



STATEMENT OF INTENT 2015–16



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Introduction

The COAG Energy Council (previously the Standing Council on Energy and Resources) in March 2014 outlined its expectations of the Australian Energy Regulator (AER) under an accountability and performance framework. The statement (appendix 1) sets out the Council's expectations about our roles and responsibilities, our relationship with government, issues of transparency and accountability. In response, this *Statement of Intent* sets out how the AER will meet the Council's expectations during 2015–16. The statement also sets out deliverables and performance indicators to measure our progress in meeting expectations.

The statement also responds to the Australian Government's *Regulator performance framework* (October 2014), on undertaking regulatory functions with the minimum impact necessary. While the framework does not formally cover the AER, we apply measures to assess our performance against it.

Australian Energy Regulator

The AER regulates energy markets and networks under national legislation and rules. The Board is an independent entity, comprising three members who are statutory appointments.

Our functions, which mostly relate to energy markets in eastern and southern Australia, include:

- setting the amount of revenue that network businesses can recover from customers for using networks (electricity poles and wires and gas pipelines) that transport energy
- monitoring wholesale electricity and gas markets to ensure energy businesses comply with the legislation and rules, and taking enforcement action where necessary
- regulating retail energy markets in Queensland, New South Wales, South Australia, Tasmania (electricity only) and the ACT
- operating the Energy Made Easy website, which provides a retail price comparator and other information for energy consumers
- publishing information on energy markets, including the annual *State of the energy market* report, to assist participants and the wider community.

We support the COAG Energy Council, with regular briefings on energy market activity and by providing advice on energy market issues as they arise. We also work with other energy market bodies, including the AEMC and AEMO, on policy matters, rule change processes and market issues. Additionally, we assist the Australian Competition and Consumer Commission (ACCC) with energy-related issues arising under the *Competition and Consumer Act 2010*, including enforcement, mergers and authorisations.

Response to the COAG Energy Council's Statement of Expectations

To strengthen accountability and performance frameworks, the COAG Energy Council in 2014 developed a *Statement of Expectations* for the AER. In the statement (appendix 1), the Council outlines its expectations that the AER will:

- perform its legislative functions and implement a work program that supports the objectives set out in the national energy legislation
- adopt accountable and transparent processes, including by:
 - publishing a *Statement of Intent* for each financial year, outlining how we will meet the *Statement of Expectations*
 - publishing performance indicators in the *Statement of Intent*
 - reporting against our performance in the AER's *Annual report* and in supplementary half yearly reports
 - providing clear guidance on how the AER's funds have been spent
- effectively engage with market participants, consumers and government
- work productively with other market institutions in accordance with legislation and memoranda of understanding
- support the COAG Energy Council's work by providing it with advice on energy issues, reporting on the AER's priorities and work program and through clear communication on other matters as required.

Our core role

Our core role is to undertake functions set out in the national energy legislation. Our decision making is guided by the national energy objectives: 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. These objectives are reflected in our approach to energy network regulation (work program area 1), retail market regulation (area 2), wholesale market monitoring (area 3) and compliance and enforcement (area 4), and are mirrored in performance indicators for those program areas (pages 20–25).

Accountability and transparency

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

- publishing a *Statement of Intent* for the coming year that sets out our objectives, supported by details on our strategic priorities and work program
- developing and publishing performance indicators and deliverables (set out in this statement)
- reporting against our performance (including performance indicators and deliverables) in our *Annual Report* and in supplementary half yearly reports to the COAG Energy Council
- reporting on how funds have been spent in our *Annual Report* and the joint ACCC–AER *Annual report*
- developing framework and approach processes and draft decisions on regulatory reviews, and guidelines on our approach to regulatory functions, in consultation with stakeholders
- publishing a *Statement of approach* to compliance and enforcement, and reporting on outcomes of our enforcement activity.

Stakeholder engagement

We engage with consumers and market participants through a variety of forums, including through:

- meeting three times a year with our Customer Consultative Group, consisting of residential and small business energy customer intermediaries, including those representing disadvantaged and vulnerable customers
- our Energy Made Easy website, which provides information on the energy market, consumer protections and available energy offers. Improvements implemented in 2015 enhance accessibility and provide new tools, including for bill benchmarking
- a Consumer Challenge Panel that advises the AER whether network regulatory proposals are in the long term interests of consumers and whether network businesses engage effectively with their customers
- jurisdictional groups of stakeholders covering business and residential consumers, convened for regulatory reviews of network proposals
- consulting with energy businesses during regulatory review processes, guideline development, business forums and through informal engagement
- periodic stakeholder surveys to identify areas where we can improve our performance and capabilities.

During 2015–16 we will develop frameworks for constructive engagement with Energy Consumers Australia, the recently established national energy consumer advocacy body. We appointed Energy Consumers Australia to the Customer Consultative Group in 2015.

Working productively with other institutions

We work productively at Board and staff level with other energy market bodies. Memoranda of understanding between the AER and other energy agencies set out expectations for information sharing, consultation and other communication, and coordination of activities. We have memoranda of understanding with the Australian Energy Market Commission (AEMC), Australian Energy Market Operator (AEMO), the Clean Energy Regulator, Energy Safe Victoria and jurisdictional regulators and ombudsmen. We engage with these bodies, including through consultation on policy matters, rule change processes and administrative schemes (such as for optimising network investment and managing a retailer failure).

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

More generally, we make submissions on and help with energy policy matters relating to our functions, particularly where we have specialist expertise and knowledge. In 2015–16 we will assist with energy policy reviews and rule change processes, including on competition in metering and related reforms arising from the AEMC's *Power of choice* package, bidding in good

faith by electricity generators, the scope and coverage of regulatory investment tests and the *East Coast gas market and pipeline framework review*. We will also contribute staff and resources to the ACCC's inquiry into eastern and southern Australian wholesale gas prices.

The Australian Government's *White paper* identified a need to better coordinate and consolidate energy use data collected by different agencies. We will participate in processes and reform agendas arising from this initiative.

Supporting the COAG Energy Council

We support the COAG Energy Council by providing it with clear advice on energy issues as required. In particular, we brief Council meetings on key issues, and draw on our expertise to engage in rule change processes and policy reviews initiated or approved by the Council. In 2015–16 we will support the Council's reviews of governance arrangements for Australia's energy markets and of the national retail framework, and implement recommendations arising from its review of enforcement arrangements.

The COAG Energy Council in 2015–16 will examine how the National Energy Customer Framework has been applied across jurisdictions, and whether enhancements are needed to reflect changes in energy markets, including the introduction of new technologies, products and services. We will participate in this review.

More generally, our monitoring activity provides extensive information that supports our technical reporting and analysis. Our *State of the energy market* publication provides accessible information on market activity and dynamics.



Regulator performance framework

In undertaking our functions the AER has regard to good regulatory practice, including avoiding unnecessary or inefficient regulation. The Australian Government's *Regulator performance framework* (October 2014) sets out expectations of how regulators should undertake their functions with the minimum impact necessary to achieve regulatory objectives. Consistent with the COAG Energy Council's *Statement of Expectations*, the framework focuses on accountability and transparency in administering regulation. The framework identifies six indicators of good regulatory practice:

- regulators do not unnecessarily impede the efficient operation of regulated entities
- communication with regulated entities is clear, targeted and effective
- actions undertaken by regulators are proportionate to the regulatory risk being managed
- compliance and monitoring approaches are streamlined and coordinated
- regulators are open and transparent in their dealings with regulated entities
- regulators actively contribute to the continuous improvement of regulatory frameworks.

While the framework does not formally cover the AER, we have regard to these indicators in undertaking our functions. This report sets out measures we apply to assess our performance (pages 20–25).

Our work program for 2015–16

Our work program comprises ongoing functions that account for a significant portion of our strategic thinking and operating activity, as well as roles in energy policy and market development.

We have four ongoing work program areas in 2015–16:

1. energy networks
2. retail energy markets
3. wholesale energy markets
4. compliance and enforcement.

Within each program area we identify points of focus over the next 12 months.

Program area 1: Energy networks

We set the revenue that can be recovered by over 30 Australian energy network businesses from customers' use of electricity poles and wires, and gas pipelines to transport energy to customers. The businesses own assets valued at over \$90 billion. We typically undertake a full regulatory review of a network once every five years.

Energy consumers should pay no more than necessary for the safe and reliable delivery of electricity and gas network services. The AER makes decisions that promote efficient investment in, and efficient operation and use of, energy network services for the long term interests of consumers.

Reforms to energy network regulation were introduced in the past few years to encourage network businesses to seek out more efficient ways of providing services. New measures support continuing investment in essential services without requiring consumers to pay for excessive returns to network businesses. Further, the reforms provide more constructive approaches for us and network businesses to engage with consumers.

In 2015–16 we will apply the reforms to electricity distribution networks in Queensland, South Australia and Victoria, building on our recent experience in determinations for the New South Wales, ACT and Tasmanian networks. A number of network pricing reviews were delayed so they could be reviewed under the new framework, resulting in a build-up of work. We will complete reviews for 11 network businesses in 2015–16, publish a draft decision for another network and receive a further three regulatory proposals.

This peak workload puts significant pressure on the resources of all stakeholders. In this environment, our regulatory processes must be efficient and include effective consultation to balance the views and interests

The areas reflect challenges posed by our operating environment and projected market conditions:

- Our peak workload in the timing of regulatory reviews of energy networks continues over 2015–16, as we apply a revised regulatory framework to Queensland, South Australia and Victoria. We are also preparing for the Northern Territory's application of the National Electricity Law and will engage with West Australian officials on the law's application to network businesses in that state.
- Queensland's implementation of the National Retail Energy Law will extend the AER's focus on building consumer confidence in that market.

of stakeholders under the objectives of the National Electricity and Gas Laws.

We will continue to build on benchmarking tools assessing each business's comparative efficiency. The tools help us identify expenditure that may not be efficient, and informs our assessments where we are not satisfied with a business's forecasts. Our second annual benchmarking report will be published in November 2015.

We are committed to meaningful engagement with all stakeholders in our review processes. Consumer perspectives and observations help us understand if a regulatory proposal is consistent with the national electricity and gas objectives. Engagement also helps us to assess whether spending proposals are efficient and reflect energy consumers' priorities.

Jurisdictional groups of consumer representatives for each regulatory review provide coordinated and informed views from a cross-section of consumer groups. The Consumer Challenge Panel advises on issues of importance to consumers and helps ensure consumer perspectives are properly considered throughout technical and complex regulatory processes. Members of the panel have experience in regulation, networks, economics, finance and consumer engagement.

Electricity networks

We regulate the costs of electricity network services in the National Electricity Market (NEM), covering eastern and southern Australia. The regulatory process begins with the development of a framework and approach, following which the network business submits a regulatory proposal. Normally, we have 15 months to review a proposal and release a final decision, but shorter

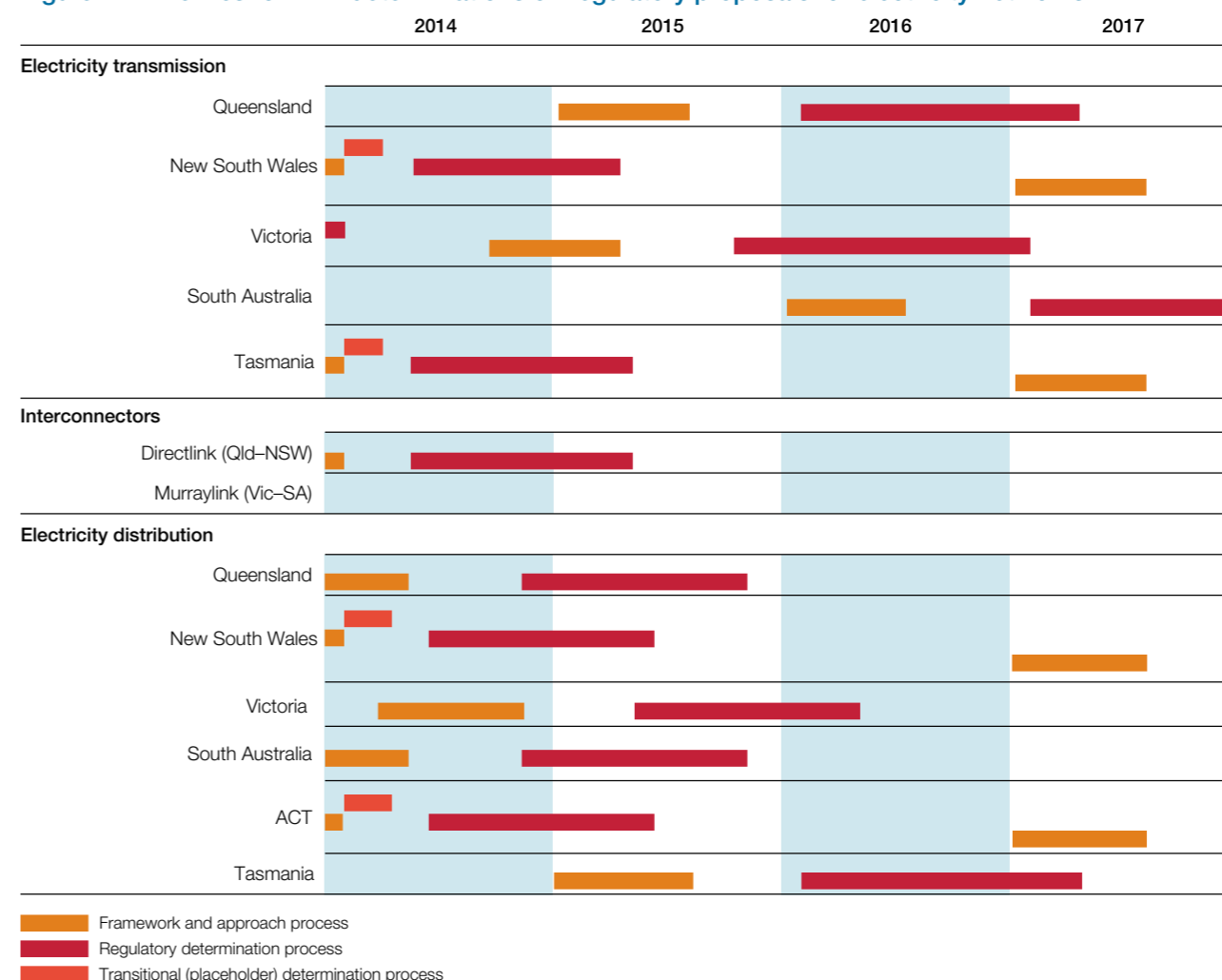
timeframes apply to some determinations in 2015–16 (figure 1).

In summary, our work in this area during 2015–16 will entail:

- completing reviews of Queensland, South Australian and Victorian distribution networks

- releasing a draft decision for our review of the Victorian transmission network
- commencing a review of regulatory proposals for the Queensland transmission network and Tasmanian distribution network
- commencing work on frameworks and approaches for the South Australian transmission network and Murraylink transmission interconnector.

Figure 1: Timelines for AER determinations on regulatory proposals for electricity networks



Gas pipelines and networks

We regulate access prices for covered gas pipeline services in jurisdictions other than Western Australia and Tasmania, as set out in access arrangements proposed by pipeline owners. In total, we regulate four transmission pipelines and seven distribution 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.

Figure 2: Timelines for AER determinations on access arrangement proposals for gas pipelines

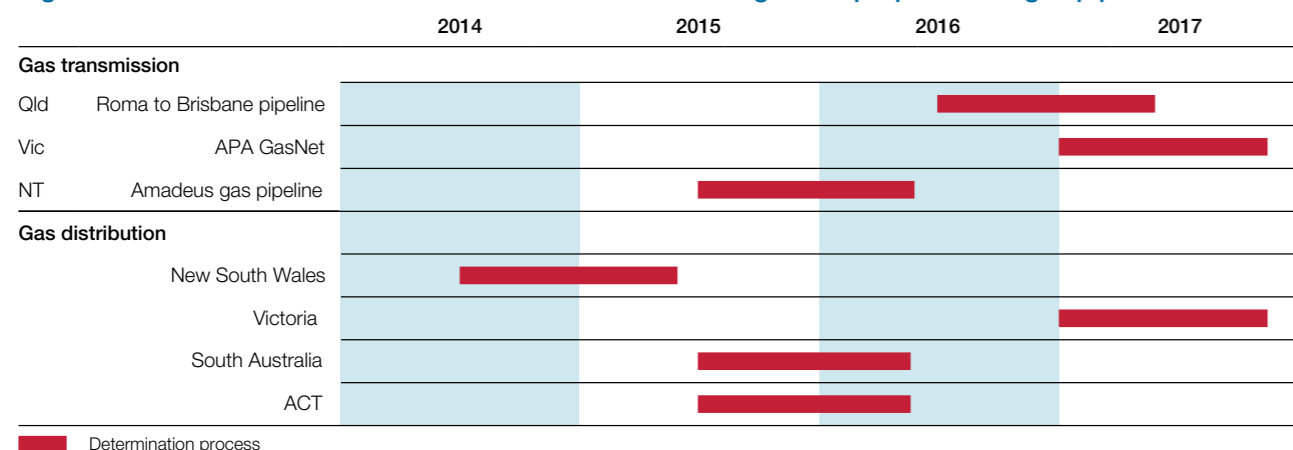


Figure 2 sets out the regulatory timelines for AER determinations on access arrangement proposals for gas pipelines. In 2015–16 we will:

- complete reviews of proposals for gas distribution networks in South Australia and the ACT, and for the Amadeus Gas Pipeline in the Northern Territory
- commence reviewing a proposal for the Roma to Brisbane Pipeline (Queensland).

Merits review of regulatory decisions

Our regulatory determinations on energy networks are subject to a limited merits review by the Australian Competition Tribunal. The legislation specifies that a successful review must demonstrate that addressing the grounds of appeal would lead to a 'materially preferable outcome in the long term interests of consumers'. We assist the Tribunal in undertaking its reviews. If the Tribunal finds the AER erred, it can substitute its own decision or remit the matter back to the AER to remake the decision. The AER reflects Tribunal decisions in subsequent reviews for other networks.

The electricity distribution network businesses in New South Wales and the ACT applied for Tribunal reviews of our decisions for the period 1 July 2015 to 30 June 2019. The applications were listed for hearing by the Tribunal on 21 September 2015.

Performance reporting on network businesses

Performance reporting enhances transparency and accountability, and provides incentives for businesses to improve their performance over time. Our reporting on the performance of network businesses is part of the regulatory cycle and provides input to our regulatory reviews. In 2015–16 we will publish:

- benchmarking reports for electricity networks, with data supporting our reviews of revenue allowances
- reports on business performance under incentive schemes covering service performance, demand management and fire management (Victoria only)
- financial and operational information on network businesses collected in regulatory information notices.

Network planning and expansion

The regulatory framework requires a network business to determine whether its proposed investments are the most efficient way of meeting identified needs. A business must assess whether a proposed augmentation passes a cost–benefit analysis or provides a least cost solution to meet network reliability standards. Under the regulatory investment tests for transmission (RIT-T) and distribution (RIT-D), a network business must identify the purpose of an investment as well as all credible options for achieving that purpose. It must publicly consult on its proposal, and affected parties can lodge a formal dispute. The tests provide consistency, transparency and predictability in network investment decision making.

In 2015–16 we will:

- monitor businesses' compliance with the tests
- submit a rule change proposal to widen the scope of the regulatory investment tests, including their coverage of replacement capital expenditure
- on request from a transmission network business, determine whether its assessment satisfies the test
- help resolve disputes over how network businesses apply the tests.

During 2015–16 we will continue to engage with electricity distribution businesses to improve the quality of their annual planning reports, which complement the regulatory test in the network planning and expansion framework.

Other regulatory work

Alongside our work on regulatory determinations, we will undertake significant new functions in 2015–16 arising from the AEMC's Power of Choice reforms on:

- distribution network pricing, including new requirements for network businesses to consult with customers in developing tariff structure statements and provide greater certainty on how prices will change over time
- competition in the provision of metering services, including the development of national ring-fencing guidelines

We will also:

- conduct a review of the weighted average cost of capital (WACC) applicable in future regulatory determinations.
- publish a revised service target performance incentive scheme for electricity transmission networks, to first apply in determinations for Powerlink and AusNet in 2015–16

- work with the AEMC, electricity distribution businesses, jurisdictional regulators and governments to develop common definitions for expressing distribution network reliability targets
- undertake annual tariff reviews for electricity distribution businesses and gas pipelines
- assess network proposals on matters including cost pass throughs, contingent projects and prudent discounts
- monitor the compliance of network businesses with the energy legislation and rules (program area 4)
- assist in access and connection disputes.

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 are responsible for determining electricity distribution businesses' revenues and charges for advanced metering infrastructure. In addition, we administer a fire factor (f-factor) scheme imposed by the Victorian Government on the five Victorian electricity distributors. The scheme provides financial incentives and penalties to reduce the risk of fire starts and loss or damage caused by fire starts.

Program area 2: Retail energy markets

Responsibilities for regulating retail energy markets are shifting from state and territory agencies to the AER under national reforms. The transfer has occurred for New South Wales, South Australia, Tasmania (for electricity) and the ACT. Queensland will transfer to the framework on 1 July 2015.

The Retail Law strengthens the position of residential and small businesses customers by providing them access to information needed to choose a suitable energy contract, and to manage their relationships with retailers and distributors. It also includes protections for customers when problems arise, whether in the form of disputed bills, payment difficulties or disconnection of supply.

Our work in this program area includes:

- operating an energy price comparator website (www.energymadeeasy.gov.au) for residential and small business customers
- authorising energy retailers to sell energy, and granting and registering exemptions from the requirement (for example, to retirement villages and caravan parks that on sell energy)
- approving retailers' policies for dealing with customers experiencing hardship
- administering a 'retailer of last resort' scheme, to protect customers and the market if a retail business fails
- monitoring and enforcing compliance with the Retail Law and its supporting rules and regulations (program area 4)
- reporting on retailer performance and market activity, including energy affordability, disconnections and competition indicators.

We do not set retail energy prices. State and territory governments apply some form of retail price regulation for small electricity customers in Tasmania, the ACT and Queensland. In gas, only New South Wales regulates prices for small customers. Our Energy Made Easy website provides information on retail prices to help customers find the best energy offers for their needs.

In addition to our functions under the Retail Law, we provide expert assistance to the ACCC on matters related to retail energy markets, including compliance issues under the Australian Consumer Law.

Energy Made Easy website

The complexity and structure of retail offers can make it difficult for consumers to make comparisons and exercise informed choice when entering contracts. The Energy Made Easy website 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. The website extends to Queensland customers on 1 July 2015.

Website improvements in 2015 enhance ease of use and accessibility, and provide additional tools to help consumers navigate the market and understand their rights. We will continue to explore further opportunities to enhance the website.

Authorisations and exemptions

The behaviour of energy providers affects consumer confidence in the retail market. We assess applications for entry into the market, and guide potential applicants. This provides confidence that authorised retailers are aware of and can meet their obligations under the Retail Law.

We consult publicly on authorisation and certain exemption applications, and aim to release a decision within 12 weeks of receiving all relevant information.

The energy market is evolving and advances in technology, including energy storage, are creating new ways for businesses to sell energy. The authorisation and exemption framework in the Retail Law does not explicitly contemplate these alternative energy selling models. The AER is undertaking work to ensure our regulatory approach is flexible and adaptable. In 2015, we will publish our approach to assessing alternative energy selling models through revisions to the *Exempt selling guideline*.

Hardship policies

Authorised retailers must operate a customer hardship policy to help residential customers experiencing payment difficulties to better manage their energy bills. We assess the hardship policies of new entrant retailers, and monitor and assess the compliance of all approved hardship policies (program area 4). We also assess amendments to approved policies.

Retailer of last resort scheme

If a retailer fails, the retailer of last resort (RoLR) scheme ensures customers continue to receive electricity and/or gas supply. Our website has a register of retailers available to take on the customers of a failed retailer. In the event of a retailer failure we will appoint a retailer from the register.

In 2015–16 we will:

- extend the RoLR framework to Queensland
- conduct a RoLR exercise with AEMO, market participants, ombudsman schemes and other stakeholders, and report on outcomes
- periodically seek expressions of interest from additional retailers willing to take on RoLR functions
- administer the registration arrangements for default and additional RoLRs, including periodic reviews of RoLR appointments and offers
- engage in any legislative and rule change processes to implement recommendations from the AEMC's financial market resilience review and, once those recommendations have been implemented, develop any necessary refinements to our RoLR documents and processes.

Performance reporting

Performance reporting on energy businesses enhances transparency and accountability, and provides incentives for businesses to improve performance. It helps identify emerging issues requiring a compliance or enforcement response, and brings transparency and integrity to the market. We will continue to communicate performance outcomes to stakeholders through comprehensive, clear and regular reporting.

We publish an annual performance report that covers:

- an overview of the retail market
- hardship program indicators and the handling of customers experiencing payment difficulties
- customer service and complaints
- disconnections and reconnections
- energy affordability

- distribution businesses' performance against network service standards.

In addition to this annual reporting, we publish quarterly data on retail market performance.

During 2015–16 we will contribute to the COAG Energy Council's review of whether retail reporting requirements facilitate a competitive and transparent market in which consumers can confidently participate.

Information and engagement

We liaise with stakeholders interested in the Retail Law, including energy businesses, ombudsman schemes, jurisdictional regulators and other market bodies. We also engage with residential and small business consumer intermediaries that engage with disadvantaged and vulnerable energy consumers. These relationships help us to identify gaps in consumers' understanding of energy markets and barriers to consumers' effective engagement.

Our Consumer Consultative Group provides advice on issues as they arise, including market and compliance matters. Group members also filter issues identified by their constituencies. The group is expected to have at least three formal meetings in 2015–16.

Program area 3: Wholesale energy markets

We have responsibilities in wholesale energy markets, encompassing:

- the NEM—a spot electricity market in eastern and southern Australia
- spot gas markets—the short term trading market in Sydney, Brisbane and Adelaide, the Victorian wholesale gas market and the gas supply hub at Wallumbilla, Queensland.

We monitor the markets to:

- ensure participants comply with the underpinning legislation and rules. Our compliance and enforcement work in wholesale markets occupies significant resources (program area 4)
- detect irregularities and wider harm issues such as market manipulation.

We report on these matters to promote market transparency and confidence. We draw on this work to advise the COAG Energy Council, the AEMC and other bodies on wholesale market issues, and to assist the ACCC—for example, on energy mergers.

Market monitoring and reporting

Reporting on market activity provides a foundation to detect non-compliance, market irregularities and manipulation, and consumer harms. Our market monitoring and enforcement roles provide us with an understanding of, and unique expertise in, energy markets.

In 2015–16 we will continue to closely monitor the markets and publish timely reports on activity. Our publications include weekly market reports on:

- wholesale electricity activity in the NEM, including analysis of prices above \$250 per megawatt hour and prices below –\$100 per megawatt hour
- activity in the Victorian gas market, the gas short term trading market operating in Adelaide, Brisbane and Sydney, and gas supply hub at Wallumbilla.

We also publish more detailed analysis of electricity prices above \$5000 per megawatt hour, significant gas price variations in the Victorian market and short term trading markets, and special reports on systemic market issues.

Our market intelligence is drawn together in the annual *State of the energy market* report. It explains important market developments, factors impacting on energy prices, and regulatory and policy responses being

implemented. It is a valuable resource for market participants, policy makers and the wider community.

The AER website (www.aer.gov.au) provides stakeholders, including industry and market participants, energy customers and the wider community, with timely access to accessible information on energy market activity.

Identifying impediments to an efficient market

In addition to our ongoing market monitoring, we focus on impediments to the efficient operation of wholesale energy markets. In 2015–16 we will pay particular attention to the impact of participant behaviour and ways of improving the quality of information available to energy markets. These areas are a significant focus of our market monitoring and compliance work. We also pursue these areas by initiating rule change processes with the AEMC, engaging in rule change applications by third parties, and developing frameworks for participant compliance arising from those processes. Specific areas of focus in 2015–16 will include generator behaviour in relation to bidding in good faith, ramp rates and following dispatch instructions.

Another focus in 2015–16 will be information quality in gas markets, including that provided on the bulletin board and at the Wallumbilla gas hub. High quality information is important to market efficiency and encouraging active participation.

Across both electricity and gas, we monitor conditions in the markets, and report on outcomes, including in the annual *State of the energy market* report.

Bidding in good faith

In 2014, the AER supported a proposal to strengthen the bidding in good faith provisions in the electricity rules. A rising incidence of late rebidding had been making forecast information in the NEM less dependable, impacting on market efficiency. In response, the AEMC in 2015 made a draft rule replacing the current requirement for generator offers to be made in good faith, with a prohibition against making false or misleading offers.

In 2015–16 we will refine our monitoring and compliance systems to implement the rule. More generally, we will continue to focus on generator bidding behaviour. This work will include refining our methods for assessing

significant variations between actual market prices and those forecast prior to dispatch.

Bidding behaviour is also a priority in spot gas markets. We will continue to focus on the drivers of bidding and rebidding behaviour in those markets to detect irregularities. Additionally, we will assess and report on the accuracy of participant demand forecasting.

Generator ramp rates

The effects of late rebidding on price and market efficiency depends in part on the speed at which generator output can be adjusted in response to a change in merit order. In 2013 the AER proposed a rule change to raise the minimum rate at which generators may adjust output. In 2015, the AEMC made a rule change that effectively increased minimum aggregate ramp rate capability across the NEM.

In 2015–16 we will refine our monitoring and compliance systems to implement the new rule.

Following dispatch instructions

Generators must follow dispatch instructions issued by AEMO. Any failure to follow these instructions may enable a generator to increase its revenue at the expense of efficient prices and power system security. The AER instituted legal proceedings against a generator in 2014, alleging it failed to follow dispatch instructions. The matter was successfully resolved.

During 2015–16 we will continue to monitor generators' compliance with their requirements to follow dispatch instructions, and refine our monitoring and compliance framework in light of recent legal decisions and rule changes.

Quality of information in gas markets

The east coast gas industry continues to evolve to meet demand for liquefied natural gas exports, with flow on impacts in electricity generation. In 2015–16, we will report on developments in the trade of gas and pipeline capacity, including by monitoring market conduct and outcomes in the gas supply hub at Wallumbilla.

In consultation with industry, we will refine our monitoring systems and strengthen our analytical capabilities for data relating to the hub and other gas spot markets. More generally, we aim to focus on market architecture, including the bulletin board, to determine whether it is meeting the needs of an evolving gas market.

Market competition

In 2015–16 we will continue to monitor the state of competition in energy markets and report on outcomes. In electricity we report annually on a range of structural and behavioural indicators in the *State of the energy market*.

A monitoring focus throughout the year will be on strategic behaviour of generators with portfolios of both scheduled and non-scheduled plant to influence market outcomes. In gas, we monitor the markets for evidence of price manipulation and report on outcomes. More generally, the *State of the energy market* will report on market structure in gas basins.

During 2015–16 we will work with ASIC to extend our monitoring focus to more comprehensively address linkages between the markets for wholesale energy and derivative products.

Program area 4: Compliance and enforcement

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

- wholesale energy markets—the NEM, the short term trading market for gas, the Victorian gas market and the Wallumbilla hub. We also undertake compliance work on the national gas market bulletin board.
- the supply of energy network services—electricity network services in the NEM and gas pipeline services in jurisdictions other than Western Australia
- retail energy markets in New South Wales, South Australia, Tasmania, the ACT and Queensland (from 1 July 2015).

We have similar roles in relation to local instruments in particular jurisdictions, as agreed by the COAG Energy Council.

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. Targeted and timely enforcement action may be necessary and appropriate in certain circumstances. A statement of approach (available on our website) sets out our approach, which aims for consistency across the industry.

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 agencies (such as 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
- 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 for technical performance standards of generators and network businesses
- enforcement responses to identified breaches, including cooperative solutions, infringement notices of \$20 000 and court action
- publishing reports and bulletins with guidance on our compliance activity and expectations of market participants.

More generally, we will participate in implementing recommendations arising from the COAG Energy Council's review of enforcement regimes across the national energy legislation. Our work in this area may include engaging on proposals for regulatory and legislative changes.

Compliance reporting

In 2015–16 we will monitor and report on the compliance of energy businesses with their obligations under the energy legislation and rules. We will also report on our actions to address deficiencies and breaches, including enforcement action undertaken. Our reporting framework includes:

- quarterly compliance reports on the electricity and gas wholesale markets and network businesses
- annual compliance reports on the energy retail sector, supplemented by incident reports on completed enforcement matters.

In addition, we plan the following activities in particular areas of the national energy laws and rules.

Wholesale markets

In 2015–16 we will:

- update our *Rebidding and technical parameters guideline* for industry in light of recent enforcement action and to reflect rule changes on generator rebidding and ramp rates (see program area 3)
- monitor generators' compliance with their requirements to follow dispatch instructions from AEMO
- audit energy business's compliance programs for technical performance standards
- streamline gas reports analysing public and confidential data to assist our monitoring and compliance role.

Retail markets

In 2015–16 we will:

- prioritise compliance matters in areas of life support; conduct affecting vulnerable and disadvantaged customers; and conduct undermining consumer confidence in the market
- extend the compliance monitoring framework to Queensland, following its adoption of the Retail Law on 1 July 2015
- assess matters reported to us in periodic exception reports from retailers and distributors
- assess whether retailers are complying with the provisions set out in their approved customer hardship policies
- use the exception reporting framework to identify emerging compliance issues and provide industry guidance on these matters.

Energy networks

In addition to ensuring energy network providers meet their obligations under the compliance framework for wholesale and retail markets, in 2015–16 we will:

- respond to any compliance issues relating to electricity transmission networks meeting their obligations to negotiate with third parties on network connections
- resolve connection disputes between electricity distribution businesses and small customers
- monitor the application of the RIT-T and RIT-D to ensure network businesses meet consultation requirements, apply principles of competitive neutrality and assess capital proposals in a transparent manner
- assess annual ring fencing compliance reports from service providers of covered transmission and distribution pipelines.

Deliverables and performance indicators 2015–16

AER Work program

The following deliverables and performance indicators for 2015–16 apply at an organisation-wide or program level. The indicators measure AER performance against its work program, and in meeting the expectations of the COAG Energy Council.

Organisation-wide

DELIVERABLE	2015–16 TARGET
<i>Progress on work program and expenditure against budget</i>	
Publish a detailed work program as part of our <i>Statement of Intent</i> .	Publish by 1 July 2015
Report through the ACCC–AER statutory Annual report on our expenditure against the program budget allocated to AER.	Report to Treasury by 29 August 2015
Publish an AER Annual report setting out progress against our work program, including compliance with statutory timelines.	Publish by 30 September 2015
Undertake our work program within budget as determined through the Australian Government budgetary process.	Undertake work program within budget
Publish any significant changes to our work program on AER website.	Publish all changes within 14 days
Report to COAG Energy Council on progress against work program, including outcomes, issues and any variations.	Provide written report to each meeting of the COAG Energy Council
<i>Stakeholder engagement</i>	
AER board and senior executives communicate with stakeholders via speeches, forums and the media.	Qualitative target
Meet periodically with the Consumer Challenge Panel, jurisdictional groups of consumer representatives and the Customer Consultative Group, in conducting our work program.	Monthly meetings of CCP and at least two meetings of jurisdictional groups during each regulatory reset; and three meetings of CCG
Assess the effectiveness of stakeholder engagement on completion of major AER projects.	Assessment conducted on each project's completion
Undertake a broad stakeholder survey every two years that includes an assessment of the quality of our stakeholder engagement.	Survey published in 2014–15. Not applicable in 2015–16
Publish the <i>State of the energy market</i> report, with accessible information on market activity and dynamics.	Publish report by 31 December 2015
<i>Improving capabilities</i>	
Establish a dedicated IT team that consolidates our systems capabilities for agency-wide consistency.	Restructured IT team in place by 31 December 2015
Streamline information requirements on energy businesses and continue to improve our data systems to support effective benchmarking.	Database refinements operational by 30 June 2016
Further refine our approach to technical metrics on market structure and efficiency in energy wholesale markets.	Refine coverage of market structure metrics in <i>State of the energy market</i> 2015

Work program area 1: Energy networks

DELIVERABLE	2015–16 TARGET
Complete all regulatory decisions on electricity networks and gas pipelines within statutory timeframes.	Publish eight electricity and three gas determinations, within statutory timeframes
Publish annual benchmarking report and RIN data for electricity networks.	Publish benchmarking report by 30 November 2015
Resolve disputes within legislated timeframes, including on network access and connections, and regulatory investment tests.	100 per cent
Implement any reforms arising from AEMC rule changes, by developing or amending guidelines and through the regulatory determination process.	Qualitative target
Prepare for the application of the National Electricity Law in the Northern Territory.	Administer NT framework from 1 July 2015
Prepare for the application of the National Electricity Law in Western Australia.	Preliminary work on framework in consultation with WA officials

Work program area 2: Retail energy markets

DELIVERABLE	2015–16 TARGET
Support Queensland's application of the National Energy Retail Law.	Qualitative target
Our price comparator website, Energy Made Easy, provides accurate and timely information for consumers.	All offers published on website within two business days of receipt from retailers
Publish an annual performance report and quarterly data on the retail energy market (including energy affordability).	Annual report published by 30 November 2015 Quarterly data published on website within 12 weeks of quarter's end
Assess retailers' hardship policies (and proposed amendments) in a timely manner.	Assess all policies and amendments within 12 weeks of receiving required information
Assess retail authorisation/exemptions/applications in a timely manner.	Assess all authorisation/exemption applications within 12 weeks of receiving required information
Apply processes to support the timely transfer of affected customers in the event of a retailer failure.	Meet all obligations within statutory timeframes

Work program area 3: Wholesale energy markets

DELIVERABLE	2015–16 TARGET
Monitor energy spot markets to detect impediments to efficient trade, market irregularities and consumer harm.	Report on identified impediments in weekly reports and <i>State of the energy market</i> report, and through briefings with regulatory bodies and the COAG Energy Council
Report on the effectiveness of competition in wholesale electricity and gas markets.	Publish competition metrics and qualitative analysis in <i>State of the energy market</i> report by 31 December 2015
Support the AEMC in progressing rule change proposals aimed at improving market efficiency.	Engage in all processes where the AER can provide valuable perspectives
Publish timely reports on wholesale electricity and gas market activity.	Publish at least 75 per cent of weekly reports within 12 business days of week's end
Report within statutory timeframes on extreme price events in wholesale electricity markets, and significant price variations in spot gas markets.	Publish all reports within statutory timeframes

Work program area 4: Compliance and enforcement

DELIVERABLE	2015–16 TARGET
Enforcement action is targeted and proportionate to regulatory risk.	Matters selected for enforcement activity improve market outcomes for customers
Consistent with regulatory risk, conduct targeted reviews of compliance with the national energy rules, and report on outcomes.	Conduct quarterly reviews of selected obligations, and publish outcomes in quarterly compliance reports
Audit the compliance systems of selected energy businesses, and report on outcomes.	Audit systems for two energy businesses that are critical to market efficiency and energy security
Publish quarterly compliance reports on wholesale markets and networks.	Publish reports within six weeks of quarter's end
Publish an annual compliance report on retail markets.	Publish report by 30 November 2015
Review and consult on revisions to AER guidelines, having regard to Office of Best Practice Regulation.	Meet obligations required under the Rules, including consultation timeframes
Communication with businesses is clear and targeted.	Conduct at least two forums with businesses on compliance Issue at least two 'compliance checks' to businesses
Provide clear targeted guidance to businesses on <i>compliance monitoring framework</i> .	Provide guidance to businesses on their compliance reports made under the compliance guideline, within eight weeks of the reporting period

Regulator performance framework

The following deliverables and performance indicators for 2015–16 relate to indicators of good regulatory practice identified in the Australian Government's Regulator performance framework.

DELIVERABLE	2015–16 MEASURES
<i>Regulators do not unnecessarily impede the efficient operation of regulated entities</i>	
Apply regulation consistently with guidance developed in consultation with regulated businesses.	Independent surveys of stakeholder satisfaction with AER processes
Meet statutory timeframes applicable to our work program to promote regulatory certainty.	Document instances of non-compliance and why they occurred
Regularly meet with other agencies, including the AEMC, AEMO, ASIC, the Utility Regulators Forum and the Energy Intermarket Surveillance Group, to share knowledge and experience on efficient regulation.	Number of meetings with each agency and nature of engagement
Assess costs and benefits of additional information requirements prior to widening the scope of RINs.	Consult with affected businesses in each instance
<i>Communication with regulated entities is clear, targeted and effective</i>	
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
Guidance materials and decisions published by the AER comply with government accessibility guidelines.	Document instances of non-compliance and how remedied
AER Board and staff engage with regulated businesses throughout the regulatory determination process.	Number of meetings with businesses
<i>Actions undertaken by regulators are proportionate to the regulatory risk being managed</i>	
Apply a risk based approach to compliance and monitoring activities.	Document basis for compliance and monitoring focus in compliance reporting
Recognise the compliance record of regulated entities in making enforcement decisions.	Document reasoning for enforcement decisions in compliance reporting
<i>Compliance and monitoring approaches are streamlined and coordinated</i>	
An agency-wide Statement of approach guides compliance and enforcement activity across work program areas.	Document agency's consistent application of Statement of approach
Collaborate with the ACCC on energy market enforcement activity falling under the scope of both agencies.	Document communication forums and nature of engagement
For reporting purposes, use existing information where possible and limit information sought from external parties to that necessary to undertake a task.	Justify reasons for information gathered beyond that which is otherwise available

DELIVERABLE	2015-16 MEASURES
<i>Regulators are open and transparent in their dealings with regulated entities</i>	
Stakeholders have an opportunity to provide written submissions prior to the AER making major regulatory decisions.	Document instances where submissions not sought and why they occurred
Publish submissions to regulatory processes on the AER website.	Document instances where submissions not published and why this occurred
Published decisions clearly set out how we accounted for stakeholder views.	Independent surveys of stakeholder satisfaction with transparency of AER decisions
Consult with industry in the preparation of any guidelines or policies.	Document instances where consultation did not occur
Engage with industry through forums.	Document number of meetings and nature of engagement
Apply risk-based frameworks, processes, guidelines and decisions that are publicly available.	Survey stakeholder confidence in our consistency with published guidance
<i>Regulators actively contribute to the continuous improvement of regulatory frameworks</i>	
Engage with agencies that have energy market responsibilities in accordance with legislation and memoranda of understanding.	Number of meetings with each agency and type of engagement
Engage in policy reviews, rule change processes and reform implementation through information sharing, making submissions and participating in forums.	Document engagement and relevant processes in each area
Promptly respond to requests for information from government (including the COAG Energy Council) within specified timeframes.	Adhere to agreed time frames



Appendix 1: Statement of Expectations for the Australian Energy Regulator

This document communicates the Standing Council on Energy and Resources' (SCER) expectations of the Australian Energy Regulator (AER). It applies from the date of receipt until otherwise amended.

1. The Role and Responsibilities of the AER

The AER Board is an independent entity, with staff and facilities that support the board shared with the Australian Competition and Consumer Commission (ACCC). The AER and ACCC take a coordinated approach to issues of common interest under the *Competition and Consumer Act 2010* (the Act) and the energy laws as referenced in Schedule 1.

The AER enforces the laws for the National Electricity Market (NEM), selected gas markets, and the retail energy market. The AER is also responsible for setting the prices for using energy networks. To further support the development of these markets, the AER provides strategic and operational advice to ministers responsible for energy.

SCER expects the AER to perform its functions as defined in the Act and in accordance with the legislative requirements and agreements listed in Schedule 1.

SCER expects that the AER's work supports the National Electricity Objective, the National Gas Objective, and the National Energy Retail Objective.

2. Relationship with the SCER

2.1 The AER will support the work of SCER

SCER seeks to ensure the safe, prudent and competitive development of the nation's energy markets to optimise long-term economic, social and environmental benefits to the community. It has particular policy responsibilities for oversight of Australian energy markets. The AER will support SCER's work by undertaking its responsibilities efficiently and effectively.

In addition, SCER expects that the AER will support the work of SCER by providing SCER with:

- advice on developing issues relevant to SCER priorities
- advice on issues as requested by SCER
- reporting on priorities and work programs and other matters as required
- clear communications on any other relevant matters as required.

2.2 Statement of Intent

SCER expects that the AER will put into place a *Statement of Intent* for each financial year, to be published before the start of that year.

The *Statement of Intent* will outline how the AER will meet the expectations set out in this Statement of Expectations. SCER expects that the AER will report against key performance indicators (KPIs) included in the AER *Statement of Intent*.

Performance for any given year should be reported as a component of, or with, the Annual Report for that year. Half year reporting of performance should also be provided where the necessary data is available through existing internal or external reporting processes.

The *Statement of Intent* is not required to be tabled in the Australian Parliament.

2.3 Key Performance Indicators in Statement of Intent

SCER expects that KPIs will include, but not be limited to, the AER's performance in these broad categories:

- Progress on work program.
- Expenditure against budget.
- Engagement with stakeholders.
- Improving capabilities.

SCER notes that the AER's financial accounts are consolidated into those of the ACCC. Audited disaggregated financial statements for the AER are not requested but the AER should provide clear guidance on how funds have been spent.

KPIs may be developed and adjusted by the AER from year to year where necessary balanced against the need for meaningful analysis of performance over time, in light of feedback from SCER.

2.4 Publication of Statement of Expectations and Statement of Intent

SCER expects the AER will publish and maintain the SCER Statement of Expectations and the AER's annual *Statement of Intent* on the AER website. SCER recognises that transparent processes are crucial to good governance and accountability of government and government institutions.

3. Other stakeholder engagement and communication

3.1 Relationship with market participants

The AER will develop and execute effective engagement with market participants according to good practice and consistent with legislative requirements.

3.2 Relationship with consumers

The AER will develop and execute effective engagement with consumers according to good practice and consistent with the legislative requirements.

3.3 Relationship with other market institutions

The relationships between the AER and other market institutions are set out in relevant legislation and various Memoranda of Understanding (MOU) as set out in Schedule 1 and Schedule 2 of this document.

SCER expects that the AER's interaction with other market institutions will be governed by the relevant legislative framework and any MOU in place.

In particular, SCER expects that the AER will work towards promoting effective communication and coordination between the institutions, subject to confidentiality obligations.

3.4 Relationship with the Commonwealth Treasurer

SCER recognises that the AER is enabled by the Act and that the Commonwealth Treasurer has responsibility for the Act. SCER expects that the AER will carry out its functions as prescribed by the national energy legislation and rules.

4. Other Reporting

4.1 Financial Management

SCER recognises reporting by the ACCC/AER under the following frameworks:

- the Act
- the *Financial Management and Accountability Act 1997*
- the *Public Governance, Performance and Accountability Act 2013*
- the Portfolio Budget Statement: Treasury Portfolio budget papers, and
- any other legislative requirements for financial management and reporting.

Schedule 1

SCER expects the AER to perform its functions as defined in the *Competition and Consumer Act 2010* (the Act) and in accordance with all relevant legislative requirements and agreements, including the:

- Australian Energy Market Agreement
- National Electricity Act 1996* (SA)
- National Electricity Regulations (SA)
- National Electricity Rules
- National Gas Act 2008* (SA)
- National Gas Regulations (SA)
- National Gas Rules
- National Energy Retail Law Act 2011* (SA)
- National Energy Retail Regulations 2010 (SA)
- National Energy Retail Rules.

This list is not exhaustive and any relevant legislative requirements and agreements that define the AER's function that are not mentioned in this document will also apply and are considered as part of the AER's function by SCER.

In the event of an inconsistency between this Statement of Expectations and the preceding relevant legislation, the legislative requirements will prevail.

Schedule 2

MoU between the AER and other Market Institutions are as follows:

- The MoU between the AEMC, AER and the ACCC
- The MoU between the AER and the Australian Energy Market Operator (AEMO)
- The MoU between the AER, ACCC and the Clean Energy Regulator
- MoUs with jurisdictional Energy Regulators and ombudsmen.