



2007–08

AER WORK PROGRAM

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The AER

The Australian Energy Regulator is Australia's independent national energy market regulator. It commenced operation on 1 July 2005. The AER is a separate legal entity and part of the Australian Competition and Consumer Commission (ACCC) under Part IIIA of the *Trade Practices Act 1974*.

The AER's vision is to be recognised as a world's best practice energy regulator.

The AER aims to promote efficient investment and prices in the Australian energy sector to benefit the long-term interests of energy consumers.

The AER's *2006–08 Strategic plan* contains the corporate goals and priorities set by the AER to achieve this vision.

Our current activities

The AER's key activities currently include:

Regulatory resets

- > The AER is responsible for approving the revenues earned by electricity transmission network service providers (TNSPs) from prescribed transmission services in the national electricity market (NEM). The AER also assists the ACCC with the economic regulation of gas transmission networks in all jurisdictions except Western Australia.

Monitoring compliance

The AER:

- > monitors the wholesale NEM
- > monitors compliance with the national electricity law (NEL) and the national electricity rules (NER)
- > investigates breaches or possible breaches of provisions of the NEL and NER
- > takes enforcement proceedings against market participants where necessary.

Publication of information

The AER publishes a number of regular publications, including:

- > the annual TNSP regulatory report
- > weekly and quarterly NEM compliance monitoring reports
- > revenue determinations and access arrangements documents
- > guidelines
- > compliance reports
- > AER speeches and media releases.

These and other publications are available on the AER website (www.aer.gov.au).

The Australian Energy Regulator assists the Australian Competition and Consumer Commission on energy-related applications for authorisation under the Trade Practices Act. The AER also assists the ACCC in merger and acquisition work relating to the energy sector.

Our future activities

The AER is to assume responsibility for the economic regulation of electricity distribution services and gas transmission and distribution services, as well as certain retail regulatory functions.

Electricity and gas distribution and gas transmission

The Ministerial Council on Energy (MCE) is developing a new national gas law and gas rules, and is amending the national electricity law and national electricity rules.

It is anticipated the South Australian Parliament will pass the first legislation by late 2007 and that the amended NEL and NER will take effect soon after that. The introduction of the new laws will complete the transfer of economic regulation of transmission and distribution in the electricity and gas sectors to the new national governance arrangements.

Under the new legislation the AER will be responsible for the economic regulation of electricity and gas distribution and transmission networks in all states and territories except Western Australia and the Northern Territory (in respect of electricity).

Retail non-price regulation

The MCE has not yet determined the scope of the AER's role in this area, but compliance monitoring and enforcement are expected to be core aspects of the AER's non-price retail regulatory functions.

The AER's preparation assumes that its role in retail non-price regulation will broadly relate to:

- > overseeing minimum terms and conditions in energy retail contracts
- > overseeing retailer compliance with marketing requirements
- > overseeing retailer failure arrangements
- > administering any business authorisation arrangements for retailers.

This assumption is based on consultation material developed by the MCE Retail Policy Working Group. Additional functions may also include retailer compliance reporting and/or auditing.

Non-price regulation of distribution

Similarly to retail non-price regulation, while the MCE has not yet determined the scope of the AER's role in this area, compliance monitoring and enforcement are expected to be a core aspect of the AER's non-price distribution functions.

The AER is preparing for the transfer by assuming that its potential role in distribution non-price regulation will broadly relate to:

- > approving the default use of system agreements between distributors and retailers
- > overseeing the terms and conditions of distributors' provision of connection services to smaller end users
- > administering any business authorisation arrangements for distributors.

Once again, the AER assumption is based on consultation material developed by the MCE Retail Policy Working Group.

Regulatory resets

The AER is currently responsible for the economic regulation of electricity transmission services in the NEM. This function includes making transmission determinations, developing guidelines for electricity transmission businesses and developing service standards for TNSPs.

The AER also assists the ACCC in undertaking gas transmission regulatory functions, including considering access arrangements, assessing associate contracts, carrying out annual tariff reviews, assisting in access disputes and monitoring and enforcing reference tariffs and ring-fencing obligations.

Electricity transmission determinations

Transmission network service providers are required to apply to the AER for determination of their maximum allowable revenues for a minimum of five years.

Under the NER, TNSPs must each submit a revenue proposal, their proposed negotiation framework, negotiated transmission service criteria and proposed pricing methods relating to prescribed transmission services to the AER 13 months before the end of their current regulatory control period. The AER is required to issue a draft decision within six months of receiving a TNSP's revenue proposal and to issue a final decision at least two months

before the beginning of the TNSP's next regulatory control period.

The assessment process for the Victorian electricity transmission determinations has begun. On 28 February 2007 SP AusNet applied to the AER to set its maximum allowable revenues for the period from 1 April 2008 to 31 March 2014. VENCorp applied to the AER on 1 March 2007 to set its maximum allowable revenues for the period from 1 July 2008 to 30 June 2014. The public process has also begun for the South Australian electricity transmission determination for ElectraNet, to be applied from 1 July 2008 to 30 June 2013.

The New South Wales and Tasmanian electricity transmission determinations (TransGrid, EnergyAustralia and Transend) will commence in the second quarter of 2008 and preparatory work for these resets will proceed in the second half of 2007. The determinations will cover the period from 1 July 2009 to 30 June 2014. The timeframes for the public review processes for the above transmission determinations are set out in appendix A.

In addition to revenue cap determinations, TNSPs may apply to the AER for assessment of discount applications, cost pass-throughs and contingent projects. Chapter 6A of the NER sets out the process and timeframes by which the AER must make such assessments.

Electricity distribution determinations

The current determinations for Australian Capital Territory and New South Wales electricity distribution businesses (ActewAGL, Country Energy, EnergyAustralia and Integral Energy) end on 30 June 2009. The AER will be responsible for making the determinations for these businesses from January 2008 and is involved in pre-lodgment liaison with them in preparation for their 1 July 2009 to 30 June 2014 determinations. The public process for these determinations will begin in the second quarter of 2008.

Gas transmission access arrangements

The ACCC is currently the regulator for gas transmission pipelines in all states and territories (except Western Australia) and for distribution pipelines in the Northern Territory. It applies the National Third Party Access Code for Natural Gas Pipeline Systems (the national gas code) to regulated transmission pipelines. Under the national gas code, the regulator is required to consider and approve access arrangements submitted by a gas transmission pipeline service provider.

This involves setting terms and conditions of access, including reference tariffs for regulated services. The ACCC is also responsible for conducting annual reference tariff reviews in the second quarter of each year.

In December 2005 the ACCC released the *Access arrangement process guideline*, which sets out the process for making timely decisions for proposed access arrangements and revisions. The guideline was prepared to advise

service providers and other interested parties on processes to meet the access arrangement approval requirements of the national gas code, including arrangements to conclude approvals within the specified six-month period.

The AER is currently assisting the ACCC in assessing revisions to the access arrangement for the Dawson Valley pipeline (owned jointly by Anglo Coal and Mitsui) and GasNet (owned by Australian Pipeline Trust, now APA). The public process for the Dawson Valley pipeline began in February 2007, with a final decision planned for the third quarter of 2007.

The public process for GasNet began in April 2007 when it applied to the ACCC to set the terms and conditions—including price—under which it will offer third party access to the Victorian gas principal transmission system from 2008 to 2012. A final decision is planned for the first quarter of 2008.

VENCorp is not expected to submit an access arrangement for the Victorian gas principal transmission system. The Victorian Government

has accepted recommendations made in a statutory review of VENCorp's gas functions—that is, that VENCorp should no longer be required to submit an access arrangement under the national gas code. However, the AER will regulate VENCorp's reference tariffs annually under the national gas law when it is enacted.

Gas transmission businesses are subject to ring-fencing obligations, and are required to report on their compliance with these obligations annually. Gas transmission businesses will be required to report on their compliance with ring-fencing obligations in the third quarter of 2007.

Gas transmission businesses may also apply to the ACCC for assessment of associate contracts and arbitration of access disputes. The national gas code sets out the process and timeframes by which the ACCC must conduct these assessments.

Guidelines

Electricity transmission regulatory guidelines

On 16 November 2006 the Australian Energy Market Commission released revised rules outlining the transmission revenue regulation provisions of the NER. Under the revised rules the AER is required to develop and publish a range of guidelines during 2007. The AEMC also reviewed transmission pricing, with the result that the new rules now require the AER to develop and publish pricing methods guidelines during 2007.

The revenue regulation guidelines address matters such as information requirements for revenue resets, the allocation of costs between regulated and unregulated services and the operation of service performance target incentives.

The service performance target scheme will be enhanced to provide incentives:

- > for greater transmission system reliability at times when reliability is particularly valued by users
- > to improve and maintain the reliability of those elements of the system that are most important to determining spot prices.

Additional guidelines address efficiency benefit sharing arrangements, the post-tax revenue setting model, the roll forward of regulatory asset values and annual reporting requirements. Under the NER, these guidelines are required to be completed by 30 September 2007 (and 31 October 2007 for the pricing guidelines).

The AER is also required to amend the regulatory test to make it consistent with the NER and to develop regulatory test application guidelines by 31 December 2007.

Electricity distribution regulatory guidelines

The AER aims to develop and publish guidelines for distribution businesses and customers before the beginning of the electricity distribution price or revenue resets (expected to be mid-2008).

In April 2007 the MCE released an exposure draft of the distribution rules, while the AER will release a series of consultation guideline documents (listed in appendix A) in the second half of 2007, with final guidelines to be published by the second quarter of 2008.

Wholesale electricity market

One of the AER's major activities is overseeing the operation of the wholesale electricity market. The AER's functions and powers in monitoring compliance, investigations and enforcement of the market are set out in s. 15 of the NEL.

Monitoring

The first function conferred on the AER under s. 15 of the NEL is monitoring compliance with the NEL and NER by registered participants and other persons. By monitoring activity and behaviour in the market, the AER is able to assess compliance and identify breaches of the NEL and NER.

The ongoing work program for market monitoring of the wholesale electricity market includes:

- > maintaining a 'market snapshot' on the AER website (www.aer.gov.au), including up-to-date information on the wholesale electricity market
- > weekly public reporting, including details of market outcomes for each week
- > preparing public reports when the spot price exceeds \$5000/MWh.

Compliance

In the third quarter of 2007 the AER will release its compliance and enforcement strategy, setting out its compliance monitoring activities for the coming year and beyond. Those activities include:

- > **Targeted compliance reviews**
The AER will continue to target NER provisions during the year to determine the extent to which the relevant provisions are being complied with.
- > **Audits**
The AER will undertake audits to determine compliance with particular aspects of the NER.
- > **Technical standards compliance monitoring programs**
The AER will undertake audits that specifically focus on assessing participants' technical standards compliance monitoring programs.

> Participant reporting

The AER will be enhancing participant reporting requirements with respect to particular obligations under the NER.

The AER will continue to report the outcomes of its compliance monitoring activities in its quarterly compliance reports.

Enforcement

The purpose of the AER's compliance monitoring regime is to identify any incidents of non-compliance with the NEL and NER. In some cases, a further investigation may be warranted to ascertain the existence, nature and extent of any breach.

During 2007–08 the AER will continue to undertake special investigations of events to determine whether enforcement action is required.

During the third quarter of 2007 the AER will publish the results of its investigation into the events of 16 January 2007, following record demand across the NEM and bushfires in north-east Victoria, which caused transmission outages between Victoria and New South Wales.

Other

In 2003 the ACCC released its *Statement of principles for the regulation of transmission revenues—service standards guidelines*, and in 2005 the AER adopted the *Service standards guidelines* as part of its compendium of regulatory guidelines.

In 2006 the AEMC reviewed the framework for regulating electricity transmission services and introduced provisions into the NER that require the AER to release guidelines on its approach to regulation.

Consistent with this requirement the AER released its first proposed guidelines, which include the service target performance incentive scheme, in January 2007. The AER will release the final guidelines by September 2007.

The AER is developing an additional service standards incentive scheme based on the market impact of congestion. The AER released an issues paper in June 2007 and plans to issue a draft decision in the fourth quarter of 2007, with a final decision to be released in the first quarter of 2008.

Publication of information

State of the energy market report

The AER will publish a regular report on the state of the national energy market. The first edition will be released in the third quarter of 2007. This report will draw on information available through the AER's regulatory activities and other publicly available information.

The AER envisages that each edition of the *State of the energy market* report will consist of a survey of market activity and performance in electricity and gas, supported by focal essays that develop issues in more depth. Some essays will be developed in-house, while others may be commissioned.

Other market reports

During 2007–08 the AER will continue to publish weekly and quarterly reports on the operation of the wholesale

electricity market. In addition, reports will be published as required by various NER provisions, such as the publication of reports when the spot price in the wholesale electricity market exceeds \$5000/MWh.

In the third quarter of 2007 the AER will publish its 2006–07 report on the indicators of the impact of transmission network congestion on electricity markets. Data relating to the indicators will eventually be incorporated into the weekly reports.

Annual TNSP electricity regulatory reports

The annual electricity regulatory report is prepared each year from information provided by NEM-based TNSPs in their regulatory reports under the NER. The report focuses on the revenue and expenditure performance of the networks. Information is presented on the TNSPs' profitability

and investment outcomes, comparing actual expenditures with those forecast in the original revenue cap decisions. The regulatory report also details the financial and service standards performance of TNSPs within the NEM over the reporting period.

The report provides interested parties with an independent picture of TNSPs' financial performance, revenue cap outcomes and performance against the AER's service target performance incentive scheme. The 2006–07 electricity regulatory report will be published in the second quarter of 2008.

Annual service standards compliance reports

The AER seeks to provide performance incentives for TNSPs to maintain and improve on levels of service through greater efficiency in processes and service delivery.

Through the *Service standards guidelines* and the service standards measures outlined in individual TNSP's revenue cap decisions, TNSPs are encouraged to meet unique service performance targets. TNSPs are required to report annually on their performance, which is then reviewed, with the final result leading to either a financial reward or a penalty that is then applied to the TNSP's annual revenue allowance.

TNSPs' compliance with the service target performance incentive scheme contained in their revenue determinations is reviewed annually in the first quarter of each year.

All TNSPs will submit their next performance reports in the first quarter of 2008. The AER will assess these reports in the second quarter of 2008 and consider each TNSP's compliance against its revenue determinations. This will affect revenues in 2008–09, depending on whether each TNSP is rewarded or penalised for its

performance. The results will be published in the annual service standards compliance reports.

Other reports

Information regarding the ring-fencing obligations of entities that own or operate gas transmission pipelines regulated under the National Third Party Access Code for Natural Gas Pipeline Systems can be found in the annual gas ring-fencing compliance reports.

Appendix A

Regulatory resets

Project	Commencement	Finish
<i>Electricity transmission</i>		
Victorian (SP AusNet, VENCORP) electricity transmission determinations	Ongoing	First quarter 2008
South Australian (ElectraNet) electricity transmission determination	Ongoing	Second quarter 2008
Electricity transmission service standards compliance review 2007	Fourth quarter 2007	Second quarter 2008
New South Wales (EnergyAustralia, TransGrid) electricity transmission determinations	Second quarter 2008	Second quarter 2009
Tasmania (Transend) electricity transmission determination	Second quarter 2008	Second quarter 2009
<i>Electricity distribution</i>		
Australian Capital Territory and New South Wales (Actew AGL, Country Energy, EnergyAustralia and Integral Energy) electricity distribution determinations	Second quarter 2008	Second quarter 2009
<i>Gas transmission</i>		
Dawson Valley pipeline access arrangement	Ongoing	Third quarter 2007
Gas ring-fencing compliance review 2007	Third quarter 2007	Fourth quarter 2007
GasNet gas transmission access arrangement	Ongoing	First quarter 2008
Gas transmission pipelines annual tariff resets (GasNet, VENCORP, CWP, CRP, DVP, MSP and RBP)	Second quarter 2008	Second quarter 2008
<i>Annual reports</i>		
2006–07 TNSP electricity regulatory report	–	Second quarter 2008
2007 annual service standards compliance reports	Second quarter 2008	Second quarter 2008

Amendments to guidelines, models and schemes

Project	Commencement	Finish
<i>Guidelines</i>		
Electricity transmission guidelines (cost allocation, submission, efficiency benefit sharing scheme, information, asset base roll-forward, post-tax revenue model and service target performance incentive scheme)	Ongoing	Third quarter 2007
Electricity transmission pricing methodology guidelines	Ongoing	Fourth quarter 2007
Electricity transmission regulatory test and application guidelines	Ongoing	Fourth quarter 2007
Electricity distribution guidelines* (submission guidelines, cost allocation guidelines, post-tax revenue model and asset base roll-forward model, efficiency benefit sharing scheme)		

* The consultation process will begin when the national electricity rules for distribution businesses commence operation.

Glossary

Australian Competition and Consumer Commission	ACCC
Australian Energy Market Commission	AEMC
Australian Energy Regulator	AER
Ministerial Council on Energy	MCE
national electricity law	NEL
national electricity market	NEM
national electricity rules	NER
transmission network service provider	TNSP

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