

**Professionals
Australia**

~ Submission ~

**Response to the Australian Energy Regulator's preliminary determinations
Queensland distribution businesses 2015–2020**



Mr Sebastian Roberts
General Manager - Networks Branch
Australian Energy Regulator
GPO Box 520
Melbourne VIC 3001

Thursday, 2 July 2015

Dear Mr Roberts

Response to the Australian Energy Regulator's preliminary determinations Queensland distribution businesses 2015–2020

Professionals Australia seeks to respond to matters raised by the Australian Energy Regulator's draft determinations in respect to revenue requirements for Energex and Ergon Energy for the regulatory period 2015-2020.

We acknowledge the many challenges faced by the Australian Energy Regulator (AER) in setting funding for the sector across a five year period, however we believe that the cuts outlined in the AER's draft determinations will present significant and numerous risks to safety, reliability, quality and professional capacity across the sector.

With safety and reliability so important to the Government and community, we urge that fuller consideration of a broader range of perspectives is assessed before any proposals are enacted. Our concern is that it would be penny-wise, pound foolish, to make cuts that risk a litany of future disastrous problems and costs.

While we acknowledge the AER's objective in continuing to pursue efficiencies in capital and operating expenses across each business, we believe that efficiencies can be achieved - without compromising safety and reliability of supply and operations.

We also urge the AER's full consideration of its obligations under the National Electricity Objective (NEO) in the need to ensure safe, reliable, quality and cost-efficient electricity provision – rather than simply pursuing the cheapest option.

While Professionals Australia supports efforts to maximise efficiency within energy networks and reduce cost burdens on consumers, these efforts must take into account the long-term provision of safe and reliable networks.

We call on the AER to protect the long-term interests of the community, rather than respond to short-term political pressure around electricity prices.

Sincerely,



Chris Walton,
Chief Executive, Professionals Australia

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Introduction

Professionals Australia is pleased to provide this submission in response to the Australian Energy Regulator's preliminary determinations (April 2015) regarding the revenue allowance for Energex and Ergon Energy - Queensland's two electricity distribution network operators - for the period 2015-20.

Professionals Australia is the trading name of the Association of Professionals Engineers, Scientists and Managers, Australia (APESMA). Professionals Australia is a registered organisation of employees under the Fair Work (Registered Organisations) Act 2009. Professionals Australia represents over 24,000 professionals, including thousands of professional engineers who build and maintain our energy networks.

While Professionals Australia supports efforts to maximise efficiency within energy networks and reduce cost burdens on consumers, these efforts must take into account the long-term provision of safe and reliable networks.

Professionals Australia is of the view that the substantial revenue cuts proposed by the Australian Energy Regulator (AER) will unavoidably prevent network businesses from fulfilling their duty to provide safe and reliable networks. Furthermore, the cuts represent a failure by the AER to promote the long-term interests of consumers. Ultimately, these revenue cuts are likely to lead to a failure to meet the legal requirements under the National Energy Objective.

Summary

Professionals Australia is extremely concerned that the AER has proposed a series of severe cuts to revenue for Energex and Ergon Energy for the regulatory period 2015-20.

In our view, the proposed cuts will significantly hinder the ability of network businesses to provide effective networks. The proposed cuts are likely to have the following impacts:

- Professionals Australia believes that if enacted, these cuts will compromise the prudent, long-term management of network infrastructure.
- The proposed cuts inappropriately prioritise cost over safety and reliability.
- Professionals Australia is very concerned about the risks to safety, reliability and quality of electricity provision as a result of the AER's proposals to cut aggregate operating expenditure (OPEX) by 31.5 per cent and replacement expenditure (REPEX) by up to 39.5 per cent.
- The cuts to REPEX promote underinvestment in network, signalling that low cost networks are more important than reliable and safe networks.
- Under these proposals, distribution businesses would be forced into significant restructuring - just to survive. The immediacy of the cuts would see the industry lose knowledge and expertise that are integral to achieving efficiencies and improvements.
- The lack of consideration given to the actual costs faced by distributors poses a significant threat to the sustainability of network businesses.
- If enacted, these cuts would heighten risk, danger and the potential for catastrophic failure in an industry that is at extreme risk of being depleted of professional capacity.

- The proposed cuts fail to meet the legal requirements of the National Energy Law and the National Energy Objective, as they are likely to result in a decline in the reliability and safety of networks.

The role of the Australian Energy Regulator

The Australian Energy Regulator (AER) is tasked with the responsibility to oversee and regulate energy markets across Australia. The decisions made by the AER should under all circumstances “promote outcomes that are in the long-term interests of consumers”¹, as stated in the National Energy Objective (NEO). As part of regulating energy networks, the AER, in consultation with network businesses, sets maximum prices that networks can charge consumers, effectively setting energy prices across each jurisdiction.

While the regulation of maximum prices is an important role of the AER, it should be guided by the overall need to promote the long-term interests of consumers.

Decisions regarding network pricing should ensure:

- the ongoing safety of networks;
- the continued reliability of networks;
- that network businesses remain well staffed and capable of providing world class networks;
- that network services are provided in an efficient manner;
- that network businesses are able to honour their commitments to stakeholders; and
- that network provision remains sustainable.

Professionals Australia holds the view that the significant cuts to Queensland distribution network revenue - as proposed by the AER – would represent a failure to promote the long-term interests of consumers. Specifically, massive revenue cuts threaten the safety and reliability of networks and will likely lead to a significant drain of resources and expertise within the industry.

The role of the energy networks

Energy networks own and manage the infrastructure required to provide energy to households and businesses across Australia. Network businesses provide the necessary upkeep and investment in these networks in order to ensure that they meet minimum standards. In return for their investment, network businesses are permitted to receive a profit on their investment.

In providing energy networks, network businesses should ensure:

- networks are capable of meeting demand, including peak demand;
- networks remain safe at all times;
- infrastructure is replaced or upgraded as required, prior to failure where possible;
- any network failures are promptly rectified;
- that network services are provided efficiently;

¹ <http://www.aer.gov.au/>

- that network businesses are able to honour their commitments to stakeholders; and
- that network provision remains sustainable.

Professionals Australia believes that the proposed network revenue cuts, will prevent network businesses from providing world-class networks, and significantly threaten the safety and reliability of networks.

Network safety concerns

Professionals Australia is concerned that the AER’s preliminary determinations have not reasonably assessed or proposed an acceptable balance between economic costs and the risk to safety, nor have the vital importance of these consequences or the potential stakeholder implications, been thoroughly considered.

The AER has made note that the practice of minimising risk to levels “As Low As Reasonably Practical” (ALARP) has not been fully applied to CAPEX determinations, instead only applying to very high-risk items. This raises the question as to which types of failures are considered high-risk. Basic failures - such as the broken electrical conductor that contributed to the Black Saturday Fires – can have enormous consequences in terms of loss of property and human life. While the AER contends that the distribution networks take an overly conservative approach to replacement of infrastructure, this is entirely reasonable and even integral if disasters are to be avoided.

To ensure the Government and community is fully aware of any risk, we ask that the AER produce a risk analysis for any final determination. It is completely remiss of the AER’s determinations not to include a safety risk assessment of the potential for increased network asset/system failures that would occur as a result of the proposed reduction in resources. This assessment should also investigate the extent to which these reductions would have adverse consequences to the health and safety of workers and members of the public.

Professionals Australia is extremely concerned that the AER relied on limited engineering reviews undertaken by its own staff or consultants EMCa. As a result, Professionals Australia is also concerned that the AER did not carry out site visits, instead setting expenditure allowances using desktop analysis, when detailed engineering information was offered and available from all businesses.

The AER highlighted that “other distributors in the National Electricity Market (NEM) provide safe and reliable distribution services at substantially lower cost levels”.² Professionals Australia strongly disagrees with this statement and draws the attention of the AER to recent critical electrical network failure events in other states which have drastically impacted the lives and wellbeing of the public.

The Royal Commission into the 2009 Black Saturday fires - in which 173 people died - stated:

Victoria’s electricity assets are ageing, and the age of the assets contributed to three of the electricity-caused fires on 7 February 2009 - the Kilmore East, Coleraine and Horsham fires.

² http://www.aer.gov.au/sites/default/files/AER%20-%20Preliminary%20decision%20Ergon%20Energy%20-%20Overview%20-%20April%202015_0.pdf

Distribution businesses' capacity to respond to an ageing network is, however, constrained by the electricity industry's economic regulatory regime.

The regime favours the status quo and makes it difficult to bring about substantial reform. As components of the distribution network age and approach the end of their engineering life, there will probably be an increase in the number of fires resulting from asset failures unless urgent preventative steps are taken.

The Commission considers that now is the time to start replacing the ageing electricity infrastructure and to make major changes to its operation and management. The seriousness of the risk and the need to protect human life are imperatives Victorians cannot ignore.³

Additionally, the Royal Commission estimated that Black Saturday disaster cost "conservatively" in excess of \$4.4 billion.⁴

In light of such a directly relevant and serious example, Professionals Australia rejects the AER's assertion that the risk management processes of Energex and Ergon Energy are "overly conservative"⁵.

It is difficult to understand how the AER can abrogate its responsibility for the ramifications of cuts, when there is clear potential for an abject disaster event similar to Black Saturday. The safety impacts of cuts on CAPEX, particularly the aggregate 39.5 per cent cut to REPEX, are potentially enormous, and the AER's preliminary determination demonstrates that the Royal Commission's findings regarding Black Saturday have been wholly ignored in favour of minor price cuts per household.

Safety implications of CAPEX reductions

Similarly irresponsible revenue cuts in other states have led distributors to earmark further cuts to REPEX, as these cuts are more viable than cutting contracted staff or other necessary expenditure. These cuts will have an immediate impact on critical asset replacement programs and will negatively affect the safety of networks, making them more susceptible to the kind of failures that occurred in 2009, at a drastic human cost.

A tragic and recent reminder of the risks and dangers associated with electricity assets came as recently as 4 February 2015 when two people were killed and several others injured when a transformer exploded in the Galleria shopping centre in Perth⁶. This incident has resulted in regulator changes and new processes, however these have come too late to prevent the loss of lives. The proposed revenue cuts will hinder the ability of distributions businesses to address safety issues in a proactive manner, causing further deterioration of networks and placing more lives at risk.

Professionals Australia understands the importance of asset replacement and is extremely concerned that cuts in REPEX would place prudent engineering practices in jeopardy. In addition to technical concerns regarding the performance of assets, Professionals Australia is also concerned

³ 2009 Victorian Bushfires Royal Commission Final Report, July 2010 (Parliament of Victoria).

⁴ <http://www.theage.com.au/victoria/black-saturday-cost-44-billion-20100801-11116.html>

⁵ http://www.aer.gov.au/sites/default/files/AER%20-%20Preliminary%20decision%20Ergon%20Energy%20-%20Overview%20-%20April%202015_0.pdf

⁶ <http://www.abc.net.au/news/2015-02-03/two-dead-several-hurt-in-morley-galleria-shopping-centre-blast/6066398>

that cuts in staff would delay or disrupt the businesses' ability to update or rewrite service instructions, implement efficiency measures, and respond when hazards are identified.

A prime example of the heightened risks of cutting replacement expenditure occurred in 2012, when a member of the public received an electric shock while on the roof of a house, due to deteriorating cables. Ergon Energy conducted a full investigation, and found that one third of similarly configured cables were deteriorating. Ultimately, after thorough inspection and given the risk involved, Ergon has scheduled all such configurations to be changed, at a cost of \$9.1 million. Drastic cuts to REPEX proposed by the AER would place this kind of pre-emptive expenditure at risk, encouraging network businesses to replace at failure, rather than prior to failure or at the emergence of risk. Ergon Energy and Energex - as part of their proposed REPEX - have already identified and costed the major REPEX projects for the next period. By rejecting the proposed REPEX levels, the AER is guaranteeing that some aspects of energy networks that pose significant risks will not be replaced, increasing the risk to the community. It is integral to the safety of the community that such preventative expenditure is encouraged, as the failure to do so can have deadly consequences.

The AER has repeatedly criticised the bottom-up approach used by the network businesses in forecasting CAPEX requirements. However, this is based on an intimate knowledge of existing infrastructure, useful lifespans, expert engineering knowledge, and a detailed history of failures and replacement costs. The AER has chosen instead to run a more simplistic top-down approach, which fails to take into account the specific needs of networks. For example, Energex highlights its population of wood poles and provides detailed information as to when these were installed⁷, based on the average lifespan, it is clear that the replacement costs are going to increase significantly over the coming years, as more of these poles reach the end of their useful life. Such analysis is critical to maintaining safe networks, and has been widely used in determining the required CAPEX over the coming regulatory period. However, this key information has been largely disregarded by the AER.

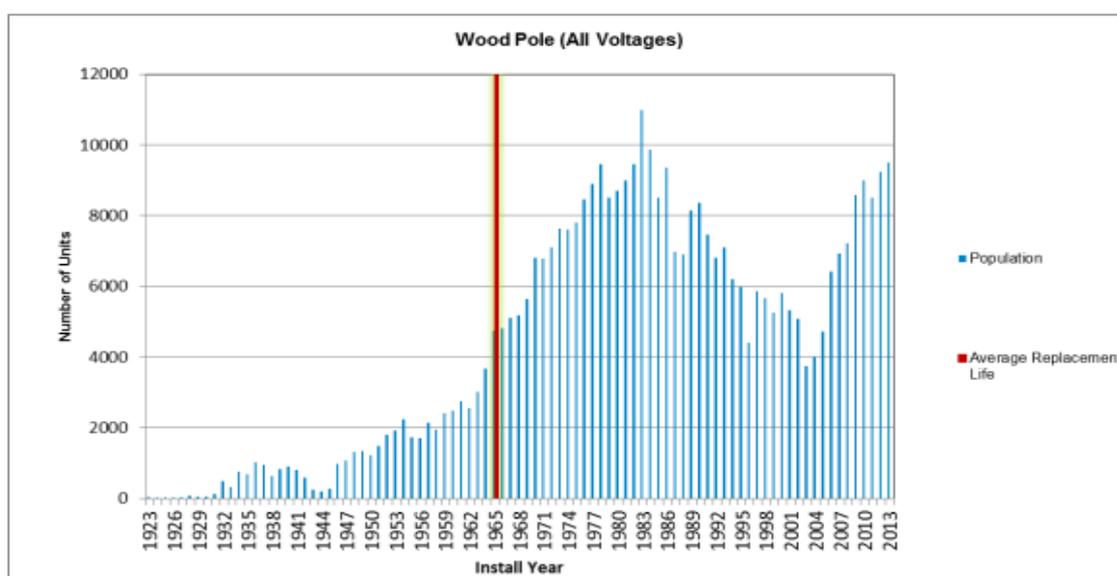


Figure 2 - Wood Pole Population Age Profile

⁷ <http://www.aer.gov.au/sites/default/files/Energex%20-%202025.%20Asset%20replacement%20strategic%20plan%20-%20October%202014.pdf>

It seems incongruous that the AER would propose such drastic cuts, despite very recent and real evidence of the consequences of inadequate maintenance. The community would be extremely concerned if they knew of the extent and severity of the dangers and risks being proposed.

Ultimately, it is the community that carries the risk of the proposed cuts. Any catastrophic failure or injury would also be traced directly back to ill-conceived, rushed and short-sighted funding cuts, with probing questions and expensive litigation to determine why logic and an evidence-based approach did not inform the process.

Safety implications of OPEX reductions

Operating expenditure (OPEX) requirements are dictated by a number of factors. This expenditure must be adequate for the network business to provide safe and reliable networks, while adhering to regulatory obligations. OPEX accounts for expenditure involved in basic network operations, customer-oriented activities, and maintenance of networks, be it preventative or corrective.

In a similar manner to CAPEX - which is discussed above – inadequate OPEX can severely compromise the reliability and safety of energy networks. The level of OPEX essentially determines the level of maintenance that can be carried out and places a limit on the number of staff available to carry out routine checks to determine network quality and safety. While the cuts proposed to OPEX are not nearly as severe as those recommended for CAPEX programs, they remain significant and will likely lead to decline in network quality. Ergon Energy and Energex have already proposed significant reductions in OPEX where appropriate, while maintaining network quality.

While the AER accepted the OPEX proposal from Energex, it rejected a similar proposal from Ergon Energy. In doing so, it effectively told the company that it has to cut staff. The AER in determining suitable OPEX, rests much of its case on labour costs “which is the result of having too many employees rather than the cost per employee”. This determination is based again on benchmarking against similar companies in other states. Such benchmarking is not appropriate, as this efficiency in other states has contributed to ageing assets and major bushfires, as occurred in Victoria during 2009. This finding was supported by the Royal Commission. Benchmarking in the preliminary determinations consistently confuses low cost with efficiency. A low cost network provider that fails to provide a safe network is not efficient at all, and should not be encouraged by regulators.

Network reliability concerns

Professional engineers are concerned that the AER’s proposed cuts will increase risk, threaten reliability and quality, and contribute to network failure.

The AER’s proposed funding cuts are a populist move and are largely the result of a questionable economic assessment. Much of this assessment is based on flawed benchmarking, against network businesses interstate that have failed to deliver safe and reliable networks. The focus in the previous regulatory period was on the need to improve and ensure electricity supply reliability. Recent political and media commentary have led to an environment where the AER has now proposed radical cuts. The proposed cuts, if implemented, will represent a case of the pendulum having swung back too far.

Professionals Australia rejects the AER's assertion that the network businesses' approach to maintenance replacement expenditure is overly conservative. Under their code of ethics and with their knowledge and expertise, professional engineers cannot support any possibility of increased risk to safety, reliability and quality, and do not support the increased potential for network failure. Any acceptance of greater risk would result in the abandonment of legal responsibility to ensure "duty of care" for workers and members of the public. Professional engineers understand the technical consequences when electricity infrastructure is 'run to failure'. With this knowledge, they feel strongly that they are duty bound to inform the AER and the public of the very real potential for catastrophic outcomes, as a result of the proposed cuts.

Professional engineers pose several questions to the AER:

- Is the AER prepared to risk public safety, particularly fire starts and the consequent potential bushfires, as a consequence of cuts to programs that result from funding cuts?
- Is the AER prepared to accept that if its cuts are enacted, it will lead to a future need for substantial remediation investment to address the consequences of the 'run to failure' method of operation it has suggested?
- Is the AER prepared to accept that it has received detailed advice from professional engineers and network businesses (both in Queensland and in other states) and rejects the proposition that its decisions risk such outcomes?
- Is the AER prepared to give greater consideration to marginal cost savings than to the reliability and safety of the public and workers?

Loss of industry expertise and employment

Professionals Australia believes that professional engineers can be instrumental in building efficiencies and improvements, yet this vital capacity will be lost if cuts proceed.

The severity and immediacy of the AER's proposed cuts provide network businesses with little alternative but to restructure and shed jobs in a sudden action, without adequate transition. So abrupt and deep are the proposed cuts, that forced redundancies may be the only means by which network businesses could satisfy this requirement. Such losses would send economic and social reverberations beyond the sector, impacting the community and the economy. This would be keenly felt in rural and regional centres where employment opportunities are limited; however the greatest impact would be in the dramatic reduction of knowledge and capacity in the sector itself.

Proposed cuts and job losses would significantly hinder the performance of networks in the following ways:

- These cuts threaten to deplete the sector of vital depth and breadth of skills. These skilled employees are vital if the best and most efficient outcomes are to be achieved across the sector. It makes no sense to remove the very skills that can achieve efficiencies and build improvements.
- If businesses were forced to slash staff, they would inevitably become uninformed purchasers. That is, businesses would no longer have the in-house technical expertise, to adequately design, scope, build and maintain the assets and networks that they are required to deliver. This would significantly reduce efficiency and increase wastage.
- Without engineering and technical capacity there would be greater scope for project delays and cost-overruns.

- Critically, the loss of skilled staff would reduce the oversight of risk and significantly increase the potential for catastrophic failure and accident.
- The above mentioned risks all point to increases in costs. While overall costs and revenue will be capped, this means that network businesses will be able to achieve less with this revenue.
- Reduced skills and capacity in businesses will only invite problems that in turn will result expensive and lengthy litigation – the potential extent of which should not be underestimated.

The far more prudent and responsible approach for the AER would be to acknowledge that by working with industry expertise, far better and less risky solutions can be found. By fully utilising the skill and knowledge held by industry employees, greater efficiency may be achieved, and electricity costs for consumers can be better managed.

Loss of efficiency

Professionals Australia supports an ongoing commitment to skilled staff, in order to proactively and consistently improve networks.

Professional engineers are in essence, highly-skilled, professional problem-solvers. Engineering staff have directly contributed to the vast improvement of networks over the years, and have driven dramatic improvements in safety and reliability. Engineers have formulated and delivered programs to achieve improvements in network asset condition and supply reliability. As a result of engineering innovation, businesses have made considerable capital and operating efficiency improvements that support the AER's goal of greater efficiency.

Through the proposed employment cuts - which the AER is directly advocating - the AER is turning its back on the greatest avenue for efficiency gains, demanding improvements while simultaneously hampering the networks capacity to deliver such improvements. The massive cuts to CAPEX, if effected, will require the employment of skilled engineering staff in order to deliver quality outcomes. However, it is at exactly the time that skilled staff are required, that the AER is forcing workforce reductions. While the employment of skilled engineers can to some degree compensate for a reduction in capital expenditure, a reduction in both labour and capital can only result in a reduction in quality and efficiency.

The Independent Review Panel on Network Costs has underlined the fact that the goals of electricity networks have changed. Their final report, released in 2012, clearly places a new emphasis on cost alone, recommending the reduction of reliability and ultimately safety standards across Queensland. Again, this report relies on an evaluation of the performance of network businesses in other states, where reliability is poorer and massive safety issues have been more frequent. In doing so, the panel is ultimately promoting the deliberate neglect of networks, which may ultimately increase the possibility of critical network failure and loss of life. Queensland is also more prone to major weather events. This demands that electrical networks be far more resilient than those in other states, in order to avoid failure when these events occur. As a result, the AER should not give significant weight to the Independent Review Panel on Network Costs, as their findings neglect their responsibility to uphold the NEO.

Engineering the way forward

Professionals Australia urges the AER to engage in wider consultation with professional engineers, industry, allied stakeholders and experts.

Professionals Australia represents professional engineers in both the public and private sectors across Australia. Professional engineers consider that the magnitude of the AER proposed capital and operating expenditure reductions in the draft determinations, coupled with the immediate nature in which these will take effect, will negatively affect network delivery in the following ways:

- cuts will drive abrupt and fundamental business restructuring, at a significant cost;
- cuts will necessitate the reprioritisation and cessation of prudent programs that are in the long-term interests of the community;
- cuts will cause a dramatic loss of jobs and an exodus of skill and knowledge from the industry; and
- cuts will increase safety risk to workers and members of the public

Conversely, the sole guiding principle behind these cuts is the populist pursuit of lower electricity prices, which will only be slightly lower than they would be under the proposals made by Energex and Ergon Energy. Additionally, the cuts take little account of value-for-money or efficiency, and instead seek simply to implement a low cost approach to network delivery. This neglects the long-term interests of the community.

Given that the reduction of energy bills is a major goal of the AER's proposed cuts, it is important to consider the best way to achieve these savings. The AER has chosen the relatively blunt and inefficient method of simply cutting revenue across all areas, benchmarking against companies that have failed to deliver safe networks.

Professionals Australia recommends that professional engineers be utilised to seek efficiency without the associated loss of reliability and safety that will ultimately occur through indiscriminate revenue cuts.

- Professional engineers have the knowledge and expertise to find and deliver efficiencies that can meet the AER's objectives and its responsibility to serve and protect the economy and the public into the future.
- Professional engineers have been actively engaged and made significant contribution to the current reform program. Yet, the proposed cuts would see workforce and engineering capacity slashed – the exact skills that will be desperately needed to find future cost savings and efficiencies.
- By better engaging with the knowledge and expertise of professional engineers, far better outcomes can be achieved and the risks inherent in the proposed cuts can be mitigated.

The economic and social impact of the significant and sudden job losses will be felt across Queensland, but most keenly in rural and regional areas where there are limited employment opportunities. However more broadly, the mass loss of professional knowledge and skills will be felt across the state as experience, expertise and capacity will be lost forever. Additionally, ongoing irresponsible intervention in energy networks will make the industry uncertain, insecure and unattractive to quality employees, encouraging a further exodus of knowledge from the industry. Beyond these irreversible and significant losses, the proposed cuts will impact vital services and agencies beyond the energy sector.

We ask that the AER consider a meeting between professional engineer representatives from Professionals Australia and the AER technical advisory group to discuss the risk implications of the draft determinations.

Legal concerns

National Electricity Objective

Professionals Australia does not believe that the AER, or the distribution businesses, can meet their legal responsibilities under the proposed cuts.

Under the AER's proposed cuts to capital and operating expenditure across distribution businesses, it will be impossible for the AER and businesses to meet their legal responsibilities under the NEO.

In regulating the National Electricity Market (NEM), the AER must have regard to the National Electricity Law (NEL). The NEL specifically states that the AER must "perform or exercise that function or power in a manner that will or is likely to contribute to the achievement of the national electricity objective"⁸. The NEO requires the AER:

"to promote efficient investment in, and efficient operation and use of, electricity services for the long term interests of consumers of electricity with respect to – price, quality, safety, reliability, and security of supply of electricity; and the reliability, safety and security of the national electricity system."

Contrary to this requirement, Professionals Australia holds that the proposed cuts will not in any way cater for the long-term interests of consumers, and will not in any way assist the quality, safety or reliability of the system. As such, it is quite clear that in making the proposed cuts, the AER does not meet its responsibilities under the NEO.

Furthermore, it is the view of Professionals Australia that the AER's draft determinations do not provide sufficient revenue for network businesses to maintain the safety of the system consistent with requirements of the NEO, the National Electricity Laws (NEL), and the National Electricity Rules (NER). Without appropriate funding, businesses will face the perilous prospect of being unable to meet their "primary duty of care" - the ability to ensure the safety of the public and workers, as required under the Work Health and Safety Act 2011 (QLD)⁹. Professional engineers understand both the technical requirements and the sacrosanct nature of these laws and work to ensure businesses achieve compliance with these requirements every day.

Additionally, bound by a professional code of ethics that requires them to "demonstrate integrity, practice competently, exercise leadership and promote sustainability", professional engineers raise their strong objection to the lack of regard shown in the preliminary determinations for these serious requirements.

Enterprise agreements

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[http://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ELECTRICITY%20\(SOUTH%20AUSTRALIA\)%20ACT%201996/CURRENT/1996.44.UN.PDF](http://www.legislation.sa.gov.au/LZ/C/A/NATIONAL%20ELECTRICITY%20(SOUTH%20AUSTRALIA)%20ACT%201996/CURRENT/1996.44.UN.PDF)

⁹ <https://www.legislation.qld.gov.au/legisln/current/w/workhsa11.pdf>

Professionals Australia does not support the AER's disregard for Fair Work Commission certified enterprise agreements.

In coming to its preliminary determinations, the AER has demonstrated a blatant disregard for the legal obligations that Energex and Ergon Energy have to their employees. This disregard is particularly evident concerning enterprise bargaining agreements. In proposing such steep revenue cuts, the AER is effectively seeking to force distribution companies to make staff redundant. However, this raises further questions, as to how further restructuring would be funded when no allowances have been included in the AER's draft determinations to pay for accrued leave and severance pay entitlements, even though existing Enterprise Agreements certified by Fair Work Australia could not be ignored and would need to be honoured.

Within the preliminary determination, the AER has stated that the shareholders of the distribution companies should be left to bear the cost of restructuring, including the effects of enterprise bargaining agreements. This adversarial approach to the management of networks is unproductive and irresponsible, and represents a lack of respect for the rights of employees and employers. The role of the AER is to regulate and work together with network businesses to look after the long-term interests of the community, not to actively work against them and make unreasonable regulatory demands that threaten their sustainability.

Having had their revenue cut, the businesses will face an impossible task, as by paying the legal entitlements of departing workers they will likely exceed their OPEX allowances and be penalised in subsequent regulatory control periods. Professionals Australia welcomes the commitment shown by each of the businesses in providing a fair workplace for their employees, and do not believe that network businesses should be penalised further for honouring existing enterprise agreement arrangements. Further, Professionals Australia is highly critical of the AER's disregard and dismissal of these legally-binding agreements and will take all action to ensure employee rights and entitlements are respected. If proposed cuts are applied, the AER's short-term cost cutting would drive down existing wages and conditions and as a result, limit the long-term, sustainable and efficient delivery of electricity in Queensland.

Critical need for a period of transition

Professionals Australia urges the AER consider transitional steps toward any transformative program of change it may wish to achieve.

The absence of any form of transition period negates the argument that these cuts will positively contribute to improvements in efficiency or effectiveness. Abrupt cuts of this magnitude will require:

- dramatic restructuring across network businesses;
- job losses – hindering the ability for businesses to effectively restructure their operations;
- significant re-training requirements;
- re-writing of processes;
- large reductions of preventative replacements; and
- large reductions in the knowledge base of the industry.

The lack of a transitional period will make the cuts more difficult for network businesses and will not allow them time to ensure that efficiency, quality, reliability and safety are maintained as changes occur.

Professionals Australia advises that sudden and significant change, on the scale proposed, has a very real and direct potential for systemic safety failure and as a result, financial instability across each business. The AER's proposed cuts would see businesses need to effect drastic cost cuts in an unworkable period of time. Professionals Australia is concerned about the impacts such sudden and severe change would have on the risk profile of assets and the impact of increased system failures across the industry as a whole. The rapid loss of jobs would also see hundreds of years of cumulative experience lost.

When inevitably the industry needs these skills again, they would have to be redeveloped at considerable cost and with lead-time constraints. Additionally, the lack of concern for employees and the risk of similar cuts in future will likely make energy networks a less attractive appealing industry for qualified engineers. This is likely to contribute to issues in attracting and retaining staff. The AER should take into account the need to sustain an essential skill base in what is an inherently engineering-focussed industry. Knowledge from other sectors and experiences in Victoria identify that it is neither prudent, nor efficient, to enact change of the scale and magnitude proposed in the AER's preliminary determinations in a single step.

Recommendations

Professionals Australia is strongly opposed to the proposed cuts to revenue for Queensland's electricity distribution businesses, Energex and Ergon Energy, and makes the following recommendations to the AER regarding the proposed cuts:

1. the final determination should allow network businesses to meet their legal requirements under the NEO;
2. the final determination should allow network businesses to meet their legal requirements under the enterprise bargaining agreements;
3. the final determination should not benchmark Queensland businesses against the performance of other businesses interstate, where major safety incidents have occurred due to poor maintenance;
4. the AER should produce a detailed risk analysis concerning the negative impact of the proposed cuts;
5. any proposed cuts should involve a period of transition, to allow network businesses to restructure where possible and avoid abrupt changes that may threaten the reliability and safety of networks; and
6. the AER should support distribution companies in retaining skilled engineers, as quality staff will be integral to the development of more efficient networks.

Conclusion

Professionals Australia is pleased to respond to the preliminary determinations, released by the Australian Energy Regulator, regarding the proposed revenue cuts to Ergon Energy and Energex in Queensland.

The concerns and recommendations that we have outlined in this response are based on our significant industry knowledge, the knowledge and opinion of our vast network of members, and substantial research and fact regarding the proposed cuts. We urge the AER to give serious consideration to the information provided in this submission.

Professionals Australia would like to reiterate its position that the proposed cuts will negatively affect the efficiency, reliability and safety of Queensland distribution networks. By engaging the knowledge and expertise of professional engineers, there can be far more effective, safe and reliable ways to manage and improve the efficiency of electricity distribution in Queensland.

To be constructive, Professionals Australia requests the AER's consideration of meeting of a Professionals Australia convened panel of professional engineer representatives with the AER technical advisory group, to discuss the risk implications of the draft determinations. Professionals Australia also asks that the AER produce a detailed risk analysis of any final decision.

We welcome any further requests for clarification or information regarding this submission.

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