewhat confusing, more detail is required so that we can be better informed for future submissions. Including a summary of submission points is an example of process transparency and demonstrates that the AER has heard all the arguments. It allows for better two-way communication between the AER and stakeholders and facilitates progression of the debate.

On the other hand, providing the right amount of information to allow stakeholders to understand and scrutinise the decision (content transparency) can often be more difficult. Some of the hurdles that are challenging to overcome are the level of knowledge of stakeholders and the amount of information that must often remain confidential. In the past, we have found we can get a better insight into the issues and decision-making by the AER if we organise a face-to-face meeting. On the occasions we've done this, the AER have willingly accommodated our request to meet and have been very helpful. However, there are many consultations we don't respond to and don't engage proactively on, mostly through lack of ability to understand and engage meaningfully without additional information or assistance in the allowed timeframe. In this area, we believe that the AER could improve stakeholder engagement through clearer documentation and workshops (as outlined earlier).

5. Evaluating performance

We agree that regular evaluation of any stakeholder engagement and communication activities is necessary to assess performance and identify ongoing improvements. Evaluation can generally be carried out in two different ways: via internal assessment of AER stakeholder activities against plan[13] and by seeking external feedback from stakeholders (e.g. a survey).

The AER has been surveying external stakeholders triennially since at least 2008, however we note that the 2011 results showed a decline in stakeholder satisfaction compared to the prior survey.[14] The results are presented at quite a high level and may not have assisted the AER in understanding what improvements could be made to improve engagement levels for stakeholders. EnergyAustralia is willing to work with the AER to discuss opportunities for improved engagement and communications between our organisations if the AER seeks additional input.

6. Summary

The AER's Draft Framework outlines a straightforward and appropriate approach for establishing the AER's stakeholder engagement and communications activities and evaluating the perceptions of stakeholders. In our view, the Draft Framework should include the aim to build the trust and confidence of stakeholders in the AER's consultation and decision-making roles. We also make suggestions for broadening the descriptions of principles 2 and 3 to include 'timely' stakeholder

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[11] Some of the points in the "How will we do this?" section under the transparency principle do touch on the process transparency.
[12] For example: AER, Access arrangement draft decision - Envestra Ltd - 2013–17, Part 1, September 2012, Appendix D, pages 90-99
[13] We note that the Draft Framework is inherently a very high-level document and evaluation requires more detailed, measurable objectives that are typically developed later on in the process.
[14] Buchan, Australian Energy Regulator: 2011 Stakeholder Survey Report, September 2011

engagement and ensure that transparency of content and decision-making is included along with transparency of process.

As a stakeholder, we are involved with projects across the entire AER work program and we value the time and effort the AER puts into communications, workshops and other stakeholder engagement initiatives. In terms of ongoing improvements, we consider that the proposals of most benefit to stakeholders are:

- improving the accessibility and ease of understanding of decision documentation;
- having clearer 'node' pages and the inclusion of summaries of key consultation dates;
- improving filter search forms; and
- engaging stakeholders early, allowing four weeks for submission responses and running workshops one week before submissions are due.

If you would like to contact me about this submission, please call me on (03) 8628 1242.

Yours sincerely

Melinda Green
Regulatory Manager – Pricing