



AER report to Ministerial Council on Energy

Report under section 28ZG of the
National Electricity Law

May 2010

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The Australian Energy Regulator (AER) published its distribution determinations for the Queensland (Energex and Ergon Energy) and South Australian (ETSA Utilities) distribution network service providers (DNSPs) on 6 May 2010. The determinations commence on 1 July 2010 and operate for a five year regulatory control period.

Under section 6.11.2 of the National Electricity Rules (NER) the AER must, no later than 2 months before the commencement of the relevant regulatory control period, publish the distribution determination. The AER was therefore required to make its distribution determinations no later than 30 April 2010.

Section 28ZG of the National Electricity Law states that if the AER does not make its network revenue or pricing determination within the time specified by this Law or the Rules for the making of that determination, the AER must give a report to the Ministerial Council on Energy (MCE). The report is required to describe the AER's handling of the matter, give reasons for not making the determination within the specified period and specify a date by when the AER considers the determination will be made.

In making its distribution determinations for the Queensland and South Australian DNSPs the AER was required to establish the value of the regulatory asset bases of the DNSPs using the March quarter consumer price index (CPI). The regulatory asset bases are an input into the AER's modelling of the DNSP's regulated revenues. Normally, the Australian Bureau of Statistics (ABS) releases the March quarter CPI in the second last week of April and this allows the AER sufficient time to incorporate the CPI data into its models prior to 30 April. This year the ABS released its March quarter CPI on 28 April. This did not provide the AER with sufficient time to model the regulated revenues of the DNSPs.

Once the AER became aware that the ABS would release its March quarter CPI later than normal the AER advised interested parties that the publication date for the final determinations would be delayed until 6 May 2010. This notice was released on 30 March 2010.

The NER requires the AER to make its distribution determinations within an 11 month period. However, a rule change was implemented for the Queensland and South Australian DNSPs that allowed them to submit regulatory proposals to the AER a month later than would normally be the case.¹ This rule change did not extend the period available to the AER to make its determinations. Even with the late receipt of ABS data the AER has been able to make these determinations in a period of just over 10 months.

The AER's determinations were published on the AER website on 6 May.

¹ AEMC, *Rule Determination – National Electricity Amendment (WACC Reviews: Extension of Time)*, 26 March 2009.