

Additional points relevant to Essential Energy

Impact of proposed cuts

The AER's deterministic use of a flawed benchmarking model in its draft determination for Essential Energy has resulted in reductions to submitted operating expenditure of 38 per cent.

Essential Energy's Chief Operating Officer has signed a statement warning as part of this revised proposal that he cannot maintain a safe and reliable network based on the AER's draft determination. Essential Energy has also accurately identified that the AER is accountable for the provision of adequate funds to maintain a safe and reliable network.

The statement reads "based on current information, the reductions proposed by the AER would likely lead to substantial under investment by Essential Energy in both capital and operating expenditure, and would compromise the safety, the reliability and the ongoing sustainability of its network".

Failure to properly consult

The AER engaged Economic Insights to review whether Essential Energy's operating expenditure base year should be adjusted, and whether a productivity factor should be applied into the forecast period. However, Economic Insights did not contact Essential Energy, or any of its employees, to discuss any of the issues. Nor did its report to the AER show that it had reviewed Essential's initial proposal.

Legal issues

The failure to properly consult industry has led to the development of draft determinations that place Essential Energy in a legally precarious position. Essential Energy has already warned that "The operating expenditure proposed by the AER in its draft determination is unrealistic, does not take account of the revenue and pricing principles in the NEL and is not sufficient to meet Essential Energy's regulatory and legally binding contractual obligations".

Specifically, a failure to allow Essential Energy to recover an appropriate amount of capital and operating expenditure will lead to increased safety risks due to higher numbers of asset failures with potential fatal consequences to Essential Energy employees and the public and would lead to Essential Energy breaching its obligations under the WHS Act.

Consumer surveys

- Customer surveys undertaken by Endeavour Energy have shown that customers have an overwhelming preference for steady, stable prices.
- Many consumers were also concerned about the sustainability of cost reductions and the possible risk this presented to reliability and security of supply

- Reliability ranked as the second highest customer priority. Businesses particularly, and most residents were happy with the level of reliability they receive from Endeavour Energy. Most were not willing to accept a less reliable service in exchange for a lower bill.
- Unplanned outages directly affect customer satisfaction.
- Customers believed safety should be factored into our designs and into our maintenance plans. There was little support for paying less for lesser safety standards.

Legal issues

The proposed operating and capital expenditure allowed for in the draft determination run the serious risk of precluding Endeavour Energy from complying with its obligations under the WHS Act.

We are also of the opinion that if the AER is aware of the safety impacts of the proposed operating and capital expenditure allowed for in the draft determination and it makes its final determination allowing for these same levels irrespective of these safety impacts, it will be in breach of its primary duty of care under the Commonwealth WHS Act.

Of particular concern is the reduction in Endeavour Energy's vegetation control program implied by the AER's 23% aggregate reduction in operating expenditure. The Commissioners of NSW Fire and Rescue and NSW Rural Fire Service have both expressed to Endeavour in writing a concern over proposals to substantially reduce this operating expenditure and the possible impact on vegetation management in bushfire-prone areas of NSW. Serious concerns remain about whether any detailed risk assessments of the broader impacts of the AER's draft determination have or will be conducted by the AER.