



# STATEMENT OF INTENT 2017–18



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# Statement of Intent 2017–18

The COAG Energy Council and the Australian Government in 2014 published separate statements of expectations for the Australian Energy Regulator (AER) under accountability and performance frameworks. Both statements are published on the AER website.

This *Statement of Intent* sets out how we intend to meet the Energy Council's and the Australian Government's expectations of us in 2017–18. Our *Work Program* details how we will meet expectations at a more granular level, including performance indicators to measure our progress.

The Energy Council in August 2017 tasked the Energy Security Board with developing a new Statement of expectations for the AER by mid-2018. It is also working with the Commonwealth Treasurer to streamline the current dual statements of expectations where possible.

# Our role in energy markets

The AER regulates energy markets and networks in jurisdictions other than Western Australia. Our specific responsibilities vary across jurisdictions, as detailed in our *Work Program 2017–18*.

The energy market is in transition, and our work takes place in the context of significant technological, behavioural and systemic change. Our work places consumers at the heart of this transition, as we play our part in delivering a secure, reliable and affordable energy future for Australia. This means contributing our expertise and insight to policy debates, regulating in a flexible way that fosters innovation, and ensuring consumers are supported as the market evolves. We work in partnership with other energy market bodies and the Energy Council to provide strong governance and to ensure our work programs aligns with broader energy priorities so reforms can be streamlined and efficiently sequenced.

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

1. drive effective competition where it is feasible
2. provide effective regulation where competition is not feasible
3. equip consumers to engage effectively, and protect those who are unable to safeguard their own interests
4. use our expertise to inform debate about Australia's energy future, the long-term interests of consumers and the regulatory landscape
5. 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 in 2017–18 is to:

- determine how much revenue network businesses can earn from transporting energy to customers via electricity poles and wires and gas pipelines
- build consumer confidence to make informed choices when choosing an energy contract, through our price comparator website (Energy Made Easy), by disseminating useful information and making vulnerable consumers aware of protections that are available
- monitor wholesale energy markets for market manipulation and report on our findings
- help guide and implement market reforms giving consumers more control over their energy choices
- ensure energy businesses comply with relevant legislation and rules, taking enforcement action where necessary
- help the community understand energy market issues, including through our flagship *State of the energy market* report.

As a member of the Energy Security Board, we also help oversee implementation of reforms arising from the *Independent Review into the Future Security of the National Electricity Market* (Finkel review). The Board comprises an independent chair and deputy chair, the chairs of the AER and the 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. We also support the Energy Council, with advice on energy market activity and issues as they arise.

Additionally, we assist the Australian Competition and Consumer Commission (ACCC) on energy-related matters, including inquiries referred to it by the Australian Government (inquiries into wholesale gas and retail electricity markets are occurring in 2017–18). More generally we assist the ACCC on energy issues arising under the *Competition and Consumer Act 2010*, including consumer protection, mergers and authorisations.



# Meeting the COAG Energy Council's expectations

The COAG Energy Council in 2014 laid out its expectations of the AER under an accountability and performance framework. Its expectations relate to four key areas—supporting the Energy Council; being accountable and transparent; engaging constructively with stakeholders; and working productively with other institutions.

The following statement outlines at a high level how we propose to meet these expectations in 2017–18. Our *Work Program 2017–18* explains in more detail how each of our work program areas meet the Energy Council's expectations, and sets out performance measures to assess our progress. Our annual report assesses how effectively we perform against those measures.

## Supporting the COAG Energy Council

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 issues, and draw on our expertise to engage in policy reviews and rule change processes initiated or approved by the Council. Additionally, we help implement reforms arising from these processes.

During 2017–18, we will play our part in implementing Energy Council initiatives that include:

- *Power of choice* reforms promoting efficient use of energy networks and empowering customers to make informed choices about their energy use
- new performance reporting on competition in the National Electricity Market (NEM)
- streamlining regulatory frameworks to more effectively integrate emerging technologies and business models
- with the Energy Security Board, implementing reforms arising from the Finkel review, including a new data strategy for the NEM, a health of the NEM report, initiatives to prepare the electricity market for summer 2018–19, and measures to improve generator reliability
- reforms to the regulatory framework for gas, including a new commercial arbitration framework for gas pipelines, pipeline capacity trading reforms, improved transparency on liquidity in gas and pipeline capacity trading markets, and market design reforms.

## Accountability and transparency

We adopt accountable and transparent processes across our work program, including:

- publishing an annual *Statement of Intent* setting out our objectives, supported by details on our work program and specific areas of focus
- developing and publishing performance indicators and deliverables (set out in our *Work Program*)
- reporting against our performance (including performance indicators and deliverables) in our Annual Report
- reporting on how funds have been spent in our Annual Report and the joint ACCC & AER Annual Report
- publishing a statement of approach to compliance and enforcement, and reporting on outcomes of our enforcement activity.

## Stakeholder engagement

Proactive engagement with our stakeholders—consumers, energy businesses and other regulatory bodies—is an essential feature of our regulatory and compliance work. At a high level, we periodically survey our stakeholders to identify areas where our performance and capabilities can be improved. Our next survey will be conducted in 2018, and the results published in our 2017–18 Annual Report. Our 2016 survey identified areas where we could do better, and we are consulting further on these issues to develop a new Stakeholder Engagement Framework during 2017–18.

During the year we will keep exploring ways of making dialogue with our stakeholders more constructive. In particular, we are looking to engage with consumers and network businesses to identify key issues earlier, and work collaboratively to resolve them. We are similarly moving to create more open dialogue in areas such as guideline development, including wider use of industry and stakeholder workshops where contentious issues can be openly discussed. As part of this strategy, the AER in August 2017 announced a new joint initiative with Energy Networks Australia and Energy Consumers Australia to explore ways of improving sector engagement, and identify opportunities for regulatory innovation.

More generally, we are striving to better communicate our work to stakeholders so they have the best opportunity to participate in our decisions and outcomes.

## Working productively with other institutions

We work productively at Board and staff level with other energy market bodies—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. As a member of the Energy Security Board, we also work in direct partnership with other member institutions.

Memoranda of understanding between the AER and other agencies set out expectations for information sharing, coordination of activities, consultation and other communication. We have memoranda of understanding with the AEMC, AEMO, the

Clean Energy Regulator, Energy Safe Victoria, the Commonwealth Department of Human Services, and jurisdictional regulators and ombudsmen.

We also engage with agencies such as the Australian Securities and Investments Commission 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 2017–18, our staff are also assisting the ACCC in the conduct of major inquiries directed by the Australian Government into:

- the supply of retail electricity and the competitiveness of retail electricity prices, initiated in March 2017 and due to run until 30 June 2018
- wholesale gas markets in eastern Australia, initiated in April 2017 and expected to run over three years, with six-monthly reporting.

# Meeting the Australian Government's expectations

The Australian Government in 2014 set out expectations of how regulators should undertake their functions with the minimum impact necessary to achieve regulatory objectives. The Government's vision set out in the statement is for the AER to be a high performing and consultative agency that administers principles-based regulation in ways that promote the long term interests of consumers, while minimising compliance costs.

The AER strives for best practice regulatory methods in undertaking our functions. We want to see successful businesses thrive in competitive markets and be appropriately rewarded, supported where necessary by regulation to advance the long-term interests of consumers. We understand the diversity of energy consumers, whether households, small businesses or larger users. Their differing abilities to protect their own interests in the market require varying levels of intervention by us.

We want to be—and be recognised as—a high performing regulator. We are independent, open and accountable. We are ready to explore the boundaries of regulation and, where necessary, take considered risks. Our insight into how the regulatory system is working in practice means we have a responsibility to help make the regime fit for purpose and able to cope with future challenges.

We engage actively with those affected by our work—consumers, businesses and other stakeholders. This helps us make better decisions, provides greater transparency and predictability, and builds trust in Australia's energy system. In pursuing this vision, we:

- strive for open and transparent relationships with the businesses we regulate
- act in accordance with regulatory best practice in our decision-making, policies, processes and communication practices to maximise efficiency, effectiveness and transparency, while minimising compliance costs
- regularly review our policies and procedures to identify improvements
- apply principles-based regulation targeting outcomes rather than prescribing how outcomes should be achieved
- adopt a risk-based approach to compliance obligations, engagement and enforcement, with approaches proportionate to the size, nature, complexity and risk of regulated entities (while recognising that not all risks can be eliminated and some trade-offs are necessary)
- work with Treasury, the Department of the Environment and Energy, the Energy Council and AEMC to scope how the regulatory framework can be improved.

Our *AER Work Program 2017–18* sets out performance measures we apply to assess our performance in meeting these principles, as set out in the Australian Government's Regulator Performance Framework (2014). It also sets out how these principles are reflected in our approach to each work program area. Our Annual Report assesses how effectively we achieve these measures.

# Our work in 2017–18

Our strategic planning and work program is informed by the Energy Council's priorities, including its critical focus on energy prices and energy market security. We will continue to contribute our expertise and insight to these important policy issues in 2017–18 and, with the Energy Security Board, will help implement reforms arising from the Finkel review.

Separately, we will launch a new report monitoring the competitiveness of the NEM electricity market, including any barriers to competition. An inaugural report, focusing on market impacts of the closure of Victoria's Hazelwood Power station, is scheduled for March 2018. In gas, we are helping implement market and pipeline reforms led by the Gas Market Reform Group, and are providing staff and expertise to support a major ACCC gas market inquiry.

In retail, a key focus for us in 2017–18 is to equip consumers with the best possible tools to negotiate recent rises in energy bills. We are working with retailers, consumer representatives and other stakeholders to implement agreements between the Prime Minister and eight energy retailers made in August 2017 to ensure customers get the information they need to prompt them to investigate the energy market, compare plans and providers and choose the best deal for them. In pursuing this, we are exploring measures including improvements to energy price fact sheets, introducing a comparator rate or reference price, technological solutions making it easier to engage in the market, and more tailored solutions for customers who don't use online tools. Alongside this, we will continue our work to help consumers understand their rights and options, and so encourage them to engage confidently with our Energy Made Easy website to switch to the best available energy offer. We are also intensifying outreach to vulnerable customers, including through campaigns to raise awareness of hardship programs and other protections that are available.

Additionally, we are providing staff and expertise to support the ACCC's inquiry into retail electricity prices, commissioned by the Australian Government, and due to report in June 2018.

In the network sector, we are developing tools to support better regulation, including new performance monitoring and reporting to help consumers see whether network businesses are delivering on the services their bills pay for. More generally, we are developing and applying regulation that is flexible and fosters innovation. This reflects feedback from stakeholders to move from a sometimes overly legalistic and process-based approach to focus on innovation and adapting process to achieve good outcomes. In this spirit, we are continuing to move away from previous adversarial approaches to a more collaborative style that identifies issues earlier and works proactively to resolve them. This approach offers opportunities to significantly reduce the regulatory costs borne by businesses and consumers alike. We are applying a similar philosophy to guideline development, such as our upcoming review of the regulated rate of return for network businesses.

The Australian Government in 2017 significantly increased the AER's 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.

During 2017–18, 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 happening in the market by increasing our capability in policy analysis and horizon scanning. We will contribute this expertise and insight to policy debates and work in partnership with the Energy Council and the Energy Security Board to develop and implement timely, effective reform.