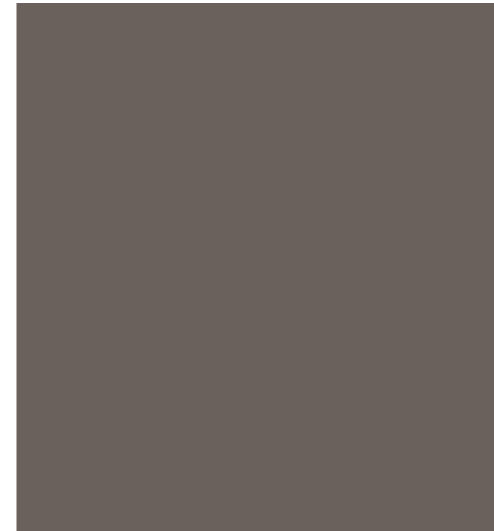




STATEMENT OF INTENT 2014–15





Australian Competition and Consumer Commission
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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 new accountability and performance frameworks. 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 inaugural Statement of Intent sets out how the AER will meet the Council's expectations during 2014–15, including through our strategic priorities and wider ongoing work program. The statement also sets out deliverables and performance indicators to measure our progress in meeting expectations.

Australian Energy Regulator

The AER is the regulator of energy markets and networks under national energy market 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 prices charged for using energy networks (electricity poles and wires and gas pipelines) to transport energy to customers
- 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 New South Wales, South Australia, the ACT and Tasmania (electricity only)
- 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 also 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*
 - developing performance indicators for inclusion 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 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 set out in those program areas.

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 through the joint ACCC–AER Annual Report on how our funds have been spent
- developing guidelines on our approach to regulatory functions, and framework and approach processes and draft decisions on regulatory reviews, in consultation with stakeholders
- releasing compliance bulletins on our approach to enforcement, and reporting on outcomes of our enforcement activity.

Stakeholder engagement

We engage with consumers and market participants through a variety of forums, including new avenues recently introduced under the Better Regulation reforms. Our engagement processes include:

- a Consumer Challenge Panel that will advise the AER whether network regulatory proposals are in the long term interests of consumers and whether network businesses are engaging effectively with their customers
- jurisdictional groups of stakeholders covering business (large and small) and residential consumers, to be convened for regulatory reviews of network proposals
- meeting three times a year with our Customer Consultative Group, which consists of residential and small business energy customer intermediaries that are often at the 'front line' of engaging with disadvantaged and vulnerable customers
- our Energy Made Easy website, which provides information on the energy market, consumer protections and available energy offers; improvements in 2014–15 will enhance accessibility and provide new tools, including for bill benchmarking
- consulting with energy businesses during regulatory review processes, guideline development, business forums and through informal engagement
- periodic stakeholder surveys to detect areas where we can improve our performance and capabilities.

Working productively with other institutions

We will continue to 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, and jurisdictional regulators and ombudsmen.

We engage with these bodies and other government agencies on energy market issues, including through consultation on policy matters, rule change processes and administrative schemes such as for managing a retailer failure. We will also continue to participate in working groups with other agencies and to provide 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 2014–15 we will likely assist with energy policy reviews

and rule change processes that include the AEMC's Power of Choice reform proposals, optional firm access, bidding in good faith, generator ramp rate restrictions, and financial market resilience.

Supporting the COAG Energy Council

We will continue to support the COAG Energy Council's work by providing it with clear advice on energy issues as required. In particular, we will continue to 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.

More generally, our monitoring activity provides extensive information that supports our technical reporting and analysis. Our technical reports are supplemented by the *State of the energy market* publication that will continue to provide accessible information on market activity and dynamics.



Our strategic priorities for 2014–15

Our wider ongoing functions (outlined next) are critically important and continue to account for a significant portion of our operating activity. But our strategic priorities identify our points of focus over the next 12 months.

Our strategic priorities for 2014–15 reflect the challenges posed by our operating environment and projected market conditions. In particular, a peak workload in the timing of regulatory reviews of energy networks will direct us to focus significantly on our core legislative role in setting energy network prices. The upcoming reviews will be the first to embody our new Better Regulation guidelines (priority 1).

The transition to national retail regulation is continuing, with Queensland expected to implement the National Retail Energy Law on 1 July 2015. Deregulation of retail

electricity prices in New South Wales on 1 July 2014 and expected in south east Queensland in 2015, will also likely affect retail market dynamics. In this context, we will focus on building consumer confidence in retail energy markets through our compliance and enforcement programs, engagement with customer groups and refinements to the Energy Made Easy website (priority 2).

Finally, recent behaviour in wholesale energy markets have directed us to closely monitor aspects of those markets and contribute to policy developments aimed at improving their efficiency. The launch of a new gas supply hub also directs our focus to the new compliance and enforcement roles we will undertake in that market (priority 3).

Priority 1 Delivering better network regulation

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.

There have been significant reforms to energy network regulation in the past few years to promote these objectives. Reforms were introduced to encourage network businesses to seek out more efficient ways of providing services. New measures will 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.

We published network guidelines in 2013 to explain how we will apply the new energy rules. They cover how we assess the regulated return on capital, scrutinise network businesses' expenditure proposals, encourage efficient investment and engage consumers in the regulatory process. The new guidelines and schemes first apply to regulatory determinations taking effect in 2015 for electricity transmission networks in New South Wales and Tasmania, and for electricity distribution networks in New South Wales, Queensland, South Australia and the ACT.

Network pricing reviews scheduled for 2013 were pushed back to accommodate the development of our Better Regulation guidelines. This has created a build-up of work; we will consider regulatory proposals for 12 network businesses in 2014 and a further 12 regulatory proposals will be submitted to us in 2015.

This peak workload is unprecedented and puts significant pressure on the resources of all stakeholders. Our regulatory processes must be effective and efficient to deliver better network regulation, including through greater consultation with consumers and consumer representatives. The guidelines we developed through our Better Regulation program provide a solid foundation for our upcoming work. We undertook extensive consultation with all stakeholders in preparing the guidelines. The result has been a set of documents that clearly set out the regulatory framework we intend to apply, which balances the views and interests of stakeholders under the objectives of the National Electricity and Gas Laws. We will make transparent decisions within the statutory time limits.

Benchmarking

In delivering better network regulation, a key focus in 2014–15 is the increased scope for benchmarking network businesses against their peers, and obtaining valuable information on what is 'best practice'. The new rules give us wider discretion to form a view on forecast total expenditure, rather than relying only on detailed engineering analysis of individual projects and programs.

Consistent with our new assessment guidelines, we will use benchmarking to assess a business's comparative efficiency, and to direct our focus on areas where expenditure does not appear efficient. It will also be used to inform our allowances for efficient expenditure where we are not satisfied that a business's own costs are efficient. Our first annual benchmarking report will be published in 2014–15.

Network returns

Another important focus for us is applying the new rate of return guideline. The guideline sets out how we determine the return that electricity and gas network businesses can earn on their investments. Small changes in the rate of return (a percentage or two) can have a big impact on revenues. Our aim is to set a rate of return that delivers sufficient but not excessive returns to support investment.

Consumer engagement

Consumer perspectives and observations help us understand if a regulatory proposal is consistent with the national electricity and gas objectives. Engagement is also important when assessing whether spending proposals are efficient and reflect energy consumers' priorities.

We are committed to meaningful engagement with all stakeholders in our review processes—consistent with our stakeholder engagement framework. We are working to give consumers a greater voice in our network pricing reviews in particular. Building on our consultation approach for the Better Regulation program, we will establish jurisdictional groups of consumer representatives for each reset. This approach gives us a mechanism to obtain coordinated and informed views from a cross-section of consumer groups.

The newly formed Consumer Challenge Panel will play a significant role in our processes. The panel will advise us on issues that are important to consumers and look to ensure that consumer perspectives, particularly those of residential and small business consumers, are being properly considered throughout these technical and complex regulatory processes. Members of the panel bring with them experience in regulation, networks, economics, finance and consumer engagement.

Priority 2 Building consumer confidence in energy retail markets

It is vital that energy consumers, particularly residential and small business consumers, are confident participants in the retail energy market. Our core functions under the National Energy Retail Law help ensure the integrity of the market, so that consumers can trust that they are receiving a service that meets their needs.

The Retail Law has commenced in the ACT, Tasmania (for electricity only), South Australia and New South Wales. It strengthens the position of residential and small businesses customers by providing access to the information they need to choose an energy contract that suits them, and to manage their relationships with retailers and distributors. The Retail Law also includes key protections to support customers when problems arise, whether in the form of disputed bills, payment difficulties or disconnection of supply.

Reporting on performance and compliance

Our core roles under the Retail Law include compliance monitoring and reporting on energy businesses' performance (priority 3 and program area 4). This reporting enhances transparency and accountability, and provides incentives for businesses to improve performance over time. It also provides an opportunity to identify emerging issues that may require a compliance or enforcement response, and brings a high level of transparency and integrity to energy retail markets. We will continue to promote the outcomes of our performance monitoring and compliance work

to stakeholders through comprehensive, clear and regular reporting.

Authorisation of energy sellers

Consumer confidence in the retail market is influenced by the actions of energy providers. We will continue to thoroughly assess applications for entry into the energy retail market, and give guidance to potential applicants. This provides confidence that authorised retailers are aware of and can meet their obligations under the Retail Law. We will continue to assess alternative energy selling models to ensure that our regulatory approach allows for market development and that consumer protections remain sufficient.

Information and engagement

The complexity and structure of retail offers can make it difficult for consumers to make comparisons and exercise informed choice when entering contracts. We will work to ensure the Energy Made Easy website (energymadeeasy.gov.au) remains a key source of trusted information on the energy market, consumer protections and available energy retail offers. Improvements to the website in 2014–15 will enhance ease of use and accessibility, and will provide consumers with additional tools to help them navigate the energy retail market and understand their rights. We will also publish educational materials and will consult with consumer



groups on strategies that reach a broad cross-section of the community.

We will continue to liaise with the range of stakeholders with an interest in the Retail Law. This includes energy businesses, ombudsman schemes, jurisdictional regulators and other market bodies. We will also continue to engage with residential and small business consumer intermediaries, particularly through our Customer

Consultative Group, which meets three times a year. These consumer intermediaries are often at the 'front line' of engagement 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 in energy retail markets.

Priority 3 Supporting the efficient operation of energy markets

To promote more efficient, competitive, transparent and secure energy wholesale and retail markets, we will continue to perform our monitoring and enforcement responsibilities. Our role is to ensure market participants comply with the relevant legislation and rules.

Compliance monitoring and enforcement

We will promote a culture of compliance by energy businesses, including through our compliance monitoring and reporting activities, investigations and reviews. With thousands of obligations in the national energy market, we employ a risk-based approach to analysing obligations, focusing on the impact and probability of a breach, and allocate our resources on that basis.

We will take effective, targeted and timely enforcement action when necessary, and promote best practice through our compliance publications and audits. This includes undertaking strategic compliance projects to identify a compliance problem, inefficiency, harm or risk and then working to solve it or reduce its impact.

Monitoring and reporting on market developments

Market activity and price outcome reports provide a basis to detect non-compliance, market irregularities and manipulation, and consumer harms.

Our market monitoring and enforcement roles provide us with an in-depth understanding of, and unique expertise in, energy markets. Our understanding of the energy sector is drawn together in a variety of reports including the AER's annual *State of the energy market report*. This report explains important market developments, factors that have impacted on energy prices, and regulatory and policy responses being implemented. It is a valuable resource for market participants, policy makers and the wider community.

Given the dynamic nature of energy markets, the AER must remain actively engaged in market developments to ensure we are well placed to meet new challenges. Our expertise in network regulation, energy consumer issues and energy markets enables us to bring a valuable perspective as policy is developed.

The gas industry is developing quickly to meet liquefied natural gas export requirements. This has implications across the gas industry and flow on impacts in electricity generation. We will report on developments in the trade of gas and pipeline capacity, including by monitoring market conduct and outcomes in the new Wallumbilla hub.

In electricity, changing demand and supply conditions have created greater urgency for more efficient tariff structures and demand-side participation in the energy market. We will provide objective insights and analysis to support this important policy debate, and develop or amend guidelines or schemes to give effect to reforms in this area.

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

Our work program for 2014–15

Our strategic priorities identify our points of focus over the next 12 months. But our wider ongoing functions remain critically important and continue to account for a significant portion of our strategic thinking and operating activity.

Program area 1: Energy networks

We set the prices charged by over 30 Australian energy network businesses for using 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.

In 2014–15 we are reviewing, or commencing reviews, of the prices charged by 20 energy networks.

1.1 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 will apply to some determinations in 2014–15. The determinations made during 2014–15 will also be the first made under the new regulatory framework introduced in November 2012 and implemented through the AER's Better Regulation program (priority area 1).

In summary, our work in this program area during 2014–15 will entail:

- completing regulatory reviews for those electricity networks subject to placeholder determinations in 2014–15:
 - transmission networks in New South Wales and Tasmania
 - distribution networks in New South Wales and the ACT

We have four ongoing work program areas in 2014–15:

1. Energy networks
2. Retail energy markets
3. Wholesale energy markets
4. Compliance and enforcement.

- completing a review of the regulatory proposal for the Directlink interconnector (Queensland–New South Wales)
- releasing draft decisions for our reviews of the Queensland and South Australian electricity distribution networks
- commencing a review of regulatory proposals by Victorian electricity distribution businesses
- developing frameworks and approaches for reviewing the Victorian and Queensland transmission networks and the Tasmanian electricity distribution network

1.2 Gas pipelines and networks

We regulate the cost of gas pipeline services in jurisdictions other than Western Australia and Tasmania, as set out in access arrangements developed by pipeline owners. In total, we regulate five transmission pipelines and 10 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. This time can be extended two months, but we have a maximum of 13 months to make a decision.

Figure 2 sets out the regulatory timelines for AER determinations on access arrangement proposals for gas pipelines. In 2014–15 we will complete reviews of access arrangement proposals for gas distribution networks in New South Wales. The reviews are occurring under new rules (introduced in November 2012) that revise how we determine the allowed rate of return.

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

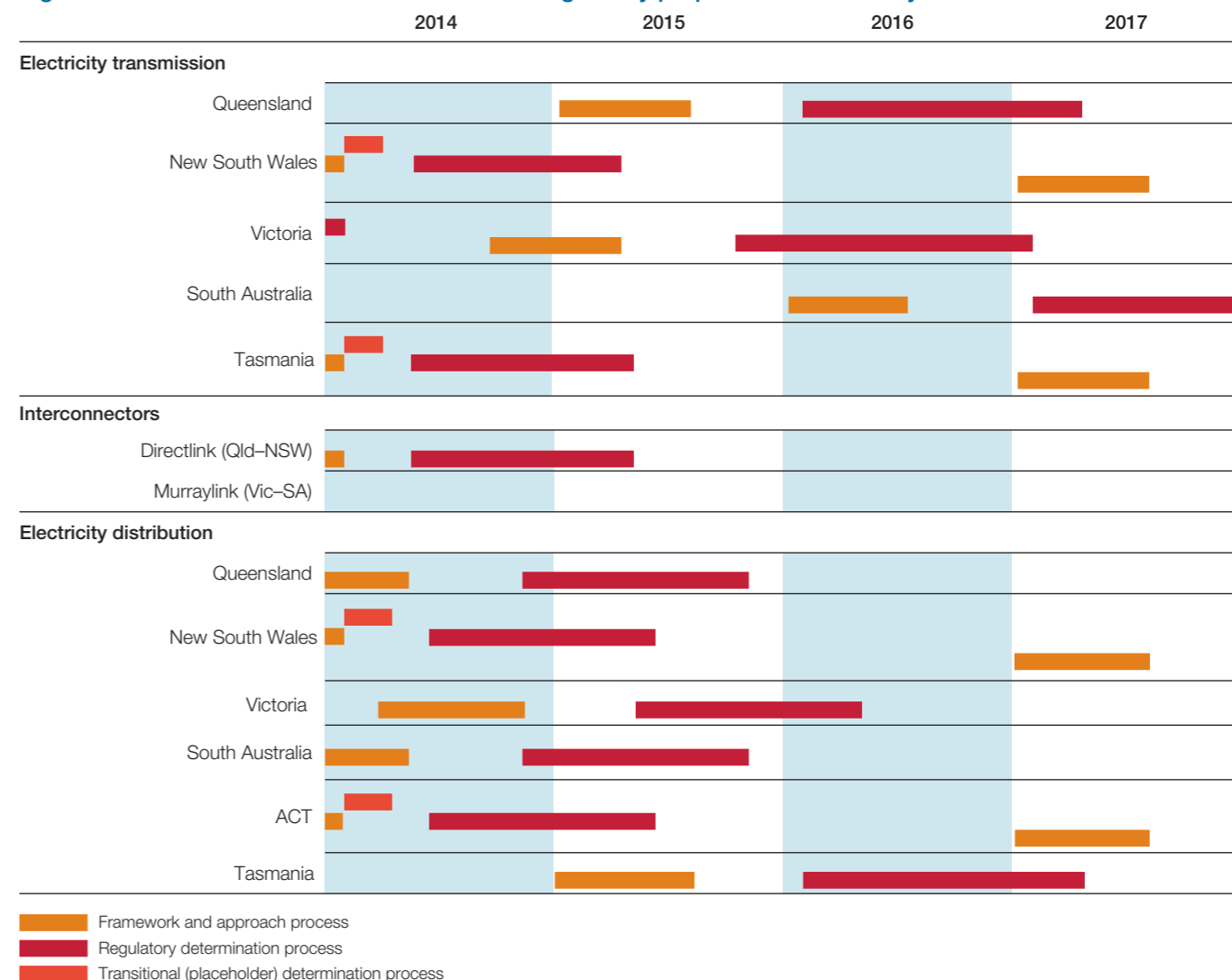
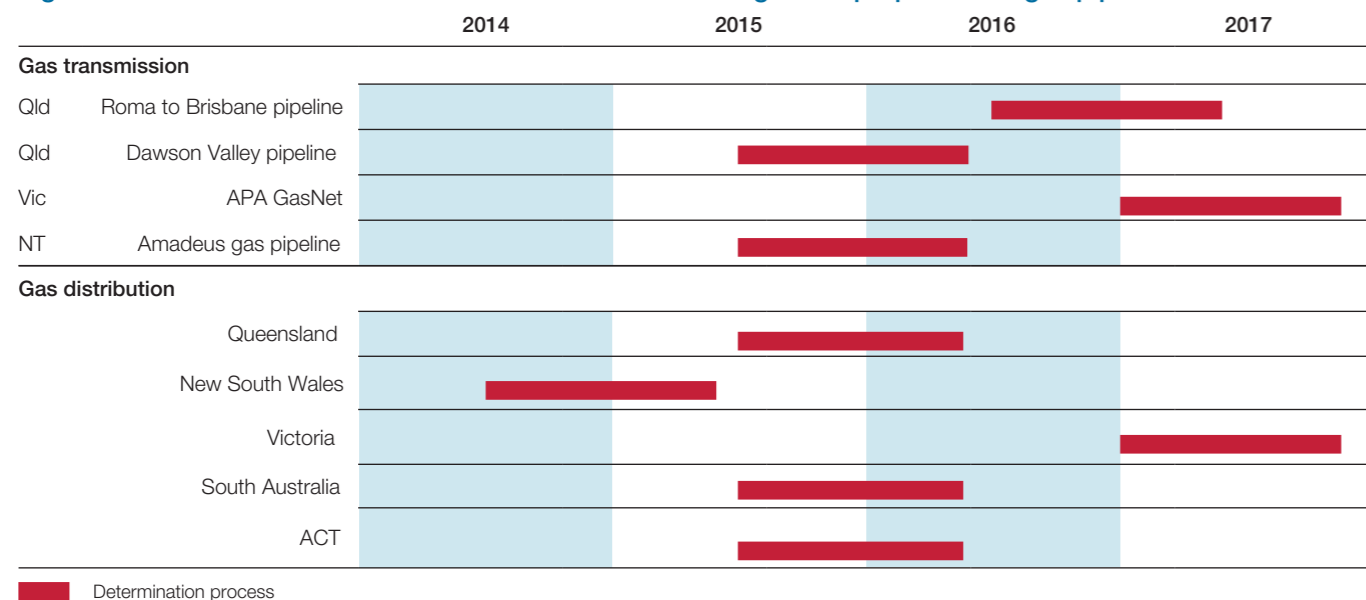


Figure 2: Timelines for AER determinations on access arrangement proposals for gas pipelines



1.3 Merits review of regulatory decisions

Our regulatory determinations on energy networks are subject to a limited merits review by the Australian Competition Tribunal. 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 any reviews that arise.

At 1 June 2014, none of our decisions were scheduled for Tribunal review during 2014–15.

1.4 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 2014–15 we will publish:

- inaugural benchmarking reports for electricity networks, setting out data that will support upcoming reviews of revenue allowances
- a performance report on the financial and operational performance of electricity distribution network businesses, which compares outcomes with forecasts in regulatory decisions
- reports on business performance under incentive schemes covering service performance, operating expenditure and demand management.

1.5 Network planning and expansion

The regulatory framework requires network businesses to determine whether their large investment projects are the most efficient way of meeting an identified need. 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.

In 2014–15 we will:

- monitor businesses' compliance with the tests
- on request from a transmission network business, determine whether its assessment satisfies the test
- help resolve disputes over how the regulatory investment tests are applied by network businesses.

During 2014–15 we will 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. This follows similar work with electricity transmission businesses that commenced in 2013–14.

1.6 Other regulatory work

In addition to revenue determinations, we undertake wider functions in economic regulation. While our primary focus during 2014–15 will be directed towards an

exceptional peak in regulatory determinations (priority 1 and work program area 1.1), we will also:

- monitor the compliance of network businesses with the energy legislation and rules (program area 4)
- 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
- apply a revised service target performance incentive scheme to transmission networks through our regulatory determinations
- assist in access and connection disputes
- constructively engage in policy reviews and rule changes to implement the AEMC's Power of Choice reforms, and then develop or amend our guidelines and schemes to give effect to any reforms arising—for example, reviews and proposed rule changes on:
 - distribution network pricing, including new requirements for network businesses to consult with customers in developing tariff proposals and provide greater certainty on how prices will change over time
 - competition in the provision of metering services

- constructively work with the AEMC, electricity distribution businesses, jurisdictional regulators and governments to develop common definitions for expressing distribution network reliability targets across the NEM, as a preliminary step to developing a national framework that promotes efficient investment, strengthens transparency and improves regulatory outcomes.

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.

In Victoria, we are responsible for determining revenues and charges for the rollout of advanced metering infrastructure by electricity distribution businesses to households and small businesses. 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 progressively 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 is expected to transfer to the national framework in 2015. The national reforms aim to streamline how energy retail markets are regulated through the Retail Law, which sets out customers' key protections and the obligations of energy businesses.

Our work in this program area includes:

- operating our 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 have a role in setting retail energy prices. State and territory governments other than Victoria, South Australia and New South Wales (from 1 July 2014) apply some form of retail price regulation for electricity services. 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 (for example, door-to-door selling of energy contracts and 'discounts off what?').

We engage with our Consumer Consultative Group to ensure our retail markets work program accounts for consumer perspectives. The 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 meet for three formal meetings, and on other occasions as required, during 2014–15.

2.1 Energy Made Easy website

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 jurisdictions that apply the Retail Law. 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.

In quarter three 2014 we will launch an enhanced website to maximise ease of use and consumer accessibility. During 2014–15 we will also publish new electricity bill benchmarks for inclusion by retailers on energy bills and for use as a benchmarking tool on the website.

2.2 Authorisations and exemptions

We assess applications by businesses seeking authorisation as an energy retailer, and some applications to sell energy under an exemption from these requirements. We consult publicly on authorisation and certain exemption applications, and typically release a decision within 12 weeks of receiving all relevant information. We intend to revise the authorisation guideline and will consult with stakeholders on these revisions in 2014–15.

2.3 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 any new entrant retailers, and monitor and assess the compliance of all approved hardship policies (program area 4). We also assess retailers' amendments to approved policies.

In 2014 we will complete a review of how retailers' implement their hardship policies to identify and assist customers experiencing payment difficulties. The review will focus on customer access to hardship programs, as well as the related issues of 'capacity to pay' assessments and how retailers promote, use and monitor Centrepay arrangements.

2.4 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 2014–15 we will:

- 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 with the AEMC's financial market resilience review and develop any necessary refinements to the RoLR procedures.

2.5 Performance reporting

Performance reporting on energy businesses enhances transparency and accountability, and provides incentives for businesses to improve performance over time. We publish an annual performance report on the energy retail sector 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.
- In addition to the annual report, we publish quarterly updates on retail market performance on our website. Additionally, we will begin publishing data on distribution businesses' performance against network service standards.

Program area 3: Wholesale energy markets

We have responsibilities in wholesale energy markets, encompassing:

- the NEM—a spot market in eastern and southern Australia, in which generators compete to dispatch electricity
- spot markets for gas—the short term trading market operating in Sydney, Brisbane and Adelaide, the Victorian wholesale gas market and the gas supply hub introduced in 2014 at Wallumbilla, Queensland.

We monitor these markets to:

- ensure market 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 issues to strengthen market transparency and confidence. We draw on this monitoring work to advise the COAG Energy Council, the AEMC and other bodies on wholesale market issues, and to provide the ACCC with assistance—for example, advice on mergers and undertaking monitoring associated with the proposed repeal of carbon pricing legislation.

Market monitoring and reporting

In 2014–15 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 the short term trading markets, and special reports on systemic market issues. Our *State of the energy market* report provides an annual overview of 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 2014–15 we will focus on three potential impediments: *network congestion* and *quality of market information* in the NEM, and *bidding behaviour* in gas spot markets.

Network congestion

Transmission network congestion causes market volatility, including by encouraging disorderly bidding that does not align with underlying generation costs. In 2013 the AEMC's *Transmission frameworks review* recommended initiatives to more effectively manage network congestion. In 2014–15 we will:

- continue to work in policy forums aimed at better managing network congestion, including the AEMC's development of an optional firm access regime
- continue to report on market outcomes that are effected by congestion and seek ways to reduce the harm, including through rule changes such as our proposal that generator ramp rates reflect the plant's technical capacity
- apply a revised service target performance incentive scheme, aimed at reducing network congestion (program area 1).

Quality of market information

To provide flexibility to respond to market conditions, the NEM rules allow generators to rebid their supply offers up to the time of dispatch. Effective competition relies on market competitors having reliable forecasts of their forward exposure and time to respond to changes in those conditions. The AER monitors wholesale energy markets for impediments to the supply of reliable information. In particular, we will continue to focus in 2014–15 on generator rebidding behaviour aimed at strategically manipulating dispatch prices. As part of this focus we will:

- engage in the AEMC's consideration of a rule change proposal by the South Australian Government aimed at ensuring generator rebids are made in good faith and meet the legislation's policy intent
- further refine an offer stability index (OSI) that tracks the scale, timing and frequency of rebidding behaviour.

More generally, we will review our methods for assessing significant variations between actual market prices and those forecast prior to dispatch, to better identify underlying causes such as inaccurate demand forecasts and strategic rebidding.

Bidding behaviour in gas spot markets

Strategic bidding periodically affects spot markets in gas. We will continue to focus on the drivers of bidding and rebidding behaviour in spot gas markets to detect irregularities. Additionally, we will assess and report on the accuracy of participant demand forecasting in those markets.

The AER's role in spot gas markets expanded in March 2014 with the launch of a gas supply hub at Wallumbilla. The AER monitors participants' compliance with the rules governing the new market. Our focus during 2014–15 will be on the market conduct rules, of which a breach can have a significant market impact. In particular, we will monitor the market for evidence of price manipulation and report on outcomes.

We aim to refine our monitoring systems and strengthen our analytical capabilities for data relating to the Wallumbilla hub and other gas spot markets. More generally, we will engage with industry on our gas monitoring framework, including our approach to reporting on the Wallumbilla hub.

Program area 4: Compliance and enforcement

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

- wholesale energy markets—the NEM, the short term trading market for gas, 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. At 1 July 2014 we undertook this role for New South Wales, South Australia, Tasmania and the ACT.

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 adopt a risk based approach to monitoring and enforcing compliance, based on the potential impact of a breach on participants, end users and other stakeholders, and the probability that a breach may occur.

We strive for a proportionate response to breaches. Ideally, energy businesses should resolve compliance issues through agreed outcomes, without us needing to exercise statutory enforcement powers or seek financial penalties. Targeted and timely enforcement action may be necessary and appropriate in certain circumstances. Our approach to enforcement is set out in our statement of approach (available on our website). We aim to apply a consistent approach across wholesale and retail markets.

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
- engagement with other regulators and agencies (such as ombudsmen) to identify possible compliance issues
- forums and other meetings with industry participants to consult on concerns and our approach to compliance and enforcement

- 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
- a range of enforcement responses to identified breaches, including cooperative solutions, infringement notices of \$20 000 and court action
- publication of compliance reports (accessible summaries of our compliance activities) and compliance bulletins (when additional guidance on the rules is warranted).

We also explore new and innovative approaches to addressing compliance and harm issues in the market.

In 2014 the COAG Energy Council is finalising its response to a review of enforcement regimes across the national energy legislation—the National Electricity Law, the National Gas Law and the Retail Law. The review considered whether the regimes operate in the long term interests of consumers, and ensure the integrity of the energy market. We will assist the Council by making submissions and through other engagement, as appropriate.





Compliance reporting

In 2014–15 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 2014–15 we will:

- continue to monitor generators' compliance with dispatch instructions from AEMO
- engage with electricity transmission and distribution businesses to improve the quality of their annual planning reports to better meet the requirements of the rules (program area 1.5)
- investigate whether providers of frequency control services in the NEM deliver the services they are paid to provide
- review our methods for assessing variations between actual market prices and those forecast prior to dispatch (program area 3)
- audit generation and transmission business's compliance programs for technical performance standards
- develop new gas reports analysing public and confidential data to assist our monitoring and compliance role
- refining our data systems and metrics to better analyse the behaviour of participants and wholesale market competitiveness.

Retail markets

In 2014–15 we will:

- prepare to extend the compliance monitoring framework to Queensland, pending its adoption of the Retail Law in 2015
- assess matters reported to us in periodic exception reports from retailers and distributors; and complete a review of reporting arrangements under our *Compliance procedures and guidelines*
- monitor retailers' compliance with their obligations to provide information on market offers to the Energy Made Easy website
- 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 2014–15 we will:

- respond to any compliance issues relating to transmission networks meeting their obligations to negotiate with third parties on network connections
- 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 (program area 1.5)
- assess annual ring fencing compliance reports from service providers of covered transmission and distribution pipelines.

Deliverables and performance indicators 2014–15

A: COAG Statement of Expectations

The following AER deliverables and performance indicators for 2014–15 are grouped according to the four areas identified in the COAG Energy Council's *Statement of Expectations*.

Progress against work program

- Publish a detailed work program as part of our *Statement of Intent*, by 1 July 2014.
- Publish any significant changes to our work program on AER website, within three business days.
- Report to COAG Energy Council on progress against work program, including outcomes, issues and any variations, at least once every six months.
- Meet all statutory timeframes applicable to our work program.
- Publish an Annual Report setting out progress against our work program, including compliance with statutory timelines, by 30 September 2014.

Expenditure against budget

- Undertake our work program within budget as determined through the Commonwealth budgetary process.
- Report through the ACCC–AER statutory annual report on our expenditure against the program budget allocated to AER.
- Provide clear guidance through our annual reporting on how our funds have been spent.

Engagement with stakeholders

- Meet with the Consumer Challenge Panel, jurisdictional groups of consumer representatives and the Customer Consultative Group, in conducting our work program.
- AER board and senior executives participate in strategic opportunities to communicate with stakeholders via speeches, forums and the media.
- Publish decisions that clearly set out how we accounted for stakeholder views.
- Constructively engage with agencies that have energy market responsibilities in accordance with legislation and memoranda of understanding.
- Constructively engage in policy reviews, rule change processes and reform implementation through information sharing, making submissions and participating in forums.
- Engage with stakeholders on ex-post reviews of major projects to assess whether stakeholders perceive us as effective, transparent and taking sufficient account of their views.
- Undertake a broad stakeholder survey every two years and achieve an average rating of [at least 3.5 out of 5] on the quality of our stakeholder engagement.
- Publish the *State of the energy market* report, with accessible information on market activity and dynamics.
- Promptly respond to requests for information from government (including the COAG Energy Council), meeting any specified timeframes.

Improving capabilities

- Continue to strengthen and draw on in-house technical expertise including engineering capabilities, analysis techniques and metrics.
- Apply revised information requirements on energy businesses and draw on improved data systems to support effective benchmarking.
- Further refine our approach to technical metrics on market structure and efficiency in energy wholesale markets.
- Address any significant issues of concern to stakeholders identified through our 2014 stakeholder survey.

B: AER Work program and strategic priorities

The following deliverables and performance indicators for 2014–15 apply at a program level and support those specified in the COAG Energy Council's *Statement of Expectations*. Indicators relating to our strategic priorities appear in italics.

Work program area 1: Energy networks

- *Complete all regulatory decisions on electricity networks and gas pipelines within statutory timeframes, in accordance with our work program.*
- Constructively engage in policy reviews and rule changes arising from the AEMC's Power of Choice review.
- Implement any reforms arising from AEMC rule changes, by developing or amending guidelines and through the regulatory determination process.
- Publish benchmarking reports for electricity networks by 30 September 2014.
- Publish a performance report for electricity distribution networks by 30 June 2015.
- Resolve any disputes within legislated timeframes, including on network access and connections, and regulatory investment tests.

Work program area 2: Retail energy markets

- *Provide guidance to potential new energy sellers on the authorisation/exemptions application process to ensure they are aware of their obligations.*
- *Assess retail authorisation/exemptions applications within 12 weeks of receiving all relevant information.*
- Undertake preparatory work to extend the application of the Retail Law to Queensland in 2015.
- Assess retailers' hardship policies (and proposed amendments) within 12 weeks of receiving all relevant information.
- Publish an annual performance report on the retail energy market (including energy affordability) by 30 November 2014, supplemented by publication of quarterly data within 90 days of the end of the relevant reporting period.
- Launch the enhanced Energy Made Easy website by 31 October 2014.
- Publish new electricity bill benchmarks for inclusion on energy retailer's bills and for use as a benchmarking tool on the Energy Made Easy website, by 31 October 2014.

Work program area 3: Wholesale energy markets

- *Monitor energy spot markets to detect impediments to efficient trade, market irregularities and consumer harm.*
- *Complete technical audits of compliance systems for at least two energy businesses that are critical to market efficiency and energy security, and report on outcomes.*
- Publish 75 per cent of our weekly reports on activity in the NEM and spot gas markets within 12 business days of the relevant trading week.
- Publish within statutory timeframes our reports on extreme price events in the NEM (prices above \$5000 per megawatt hour) and significant price variations in spot gas markets.
- Provide support to the AEMC in progressing rule change proposals aimed at improving market efficiency.
- Conduct targeted compliance reviews each quarter of areas of the national energy rules, and discuss outcomes in quarterly compliance reports.

Work program area 4: Compliance and enforcement

- *Take effective, targeted and timely enforcement action when necessary to improve market outcomes for consumers, consistent with our public statement of approach.*
- Apply a risk based approach to compliance and monitoring activities, including in determining matters for targeted reviews.
- Publish quarterly compliance reports on wholesale markets and networks within six weeks of the quarter's end.
- Publish an annual compliance report on retail markets by 30 November 2014.
- Review and amend our retail *Compliance procedures and guidelines*, including exception reporting requirements, by 31 October 2014.

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 Objective¹, the National Gas Objective², and the National Energy Retail Objective.³

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

(d) 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.

4.0 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.

¹ Section 7 of the Schedule—National Electricity Law in the *National Electricity Act 1996* (SA)

² Section 23 of the Schedule—National Gas Law in the *National Gas Act 2008* (SA)

³ Section 13 of the Schedule—National Energy retail Law of the *National Energy Retail Law Act 2011* (SA)